

**Eleventh session**

The Hague, 14-22 November 2012

**Report of the Court on its budgeting process
and zero-based budgeting*****I. Introduction**

1. At its seventeenth session, the Committee on Budget and Finance (“the Committee”) recommended that the International Criminal Court (“the Court”) reconsider its process for establishing the proposed programme budget and report to the Committee on this matter at its eighteenth session.¹ The Committee also recommended that the Court produce a medium-term (i.e. at least up to 2015) expenditure forecast as an annex to the 2012 proposed programme budget and for each annual budget thereafter.² In that context, the Committee also recommended that the Court review its previous report on zero-based budgeting with a view to determining the core activities of the Court, the most efficient way to deliver core activities, and whether processes and procedures implemented during the establishment phase of the Court were still appropriate.³

2. At its eighteenth session, the Committee considered the report of the Court on its budgeting process. The Committee recalled the recommendation it had made at its seventeenth session that the Court should reconsider its budgeting process to ensure that the fiscal context was well understood by all programmes and sub-programmes and that a real prioritization process was established. Against that background, the Committee was of the view that the Court’s report did not address some of the key issues of concern, and therefore requested the Court to address the following issues and report to the Committee at its nineteenth session: (a) How to compress the timeline of the budget process so that the assumptions for the following year’s budget could be set later in the year and thus be based on a more accurate estimation of conditions determining the funding needs; and (b) Whether and when the Court intended to phase in zero-based budgeting for all remaining sections of the Court.⁴

3. The Court would begin by pointing out that the budget process encompasses many different activities and sub-processes. This report will now address the two aforementioned issues that it was asked by the Committee to discuss.

* Previously issued as CBF/19/15.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Tenth session, New York, 12-21 December 2011* (ICC-ASP/10/20), vol. II, part B.2, para, 23.

² *Ibid.*, para. 22.

³ *Ibid.*, vol. II, part B.1, para. 72.

⁴ ICC-ASP/11/5, para. 32.

II. The budget assumptions

4. According to current practice, the Court develops its budget assumptions based on the estimations of its judicial and prosecutorial work plans for the following year. The Court also develops operational parameters, particularly for the Registry, which are commensurate with the expected service levels that may be required to support the implementation of the judicial calendar and the prosecutorial work plan. As a result, these budget assumptions are largely interdependent and impact upon the resource requirements in terms of staff and non-staff costs.

5. Accordingly, budget assumptions inform the managers within the Court of how to develop their work plans, as the assumptions define the expected activity, its level and the related service requirements. Moreover, consensus on the budget assumptions enables the different organs of the Court to integrate their respective major programme budgets, thus reflecting the synergies and interrelated operations among the different organs triggered by judicial and prosecutorial activities.

III. Role of budget assumptions in the budget formulation exercise

6. From the perspective of the budget preparation process, the formulation of budget assumptions is perhaps the most important step in building the budget, as it plays a central role in the formulation of the budget proposal. Budget assumptions set the budget framework, the required levels of mandated activities, the work plans, the priorities and the overall objectives for which resources are needed.

7. The budget planning exercise starts with the formulation of, and agreement on, key budget assumptions, which serve as an anchor and a baseline for the work plans of the different programmes and sub-programmes. Therefore, when considering their resource requirements for the following financial year, programme managers are requested first and foremost to carefully review their requirements against the assumptions. In addition, managers are requested to use as a reference their actual expenditures from the year before and the current year's approved budget for comparable activities based on the assumptions. Thus all resource requirements must be attributable to underlying judicial and policy decisions, as well as complying with Assembly resolutions. Cost increases are, in general, expected to be absorbed through greater efficiency and saving measures.

8. In this context, any change to the budget assumptions as initially set will likely have a substantial impact on the budget numbers. Moreover, the later such changes arise, the greater the potential for delays in the preparation of the proposed programme budget, as last minute changes can result in significant errors in calculation and in the consolidation of the final figures.

IV. A process for more realistic budget assumptions

9. In order to ensure that the budget assumptions and parameters are founded on the latest information for the planned activities and corresponding resource needs, the Court's budget process needs sufficient flexibility to incorporate the most realistic and up-to-date assumptions as the Court progresses through its budget preparation cycle. In addition to enabling more realistic assumptions, the more precise and up-to-date the information is, the more accurately the related resource requirements can be estimated. Such an approach limits reliance on the Court's contingency flexibility and avoids underestimating or overestimating the Court's resource requirements.

10. In order to implement such an approach, the Court needs either (i) to formulate its budget assumptions only at a later stage of the budget preparation exercise, and thus compress the yearly budget process, or (ii) to build into the budget preparation process a methodology enabling it to incorporate changes, particularly in judicial and prosecutorial activities, as they develop throughout the year.

V. 2013 budget preparation timeline

11. Illustrated below is the timeline for preparation of the 2013 budget in 2012.

Key Dates Proposed Budget 2013

| <i>Entity</i> | <i>Activity</i> | <i>Current deadline</i> |
|----------------------------|--|-------------------------|
| CoCo | Refine assumptions, objectives and priorities for 2013 and the budget strategy | 15 Mar |
| Budget Unit | Send out guidelines with a deadline for submissions | 15 Mar |
| Budget Working Group | Approve introduction structure, set tasks | 19 Mar |
| All MPs excluding Registry | Send service requests to Registry | 30 Mar |
| All Major Programmes | Prepare and submit budget data and narratives, including mid-term planning for the knowable significant multi-year costs drivers | 18 April |
| All Major Programmes | Submit final narratives | 24 May |
| CoCo | Perform first review of the draft data | 7 June |
| Budget Working Group | Submit introduction for inclusion in budget document | 8 June |
| Budget Unit | Prepare budget document | 11 June |
| Budget holders | Perform final review of narrative and data | 11 June |
| CoCo | Approve data | 28 June |
| Review panels | Review budget document, content and data | 23 July |
| CoCo | Final approval of the proposed budget | 26 July |
| Budget Section | Full edit of the budget document, final corrections and formatting | 2 Aug |
| Registry | Submit full budget document to SASP | 3 Aug |
| CBF | Technical review and evaluation | 24 Sep- 3Oct |
| Registry | Submission of revised tables to SASP | TBD |
| HWG | Hague Working Group sessions | TBD |
| ASP | Adoption of Programme Budget | 22 Nov |

12. In essence, the budget preparation commences with the determination of the assumptions at the beginning of the year and ends once it is submitted to the Committee forty-five days in advance of its autumn session. In thorough consultations with the Court, the Committee then considers the proposed programme budget and makes independent technical recommendations for the benefit of States Parties and the Court. After the Committee has issued its recommendations, the Bureau's working group in The Hague engages with the Court in a detailed facilitation process in advance of the discussions at the Assembly. The process is completed with the adoption by the Assembly of the approved programme budget.

13. Compared to earlier years, when the Committee meetings in which the proposed programme budget is considered were usually held in August, this year the Committee will consider the budget in late September, thereby allowing at least a month of additional time for the preparation and consolidation of the proposed programme budget. Because of this additional time, the Court was able to update its assumptions and fully integrate into its proposal the recent judicial developments in the two Kenya cases.⁵ Thus, holding the sessions of the Committee closer to the end of the year has allowed the inclusion of major developments having taken place in the intervening period and which will impact on the allocation of resources during the budget implementation in the course of the following year.

⁵ Decision of Trial Chamber V in *The Prosecutor v. William Samoeiruto and Joshua Arap Sang*, on the schedule leading up to trial, No. ICC-01/09-01/11, 9 July 2012; and Decision of Trial Chamber V in *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta*, on the schedule leading up to trial, No. ICC-01/09-02/11, 9 July 2012.

14. In addition, the Court developed a new system of three additional contingency scenarios at the beginning of the year, contemplating certain likely activities or developments which, because they were not clearly foreseeable and/or accurately quantifiable, were not part of the Court's official assumptions for 2013. By producing estimates of the costs associated with such scenarios, the Court is in a position (i) to more easily integrate these costs into the proposed programme budget, should a scenario become certain in advance of the finalization of the budget proposal (as was the case with the commencements of trial hearings in the two Kenya cases); (ii) to provide more reliable and expeditious supplementary budget proposals, should these scenarios become certain after the submission of the budget, but in advance of the adoption of the approved budget by the Assembly; or (iii) to provide the Committee and the Assembly with cost estimates of what might be required from the Contingency Fund, should any of the scenarios become certain after the adoption of the approved budget by the Assembly.

VI. A more flexible process for the preparation of the proposed programme budget

15. As explained above, the timeline for the preparation of the annual proposed programme budget is primarily driven by the date of the autumn session of the Committee and the requirement for the Court to submit the complete proposed programme budget forty-five days in advance of that meeting. Therefore, it can be reasonably concluded prima facie that the later in the year that the proposed programme budget is submitted, the greater the opportunity to integrate the latest judicial developments into the final budget submission.

16. Also, as previously explained, the Court's current approach has been to develop cost estimates for probable scenarios which, if materialized, could have a significant bearing on the following year's annual budget. The development of such cost-scenarios enables the Court, the Committee and the Assembly to better understand the possible cost implications of such potential developments and to have a reasonable estimate of the financial situation should the scenario materialise, and may result in notifications of possible use of the Contingency Fund in the following year.

17. In the case of the preparation process for the 2013 proposed programme budget, the Court has provided as part of the budget proposal criteria and scenarios for additional potential activities that may occur in 2013, but nevertheless remain uncertain at the budget proposal stage and thus cannot be adequately integrated into the budget assumptions. Programme managers have been requested to consider the scenarios additional to those resulting from the Court's 2013 budget assumptions, and to estimate the costs associated with each scenario in an interdependent manner.

18. While the Court considers that such an exercise has been valuable for the predictability and transparency of the Court's budget and its process, the Assembly and the Committee should also be aware of the Court's limitations in producing accurate estimates of costs without fully reliable or certain information. Likewise, as the Court is not in a position to create scenarios for all possible permutations of developments in its judicial activities, this exercise has been limited to those activities for which, while not objectively foreseeable, there is a reasonable expectation of their occurrence; or, while in principle foreseeable, cannot be objectively and accurately quantified within the timeframe of the 2013 financial year.

VII. Zero-based budgeting

19. While zero-based budgeting is traditionally more suited to the private sector, and noting the Court's limitations in terms of resources, time and personnel, the Court has conducted a pilot study by applying zero-based budgeting to its ICT section. The benefits and challenges of that exercise are set out in the Court's report on the matter,⁶ and it is clear that all programme and sub-programme managers should be familiar with zero-based budgeting concepts as an important tool for identifying and reducing budgetary inefficiencies. Therefore, while it is not necessary for every unit of the Court to engage in zero-based budgeting each year, it might be helpful to introduce a rolling schedule that thoroughly re-examines the budgeting process for selected service units once every few years.

20. The serious efforts undertaken previously by the Court to assess the feasibility of zero-based budgeting have demonstrated that the Court may need to further improve its budget process, so that all stakeholders are assured that its use of resources is fully justified and prioritized. For this purpose, the Court is currently developing various budget management tools, such as measurement of actual performance against effective performance indicators and monitoring of workload statistics to reduce budget inefficiencies and improve efficiency and budget prioritization. The zero-based budgeting approach is one possible tool among others that has been suggested and categorised as a low-risk recommendation by the Internal Auditor in the context of implementing various elements of the resource-based budgeting approach. The Court is of the view that strengthening the resource-based system, including periodic, selective use of zero-based techniques, will best pave the way to achieving the agreed strategic goals, improving efficiency, ensuring that resources are used in the most economical manner, and verifying that resource usage is properly justified.

⁶ See *First feasibility report of the Court on a zero-based budget approach* (CBF/16/12).