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Report on the activities of the Oversight Committee*Executive summary*

The present report provides a summary of the activities of the Oversight Committee (“the Committee”) and other developments in the permanent premises project during 2013.

The construction works, which started in March 2013, are on track and the timelines for the completion of the project (September 2015, with readiness for occupation by the Court in December 2015) remain in substance unaffected by the risks materialized. A serious soil contamination was discovered during excavation and resolved with the cleaning of the water table, with the host State agreeing to cover the cost based on the ground lease agreement. The need to change the material for the façade has also resulted in lower construction and maintenance costs and mitigated a number of further related risks.

With the construction project remaining €6.3 million under the approved budget of €190 million, the Committee decided to invest €0.7 million of such savings in a change of the design needed to expand the conference capacity, so as to possibly host also meetings of the Assembly of States Parties as of 2016, should the Assembly so decide.

The Committee has revised, in agreement with the Court, the governance of the project, so as to ensure that the transition project aligns with the construction project. Without prejudice to the arrangements contained in the relevant Assembly’s resolutions, the Project Director will manage the overall project and report to both the Committee and the Registrar. As a result, the project budget is unified, with the transition costs removed from the regular budget and included in the project budget. The Committee has set the financial envelope for the unified project at €195.7 million, including transition costs for €1.3 million, subject to a review which is aimed at achieving the reduction to at least the target level of €193.7 million by June 2014. While the remaining savings on the construction side enable the Committee to cover €5.6 million of the maximum level of the transition costs, the difference between the approved construction budget (€190 million) and the financial envelope of the unified budget, i.e. €5.7 million, still needs to be funded in the period 2014-2016.

The Committee is proposing a funding mechanism for ensuring that no further resources are requested for the transition project from States Parties or, if any, that additional contributions are delayed until 2017. The proposed funding scheme is based on the following elements:

- (i) Construction savings (€5.6 million);
- (ii) Surplus, pertinent to financial years 2012 to 2014 (up to €5.7 million); and
- (iii) Advances from the cash deposits of the Court (2014-2015) until such surplus is available (2014 to 2016).

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I. Introduction

1. At its sixth session, held in November/December 2007, the Assembly of States Parties established an Oversight Committee (hereinafter “the Committee”) as a subsidiary body of the Assembly to provide strategic oversight for the permanent premises project.¹
2. The present report is submitted in accordance with resolution ICC-ASP/6/Res.1, annex II, paragraph 15, which states that the Committee shall provide regular status reports to the Bureau and shall submit any draft resolutions or information to the Assembly through the Bureau.
3. Since the eleventh session of the Assembly, the Oversight Committee held 10 meetings under the Chairmanship of Mr. Roberto Bellelli (Italy), on 17 January, 14 February, 14 March, 11 April, 23 May, 20 June, 5 July, 17 and 31 October, and 7 November 2013.
4. Mr. Roberto Bellelli briefed The Hague Working Group on new developments related to the project on four occasions, at its second, fourth, fifth and ninth meetings, on 6 March, 23 May, 4 July and 29 October 2013. The New York Working Group was also briefed on 4 June 2013. A progress report was made and sent to the Bureau meeting held on 20 March 2013. The Committee on Budget and Finance also received interim reports on 5 April and 22 August 2013, and a briefing by the Chair of the Committee on 12 September 2013.

II. Status and cost of the construction project

A. Status of the project

5. Following the official start of the construction in March 2013, the permanent premises project continues to remain below the approved budget of €190 million and within the agreed timelines. The governance and management of the construction project have proven key to these positive results.
6. The official opening of the construction stage was marked by a ground breaking ceremony of the permanent premises, hosted by the Committee. The ceremony took place at the construction site on 16 April 2013, with a large participation of the international community, representatives of the host State and officials of the Court.
7. Timelines of the project remain for delivery of the premises to the Court in September 2015, with full availability for use by December 2015. Excavation works and foundation works are now largely completed for the building, the basement floors and walls are nearing completion with sections of the ground floor and upper floors under construction on Office Tower one.

B. Risks

8. Foreseeable risks are included and financially ensured through a Risk Register, regularly updated by the Project director and monitored by the Committee:

1. Permit procedure

9. Further to the publication of the final building permit in December 2012, two legal challenges were filed by two different local residents groups against the Municipality, over several points in the final building permit. The first challenge concerns the number of car parking spaces and the rear entrance access road to the permanent premises, while the other is also based on the number of car parking spaces, as well as on the public use of the Plaza and of the “ecologic corridor”. These challenges were finally adjudicated at a hearing in the Dutch Court at which the Residents withdrew all but the objections about car parking numbers and the use of the plaza. On 31 July 2013 the Court issued the judgement that the remaining residents appeals were unfounded, concluding the matter in favour of the project.

¹ *Official Records ... Sixth session...2007* (ICC-ASP/6/20), vol. I, part III, ICC-ASP/6/Res.1, para. 5 and annex II.

Subsequently the residents have appealed the Court's decision to the Raad Van State (the State court). The appeal contained only objections to the number of car parking spaces. A hearing will take place on this matter within the next six months. The worst possible negative consequences of such a challenge was factored into the project risk register and financial projections. Consequently, in the even more unlikely scenario whereby changes would have to be made to the project, additional costs would still not impact the current level of construction expenditures. The construction of the car parking is not programmed to take place until September 2014.

2. Façade

10. Issues arising with the façade design and manufacture in composite material (FRP), which had originally been included in the final design, had resulted in possible additional costs of up to €2.4 million to the façade budget of the project. In light of the manufacturing risks associated with FRP, its long term performance (being a relatively new construction material largely untested on the large scale of the ICC project), combined with an immature supply chain of smaller supply companies acting as sub-subcontractor's with very little competition, the Project Director decided to opt for a change of material leading to an aluminium facade. The Committee was informed that such alternative solution would not compromise the architectural design. This change of material has not only allowed to mitigate the potential overspend but has instead, produced a further saving of circa €1.5 million (to be shared equally with the contractor), against the original budgeted cost for the facade (€25 million, of which €14 million was for the FRP). In addition, the project will benefit from additional guarantees and reduced maintenance costs, due to the technical advantages of using a largely standard, tested and proved material.

3. Pollution

11. The Committee was informed that historical oil/petrol tanks were uncovered during excavation works on the site, and revealed that a long period of leakage had resulted in a wide contamination of the groundwater and soil in the area of the Court Tower, at groundwater level (approximately nine meters below the surface). Therefore, decontamination work was carried out and completed by the end of September 2013, while technical solutions to expedite the matter and reduce its costs have been adopted. Under the contract, delays encountered are expected to be entirely recovered through an acceleration of the construction works in 2014. Under the relevant arrangements, and as specifically warranted in the Ground Lease with the host State for the site, the cost of €1.08 million for soil decontamination from pollutants is being reimbursed in full by the host State

C. Cost of the project

1. Projected costs

12. The construction project remains firmly below budget: the current level of projected expenditures until the end of the construction project is €83.7 million, against an approved budget of €190 million. The €6.3 million savings achieved at the start of the construction phase were established by the Committee as a strategic reserve. Since then, the Committee made use of €0.7 to fund a change in the design in order to expand the conference capacity at the premises, while the remaining €5.6 million is now being proposed as a funding element of the transition costs (formerly, "2gv" costs).

2. Cost reduction process

13. The Committee undertook a further cost review of the functionality requirements during the construction phase, and approved a list of reviewed requirements which is currently being implemented by the general contractor. In addition the Project Director has also set up an Opportunities process to explore possible design and construction optimizations with the construction team. A target has then been set with the construction team incorporating both of these cost review areas which is expected to produce further savings of circa €3.5 to €3.75 million. The Project Director informed the Committee that

based on the established experience in the construction sector, while such savings are expected to be realized, they would remain purely theoretical, as they would normally be used throughout the project for offsetting the normal increase of construction costs. However, they have been factored into the Risk management process and therefore this process does provide much more certainty as to the achievement of the construction project outcome at or below the overall approved budget.

D. Change in the design

14. Since the beginning of 2013, the Committee had considered the possibility of a change to the design of the permanent premises, which would include a convertible space for hosting larger conference events, including possible Assembly sessions. The Committee considered the implications of the change in the design from their political, operational and financial perspectives. The Project Director had also clarified that any decision in that regard had to be taken by the month of July, as otherwise it would have been potentially disruptive for the project timelines and costs.

15. The procedure, analysis, and objectives of the change in the design were explained in the presentations of the Chair of the Oversight Committee to the New York Working Group and to The Hague Working Group in June and July 2013, respectively, without any formal objections being raised.² A *Question and Answer* paper was also circulated to all the stakeholders.³

16. The Committee considered that the added flexibility of the premises would allow to host conference-like events, accommodating up to 895 participants, with 435 seats available in the major courtroom (264 seats in the floor, and 171 in the public gallery), 196 at the upper floor (Media Centre, video-linked with the main conference room), and 264 seats in the Meeting Centre. A number of additional rooms would also be available for large or small parallel meeting, as well as for supporting conference services.

17. The Committee had considered that, within the approved budget, it was for itself to make decisions for any change to the project design, in order to ensure that the Permanent Premises were provided with sufficient flexibility to meet their possible use throughout the 50 years of their intended lifetime. However, the Committee also considered that the possible use of the additional flexibility that this change in the design would provide was also intended for the purposes of the Assembly of States Parties, and that this suggested a thorough consultation process to be established.

18. The consultation provided the Committee with the views of the Court (Presidency and Registry), of States Parties (Working Groups of the Bureau, in The Hague and New York), NGOs, the Project Director and the Secretariat of the Assembly of States Parties.

19. The Presidency of the Court expressed its support for the political impact that the possible holding of any meetings of the Assembly of States Parties at its seat would convey to the external world, as well as for strengthening the bonds within the Rome Statute system. It was also noted that early notice of any such meetings would allow the Judiciary to consider them in the judicial calendar, while two court rooms would remain anyway accessible for judicial use if the main courtroom was used for any conference event. The Court also clarified that holding conferences at the ICC premises would have been possible, provided that additional technical requirements were taken into account in the design. The Project Director had consulted with the relevant offices in the Registry, and upon consideration of the Court's needs, had concluded that there were no insurmountable obstacles, i.e. the requirements of main judicial functionality of the Court, security etc, could all be taken into account through the design.

20. The financial implications of the change in design were estimated in an investment cost of no more than €15,000. The cost of holding a session of the Assembly at the permanent premises was estimated at €294,029 against €641,742, if the Assembly session was to be held at the World Forum Convention Centre (WFCC). As a consequence, the total saving on the regular budget per single event-Assembly format would be €311,498,

² Presentations of the change to the design were made to and comments received at: The Hague Working Group on 23 May 2013, dated 22 May 2013; the New York Working Group on 4 June 2013, dated 31 May 2013; The Hague Working Group on 4 July 2013, dated 29 June 2013.

³ *Conference Capacity at the Permanent Premises*, dated 29 June 2013.

which would make the business case sound, as the investment would be covered by holding little more than two Assembly type events over the forty years of expected lifetime of the premises.⁴ The use of the permanent premises for other additional meetings that might be required by the Assembly (e.g., intersessional meetings or technical events), the Court (e.g., consultations, trainings), or for other relevant events (e.g. on peace and justice matters), would only make the business case even sounder.

21. The Project Director stressed that whilst the Premises, with this change to the design, could be used to hold an Assembly session, the new premises were still not a purpose designed conference facility akin to either the United Nations in New York or the World Forum Convention Centre in the Hague, and that such an event would still have to be adapted to fit around the layout and limited capacity of some of the areas in the new premises.

22. The Secretariat expressed at different meetings its serious concerns regarding the functionality of the expanded conference facilities for the purposes of holding an Assembly session, emphasizing that delegations from States Parties and Observer States had expectations in terms of seating space for delegates, facilities and services particularly as regards the principle of equality of States, which were provided at United Nations Headquarters and at the WFCC. Given that the expanded conference facilities would fundamentally alter the format of the seating arrangements, the number of seats available to delegations in the main conference room, as well as alter the facilities and services delegations and other participants expect from a multilateral conference facility, the Secretariat indicated that it was difficult for it to envision having an Assembly session take place at the permanent premises under such altered conditions.

23. In drawing its conclusions, the Committee considered the political implications both in terms of the positive impact on the image of unity of the Rome Statute system, and for the concerns expressed that the arrangements for an Assembly session would have to be adapted, as the ICC premises were not purpose built for holding conferences. While the choice of the venue and facilities for holding its sessions will remain in future a matter for the Assembly to discretionarily consider, the Committee concluded that the inherent character of flexibility required for the Permanent Premises that they remain apt for appropriate use over the long term required that they also be provided with sufficient conference capacity for hosting in the future relevant events. The Committee also noted that while the operations of the Court would remain unaffected by the holding of any relevant meetings, the change to the design also created opportunities for realizing future important budget savings which, in turn, would favour the availability of resources for the operations of the Court.

24. Further to its seventh meeting, the Committee decided to approve a change in the design of the permanent premises for the purpose of expanding the flexibility of the project, so as to include the possibility of holding large conference events. As a consequence, the Committee approved an increase of up to €15,000 to the construction budget.

25. Such change in the design is currently being implemented by the Project Director, and all requirements for large conference purposes and based on practical experience at the Assembly of States Parties meetings, insofar they are compatible with the fundamental structure of the premises, are being taken into account. This includes, e.g. the layout of and fittings for the convertible major courtroom; the possibility to hear, speak and vote from delegations' seats; speakers' table, podium and supporting seats; etc.

26. As a result, the Committee understands that, should the Assembly of States Parties so decide, the permanent premises would become as of 2016 also a suitable location for meetings of the Assembly itself.

E. Representational features

27. The Committee considered the issue of "representational features", for which a budget of €1.2 million had been allocated within the construction costs. Based on an outline proposal of the Project Director, the Committee established the elements for a policy to include representational features, integrated art, monuments and memorials. The

⁴ *Report of the Committee on Budget and Finance on the work of its 21st session*, ICC-ASP/12/15, paragraph 153: "the design change would facilitate the flexible, cost-efficient use of the premises throughout their lifetime".

Committee decided to maintain the existing budget of €1.2 million, while trying to produce as much savings as possible through sponsorships, with the aim of tentatively covering all the costs for representational features. The strategy on representational features has been further developed by the Project Director in conjunction with the design team and the Court. At the same time the Court has developed policies relating to acceptance of gifts and artwork relating to the new premises. The main feature of this proposal is to thematically develop the 5 courtyard gardens in the new premises to represent the five regional groupings of the states parties. Discussions with the Municipality of The Hague and the Host State for establishing a “garden of remembrance”, “information trail” or other type of feature on the main public plaza area of the permanent premises continue to take place. Two States Parties have also expressed their intention to contribute the project with works of art and/or by funding specific elements of the premises.

28. Based on the need to ensure that all factors involved in the visible representation at the permanent premises of values, principles and interests, including of States Parties as donors, are adequately taken into consideration in timely addressing the representational features, the Committee decided to expedite its activities by establishing a Working Group and appointing a *rapporteur* for this matter.

F. Working Group on the Total cost of Ownership (WGTCO)

29. The Oversight Committee has been considering the different approaches to the funding costs of the Total Cost of Ownership (TCO), which includes all the future costs for using and owning the new premises and the site. Such costs are currently estimated to impact in total for €9.0 million in 2015, €12.1 million in 2016 (the first full year of occupation), and €12.9 as from 2017 until 2047 (when the host state loan is ultimately concluded).

30. The elements included in the TCO are:

(a) Financial costs.

31. These costs, for the repayment of the host State loan and its accrued interests, will amount by 2017 to approximately a maximum level of €6.9 million per year until 2047 when they will become zero as the host state loan is fully paid off, but are due only from States Parties that have not opted for a full one-time payment. The final amount of these costs will depend on the number of States Parties having opted for a one-time payment, which would reduce the need to draw down from the host State loan and increase the host State subsidy;

(b) Operational and Maintenance costs.

32. These include maintenance, energy/utilities, and insurance costs. These costs have been currently estimated for the new premises at a level of approximately, €0.73 million for 2015, €2.22 million for 2016 and €2.98 million for 2017 and subsequent years. Operational and maintenance costs for the new permanent premises will be borne by all States Parties as of 2015 through the annual budget of the Court, as they are currently for the interim premises. The operational and maintenance costs for the interim premises by comparison are estimated at a level of approximately €2.47 million and are currently not expected to fully cease until 2016, in which year the leases for all the buildings and land making up the interim premises terminate. The cost estimate for the interim premises in 2016 is €0.62 million; and

(c) Capital replacement costs.

33. These represent the necessary investments to be made for capital replacement (replacing items that wear out over time), thus preventing the functional aging of the building (depreciation). As owners of a building, these costs will be borne by all States Parties as of 2016.

34. At its eleventh session, the Assembly decided to “[endorse] the decision of the Oversight Committee to set up a working group chaired by the Project Director, which could include an external consultant and representatives of the Oversight Committee and the Court in order to further examine how the total cost of ownership of the permanent

premises is met, by reviewing the range of possible approaches, as well as any options for future States Parties to contribute to the project costs, and requests the Committee to report thereon at the twelfth session of the Assembly”.⁵

35. In March 2013, the Oversight Committee established the Working Group (WGTCO) on the Total Cost of Ownership and, due to the significant financial impact of the TCO on future States Parties’ contributions, also decided that:

(a) Any proposal of the WGTCO should structure the future governance mechanism for the TCO so that decisions on yearly expenditures would have to be approved by States Parties, irrespective of the funding mechanism;

(b) The scope of the work conducted by the WGTCO should explore equally all possible options (e.g., annual or multi-annual approach) and not focus on some of them, only; and

(c) The WGTCO remains at a technical level, and its findings, would be reported as conclusions to the Oversight Committee, for its final recommendations to the Assembly.

36. The WGTCO is chaired by the Project Director and is considering the relevant experiences at the national and international level, with the view to achieving an update on progress by the twelfth session of the Assembly and providing final results by the thirteenth session of the Assembly in 2014.

37. A summary of the estimated costs of the next five years for both the new premises and the interim premises is presented in annex IX.

III. Scope of the project

A. Delegated authority

38. While the original scope of the permanent premises project was limited to its construction,⁶ the Assembly had also conferred to the Committee delegated authority for any change to the project scope that might have been required⁷ in inter-sessional periods of the Assembly. This authority was used by the Committee for the first time in July 2013, with the decision to integrate construction and transition projects into one overall project for the permanent premises.

39. In 2011, the Committee had already finalized a yearlong review of the project governance, adopting only minimal changes to allow the newly appointed Project Director to take advantage of a clarified role when taking over from his predecessor.

40. A new review of the governance arrangements has been driven in 2013 by the urgency to ensure that the transition project timelines were aligned with those of the construction project, and that a meaningful cost reduction could take place. Upon a lengthy review process, in July 2013 the Committee agreed with the Court on the elements for removing the previous dichotomy between the finances of the transition project, controlled by the Project Director, and its operations, falling within the remit of the Court.

41. Consequently, the Committee adopted the decision to unify under one overall joint permanent premises project the two construction and transition projects through a review of the governance structure, which is without prejudice to the existing legal framework. As this decision was made pursuant to the Assembly’s delegated authority, it will be reported by the Chair of the Committee to the twelfth session of the Assembly.⁸

⁵ Resolution ICC-ASP/11/Res.3, para. 8.

⁶ ICC-ASP/6/Res. 1, annex II, para. 2.

⁷ *Ibid.*, para. 16(c): “where a decision is required in a time frame that would not allow for a decision by the Assembly, [the Committee shall have the authority delegated from the Assembly to] authorize any changes to the project scope”.

⁸ *Ibid.*, para. 17: “The Chairperson of the Oversight Committee shall report to the Assembly at its next session on any exercise of this delegated authority”.

B. Holistic approach

42. The Committee pursued the unification of the construction and transition projects in a holistic perspective that, with the revised governance scheme, is expected to achieve the Assembly's established objectives:

- (a) Permanent Premises construction completed in 2015,
- (b) Court to fully occupy the new premises by the end of 2015,
- (c) Project costs to be kept as low as possible, including the transition costs,
- (d) Avoid any dissipation of resources, including duplication costs for movable assets and for housing at the interim premises, and
- (e) Any financial impact on budgetary resources to be limited as much as possible, so as to prioritize the use of assessed contributions for the core functions of the Court.

C. Changes made

43. As a result of this revised governance scheme, the following changes have taken place in the permanent premises project:

- (a) The construction and transition project are now a single project, and will be governed, managed and funded accordingly,
- (b) The Oversight Committee, without taking any management role, will continue to conduct oversight on behalf of the Assembly at the strategic level and on the whole project,
- (c) The Court conducts the operations for the transition project through the Project Director, and will be reported by the Project Director on both the construction and the transition projects,
- (d) The Project Director becomes the manager of all aspects related to the unified project and previously separately governed under the respective authorities of the Committee and of the Registrar. The Committee understands that this change modifies the role of the Project Director as follows:

- (i) Management

While previously in charge of the operation and finances for the construction project and for the finances of the transition project, now the Project Director manages the finances and the operations of both the construction and the transition projects;

- (ii) Reporting

While previously reporting only to the Oversight Committee on the construction project and on the finances for the transition project, now the Project Director reports to both the Oversight Committee and the Registrar, on the operations and the finances of both the construction and the transition projects.

44. Based on the resolution establishing the Project Director's Office, however, the independence of the Project Director's Office will be safeguarded by its relationship with the Assembly, through the Oversight Committee.⁹ The compliance of the revised role of the Project Director with the respective mandates of the Oversight Committee and of the Registrar, as regulated by the Assembly and pursuant to the Rome Statute, is expected to be ensured through a spirit of mutual trust and collaboration in the achievement of the objectives of the unified project.¹⁰

⁹ *Ibid.*, annex IV, para. 2: « *Independence* – The Project Director's Office shall operate under the full authority of the Assembly of States Parties and report directly and be accountable to the Assembly through the Oversight Committee ».

¹⁰ Second Interim report on the activities of the Oversight Committee, CBF/21/20, annex I, para. 3.

D. Assurances

45. As to the assurance mechanism established for the governance of the project, it originally included a “committee of experts from States Parties”.¹¹ The two most esteemed experts who had followed the work of the Committee since its inception, Mr. Pierre Gilliot (Switzerland) and Mr. Ken Jeavons (United Kingdom), concluded their mandates earlier this year. The Committee has recruited in September 2013 an expert with a mandate limited to the current stage of the study on the Total Cost of Ownership (Mr. Hubert Franke, from Ernst & Young – Netherlands), while it is considering replacing the other Experts as well in the near future.

IV. Transition project

46. The Assembly had requested the Court, in conjunction with the Project Director, “to take all preparatory measures needed to ensure its readiness to take occupation of the permanent premises by not later than December 2015 in order to avoid any additional expenditures for the States Parties, and to report thereon in detail to the Bureau and to the twentieth session of the Committee on Budget and Finance”.¹²

47. As 2013 is a crucial year for establishing the transition project and for reviewing the related transition costs (formally known as “2gv”) – which were re-estimated by the Court in March 2013 to potentially impact the annual budget for €1.6 million in 2014 and €6.5 million in 2015 – the Committee considered that its mandate to oversee the construction of the permanent premises included sufficient flexibility to consider issues that are not only relevant in the lead up to the completion of the construction project, but also for all other related aspects, including for their medium to long term effects.

48. The Oversight Committee has been focusing on four key elements of the transition of the Court to the permanent premises, on which it has sought the views of the Committee on Budget and Finance:

- (a) Governance (structure most suitable to ensuring the successful achievement of the strategic objectives at the lower costs);
- (b) Timelines (relationship between construction and transition projects);
- (c) Costs (target for reduction); and
- (d) Funding (minimizing any additional contributions of States Parties).

A. Governance

49. The Committee considered that the governance arrangements had priority on all other transition related aspects, as they were key to identifying appropriate responses to the costing, funding and budgeting for the transition. In this regard, the Committee noted that the continuing dichotomy between financial and operational responsibilities in the transition programme would have a negative impact on the overall objectives of the Assembly.

50. In particular, the Committee considered the following:

(a) The 2gv costs had been so far exclusively based on estimates conducted by the Court, and their total amount had never as such been approved by the Assembly which, rather, had requested the Court to “elaborate new options for reducing the 2gv elements”;

(b) The 2gv cost review conducted by the Court on 11 March 2013 had raised estimates for the 2gv elements from €20.2 million to €20.8 million, with an expected impact of €3.3 million in 2014 and €13.5 million in 2015;

(c) The Committee was informed by the Court on 11 April 2013 of a revised breakdown of costs for the period 2014-2015, with an impact of €1,167,700 in 2014 and €6,585,800 in 2015;

¹¹ ICC-ASP/6/Res. 1, annex II, para. 13: “The Oversight Committee shall be assisted in its work by an ad hoc committee of experts from States Parties”.

¹² ICC-ASP/11/Res.3, para.10.

(d) The Committee was not aware of any preparation of “options for reducing 2gv elements, including through the suitability and extended use of existing equipment”;¹³

(e) The Committee had also not received any information on the expected review of the policies of the Court with regard to replacement of ICT and other assets, which had been requested by the Assembly,¹⁴ and that would be key to addressing the transition costs, inter alia, together with an appropriate medium to long term procurement policy;

(f) The Committee had been informed by the Court that:

(i) Any cost reductions would only become available at the time of submission of the annual budgets for the financial years 2014 and 2015; and that

(ii) “It was necessary to solve the governance structure [of the transition programme] before being able to review the current estimate”; and

(g) The Committee on Budget and Finance agreed that the review of 2gv costs was an urgent matter.¹⁵

51. Against this background, the Committee also noted that the resources for the transition costs were budgeted in Major Programme VII (“Permanent Premises Project”), under the direct responsibility of the Project Director, who reports to the Oversight Committee. As a consequence, the Committee agreed that the Project Director should be enabled to responsibly revise how costs are established and submitted to him, before any future budget proposal is finalized.

52. The Committee considered that an urgent decision on the governance structure of the transition project was required, in order to allow for a responsible process of 2gv cost review, as well as for reliable estimates on how these costs will impact the period (2014-2016) and the 2014 budget.

53. Following agreement on the Registrar’s proposal, the Committee decided, at its seventh meeting on 5 July 2013, to adopt the revised governance structure (annex I), together with the new Governance chart (annex II).

B. Timelines

54. Consistently with the objectives aimed at with its decision on the revised governance structure (annex I and annex II), the Committee also confirmed that the timelines for the project were to remain for construction to be completed by September 2015 and for the Court to have moved to the new premises and to come into full operation by no later than the end of December 2015.

55. As part of the unified project including construction and transition activities, and to avoid dissipation of resources, the Committee noted a discrepancy between the termination dates of the interim premises (end of March 2016 for the *Arc* building, and end of June 2016 for the *Haagse Veste* building), and the projected completion of the permanent premises ready for occupation in September 2015.¹⁶

56. Under the revised governance structure, the Project Director will explore and implement available avenues to ensuring that all leases are terminated along with the actual deadlines of the construction project, or that appropriate actions with other tenants of the interim premises and with the host State’s relevant authorities are undertaken to eliminate negative financial consequences of extended leases in so far as it is possible to do so.

¹³ ICC-ASP/11/Res.3, para. 11.

¹⁴ ICC-ASP/11/Res.1, Section I, para. 3: “Requests the Court to conduct a review of its policies with regard to replacement of ICT and other assets from a perspective of finding further efficiencies and effectiveness, taking into account, inter alia, periods of obsolescence, the status of assets and the adequacy for the users and to report thereon to the twentieth session of the Committee”.

¹⁵ Report of the Committee on Budget and Finance on the work of its twentieth session, ICC-ASP/12/5, para. 100.

¹⁶ *Interim report on the activities of the Oversight Committee*, CBF/20/18, paragraphs 45 to 49.

C. Costs

57. The Committee had sought the advice of the Committee on Budget and Finance on a possible target for a reduction of the transition costs (ex “2gv”) for the period 2014 to 2016. In this regard, the Committee had already submitted that it would tentatively establish a minimum and maximum target for reduction, approximately between €3 and €8 million.

58. The Committee on Budget and Finance upheld this approach and also agreed with the urgency of the cost review.¹⁷

59. Consistently with its approach to address the cost review of the transition costs following its incorporation in a unified project, the Committee further addressed the cost review process of the transition costs in the context the adoption of a financial target for the overall project, as detailed below.

V. Unified project

A. Unification of construction and transition projects

60. Upon its review of the governance arrangements for the transition project,¹⁸ the Committee concluded that it was in the common interest of the Court and States Parties to implement the permanent premises project in a holistic perspective,¹⁹ as one single project, including the full transition from the interim premises to the new premises, so that the completion of the construction project would also be matched by the timelines of the transition project, and budget and finance implications can also be optimized.²⁰ In particular, the Committee considered the benefits of minimizing the financial impact of the transition costs for States Parties, by utilizing the savings realized in the construction budget and alleviating the regular budget for the financial years 2014 through 2016 from the transition costs, so that the resources required by the Court in that period could remain focused on its core business.

61. Following agreement with the Registrar, the Committee decided, at its seventh meeting on 5 July 2013, to adopt the revised governance structure (annex I), together with the new Governance chart (annex II).

62. Consequently, the construction project and the transition project are now unified in one Permanent Premises Project, with one overall budget and an agreed revised governance structure. The revised governance structure²¹ is without prejudice to the legal framework established and the mandates as conferred by the Rome Statute and by resolution ICC-ASP/6/Res.1, as well as subsequent resolutions.

B. Review of transition costs and of the overall project costs

63. The Committee considered a financial strategy and a cost target for the unified construction and transition projects, along the lines anticipated earlier to the Committee on Budget and Finance.²²

64. The construction costs were established by the Assembly in resolution ICC-ASP/6/Res.1 to be no more than €190 million at the 2014 price level. Further to this construction budget, the Court’s annual budget expenditures related to the permanent premises (including the originally envisaged €20.1 million for the non-integrated user equipment or 2gv), amounted at the time of the twentieth session of the Committee on Budget and Finance at €24.9 million for the span of the project, giving at that time a total estimated project cost of €14.9 million.²³

¹⁷ *Report of the Committee on Budget and Finance on the work of its twentieth session*, ICC-ASP/12/5, para.100.

¹⁸ *Supra*, paras. 47-51.

¹⁹ *Supra*, para 40.

²⁰ *Interim report on the activities of the Oversight Committee*, CBF/20/18, paras. 55-57.

²¹ Seventh meeting of the Oversight Committee, 5 July 2013, Agenda and decisions, annexes I and II.

²² Oversight Committee, *Transition Programme and 2 gv costs*, CBF20/01H02 of 12 April 2013, paragraphs 7 to 9.

²³ As indicated in CBF/20/18, para. 14.

65. The last estimate by the Court of the transition activities cost, €18.3 million, included ICC staff costs for €3.2 million. The Project Director proposed to establish a cost reduction target on the transition costs of €15.1 million at - €3.8 million, giving a revised budget for the transition of €11.3 million, while €3.2 million for ICC staff costs would remain in the regular budget. Out of the resulting total transition costs of €14.5 million, the €11.3 million in the unified budget would then be funded by utilizing the savings of €5.6 million (€6.3 million – €0.7 invested in the change of the design to improve the conference capacity) realized in the construction costs and held as a strategic reserve by the Committee, with the remainder of €5.7 million to be funded over 2014 and 2015, in order for the transition activities to be fully financed. At the same time, the transition costs (with the exception of the ICC staff costs of €3.2 million) would then no longer be included in the regular budget of the Court, but in the overall multi-year budget for the project. This is expected to result in both a leaner 2014 budget proposal (- €3.3 million) and subsequently a significantly leaner 2015 budget proposal (- €13.5 million).

66. The Project Director suggested establishing an overall maximum multi-annual financial envelope at €195.7 million, by adding €5.7 million to the approved and funded construction budget of €190 million. Consequently, €5.7 million would require funding during 2014 and 2015, outside the regular budget. The adoption of the single unified project with its own maximum financial envelope would thus avoid charging the annual budget for 2014 by €3.3 million and for 2015 by a further €13.5 million, as originally estimated at the time of the last Assembly in 2012.

67. Following the adoption of the revised governance structure for the unified construction and transition projects, at its seventh meeting on 5 July 2013, the Committee decided:

(a) That the revised estimates for the transition project would be set at €11.3 million, excluding the €3.2 million for ICC staff costs, which would be reduced to an estimated level of €1.9 million and continued to be covered through the Court's annual budget under Major Programme VII-1. This effectively equates to an overall cost of €13.2 million for the transition and gives a total reduction of €6.9 million from the original €20.1 million estimated for the transition/2gv activities in 2011.

(b) to adopt a financial envelope for the unified overall project budget, of no more than €195.7 million, subject to the approval of the Assembly, and to keep this under review every six months, throughout the lifespan of the project budget.²⁴ However, the Committee also requested the Project Director to conduct a review of the transition costs with a view to achieving a reduction to the target level of at least €193.7 million, and report thereon to the Committee by 6 June 2014.²⁵

68. The Committee understands that under the new governance structure the Project Director is now given the managerial authority for implementing the operational changes required to achieve a meaningful review of the transition elements,²⁶ so that finally all "options for reducing 2gv elements, including through the suitability and extended use of existing equipment"²⁷ can be thoroughly explored, and the review of the requirement list can achieve the targeted savings.

²⁴ This figure includes the effects of the *Decision to Change the Design* (adopted by silence procedure on 10 July 2013) for the purpose of expanding the flexibility of the project, so as to include the possibility of holding large conference events. The costs for this change in the design is estimated at €15,207.

²⁵ *Decision on the Financial Target for the Unified Construction and Transition Budget*, as adopted by silence procedure on 10 July 2013: [The Committee] "Takes note of the Cost Table submitted to the Project Director on 5 July 2013, detailing the initial, current and projected construction, transition and management costs, until completion of the project, Approves a budget target to be achieved for the construction and the transition costs (P 7130) at stage 2, of no more than €195 million, within the unified overall project budget, Decides to keep this target under review throughout the project, every six months, and Further decides that a cost review will be conducted by the Project Director and reported in details by 6 June 2014, with the view of achieving a reduction of the target at the level of at least €193 million." These figures were respectively raised to €195.7 and €193.7 million as result of the following decision of the Committee to approve the change in the design for up to €0.7 million, on the top of the construction budget but funded through the strategic reserve of €6.3 million.

²⁶ Also agreed in the *Report of the Committee on Budget and Finance on the work of its 21st session*, ICC-ASP/12/15, para. 151.

²⁷ CBF/19/para. 170 and ICC-ASP/11/Res. 3, para. 10.

In particular, the Committee considered that no information had been submitted on the verification of the transition requirements list, a review that should take into account the current assets of the Court and that it is expected to remain in the current premises for just two more years. A meaningful review of the transition costs list would need to be conducted at least against the following background:

- (a) The complete inventories of the Court's assets, including their value and status,
- (b) The short and medium term procurement plans, , including opportunities for joint procurement, and
- (c) An extension of the useful lives of assets.

69. The Committee also considered that the scope of this review was consistent with the purpose and objectives of the change made to the governance scheme, i.e. achieving a meaningful cost reduction in the process, as the financing system should to no extent exempt from the Assembly established obligation to revise 2gv elements, in order to reduce their costs as much as possible.

70. Based on the current financial envelope of €195.7 million, the overall aggregated project costs, including both the unified project budget (€195.7 million) and the regular budget (€7.9 million) are currently estimated at €203.6 million, instead of the €215.3 million reported at the eleventh session of the Assembly, an overall reduction of €11.7 million since the eleventh session of the Assembly and a reduction of €13.2 million since the tenth session of the Assembly on the then reported figure of €216.8 million.

C. Leases of interim premises

71. The Oversight Committee stressed that the cost review would need to be extended to existing contracts, including the rent for the interim premises. The period between September and December 2015 should be managed so as to complete the transition of the Court to the new premises. This should also include preparation of the interim premises for their return to the owners, so that they are handed over by the time the permanent premises become fully operational, i.e. by 31 December 2015. The Committee was made aware that the current rent extends well into 2016, i.e. until the end of March for the *Arc* building and the end of June for *Haagse Veste*. If unchanged, this situation would amount to the permanent premises being fully occupied by the Court, and the 2016 budget still having to bear the cost of the rent for interim premises no longer used by the ICC. Therefore, the Committee sought urgent clarity on the costs involved by such extensions and on the terms of the break clauses for the rent contracts, also holding that negotiations with the RGD and owners of the interim premises should be immediately resumed in order to include a flexibility clause in the contract, which would allow, as necessary, for an earlier (or later) termination date.²⁸ The Committee on Budget and Finance had also agreed on the urgency of this matter.²⁹ Actions for addressing this matter are currently being undertaken by the Project Director.³⁰

VI. Funding

72. Consistent with its strategy to address in sequence governance, costs and funding, once the review of the governance for the unified project was achieved, as well as having established an overall project budget target, the Committee has turned to considering possible funding channels for the transition costs (€1.3 million), along the lines anticipated to the Committee on Budget and Finance at its April 2013 session.³¹

73. The Committee had previously submitted to the Committee on Budget and Finance a paper, addressing a possible policy for minimizing the impact, if any, of the transition costs on assessed contributions of States Parties.³² The Committee had suggested that, upon their

²⁸ Oversight Committee, *Interim report on the activities of the Oversight Committee*, CBF/20/18, para. 49.

²⁹ *Report of the Committee on Budget and Finance on the work of its 20th session*, ICC-ASP/12/5 Rev. 1, paras. 96-97.

³⁰ *Supra*, paras. 52-54.

³¹ Oversight Committee, *Transition Programme and 2 gv costs*, CBF20/01H02 of 12 April 2013.

³² Oversight Committee, *Transition Programme and 2 gv costs*, CBF20/01H02 of 12 April 2013.

review, transition costs could be funded through the savings on the construction project and the use of surplus from the regular budget, while advances from the reserves of the Court would ensure the postponement to 2017 of any assessment of contributions which would remain necessary to cover any outstanding negative balance.

74. Following the Committee on Budget and Finance recommendations on the funding options presented at its twenty-first session,³³ the Committee is therefore proposing a combined funding mechanism for the transition costs, including the use of the savings achieved on the construction budget (€5.6 million), as well as of the surplus for the financial years 2012 to 2014 (up to €5.7 million) that will become available throughout the lifetime of the project, with any possible balance at the project end in 2016 to be assessed against the contributions of States Parties for 2017.

75. The Committee has considered the overarching interest of States Parties that any additional contributions be avoided to fund transition costs and, should any such contribution be needed, that it be assessed as late as possible also in order not to impact negatively on the resources required in the regular budget for the core operations of the Court. In that regard, the funding mechanism envisaged by the Committee would allow for assessed contributions not to be needed at all or, if any, to be postponed until the financial year 2017, by making a sequential use of the following funding instruments and steps:

- (a) Savings from the construction budget;
- (b) Surplus; and
- (c) Advances from the cash reserves of the Court.

A. Savings on the construction project (€5.6 million)

76. The construction project has produced substantial savings which amount to €6.3 million of residue. The Committee had decided that this amount would have been treated as a strategic reserve, available until the project end at which time it would be released for other objectives (e.g., offset contributions and return to States Parties, or part of a long-term maintenance fund). As the decision to release the reserve for strategic purposes is discretionary for the Committee, upon adoption of a unified governance structure, the Committee has also decided to use the construction savings for funding the transition costs. The savings available for this purpose would, however, be limited to €5.6 million, as €0.7 of the residue was also committed to construction costs, for implementing the decision to change the design in order to expand the conference capacity of the premises. Any further savings resulting from the review of the functionality requirements, as explained above,³⁴ would only remain theoretical. As a consequence, the Committee can only safely rely on its strategic reserve for funding the transition costs. However, the amount of residue available (€5.6 million) would fall short of €5.7 for safely funding the transition costs (€1.3 million) over the period 2014-2016.

77. Therefore, the Committee considered that the outstanding amount of €5.7 million could be funded by making use of the cash surplus, when and to the extent it becomes available. The Committee also considers that the gap of resources needed between the period when the surplus becomes available and, in any case, between the funding needs and the actual size of the available surplus, could be ensured by resorting to advances from the cash deposits of the Court.

B. Surplus (financial years 2012 to 2014)

78. While surplus is not favoured as a matter of both financial policy and good administration, it is a fact that it is a recurrent, and to some extent unavoidable financial result.³⁵ Consequently, any surplus pertaining to (at least) the financial years 2012 to 2014 (available as of 1 January 2016) could be used to cover the transition costs.

³³ Report of the Committee on Budget and Finance on the work of its 21st session, ICC-ASP/12/15, para. 148.

³⁴ *Supra*, para. 13.

³⁵ This statement is obviously without prejudice to any outcome of possible discussions within the Committee on Budget and Finance on the relationship between the use of the Contingency Fund and the existence of a surplus.

79. However, while the cash surplus is provisionally determined a year after the end of the financial period to which the relevant appropriations relate,³⁶ the surplus would only become certain upon the audit of the accounts, and available as of the 1 January of the following financial period.³⁷ This inherent uncertainty would conflict with the need to ensure the needed liquidity for the transition costs. In order to meet the certainty requirements for the funding, the Committee proposes the use of advances from the cash reserves of the Court.

80. The use of surplus for purposes of other than return to States Parties has precedents in the practice of the Assembly, in case of other unavoidable costs to be otherwise funded through assessed contributions.³⁸

C. Advances from the cash reserves of the Court (period 2014-2016)

81. In order to bridge the possible time gap before the surplus becomes available, the Committee considered the possibility of making use of the advances from the cash reserves of the Court to cover the transition costs.

82. While the cash deposits are built up through the accumulation of medium to long term financial obligations contracted on the basis of yearly budgeted and authorized expenses, the Committee noted that the Court was sitting, year after year, on an unutilized average cash of at least €70 million.³⁹

83. Further to the recommendation made by the Committee on Budget and Finance at its twenty-first session,⁴⁰ the Committee suggested that - out of the average of cash deposits of the Court over the period of the last five financial years - a maximum percentage corresponding to the funding needs of the transition costs in 2014 and 2015 (i.e. €2.85 million each year, or approximately 3 per cent of the average cash deposits) be considered as safe to be approved as advances for the transition. While the financial security of the Court would remain a primary consideration, the safety of the proposed figure can be considered against the period of time which has in the past five years elapsed before the sums committed are actually expended.⁴¹ A maximum amount of €5.7 million of cash advances could then be authorized in the period 2014-2015. Access to such advances would be specifically subject to the following conditions: (i) that it only be used as a prudent measure of last resort, (ii) for limited amount, and (iii) with an agreed schedule of restitution.

84. The cash reserves of the Court would then be refunded within the same financial year they are made. This reimbursement would be achieved with the availability of the surplus (e.g., 2012 surplus available in 2014).

85. As a result, the Committee recommends the following mechanism for funding the transition costs in the financial years 2014 to 2016, which are established at the level of €1.3 million:⁴²

(a) *Savings* on the construction project. These amount to available residue of €5.6 million (€6.3 million, minus the €0.7 million committed to the change of the design approved by the Committee);

(b) *Surplus* pertaining to the financial years 2012 to 2014, up to the remaining funding needs of the transition costs or €5.7 million (€1.3 million, minus €5.6 million of

³⁶ Regulations 4.5 and 4.6 of the Financial Regulations and Rules.

³⁷ Regulation 4.7 of the Financial Regulations and Rules.

³⁸ ICC-ASP/3/Res. 4, *Programme Budget*, - Section B, para. 2: "[...] the Contingency Fund shall be financed initially by applying to it the surplus of the 2002/2003 budget, in the amount of maximum €10 million"; ICC-ASP/4/Res. 9, *Pension scheme for judges*, operative para. 2: "[...] the estimated costs of the accrual for the period from 2003 to 31 December 2006 in the amount of up to €8 million be funded by applying the provisional savings of the 2005 budget".

³⁹ The amount available in reserve for the Contingency Fund is not included here.

⁴⁰ *Report of the Committee on Budget and Finance on the work of its 21st session*, ICC-ASP/12/15, paragraph 148.

⁴¹ These figures should be provided by the Court, broken down by budget lines and/or categories of expenditures (e.g., staff costs, capital replacement, equipment), as well as length of contract (e.g., for personnel or maintenance).

⁴² *Supra*, para. 48.

residue). However, surplus would only become available “as of 1 January following the year in which the audit of the accounts of [each of] the financial period[s] is completed”,⁴³

(c) *Cash advances* from the Court, up to €5.7 million, or €2.85 million for each of the financial years 2014 and 2015. Such advances would only become necessary in case the surplus is not immediately available on 1 January of each of the relevant years, or if in the same years the available surplus has been at a level below expectations. In case cash advances are needed, they would be reimbursed to the Court as soon as the relevant surplus becomes available.

D. Draft Amendments to the Financial Regulations and Rules

86. The Committee is proposing, upon consultation with the Court, an amendment to the Financial Regulations and Rules, limited to the use of surplus (Regulation 4.7). The rationale and text of such amendment are provided in appendix II to annex XI to this report. In that regard, the Committee also considered past practice of the Assembly in approving the use of surplus.⁴⁴

VII. Financial reporting

A. Project expenditure

1. Appropriation unified project budget (€195.72 million)

87. The total appropriation per 31 October 2013 is €195.72 million at 2015 price level, broken down as follows: €156.83 million for construction costs, €7.48 million for risks, €2.70 million for permits and dues, €23.86 million for fees, €1.50 million for other costs and €3.35 million for equipment. The residue of €6.37 million as underspend has been brought to zero. The budget appropriations stated above are further detailed in annex III to this report.

2. Expenditures against the unified project budget

88. The actual expenditures for the project for the third quarter of 2013 per 31 October 2013 amount to €14,794,074. This figure consists of expenditures for construction costs in the amount of €14,600,000, risks for a value of minus €72,053 (due to refund of insurance tax) and fees for a value of €266,127. The latter are composed of €182,200 for project management fees, €83,601 for other consultants and €326 for operational fees. The projected expenditures for the fourth quarter of 2013 per 31 October 2013 amount to €6,098,666. This amount consists of €5,900,000 expenditures for construction, the fees are composed of €182,639 for project management fees, €15,700 for other consultants and €328 for operational fees.

89. The expenditures for the project per 31 October 2013 amount to €29,924,844. This figure consists of expenditures for construction costs in an amount of €27,900,000, risks for a value of minus €72,053, permits and dues expenditures totalling to €126. The costs related to fees total €2,096,771 and are composed of: design related fees amounting to €36,748; project management fees of €1,817,468, other consultants totalling €241,348 and operational fees amounting to €1,206.

90. The total expenditures for the project (from 2008 until 31 October 2013) amount to €0,277,649, of which: zero in 2008; €1,279,471 in 2009; €5,133,346 in 2010; €6,873,388 in 2011; €7,066,600 in 2012; and €29,924,844 in 2013, as of 31 October 2013.

⁴³ Regulation 4.7 of the Financial Regulations and Rules.

⁴⁴ ICC-ASP/3/Res. 4, *Programme Budget*, - Section B, para. 2: “[...] the Contingency Fund shall be financed initially by applying to it the surplus of the 2002/2003 budget, in the amount of maximum €10 million”; ICC-ASP/4/Res. 9, *Pension scheme for judges*, - OP 2: “[...] the estimated costs of the accrual for the period from 2003 to 31 December 2006 in the amount of up to €8 million be funded by applying the provisional savings of the 2005 budget”.

3. Expenditures against the Court's annual budget

91. The actual expenditures on Major Programme VII-1 were as follows (expressed in thousands of euro): an amount of €33.8 was spent in 2008, €17.4 in 2009, €95.4 in 2010, €86.4 in 2011 and €86.7 is the anticipated expenditure for 2012. Per 31 October 2013 an amount of €11.2 was expensed in 2013. The total expenditure of Major Programme VII-1 for the period 2008-2013 per 31 October 2013 amounts to €280.9. Further details are presented in annex IV.

92. The actual expenditures on sub-programme 3770 were as follows (expressed in thousands of euro): an amount of €68.2 was spent in 2008, €60.9 in 2009, €81.4 in 2010, €79.8 in 2011 and €40.4 is anticipated to be expensed in 2012. Per 31 October 2013 an amount of €68.1 was expensed in 2013. The total expenditure of sub-programme 3770 for the period 2008-2013 per 31 October 2013 amounts to €1,965.8. Further details are presented in annex V.

93. Following the decision of the Oversight Committee to adopt the revised governance structure in agreement with the Registrar, the budget for sub-programme 3770 will cease at the end of 2013 and the staff and activities will be fully incorporated into Major Programme VII-1 as of 2014. The two existing staff posts in sub-programme 3770 have been transferred to the Project Director's Office and as of 1 August 2013 and report directly to the Project Director. For sake of completion, the expenditures over 2013 against sub-programme 3770 are still reported separately against the 2013 approved and existing budget.

4. Total projected cost of the project: unified construction and transition budget, plus the Court's budget (permanent premises)

94. The revision of the financial framework has resulted in creating clarification on the full cost impact of the project, through identifying the costs related to the project that are funded via the annual budget of the Court and those that are funded through the unified project budget (annex VI).

95. Annex VI provides an estimate of the full costs related to the project for the period 2008 until 2016. The total estimated costs, following the decision of the Oversight Committee to unify the construction and transition projects, amount to €203.4 million. This cost figure is composed of €195.72 million for the revised project budget which includes all construction and transition activities and an estimated figure of €7.7 million from the regular annual budget of the Court.

5. Utilization of the host State loan and interest accrued

96. Following a query by the Oversight Committee at its sixth meeting of 2010, the Project Director at that time informed the Committee at its seventh meeting, held on 22 June 2010, that the host State had accepted the proposal that, in light of the incoming one-time payments, funds that had been drawn from the host State loan be returned to the host State so as to avoid the accrual of additional interest in the years, 2010, 2011 and 2012. These arrangements have been implemented on 28 June 2010.⁴⁵

97. Due to the continued progress of the planned construction activities in line with the schedule, in early August 2013, a first draw down of the host State loan became required. The estimated total monthly loan draw needs for the remainder of 2013 are reflected in annex VII.

6. Trust fund

98. According to resolution ICC-ASP/6/Res.1, annex VI a trust fund has been established by the Registrar for the purpose of holding funds dedicated to the construction of the permanent premises of the Court. So far no voluntary contributions from governments, international organizations, individuals, corporations or other entities have been received.

⁴⁵ CBF/16/10, annex I, paras. 43-44.

B. One-time payments

99. As at 31 October 2013, 46 States Parties had selected the one-time payment option and pledged to make payments to a value of €46,800,161. At 31 October 2013, the one-time payments actually received amount to €39,916,536. This amount consists of one-time payments, partial or in full, received from 40 different States Parties. Further details are provided in annex VIII to this report.

100. Regarding the financing of the construction project, the level of one-time payments enabled expenditures to be covered until early August 2013, from which point it was necessary to access the host State loan. The Committee has considered the financial benefits attached to further postponing the access to the loan, as the more States Parties make payments in advance the lower would be the cost, both in terms of interests paid on the loan and the increased amount of the host State subsidy.

101. Consequently, the Committee endorsed making full use of the flexibility of the one-time payment system already approved by the Assembly, which agreed to the possibility of “partial one-time payments”.⁴⁶ In this regard, the Committee requested the Project Director to calculate future advanced assessed contributions on the basis of the 2013 scale of assessment, rather than on the basis of the 2009 scale. The Project Director’s Office has developed a computer based calculation database to enable calculations to be swiftly made and different scenarios to be modelled. States Parties will, from this point onwards, be informed of the current level of their contributions against the latest scale of assessment, in case they decide to opt for the one-time payment. In order to create awareness of the fact that some States Parties who have made one-time payments still may not be exempted entirely from a proportional share of the interest incurred up until the point of the final recalculation due to changes in the scales of assessment, annex IX provides a status of the one-time payment amounts based on 122 States Parties and the 2013 scale of assessment and the positive or negative balance this implies for States Parties. The final recalculation is estimated to be made at the end of 2015.

102. The Committee also noted that further increased flexibility for States Parties to opt-in the system might be considered in case one-time payments would allow to cover the remaining project needs in cash terms. On the other hand, under the current arrangements, the further ability for States Parties to opt-in the scheme will depend on the cash flow until the end of the project, so that the deadline for payments might be shorter than 15 June 2015, if the amount of a given one-time payment exceeds the cash needed for the rest of the project.

103. The Committee also considered that in case States Parties that opted for a one-time payment do not fulfil, entirely or partly, their pledges within the agreed timeline, the unpaid amount would have to be offset by a correspondent amount of capital drawn down from the loan, with accrual of interests. As a consequence such situation would have to be treated as the interested States Parties had subsequently waived their right to make use of the scheme, in full or in part.

104. In accordance with resolution ICC-ASP/6/Res.1, annex VI, the cash-flow overview including its provenance is provided in annex VII to this report. In this same annex the received interest on the one-time payments is also reflected. Given the current committed one-time payments and the one-time payments already received, annex VI shows that the necessary cash-flow in 2013 could only partially be funded by committed one-time payments. The first draw down of the loan became required in early August 2013 (*supra*, paragraph 12).

⁴⁶ *Official records ... Eleventh session ... 2012* (ICC-ASP/11/20) Vol. I, Part III, ICC-ASP/11/Res. 3, para.16.

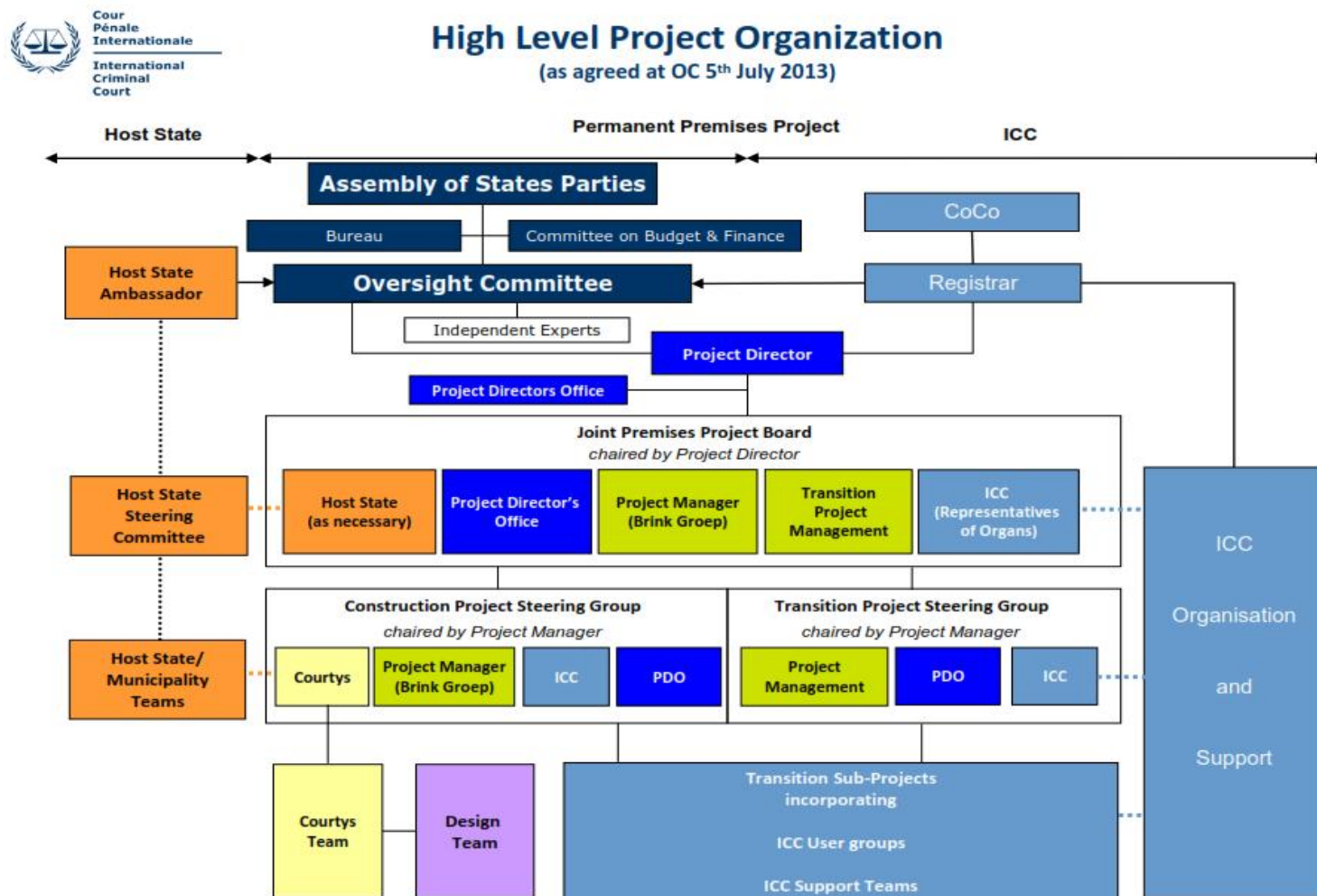
Annex I

Review of Governance

1. The Construction Project and the Transition Project will be unified in one Permanent Premises Project, with one overall budget and an agreed revised governance structure as set forth in the annex.
2. The revised governance structure contained is adopted without prejudice to the legal framework established and the mandates as conferred by the Rome Statute and by the Assembly of States Parties resolution ICC-ASP/6/Res. 1 and following resolutions.
3. The Oversight Committee and the Registrar will cooperate in a spirit of mutual trust and collaboration in ensuring the achievement of the objectives of the unified project through the management role of the Project Director.
4. The Oversight Committee will establish the financial target and strategy, as well as the funding mechanism for the unified Project, including within it the transition costs, with the view to minimizing costs and their impact on contributions of States Parties.
5. The Project Director will become the leading manager of the unified Project, with reporting lines to the Oversight Committee and the Registrar.
6. The Project Director will ensure that the strategies for the transition and the strategies for the construction project are implemented in full harmony with each other, so that the joint Project is delivered on time, within budget and to the quality requirements, and will provide regular reports to both the Oversight Committee and to the Registrar.
7. The funding mechanism will be developed in consultation with the Court and based on the objective of minimizing the impact of transition costs on the contributions of States Parties whilst at the same time providing sufficient flexibility to the unified project to enable efficient and effective management and realisation of the strategic goals.
8. The Project Director will submit to the Committee, in advance of the budget proposal for 2014, the changes resulting from the reduction and funding of the transition project.

Annex II

Governance chart



Annex III

Expenditures for the permanent premises unified project budget for the period 2008 to 31 October 2013 (in euros)

Date: 31 October 2013												
EUR	2008 ^a	2009 ^a	2010 ^a	2011 ^a	2012 ^b (*)	First quarter 2013 ^a	Second quarter 2013 ^a	Third quarter 2013 ^a	Fourth quarter 2013 ^b	Total 2013 ^b	Total expensed [2008 till 2013] ^b	Budget
1. Construction costs	0	0	0	0	2,850,000	5,100,000	2,300,000	14,600,000	5,900,000	27,900,000	30,750,000	156,830,549
1a. Direct costs	0	0	0	0	0	0	0	0	0	0	0	0
1b. Indirect costs	0	0	0	0	0	0	0	0	0	0	0	0
1c. Fees design team (after tendering)	0	0	0	0	0	0	0	0	0	0	0	0
2. Risks	0	0	0	0	-1,500,000	0	0	-72,053	0	-72,053	-1,572,053	7,479,872
2a. Project risk ^c	0	0	0	0	0	0	0	-72,053	0	-72,053	-72,053	0
2b. Client risk ^d	0	0	0	0	-1,500,000	0	0	0	0	0	-1,500,000	0
3. Permits and dues	0	0	0	0	2,501,720	0	126	0	0	126	2,501,846	2,699,526
3a. Permits and dues	0	0	0	0	2,501,720	0	126	0	0	126	2,501,846	0
4. Fees	0	1,279,471	3,633,346	6,873,388	3,214,880	92,184	1,539,794	266,127	198,666	2,096,771	17,097,855	23,858,716
4a. Design related	0	0	2,652,553	5,147,159	2,446,836	0	36,748	0	0	36,748	10,283,296	0
4b. Project management	0	906,514	735,933	1,346,646	446,228	0	1,452,630	182,200	182,639	1,817,468	5,252,789	0
4c. Other consultants (e.g. legal, experts, security)	0	369,715	242,111	378,635	320,581	91,898	50,149	83,601	15,700	241,348	1,552,391	0
4d. Operational fees (e.g. bank fees)	0	3,242	2,748	948	1,235	286	266	326	328	1,206	9,379	0
5. Other costs	0	0	1,500,000	0	0	0	0	0	0	0	1,500,000	1,500,000
5a. Other design related expenses	0	0	1,500,000	0	0	0	0	0	0	0	1,500,000	0
6. Equipment												3,346,337
Residue												0
Actual expenditures	0	1,279,471	5,133,346	6,873,388	7,066,600	5,192,184	3,839,920	14,794,074	6,098,666	29,924,844	50,277,649	
Forecasted expenditures	0	1,300,000	5,200,000	7,000,000	7,300,000					41,846,899	62,646,899	195,715,000
Variance	0	-20,529	-66,654	-126,612	-233,400					-11,922,055	-12,369,250	
Legend												
(*) Notes: Expenditures = disbursements + outstanding obligations. The Financial statements of the Court for permanent premises in 2012 will indicate a total amount of expenditures of €8,582,075, comprising disbursements of €8,475,209 and outstanding obligations of €106,866. Anticipated is a saving figure of €15,475. The contribution of €1,500,000 of the host State to the permit fees has reduced the expenditures with the same amount, leading to the expenditure figure of €7,066,600 for the period 2012.												
^a Actual expenditures												
^b Projected expenditures												
^c reimbursement insurance tax												
^d host State contribution to permit fees												

Annex IV

Expenditures and future projected budgets for Major Programme VII-1 (Project Director's Office) per 31 October 2013 (in thousands of euro)

Expenditures and future projected budgets for Major Programme VII-1 (Project Director's Office)													
7110, 7120 and 7130	Actual expenditure	Actual expenditure	Actual expenditure	Actual expenditure	Anticipated expenditure	Approved budget	Actual expenditure	Actual Impl. Rate	Anticipated expenditure	Proposed budget	Proposed budget	Proposed budget	Total (estimated)
Project Director's Office (permanent premises)	2008	2009	2010	2011	2012	2013	per 31.10.2013	%	2013	2014 (*)	2015 (*)	2016 (*)	2008 - 2016
[thousands of euro]										(**)	(**)	(**)	
Professional staff	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available
General Service staff													
Subtotal staff	48.3	266.6	315.6	321.5	352.4	357.0	283.1	79%	357.0	596.9	596.9	298.5	3,153.6
General temporary assistance		16.8	26.4	9.7	37.2	0.0	55.3		80.0	-	-	-	
Consultants										-	-		
Subtotal other staff		16.8	26.4	9.7	37.2	0.0	55.3		80.0	-	-	-	170.1
Travel	0.5	4.4	14.9	19.3	6.4	9.7	9.2		9.7	18.0	18.0	9.0	
Hospitality		5.7	8.6	2.8	4.2	2.5	1.0		2.5	2.5	2.5	1.3	
Contractual services	35.0	2.1	9.4	28.2	148.1	616.3	159.8		245.0	661.0	661.0	330.5	
Training				3.2	36.5	3.2	0.0		3.2	3.2	3.2	1.6	
General operating expenses		9.9	20.0	0.0	0.0	2.5	0.0		0.0	4.0	4.0	2.0	
Supplies and materials				1.1	0.0	1.5	0.0		0.0	1.5	1.5	0.8	
Furniture and equipment		11.9	0.5	0.6	1.8	4.0	2.8		2.8	2.0	2.0	1.0	
Subtotal non-staff	35.5	34.0	53.4	55.2	197.1	639.7	172.8	27%	263.2	692.2	692.2	346.1	2,368.8
Total	83.8	317.4	395.4	386.4	586.7	996.7	511.2	51%	700.2	1,289.1	1,289.1	644.6	5,692.6
(*) Proposed budgets and subject to change													
(**) As of 2014 programme 7110 incorporates the former sub-programme 3770													
(***) As of 2014 programme 7130, previously known as "2gv" costs is incorporated in the increased multi-annual construction budget													

Annex V

Expenditures and future projected budgets for sub-programme 3770 (Registry Permanent Premises Office) per 31 October 2013

Expenditures and future budgets subprogramme 3770 Registry Permanent Premises Office													
3770 (formerly 3160)	Actual expenditure	Actual expenditure	Actual expenditure	Actual expenditure	Anticipated expenditure	Approved budget	Actual expenditure	Actual Impl. Rate	Anticipated expenditure	Proposed budget	Proposed budget	Proposed budget	Total (estimated)
Registry Permanent Premises Office	2008	2009	2010	2011	2012	2013	per 31.10.2013	%	2013	2014	2015	2016 (*)	2008 - 2016
[thousands of euro]										incorporated in MVII-1, 7110	incorporated in MVII-1, 7110	incorporated in MVII-1, 7110	
Professional staff	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available	No breakdown available				No breakdown available
General Service staff													
Subtotal staff	195.8	191.8	201.5	209.6	215.0	233	167.0	72%	223.0	0.0	0.0	0.0	1,236.7
General temporary assistance	29.4	2.5	36	-6.0									
Subtotal other staff	29.4	2.5	36	-6.0									61.9
Travel	5.3	2.3	3.3	7.3	0.5	5.8	1.1		1.1				
Hospitality													
Contractual services	34.3	51.6	139.4	164.2	190.2	100	100.0		100.0				
Training				2.0									
General operating expenses	3.4	0.2		2.6	1.7	3.0	0.0		0.0				
Supplies and materials		0.4	0.3	0.1	0.1								
Furniture and equipment		12.1	0.9										
Subtotal non-staff	43.0	66.6	143.9	176.2	192.4	108.8	101.1	93%	101.1	0.0	0.0	0.0	723.3
Total	268.2	260.9	381.4	379.8	407.4	341.8	268.1	78%	324.1				2,021.9

Annex VI

Total projected cost of the permanent premises project per 31 October 2013 (in thousands of euro) - Expenditures and future budgets permanent premises project

Expenditures and future projected budgets Permanent Premises Project												
Date: 31 October 2013	Actual Expenditure	Actual Expenditure	Actual Expenditure	Actual expenditures	Anticipated expenditure	Approved budget	Actual expenditure per 31.10.2013	Anticipated expenditure	Proposed budget	Proposed budget	Proposed budget	Total (estimated)
[thousands of euro]	2008	2009	2010	2011	2012	2013			2014 (*)	2015 (*)	2016 (*)	2008 - 2016
Unified project budget (multi-annual budget)												
Revised total unified project budget, including 3gv and 2gv costs (195,715 k€)	-	1,279.5	5,133.3	6,873.4	7,066.6	49,874.6	29,924.8	41,846.9	99,669.3	33,728.9	117.09	195,715.0
Total unified project budget												195,715.0
Annual budget												
Major Programme VII-1	83.8	317.4	395.4	386.4	586.7	996.7	511.2	700.2	1289.1	1289.1	644.6	5,692.6
Programme 7110 - Project Director's Office	83.8	317.4	395.4	386.4	421.8	460.4	328.0	425.2	693.6	693.6	346.8	3,764.0
Programme 7120 - ICC Staff Resources and management support (**)	0.0	0.0	0.0	0.0	113.9	386.3	131.3	180.0	595.5	595.5	297.8	1,782.7
Programme 7130 - 2gv elements (non-integrated user equipment) (***)	0.0	0.0	0.0	0.0	50.9	150.0	51.9	95.0	0.0	0.0	0.0	145.9
Sub-programme 3770 - Registry Permanent Premises Office	268.2	260.9	381.4	379.8	407.4	341.8	268.1	324.1	0.0	0.0	0.0	2,021.9
Total annual budget												7,714.4
Estimated Grand Total 2008 - 2016												203,429.5
(*) Proposed budgets and subject to change												
(**) As of 2014 programme 7110 incorporates the former sub-programme 3770												
(***) As of 2014 programme 7130, previously known as "2gv" costs is incorporated in the increased multi-annual construction budget												

Annex VII

Overview costs, one-time payments and host State loan per 31 October 2013 (in euros)

2012	Actuals 2012				Actuals	Estimated					Total
Cost overview	Qtrtr I	Qtrtr II	Qtrtr III	Qtrtr IV	2012	2012	2013 (*)	2014 (*)	2015 (*)	2016 (*)	
€											
Cash in:											
Balance from previous year	16,213,847	15,683,205	15,506,515	15,542,915	16,213,847	16,213,847	17,754,743	-21,532,059	-129,379,531	-150,422,923	
Incoming One-time payments	498,048	372,202	759,911	7,075,499	8,705,660	8,705,660	0	0	0	0	
Received Interest	2,187	28,121	112,034	52,516	194,858	194,858					
Total:	16,714,082	16,083,528	16,378,460	22,670,930	25,114,365	25,114,365	17,754,743	-21,532,059	-129,379,531	-150,422,923	
Cash out:											
Costs for the permanent premises	803,330	577,013	835,545	4,759,320	6,975,209	7,082,075	39,286,802	107,847,472	21,043,391	1,454,054	190,000,000
Costs for the permanent premises [unliquidated obligations of 2011]	227,547			50,000	277,547	277,547					
Balance to carry over	15,683,205	15,506,515	15,542,915	17,861,609	17,861,609	17,754,743	-21,532,059	-129,379,531	-150,422,923	-151,876,977	
2013	Actuals 2013				Estimated 2013	Estimated	Estimated			Total	Total
Cost overview	Qtrtr I	Qtrtr II	Qtrtr III	Qtrtr IV	2013	2013	2014	2015	2016 (*)		
€											
Cash in:											
Balance from previous year	17,861,609	14,535,662	10,946,407	2,942,140	17,861,609	17,861,609	-21,754,069	-112,502,205	-144,168,651		
Incoming One-time payments	1,901,652	241,758	76,423	24,512	2,244,345	2,244,345	6,421,140	462,486	0		
Received Interest (***)	33,974	28,760	15,533		78,266	78,266					
Loan draw			6,700,000	13,800,000	20,500,000						
Cash surplus							2,500,000	1,600,000	1,600,000	5,700,000	
Total:	19,797,234	14,806,180	17,738,363	16,766,652	40,684,220	20,184,220	-12,832,930	-112,039,719	-144,168,651		
Cash out:											
Costs for the permanent premises	5,192,184	3,839,920	14,794,074	18,020,721	41,846,899	41,846,899	99,669,275	33,728,932	117,090	195,715,000	
Costs for the permanent premises [unliquidated obligations of 2012]	69,388	19,853	2,150		91,391	91,391					
Balance to carry over	14,535,662	10,946,407	2,942,140	-1,254,069	-1,254,069	-21,754,069	-112,502,205	-144,168,651	-142,685,741		
(*) Estimated total loan drawn by project end											
(**) The above estimated figures are estimates only and are subject to change											
(***) Qtrtr I interest figure includes €554 interest received in 2009											

Annex VIII

Status of one-time payments per 31 October 2013 (in euros)

		Pledged Amounts						Amount received						Outstanding Amounts				
States	2009	2010	2011	2012	2013-2015	Total	2009	2010	2011	2012	2013-2015	Total	2010	2011	2012	2013-2015	Total	
1 Albania	-	-	6,865	6,864	-	13,729	-	-	6,865	-	-	6,865	-	-	-	6,864	6,864	
2 Andorra	-	18,305	-	-	-	18,305	-	18,305	-	-	-	18,305	-	-	-	-	-	
3 Antigua and Barbuda	-	-	-	-	1,741	1,741	-	-	-	-	1,741	1,741	-	-	-	-	-	
4 Argentina	-	-	743,641	-	-	743,641	-	-	743,641	-	-	743,641	-	-	-	-	-	
5 Australia	-	1,362,961	1,362,960	1,362,960	-	4,088,881	-	2,725,921	1,362,960	-	-	4,088,881	-	-	-	-	-	
6 Barbados	-	-	-	-	20,531	20,531	-	-	-	-	-	-	-	-	-	20,531	20,531	
7 Benin	-	-	2,288	-	-	2,288	-	-	-	-	-	-	-	2,288	-	-	2,288	
8 Bolivia	-	4,577	4,576	4,576	-	13,729	-	13,729	-	-	-	13,729	-	-	-	-	-	
9 Burkina Faso	-	4,576	-	-	-	4,576	-	-	-	4,576	-	4,576	-	-	-	-	-	
10 Cambodia	-	2,288	-	-	-	2,288	-	2,288	-	-	-	2,288	-	-	-	-	-	
11 Canada	-	6,811,751	-	-	-	6,811,751	-	6,811,751	-	-	-	6,811,751	-	-	-	-	-	
12 Chile	-	-	-	367,498	-	367,498	-	-	-	367,498	-	367,498	-	-	-	-	-	
13 Columbia	-	-	-	-	239,532	239,532	-	-	-	-	239,532	239,532	-	-	-	-	-	
14 Costa Rica	-	-	-	49,477	24,512	73,989	-	-	-	49,477	24,512	73,989	-	-	-	-	-	
15 Czech Republic	-	-	-	642,963	-	642,963	-	-	321,482	321,481	-	642,963	-	-	-	-	-	
16 Dem.Rep. of Congo	-	-	6,864	-	-	6,864	-	-	6,864	-	-	6,864	-	-	-	-	-	
17 Denmark	-	-	-	-	1,685,852	1,685,852	-	-	-	-	-	-	-	-	-	1,685,852	1,685,852	
18 Djibouti	-	763	763	762	-	2,288	-	-	-	-	-	-	763	763	762	-	2,288	
19 Finland	-	1,290,503	-	-	-	1,290,503	-	1,290,503	-	-	-	1,290,503	-	-	-	-	-	
20 Georgia	-	-	-	6,864	-	6,864	-	-	-	6,864	-	6,864	-	-	-	-	-	
21 Hungary	-	186,101	186,101	186,101	-	558,303	-	-	186,101	372,202	-	558,303	-	-	-	-	-	
22 Iceland	-	-	-	84,661	-	84,661	-	-	-	84,661	-	84,661	-	-	-	-	-	
23 Italy	2,092,090	1,781,707	3,873,797	3,873,798	-	11,621,392	2,092,090	1,781,707	3,873,797	3,873,798	-	11,621,392	-	-	-	-	-	
24 Jordan	-	9,152	9,153	9,153	-	27,458	-	9,152	9,153	9,153	-	27,458	-	-	-	-	-	
25 Liechtenstein	-	22,881	-	-	-	22,881	-	22,881	-	-	-	22,881	-	-	-	-	-	
26 Lithuania	-	-	47,288	23,644	-	70,932	-	-	47,288	-	23,644	70,932	-	-	-	-	-	
27 Luxembourg	-	-	97,246	97,245	-	194,491	-	-	194,491	-	-	194,491	-	-	-	-	-	
28 Mauritius	-	25,169	-	-	-	25,169	-	25,169	-	-	-	25,169	-	-	-	-	-	
29 Mexico	-	1,721,434	1,721,433	1,721,433	-	5,164,300	-	1,721,434	1,721,433	-	1,721,433	5,164,300	-	-	-	-	-	
30 Montenegro	-	2,288	-	-	-	2,288	-	2,288	-	-	-	2,288	-	-	-	-	-	
31 Netherlands	-	-	-	-	4,272,802	4,272,802	-	-	-	-	-	-	-	-	-	4,272,802	4,272,802	
32 Panama	-	-	-	-	51,038	51,038	-	-	-	-	51,038	51,038	-	-	-	-	-	
33 Philippines	-	-	-	-	177,938	177,938	-	-	-	-	177,938	177,938	-	-	-	-	-	
34 Portugal	-	401,948	401,947	401,947	-	1,205,842	-	401,948	401,947	401,947	-	1,205,842	-	-	-	-	-	
35 Republic of Korea	-	-	-	234,406	822,281	1,056,687	-	-	-	-	234,406	234,406	-	-	-	822,281	822,281	
36 Samoa	-	2,288	-	-	-	2,288	-	2,288	-	-	-	2,288	-	-	-	-	-	
37 San Marino	-	6,864	-	-	-	6,864	-	6,864	-	-	-	6,864	-	-	-	-	-	
38 Serbia	-	16,017	16,017	16,017	-	48,051	-	48,051	-	-	-	48,051	-	-	-	-	-	
39 Slovakia	-	-	-	143,804	-	143,804	-	-	-	143,804	-	143,804	-	-	-	-	-	
40 South Africa	-	663,557	-	-	-	663,557	-	663,557	-	-	-	663,557	-	-	-	-	-	
41 Suriname	-	-	-	-	2,281	2,281	-	-	-	-	2,281	2,281	-	-	-	-	-	
42 Sweden	-	-	2,450,583	-	-	2,450,583	-	-	2,450,583	-	-	2,450,583	-	-	-	-	-	
43 Switzerland	-	-	-	2,774,014	-	2,774,014	-	-	-	2,774,014	-	2,774,014	-	-	-	-	-	
44 Timor-Leste	-	-	-	-	2,226	2,226	-	-	-	-	2,226	2,226	-	-	-	-	-	
45 Trinidad and Tobago	-	-	-	61,779	-	61,779	-	-	-	61,779	-	61,779	-	-	-	-	-	
46 Tunisia	-	-	-	-	70,719	70,719	-	-	-	-	-	-	-	-	-	70,719	70,719	
	2,092,090	14,335,130	10,931,522	12,069,966	7,371,453	46,800,161	2,092,090	15,547,836	11,326,605	8,705,660	2,244,345	39,916,536	763	3,051	7,626	6,872,185	6,883,625	

Annex IX

One-time payments – 122 States at 2013 scale of assessment (in euros)

	<i>States Parties</i>	<i>Estimated contribution if one-time payment (against 2013 scale of assessment)</i>	<i>Pledged one-time payment amount</i>	<i>Actual paid one-time payment amount (by 31.10.2013)</i>	<i>Outstanding one-time payment amount</i>
1	Afghanistan	12,245			12,245
2	Albania	24,645	13,729	6,865	17,780
3	Andorra	19,685	18,305	18,305	1,380
4	Antigua and Barbuda	4,960	1,741	1,741	3,219
5	Argentina	1,064,229	743,641	743,641	320,588
6	Australia	5,109,260	4,088,881	4,088,881	1,020,379
7	Austria	1,965,863			1,965,863
8	Bangladesh	15,500			15,500
9	Barbados	19,685	20,531		19,685
10	Belgium	2,458,453			2,458,453
11	Belize	2,480			2,480
12	Benin	7,440	2,288		7,440
13	Bolivia	22,165	13,729	13,729	8,436
14	Bosnia & Herzegovina	41,850			41,850
15	Botswana	41,850			41,850
16	Brazil	7,227,798			7,227,798
17	Bulgaria	115,785			115,785
18	Burkina Faso	7,440	4,576	4,576	2,864
19	Burundi	2,480			2,480
20	Cambodia	9,920	2,288	2,288	7,632
21	Canada	7,350,868	6,811,751	6,811,751	539,117
22	Cape Verde	2,480			2,480
23	Central African Republic	2,480			2,480
24	Chad	4,960			4,960
25	Chile	822,739	367,498	367,498	455,241
26	Colombia	637,979	239,532	239,532	398,447
27	Comoros	2,480			2,480
28	Congo	12,245			12,245
29	Cook Islands*)	2,480			2,480
30	Costa Rica	93,620	73,989	73,989	19,631
31	Côte d'Ivoire	17,205			17,205
32	Croatia	310,465			310,465
33	Cyprus	115,785			115,785
34	Czech Republic	950,924	642,963	642,963	307,961
35	Democratic Republic of the Congo	7,440	6,864	6,864	576
36	Denmark	1,662,838	1,685,852		1,662,838
37	Djibouti	2,480	2,288		2,480
38	Dominica	2,480			2,480
39	Dominican Republic	110,825			110,825
40	Ecuador	108,345			108,345

	<i>States Parties</i>	<i>Estimated contribution if one-time payment (against 2013 scale of assessment)</i>	<i>Pledged one-time payment amount</i>	<i>Actual paid one-time payment amount (by 31.10.2013)</i>	<i>Outstanding one-time payment amount</i>
41	Estonia	98,580			98,580
42	Fiji	7,440			7,440
43	Finland	1,278,594	1,290,503	1,290,503	-11,909
44	France	13,778,091			13,778,091
45	Gabon	49,290			49,290
46	Gambia	2,480			2,480
47	Georgia	17,205	6,864	6,864	10,341
48	Germany	17,591,552			17,591,552
49	Ghana	34,565			34,565
50	Greece	1,571,698			1,571,698
51	Grenada	2,480			2,480
52	Guatemala	66,495			66,495
53	Guinea	2,480			2,480
54	Guyana	2,480			2,480
55	Honduras	19,685			19,685
56	Hungary	655,339	558,303	558,303	97,036
57	Iceland	66,495	84,661	84,661	-18,166
58	Ireland	1,029,664			1,029,664
59	Italy	10,957,404	11,621,392	11,621,392	-663,988
60	Japan	26,686,633			26,686,633
61	Jordan	54,250	27,458	27,458	26,792
62	Kenya	32,085			32,085
63	Latvia	115,785			115,785
64	Lesotho	2,480			2,480
65	Liberia	2,480			2,480
66	Liechtenstein	22,165	22,881	22,881	-716
67	Lithuania	179,800	70,932	70,932	108,868
68	Luxembourg	199,485	194,491	194,491	4,994
69	Madagascar	7,440			7,440
70	Malawi	4,960			4,960
71	Maldives	2,480			2,480
72	Mali	9,920			9,920
73	Malta	39,370			39,370
74	Marshall Islands	2,480			2,480
75	Mauritius	32,085	25,169	25,169	6,916
76	Mexico	4,537,620	5,164,300	5,164,300	-626,680
77	Mongolia	7,440			7,440
78	Montenegro	12,245	2,288	2,288	9,957
79	Namibia	24,645			24,645
80	Nauru	2,480			2,480

	<i>States Parties</i>	<i>Estimated contribution if one-time payment (against 2013 scale of assessment)</i>	<i>Pledged one-time payment amount</i>	<i>Actual paid one-time payment amount (by 31.10.2013)</i>	<i>Outstanding one-time payment amount</i>
81	Netherlands	4,074,481	4,272,802		4,074,481
82	New Zealand	623,254			623,254
83	Niger	4,960			4,960
84	Nigeria	221,650			221,650
85	Norway	2,096,373			2,096,373
86	Panama	64,015	51,038	51,038	12,977
87	Paraguay	24,645			24,645
88	Peru	288,300			288,300
89	Philippines	379,440	177,938	177,938	201,502
90	Poland	2,268,888			2,268,888
91	Portugal	1,167,614	1,205,842	1,205,842	-38,228
92	Republic of Korea	4,912,100	1,056,687	234,406	4,677,694
93	Republic of Moldova	7,440			7,440
94	Romania	556,759			556,759
95	Saint Kitts and Nevis	2,480			2,480
96	Saint Lucia	2,480			2,480
97	Saint Vincent and the Grenadines	2,480			2,480
98	Samoa	2,480	2,288	2,288	192
99	San Marino	7,440	6,864	6,864	576
100	Senegal	14,725			14,725
101	Serbia	98,580	48,051	48,051	50,529
102	Seychelles	2,480			2,480
103	Sierra Leone	2,480			2,480
104	Slovakia	421,290	143,804	143,804	277,486
105	Slovenia	246,295			246,295
106	South Africa	916,359	663,557	663,557	252,802
107	Spain	7,323,898			7,323,898
108	Suriname	9,920	2,281	2,281	7,639
109	Sweden	2,364,988	2,450,583	2,450,583	-85,595
110	Switzerland	2,579,197	2,774,014	2,774,014	-194,817
111	Tajikistan	7,440			7,440
112	The FYR of Macedonia	19,685			19,685
113	Timor-Leste	4,960	2,226	2,226	2,734
114	Trinidad and Tobago	108,345	61,779	61,779	46,566
115	Tunisia	88,660	70,719		88,660
116	Uganda	14,725			14,725
117	United Kingdom	12,758,192			12,758,192
118	United Republic of Tanzania	15,500			15,500
119	Uruguay	128,030			128,030
120	Vanuatu	2,480			2,480
121	Venezuela	1,544,573			1,544,573
122	Zambia	14,725			14,725
	TOTALS	155,000,000	46,800,161	39,916,536	115,083,464

Annex X

Total Cost of Ownership – Estimated five year Projection for interim and Permanent Premises at 31 July 2013 (in euros)

	2014	2015	2016	2017	2018
Interim Premises					
Rent (MP-V)	6,021,400	3,182,080	1,875,405	-	-
Operation & Maintenance	inc	2,470,184	617,546	-	-
Total	6,021,400	5,652,264	2,492,951	-	-
<i>Host state contribution to rent</i>	- 3,000,000	- 2,826,132	-	-	-
Total annual budget impact	3,021,400	2,826,132	2,492,951	-	-
Permanent Premises					
Financial Costs (MP-VII-2)					
Interest Only Payments	170,257	2,075,015	3,589,626	916,562	-
Capital & Interest Repayments	-	-	-	5,008,948	6,678,598
Operation & Maintenance	-	734,500	2,224,000	2,979,000	2,979,000
Capital Replacement*	-	-	3,200,000	3,200,000	3,200,000
Total	170,257	2,809,515	9,013,626	12,104,510	12,857,598
Combined Total budget impact	6,191,657	8,461,779	11,506,577	12,104,510	12,857,598

*Based on preliminary estimates from 2011 on Long Term Approach, Medium Risk (this will in 2014 be replaced with the outcome of TCO working group).

Annex XI

Draft resolution on permanent premises

The Assembly of States Parties,

Recalling its resolutions adopted with regard to the permanent premises, including ICC-ASP/6/Res.1,¹ ICC-ASP/7/Res.1,² ICC-ASP/8/Res.5,³ ICC-ASP/8/Res.8,⁴ ICC-ASP/9/Res.1,⁵ ICC-ASP/10/Res.6,⁶ and ICC-ASP/11/Res.3,⁷ and *reiterating* the importance of the permanent premises to the future of the Court,

Noting the report of the Oversight Committee on the permanent premises,⁸

Noting the recommendations of the External Auditor,⁹ as well as the reports of the Committee on Budget and Finance on the work of its twentieth and twenty-first sessions and the recommendations contained therein,¹⁰

Recalling its firm intention that the construction of the permanent premises should be delivered within the €90 million budget (at 2014 price levels) as per resolution ICC-ASP/6/Res.1, and the role of the Oversight Committee in implementing under its delegated authority any actions that might be needed to ensure that the project proceeds safely within budget, as well as that the ownership costs of the permanent premises be as low as possible,

Stressing that the permanent premises shall be delivered at a good quality standard within the approved budget, while avoiding elements that might not be essential to the proper performance of the core functions of the Court or that would otherwise negatively affect the total cost of ownership,

Reiterating the important role of the Court and the host State throughout the process and *noting with appreciation* their full cooperation with the project,

Reiterating the role of the Project Director in providing leadership and overall management of the project, and *recalling* his responsibility for meeting the project's goals, timeliness and costs, and quality requirements, as provided in resolution ICC-ASP/6/Res.1 and the revised governance arrangements approved by the Assembly at its tenth session,

Scope of the project

Considering that its objective that the permanent premises project be completed by September 2015 and the Court be able to progressively move into and take full occupation of the new premises by the end of 2015 requires strong coordination and leadership of both the construction and the transition activities in order to prevent future cost overruns,

Considering that, pursuant to resolution ICC-ASP/6/Res.1, the Oversight Committee and the Project Director are endowed with the governance and management of the construction project, financed with extra-budgetary resources and in a multi-year budget dedicated to the project,¹¹

Also considering that the transition project was established under the operational responsibility of the Court, while its estimated costs were subject to approval for each relevant project year, under the responsibility of the Project Director and the control of the Oversight Committee,

¹ Official Records ... Sixth session ... 2007 (ICC-ASP/6/20), vol. I, part III.

² Official Records ... Seventh session ... 2008 (ICC-ASP/7/20), vol. I, part III.

³ Official Records ... Eighth session ... 2009 (ICC-ASP/8/20), vol. I, part II.

⁴ Official Records ... Eighth session (resumption) ... 2010 (ICC-ASP/8/20/Add.1), part II.

⁵ Official Records ... Ninth session ... 2010 (ICC-ASP/9/20), vol. I, part II.

⁶ Official Records ... Tenth session ... 2011 (ICC-ASP/10/20), vol. I, part II.

⁷ Official Records ... Eleventh session ... 2012 (ICC-ASP/11/20), vol. I, part II.

⁸ ICC-ASP/12/43.

⁹ Official Records ... Eleventh session ... 2012 (ICC-ASP/12/20), vol. II, part C.1.

¹⁰ *Ibid.*, parts B.1 and B.2.

¹¹ ICC-ASP/6/Res.1.

Stressing that a holistic approach to the permanent premises would enable coordinated strategies for implementing the policy of the Assembly for permanently hosting the Court in the new premises, and is expected to result in efficiencies and lower costs, so that the construction and transition costs could be kept as low as possible.

Noting that by unifying the construction and the transition projects the resources for the latter could be assessed on a multi-year basis, and the management of a unified project budget would allow using the savings in one area to balance costs in the other, while maintaining separate expenditures reporting obligations for construction and transition activities,¹²

Also noting that such unified budget would also avoid that these costs remain in the regular budget and therefore would allow prioritization of yearly budgeted resources for the core functions of the Court,¹³

Considering that the Oversight Committee and the Registrar have decided to cooperate in a spirit of mutual trust and collaboration in ensuring the achievement of the objective of a unified project,

Also considering that the revised governance structure adopted to that end is without prejudice to the legal framework established and the mandates conferred by the Rome Statute and by the Assembly of States Parties in resolution ICC-ASP/6/Res. 1 and following resolutions,

Noting the report of the Chair of the Oversight Committee on the use by the Committee of its delegated authority¹⁴ with the adoption, in agreement with the Court, of the decision to expand the scope of the project, so that it could now include both the construction and the transition projects and be considered as an overall unified project,

Noting that such decision, to ensure coordination, empowers the Project Director as the sole manager for both the construction and the transition projects, with dual reporting lines to the Committee and to the Registrar and under the financial strategy established by the Committee, while the Project Director maintains its independence from the Registry and remains under the authority of the Assembly, without prejudice to the managerial role of the Project Director,¹⁵

Stressing the need to maintain a clear separation between the respective roles of oversight carried out by the Assembly through the Committee, and the administration of the Court, while the Project Director would act as a common manager for both the Assembly and the Court,

Financial target 2014-2016 and budget 2014

Noting the current estimates of the aggregated construction (€184.4 million) and transition (€1.3 million) costs, with a total level of €195.7 million and the need to provide the Project Director with an overall unified financial envelope to manage these costs for the lifetime of the project, as well as the funding scheme proposed by the Oversight Committee and as endorsed by the Committee on Budget and Finance,¹⁶

Further considering that this level is subject to review throughout the lifetime of the project and depending on the ongoing cost review, in particular, for the transition elements and with the aim of achieving by June 2014 a reduced cost level of no more than €193.7 million,

Considering that States Parties would benefit from information on their anticipated final contributions, as they will be recalculated at project end and that, in that regard, regular updates based on the current membership and on the latest scale of assessment would increase transparency about any shortfall or refund in their required contributions,

¹² *Report of the Committee on Budget and Finance on the work of its twenty-first session*, ICC-ASP/12/15, para. 148.

¹³ Based on the estimates before the twentieth session of the Committee on Budget and Finance, in April 2013, the annual budget of the Court would have increased by €3.3 million in 2014 and by €3.5 million in 2015, should the unification of the projects not have taken place.

¹⁴ ICC-ASP/6/Res. 1, annex III, paras. 3(c) and 16 (c).

¹⁵ ICC-ASP/6/Res.1, annex IV, para. 2.

¹⁶ ICC-ASP/12/15, paras. 145-147.

Total Cost of Ownership

Recalling that the total cost of ownership, currently estimated at €9.0 million in 2015, €12.1 million in 2016, and €12.9 as from 2017, includes: financial costs for those States not having opted for one-time payments, operating and maintenance costs of the premises, and funding costs for capital replacements,

Noting the recommendation of the Committee on Budget and Finance at its eighteenth session that the Oversight Committee develop, in cooperation with the Project Director, qualitative and quantitative assumptions, options and scenarios, including risk assessments and illustration concerning the total cost of ownership,¹⁷ and that such review should include the full range of possible approaches,

Considering the ongoing activity of the Working Group on Total Cost of Ownership established by the Oversight Committee and headed by the Project Director,

Taking note that costs related to the permanent premises can also be funded making use of any available surplus and that the Oversight Committee, in consultation with the Court, submitted to the Committee on Budget and Finance at its twenty-first session a proposed amendment to the Financial Regulations and Rules,

One time payments

Recalling that States Parties had been requested to inform the Registrar of their final decision to select the option of a one-time payment of their assessed share in the project by 15 October 2009, and that this deadline was first extended to 15 October 2012,¹⁸ and further extended to 31 December 2014,¹⁹

Welcoming the fact that since this latter extension 13 additional States Parties have committed to making a one-time payment, for a total of additional €10.4 million, bringing the total number of States Parties having so committed to 46, as at 31 October 2013, in a total amount of €46.8 million, of which €39.9 million have already been received,

Noting the advantages for all States Parties of allowing maximum flexibility to the one-time payment scheme, including by extending the deadline to opt for full or partial one-time payments due to the lesser need to draw funds from the host State loan, the immediate discount for those States opting for a one-time payment, and the lower capital and interest to be repaid by those States not opting for a one-time payment,

Considering that it will remain for the Oversight Committee to ensure that such flexibility is implemented throughout the project so that the ultimate objective of maximizing the benefits of the one-time payment scheme for all States Parties, while ensuring that the objective that the system remains fair is achieved,

Recalling the criteria applicable to the agreement on the host State loan, and the principles for one-time payments of the assessed share, contained in annexes II and III to resolution ICC-ASP/7/Res.1, respectively, and as further explained in resolution ICC-ASP/11/Res. 3, annex II and appendixes I and II,

Noting that the conditions of the host State loan provide that payment of interests begins as of the time of the first utilization of the loan,²⁰ and that repayment of capital and interests will commence after expiration of the existing or future leases of the interim premises,²¹

Also noting that the necessary liquidity for the payment of interests and capital for the whole of the repayment period needs to be ensured, and that States Parties failing to timely making their contributions in that regard will be liable for any costs incurred by the Court's resources to meet the reimbursement obligation to the loan,

¹⁷ *Ibid.*, part B.1.

¹⁸ Resolution ICC-ASP/8/Res.8

¹⁹ Resolution ICC-ASP/11/Res.3, para. 14.

²⁰ Resolution ICC-ASP/7/Res.1, annex II, (e).

²¹ *Ibid.*, (f).

Recalling that the trust fund for voluntary contributions dedicated to the construction of the permanent premises has been established and that voluntary contributions can also be provided through earmarked funds for special features, or in kind contributions, upon consultation with the Oversight Committee,

I. Governance and Management of the Project

A. Construction Project

1. *Welcomes* the report of the Oversight Committee and *expresses its appreciation* to the Oversight Committee, the Project Director, the Court and the host State for the progress made on the permanent premises project since the eleventh session of the Assembly;
2. *Approves* the revised cash-flow scheme contained in appendix I;
3. *Welcomes* the beginning, on March 2013, of the actual construction of the project, and the holding of a ground breaking ceremony hosted by the Oversight Committee on 16 April 2013;
4. *Also welcomes* the continued commitment of the host State to fulfil its obligations under the ground lease and, in that regard, acknowledges the reimbursement to the project of the full cost of the cleaning for the soil pollution, and of the acceleration cost for recovering the delay caused by it;
5. *Further welcomes* that the construction project continues to remain within the originally approved budget of €190 million at 2014 prices, and, in this regard, *notes with satisfaction* that savings of €6.3 million had been realized on construction costs;
6. *Welcomes* the decision of the Oversight Committee to invest €0.7 million of these savings by approving a change in the design in order to increase the flexible use of the permanent premises also in terms of conference facilities, including for the purposes of holding, from 2016 onwards and should the Assembly of States Parties so decide, any of its meetings at the seat of the Court;
7. *Also welcomes* that, as a consequence, at the present stage the projected construction costs are now estimated at €184.4 million, i.e. €5.6 million below the originally approved budget;
8. *Further welcomes* the ongoing implementation of the cost-review strategy put in place by the Oversight Committee to ensure that the project continues to allow for good quality premises while avoiding elements that might not meet the necessary standard of coherence with the core functions of the Court or that would otherwise negatively affect the total cost of ownership;
9. *Emphasizes* the importance of strict control of design, scope and requirements changes during the project's construction phase in order to ensure that the project is delivered to cost, quality and on time, and *reiterates its request* that the Oversight Committee ensure that any changes during the construction stage and until completion of the project be only approved on a cost neutral basis and, to this end, *requests* the Project Director to make every effort so that any new change to the project that might be needed is offset by a corresponding capital or operational saving and can be implemented, wherever possible, with due regard to the minimisation of additional costs related to delays and other factors;
10. *Welcomes* the report of the Oversight Committee on the status of consideration of the possible approaches for addressing the governance and financing of the long-term capital replacement costs, carried out in the Working Group headed by the Project Director, and *requests* the Committee to report thereon at the thirteenth session of the Assembly;

B. Transition Project

11. *Requests* the Oversight Committee and the Court to ensure through the Project Director that all preparatory measures are adopted for the Court to be ready to take occupation of the permanent premises by not later than December 2015 in order to avoid any additional expenditures for the States Parties, and to report thereon in detail to the Bureau and to the Committee on Budget and Finance;

12. *Endorses* the decision of the Oversight Committee that the approval of transition costs for the lifetime of the project and within a multi-year budget requires that a prior meaningful review of such costs be conducted against the assets needs and procurement policies of the Court,²² and that such review is aimed at achieving savings throughout the life-span of the project, with the view of reducing the overall project financial target by June 2014, and *requests* the Project Director to report thereon in detail to the thirteenth session of the Assembly of States Parties through the Oversight Committee;

13. *Also requests* the Oversight Committee and the Court to ensure through the Project Director that a meaningful review process of the transition elements is conducted taking into account any new options for achieving savings, including but not limited to a review of the user requirements, as well as the suitability and extended use of existing equipment to be conducted against: (i) the complete inventories of the Court's assets, including their value and status; (ii) the short and medium-term procurement plans, including opportunities for joint procurement; and (iii) an extension of the useful life of assets;

C. Unified Project

14. *Welcomes* the unified approach to the permanent premises and *requests* the Committee, in consultation with the Court, to ensure that the implementation of the governance structure²³ remains consistent with the Rome Statute and with resolution ICC-ASP/6/Res. 1, and that such structure is kept under review;

15. *Approves* the establishment of a cost envelope which represents the unified financial target for the overall project, at the level of €95.7 million, including €1.3 million for transition costs, subject to a review of such target every six months throughout the life-span of the project, and also subject to a cost review process of the transition elements of the project, aimed at reducing the target at least at the level of €93.7 million by June 2014;

16. *Also approves* that, in the period 2014 to 2016, transition costs of up to €1.3 million and subject to the ongoing cost review, will be funded, through savings of €5.6 realized in the construction budget and, for the remaining part of up to €5.7 million, with the appropriation of the surplus pertaining to the financial years 2012 to 2014, to be accounted for as one-time payments;

17. *Further approves* that cash advances to the project budget may be made from the cash reserves of the Court in the period 2014 to 2016, in order to meet any cash needs prior to the availability of the surplus pertaining to the financial years 2012 to 2014, as a temporary and prudent measure of last resort, for a limited amount, and with an agreed schedule for restitution;

18. *Requests* that the Project Director reports separately on expenditures for the construction and transition activities, at the end of the project;²⁴

19. *Adopts* the amendment to the Financial Regulations and Rules as laid down in appendix II;

20. *Approves* appropriations for an amount equal to the 2012 surplus, currently estimated at €2.5 million, for funding the overall project budget;

²² ICC-ASP/12/15, para. 149. See OP 8.

²³ See *Review of governance*, as set out in annex I to the Report on the activities of the Oversight Committee, ICC-ASP/12/43.

²⁴ ICC-ASP/12/15, para. 148.

21. *Authorises* the Court to ensure that the necessary liquidity is available for the repayment of the host State loan, for the interests for 2013, payable as of 1 February 2014, in case of any States Parties' delay in the payment of their assessed share of contributions;

22. *Further authorizes* the Court to provide an assessment in the 2014 contributions letter of the estimated host State loan interest incurred in 2014 (payable by the Court on 1 February 2015) and requesting the relevant States Parties to pay their full amount by no later than 25 January 2015;

23. *Requests* that the Court and the Oversight Committee, in conjunction with the Project Director and through the Committee on Budget and Finance, consider in detail the long term mechanism for the annual repayment of the host State loan, for the assessment of relevant States Parties' contributions, and for minimizing the risk of delay in receipt of such contributions, and report thereon to the thirteenth session of the Assembly with the view of adopting this mechanism.

24. *Welcomes* that contributions of States Parties against the project costs are kept regularly updated by the Project Director on the basis of the expected final cost of the unified project and the latest scale of assessment,

II. One-time payments

25. *Requests* States Parties electing by 31 December 2014 the option of a full or partial one-time payment of their assessed share in the project, to consult with the Project Director so as to determine the scheduling thereof, taking into account that said one-time payments.²⁵

a) May be made in one or more annual instalments;

b) Are to be received in full by no later than 15 June 2015 or on any earlier date dependant on the expected cash-flow; and

c) Shall be subject to an adjustment once the final cost of the project and the full amount of the host State subsidy are known in order to ensure that all States Parties receive a fair and equal treatment;

26. *Decides* that States Parties having opted for a one-time payment and not fulfilling this option, entirely or partly, within the agreed timeline will automatically forfeit the opportunity of making a one-time payment for any unpaid amount,

27. *Requests* the Registrar, in coordination with the Project Director's Office, to continue to submit to the Oversight Committee, as requested, updated information on the agreed schedules for one-time payments;

III. Financial reporting

28. *Requests* the Project Director, in consultation with the Oversight Committee, in accordance with resolution ICC-ASP/6/Res.1, to continue to submit annually, for consideration by the Assembly at its regular session, a detailed cost estimate for the unified project on the basis of the most recent information, and incorporating the schedule for the use of funds deriving from one-time payments;

29. *Further requests* the Project Director to continue to report annually to the Assembly, through the Oversight Committee, on the realization of the previous years' estimates and the level of expenditure;

²⁵ See resolution ICC-ASP/11/Res.3, annex II, Explanatory note on one-time payments, that clarifies the principles for to one-time payments in connexion with the criteria applicable to the agreement on the loan, including as regards those States Parties that would select the one-time payment option, or make their payments, after the host State loan has been accessed and payment of interest has commenced.

IV. Audit strategy

30. *Welcomes* that the External Auditor of the Court (*Cour des comptes*) has adopted a comprehensive approach to auditing the accounts and performances of the Court, which includes the full scope of the permanent premises project;²⁶

V. Voluntary contributions

31. *Welcomes with appreciation* that three States Parties have initiated discussions with the Project Director and the Oversight Committee regarding proposals for contributing funds to enhance the specific quality of areas within the new premises and/or in the donation of works of art for integration into the permanent premises, and *calls on* States Parties to approach the Oversight Committee at the earliest opportunity if they wish to contribute in that regard to ensure integration into the new building as it is completed;

32. *Requests* the Oversight Committee to finalize, with the assistance of the Project Director and in consultation with the Court, a strategy for donations and to report thereon to the twenty-second session of the Committee on Budget and Finance and to the thirteenth session of the Assembly of States Parties;

33. *Reiterates* the invitation to States Parties and members of civil society with a proven track record of commitment to the mandate of the Court to raise funds for the permanent premises project;

VI. Renewal of membership of the Oversight Committee

34. *Endorses* the recommendation of the Bureau, in accordance with ICC-ASP/6/Res.1, annex II, that the membership of the Oversight Committee, for the next term 2014 - 2015, be comprised of those States referred to in appendix III to this resolution;

VII. Future reporting by the Oversight Committee

35. *Requests* the Oversight Committee to continue to provide regular progress reports to the Bureau and to report back to the Assembly at its next session.

²⁶ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, para. 82.

Appendix I

Cash-flow scheme

Cash flow and one-time payments as at 1 November 2013 (in euros)

			2009	2010	2011	2012	2013	2014	2015	2016	
Items	Total costs	Overall total	PD ^(*)	FD ^(*)	FD +tendering	Construction and transition					Total
1. Construction Costs		156.8				2.9	40.5	95.0	18.4	-	156.8
1a. Construction costs	150.4					1.9	37.6	93.0	17.9		150.4
1b. Fees design team (after tendering)	6.4					1.0	2.9	2.0	0.5		6.4
2. Risks		7.5					3.0	2.5	1.5	0.5	7.5
2a. Project risk (all issues incl. design or third parties)	2.1						1.0	0.5	0.5	0.1	2.1
2b. Client risk (outside project e.g. municipality)	5.4						2.0	2.0	1.0	0.4	5.4
3. Permit and dues		2.7				2.5	-	-	0.2	-	2.7
3a. Permits and dues	2.7					2.5			0.2		2.7
4. Fees		23.9	1.3	3.6	6.8	3.2	2.6	2.4	3.7	0.4	23.9
4a. Design related	10.6			2.7	5.1	2.4	0.1	0.3			10.6
4b. Projectmanagement	8.9		0.9	0.7	1.3	0.4	1.9	1.5	1.9	0.3	8.9
4c. Other consultants	4.3		0.4	0.2	0.4	0.3	0.5	0.6	1.8	0.1	4.3
4d. Operational fees (e.g bank fees)	0.1					0.1	0.1				0.1
5. Other costs		1.5		1.5							1.5
5a. Other costs	1.5			1.5							1.5
6. Equipment		3.3							3.2	0.1	3.3
6a. Equipment	3.3								3.2	0.1	3.3
Residue (projected underspend/ additional reserve)											
Total	195.7	195.7	1.3	5.1	6.8	8.6	46.1	99.9	27.0	1.0	195.7
Cumulative			1.3	6.4	13.2	21.8	67.8	167.7	194.7	195.7	

Note: The above figures are estimates only and subject to change.

(*) PD: preliminary design stage.

(**) FD: final design stage.

Appendix II

Draft amendment to the Financial Regulations and Rules

I. Use of surplus

Regulation 4.7 establishes the right of States Parties to have the surplus returned in proportion of their share of the funding of the expenses of the Court at the time of their contribution. The exception is limited to the possible funding of the Contingency Fund through the surplus, pursuant to Regulation 6.6. The rationale of such exception is the same of the one applicable to the limitation of the right of States Parties to have their share of surplus returned: the obligation to fund the regular budget of the Court and its Contingency Fund. The proposed amendment draws on the same rationale. The payment of the expenditures for the Permanent Premises is not discretionary for States Parties, both for the Project (construction and transition costs) and for their future Total Cost of Ownership. Hence, the surplus can be allocated by the Assembly to funding both the transition costs and the future capital replacement and maintenance costs (construction costs do not need any funding, as they remain below the approved budget).

It is proposed that Regulation 4.7 should be amended as follows (changes in *italics*):

“Subject to financial regulation 6.6, last paragraph, *or to a decision by the Assembly of States Parties for the funding of costs related to the permanent premises of the Court*, any cash surplus in the budget of any financial period shall be apportioned among States Parties in proportion to the scale of assessments applicable to the financial period to which the surplus relates”.

Appendix III

Members of the Oversight Committee*

African States

...

Asian and Pacific States

...

Eastern European States

...

Group of Latin American and Caribbean States

...

Western European and Other States

...

As of November 2013.