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**Report of the Court on human resources management\*****I. Introduction**

1. In 2012, the International Criminal Court (“the Court”) observed its tenth anniversary. From a small “Advance Team” that prepared the grounds for the new Court’s operations in 2002 to a staff population of more than 800 in 2012, the Court has grown into a fully-fledged permanent autonomous institution which looks into its second decade with pride in its past achievements and determination to address the challenges ahead. The management of the Court’s human resources, consisting of highly qualified and dedicated professionals from different geographical and cultural backgrounds, will continue to be a priority for the future.

2. As in previous years, this annual report provides the Committee on Budget and Finance (“the Committee”) with information on the current state of human resources management in the Court. It also summarizes the achievements to date, and planned future activities with regard to the implementation of the human resources related aspects of the Court’s Strategic Plan.

3. In addition, the Court responds to the following specific queries and recommendations made by the Committee at its eighteenth and nineteenth sessions held in April and September 2012 with regard to human resources management issues, in respect of which the Committee:

(a) Noted the procedures available to increase the representation of non-represented or under-represented States and regions, and welcomed the efforts made by the Court [...]. In this regard, the Committee recommended that the Court describe, in the context of its human resources management report, the measures taken, the outcomes and proposals, and submit it at the twentieth session;<sup>1</sup>

(b) Noted the progress made towards re-establishing the Selection Committee and looked forward to receiving the terms of reference of the Selection Committee in advance of its twentieth session;<sup>2</sup>

(c) Recommended that the Court provide, in the context of its human resources management report for its twentieth session, information on the development of a new policy on Special Service Agreements (SSAs) for consultants and individual contractors;<sup>3</sup>

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\* Previously issued as CBF/20/8.

<sup>1</sup> *Official Records of the Assembly of States Parties to the Rome Statute, of the International Criminal Court, Eleventh session, The Hague, 4-22 November 2012 (ICC-ASP/11/20)*, vol. I, part B.1, para 42.

<sup>2</sup> *Ibid.*, para 43.

<sup>3</sup> *Ibid.*, para 47.

(d) Welcomed [the...] publication on the Court's intranet of a Topical Index of Administrative Issuances relating to human resources management. The Committee recommended that the Court utilize its in-house capacity and publish the Index on the Internet with a view to enhancing transparency on its human resources management policy before the twentieth session of the Committee;<sup>4</sup>

(e) Recommended that the Court submit a draft proposal on the use of General Temporary Assistance (GTA) and the rules for short-term staff at the twentieth session;<sup>5</sup> and

(f) Invited the Court [...] to present a concrete and comprehensive proposal with regard to the establishment of a Junior Professional Officer (JPO) programme.<sup>6</sup>

4. The Court's responses to the recommendations and requests cited in (a) to (c) above are incorporated in the relevant sections of this report. Separate reports are submitted to the Committee on (d), the use of GTA and rules for short-term staff, and (e), the Guidelines for Junior Professional Officers (JPO).

## II. Strategic Plan and human resources management strategy

5. In 2006, the Court adopted its first Strategic Plan. It included a number of important human resource related objectives, specifically in connection with recruitment, the establishment of a caring environment and the provision of career advancement opportunities for well-performing staff.

6. Following the adoption of the Court-wide Strategic Plan, the Court developed its first human resource strategy in 2007. It was presented to the Committee in April 2008.<sup>7</sup> Since then, the Strategic Plan has been revisited and the most recent proposed human resource related goals include:

(a) Goal 2.4: Ensure adequate human resources to deliver the Court's mandate and respect geographical representation and gender balance; and

(b) Goal 2.5: Provide and maintain a healthy, motivating, sustainable and caring environment for staff and others participating in the Court's work and strive to offer career development and mobility opportunities.

7. In the context of the Strategic Plan, the focus with respect to its human resources management priorities has remained the same, and the nine objectives of the human resources management strategy continue to remain of relevance. They are:

<i>Key strategic areas</i>	<i>HR Strategy Objectives</i>
Recruitment	1. Define and apply a systematic, fair and transparent selection process to ensure the highest quality of (external) recruitment and (internal) placement.
	2. Strengthen the capabilities of staff with hiring responsibilities.
	3. Increase external awareness of employment opportunities within the Court.
Caring environment	4. Ensure competitive conditions of service and compensation systems for all Court staff at headquarters and field duty stations.
	5. Increase staff well-being by enhancing existing and developing new support programmes.
	6. Enhance and develop further the administration of internal justice systems.

<sup>4</sup> *Ibid.*, para 48.

<sup>5</sup> *Ibid.*, para 45.

<sup>6</sup> *Official Records ... Eleventh session ...*, 2012 (ICC-ASP/11/20), vol. II, part B.2, para 57.

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

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*Key strategic areas HR Strategy Objectives*

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- Career Development
7. Institutionalize a well-functioning performance management system, including performance-based incentives.
  8. Provide learning and training opportunities that contribute to the achievement of the Court's goals and address individual development needs.
  9. Develop and implement approaches and systems for career management and advancement of staff.
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8. The detailed description of the activities envisaged under each of the nine specific objectives, as presented to the Committee at its tenth session<sup>8</sup>, is included in Annex 1.

9. The following sections provide an update on the current status with regard to each of the three strategic areas as well as a summary with regard to implementation, to date, of the HR strategy objectives and the envisaged activities for the future. Responses to requests and recommendations made by the Committee are included where appropriate.

10. In presenting this annual report, the Court would like to acknowledge the contributions made by the Staff Union Council of the Court to the development of human resources policies and to other initiatives aimed at improving the conditions of service of the Court's staff. The Court believes that a strong Staff Union is essential for an effective and efficient organization and looks forward to the further institutionalization of the staff management relations framework in the Court.

### **III. Recruitment and Staffing**

#### **A. Human resources strategy implementation**

11. With respect to recruitment, the human resources strategy includes three specific objectives: (a) the application of a systematic, fair and transparent selection process to ensure the highest quality of (external) recruitment and (internal) placement; (b) the strengthening of the capabilities of staff with hiring responsibility, and (c) increasing the external awareness of employment opportunities with the Court.

#### **1. Application of a systematic, fair and transparent selection process to ensure the highest quality of (external) recruitment and (internal) placement**

12. Key achievements to-date include:

- (a) Recruitment Guidelines were developed and are now being converted into an Administrative Instruction;
- (b) Guidelines for the Determination of Grade and Step were developed and implemented;
- (c) A competency-based interview guide is currently being finalized;
- (d) The Selection Committee, established early on in the Court's operations but suspended in 2007 to allow for faster filling of vacancies, has now been re-established as the Selection Review Board, with the participation of staff representatives. The terms of reference of the new Board, as approved by the Registrar and the Prosecutor, are attached as Annex 2;
- (e) An e-recruitment system was implemented and resources have been dedicated to the continuous improvement of the system, based on user and client feedback; and
- (f) In line with Staff Rule 104.18, entitled "Recruitment and existing staff members", the Court has paid the fullest regard, in filling vacancies, to the qualifications and experience of staff members already in the service of the Court. In recent years, about 50 per cent of vacancies have been filled by existing staff members.

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<sup>8</sup> ICC-ASP/7/6, Annex 1.

## **2. Strengthening of the capabilities of staff with hiring responsibilities**

13. Key achievements to-date include:

(a) Staff with hiring responsibilities were invited to attend briefing sessions conducted jointly by the Human Resources section and the Staff Council and more are planned; and

(b) A training programme on competency-based interviewing for hiring managers is under development.

## **3. Increasing the external awareness of employment opportunities with the Court.**

14. This third objective of the human resources strategy relates also to the important aspect of improving the geographical representation of non-represented and under-represented States Parties and identifying mechanisms to support this in view of the Court's limited resources.

15. Achievements to-date include:

(a) The Recruitment Guidelines that will soon be promulgated as an Administrative Instruction include special provisions for the shortlisting of candidates from non-represented and under-represented countries;

(b) The Selection Review Board will pay particular attention to the adherence by hiring managers to the requirement to short-list qualified candidates from non-represented countries;

(c) In its report on human resources management submitted to the Committee at its eighteenth session, the Court presented a detailed analysis of the costs and benefits of a range of recruitment activities.<sup>9</sup> In follow-up to the recommendations of the Committee in this regard, the Court plans to produce employment information material in the form of DVDs to send to national authorities, media, universities etc. for dissemination. It also plans to organize briefing sessions for Embassy officials in The Hague and New York. It is noted that these activities could not be carried out in 2012 due to the unavailability of resources; and

(d) The Court has attended job fairs and conducted a number of information sessions on employment opportunities.

## **B. Update on current activities and issues**

16. Updates are provided on the 2012 recruitment performance, the use of general temporary assistance, the use of consultants and individual contractors and the introduction of the Junior Professional Officer Programme.

### **1. 2012 Recruitment performance for established posts - external recruitment, internal placements and staff turnover**

17. The recruitment of a diverse staff of the highest quality continued to be a priority of the Court's human resources management activities. In 2012, the Court filled a total of 32 vacancies in established posts. Of these, 17 posts or 53 per cent were filled by internal staff members, which included eight staff who moved from GTA-funded to established posts. 15 posts or 47 per cent were filled by external candidates.

18. A total of 39 staff left the Court in 2012, which included eight non-extensions of staff contracts and dismissals and one move from an established post to GTA. This represents a turnover rate for the year of 5.6 per cent, and yields a retention rate of 94.4 per cent over 90.7 for 2011. It is noteworthy that the turnover rate has steadily decreased in recent years and is in fact half of what it was a few years ago.

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<sup>9</sup> CBF/18/7, 13 to 28

19. Given internal placements and staff turnover, the net decrease at the end of 2012 over 2011 was sixteen staff. As at 31 December 2012, the Court thus had 686 staff in established posts. The vacancy rate for the year was 9 per cent.

20. Tables 1 and 2 below summarize recruitment performance, appointments, internal placement and turnover by major programme as at 31 December 2012.

**Table 1: 2012 Recruitment Performance\***

	<i>Budgeted Posts</i>	<i>Headcount</i>	<i>Vacancy Rate (2012)</i>	<i>Under Recruitment/ Completed**</i>	<i>Separations (2012)</i>	<i>Separation (% 2012)</i>	<i>Gender Balance (Female)</i>
Judiciary	48	44	6%	2	4	9.0%	66%
OTP	215	198	8%	13	9	4.5%	51%
Registry	477	428	9%	19	25	5.8%	43%
<b>ICC</b>	<b>761</b>	<b>686</b>	<b>9%</b>	<b>37</b>	<b>39</b>	<b>5.6%</b>	<b>47%</b>

\* Above figures do not include five budgeted posts for elected officials (three in OTP and two in the Registry).

\*\* Vacant posts for which recruitment activity has been initiated following closing of advertisement.

**Table 2: 2012 ICC appointments and resignations**

	<i>External appointments</i>	<i>Internal appointments</i>	<i>Resignations</i>	<i>Movements to GTA</i>	<i>Non-extensions/ dismissals</i>	<i>Net increase</i>
Judiciary Major Programme I	1	0	4	0	0	-3
Office of the Prosecutor Major Programme II	8	3	8	0	1	-1
Registry Major Programme III	14	6	17	1	7	-11
Secretariat of the ASP Major Programme IV	0	0	1	0	0	-1
Secretariat of the TFV Major Programme VI	0	0	0	0	0	0
Proj. Office Perm. Premises Major Programme VII	0	0	0	0	0	0
<b>Total ICC</b>	<b>23*</b>	<b>9</b>	<b>30</b>	<b>1</b>	<b>8</b>	<b>-16</b>

\* Includes eight staff who moved from GTA-funded to established posts

21. An update on recruitment, internal placement and turnover against established posts during the first three months of 2013 will be presented to the Committee separately at its twentieth session. The Committee will also be provided with updated information on geographical representation.

## 2. Use of General Temporary Assistance

22. Information on the use of GTA and rules for short-term staff, which had been requested by the Committee, is included in Annex III. An update on the actual use of GTA in 2012 is also provided in a separate document.

23. In the context of general temporary assistance, the Court wishes to address two additional specific issues, on which it would appreciate the guidance of the Committee.

24. The first issue relates to the need to convert a number of long-standing GTA-funded positions to established posts. While the GTA modality exists for the purpose of fulfilling temporary staffing needs, in a few cases the staffing need has become a permanent one.

These long-standing GTA positions, particularly some that were created in the earlier years of the Court's existence, have become de facto established posts in that their incumbents carry out core functions and the need for these positions is expected to continue rather than cease to exist in the future. Examples are some twenty posts in the Safety and Security Section, which were originally outsourced to an external provider and created as GTA positions in 2004, when the company went bankrupt; translator and cooperation advisor posts in the Office of the Prosecutor, and various administrative positions in Registry that have existed since 2004 or 2005.

25. In many cases, the incumbents against these long-standing positions have served in them for many years, some even since 2004, but without the benefits of employment security to which staff on established posts are entitled. In 2012, this led to legal action by some of the staff concerned.

26. The Court therefore wishes to regularize the situation and request a conversion to established posts of all those long-standing GTA positions that are expected to continue in the long-run. A request to that effect will be made in the context of the 2014 proposed programme budget.

27. Such conversions would entail no additional costs.

28. Conversion of posts and current incumbent will be subject to the following criteria:

- (a) A demonstrated permanent need for the function for the future;
- (b) Incumbents have to have been in post for a minimum of three years and must have a satisfactory performance record, and
- (c) The post must have been assigned to the incumbent through a competitive recruitment process.

29. It is noted that should all the criteria be met, these conversions will yield administrative efficiencies and have a positive effect on staff morale, which is in line with the Court's objective of creating a caring environment for staff.

30. The second issue relates to the duration of budgetary approval for GTA-funded positions. So far, it has been the Assembly's practice to grant approval for GTA-funded positions only for a duration within one specific calendar year. The maximum duration could thus only be twelve months. In principle, this practice is in line with the concept of a temporary position. In practice, however, the Court has found that a more differentiated approach may be of benefit, both in terms of administrative efficiencies and with regard to employment conditions for staff on GTA-funded positions. For example, when the Court needs to recruit a trial lawyer for a new situation that was not anticipated at the time of the budget preparation, such as Mali, it may be clear from the start that the position will be needed beyond 31 December 2013. Yet, the Court can only issue a letter of appointment until that date. As the contract period is less than twelve months, the selected incumbent will face a number of disadvantages due to the shorter contract duration, such as non-payment of the full relocation benefits. If a new staff member is recruited only in the month of October, the disadvantages may be even more severe, such as not being allowed to relocate spouse and dependents.

31. Another example would be the approval of GTA-funded positions for multi-year projects, such as IPSAS. While it is clear that the project will go beyond the end of several calendar years, the Court needs to request approval each year and staff hired to serve on the project can only have successive one-year contract.

32. The Court is thus of the view that in certain specific cases, it might be both realistic and efficient to operate with a category of "recurrent temporary position" for the purposes of budget approval that might extend beyond the end of the calendar year.

### **3. Use of consultants and individual contractors**

33. The Court's policy on Special Service Agreements (SSA) has not been finalized as yet. As the policy envisages a decentralization of hiring responsibilities to programme managers (with assistance from the human resources section), a number of implementation

modalities are still awaiting final clearance. Prior to implementing the policy, changes in SAP will also need to be implemented. This work is envisaged to be completed in 2013.

34. As is customary, statistics on the use of consultants and individual contractors in 2012 are provided to the Committee in a separate document.

#### **4. Introduction of the Junior Professional Officer Programme (JPO)**

35. As requested by the Committee, the Court has prepared Guidelines on the employment of JPOs in the Court. These are submitted in a separate document.

36. The Court requests the Committee to recommend to the Assembly the introduction of the JPO programme as of January 2014.

### **IV. Caring Environment**

37. The HR strategy objectives relating to this strategic aspect encompass the three areas of attractive conditions of service, staff well-being and administration of justice. For each of these three, an update on the current status as well as future activities is provided.

#### **A. Conditions of service**

##### **1. Human resources strategy implementation**

38. Many of the activities envisaged under this objective have been undertaken; others are still awaiting further progress.

39. Achievements to-date include:

(a) Review of alternatives within the UN common system for remuneration of staff, particularly field staff: While most of the common system elements are mandatory, some are discretionary, and the Court has analyzed all of them and presented them to both the Committee and the Assembly. This review is now concluded and the Court has sought to adopt the most efficient solutions. Specifically, the conditions of service for field staff are now aligned with those of the UN common system, with a transitional policy in place for phasing out the Special Operations Approach, in line with the model proposed by the International Civil Service Commission (ICSC); as per normal practice, the Court has been following the discussions on any development in the UN common system remuneration package through participation in the UN CEB network's meetings to promptly propose any re-alignment of its current remuneration package;

(b) Work is ongoing on a clearly defined job evaluation system, with a policy under preparation;

(c) A major improvement in the social security provisions of the Court staff was achieved through the approval of a subsidized retiree health insurance programme as of 1 January 2013, and the promulgation of a policy in this regard is envisaged for the second quarter of 2013. The Court wishes to thank the Committee for its support in that connection; and

(d) Progress was made in the development of human resources policies (see below)

##### **2. Update on current activities and issues**

40. Current activities and issues relate to human resources policies and the raising of the mandatory separation age.

##### **(a) Human Resources Policies**

41. Underpinning a solid framework of conditions of service is the development and refinement of human resources policies that are transparent and provide guidance to staff and managers. In the first few years of the Court's existence, this was not seen as a priority.

In recent years, however, this has changed and progress is now made every year with regard to the development and promulgation of Administrative Instructions (AI). In 2012, these included an AI on the Performance Appraisal System and on the transitional measures for phasing out the current conditions of service for internationally-recruited field staff.

42. Ongoing work includes AIs on dependency status and benefits, performance appraisal during probationary period, Special Services Agreements, duration and extensions of appointments, the revised performance appraisal system, overtime and compensatory time off, retiree health insurance, flexible working arrangements, rest and recuperation, unauthorized absence/abandonment of post. The Court has also developed a draft framework for managing post and staffing levels, which maps the options and steps required in case of a reduction in post and staffing levels.

43. A major challenge faced with regard to human resources policies remains the absence of an HR Policy Unit staffed at the professional level, as it exists in any comparable organization. This matter has also been raised in the review of the organizational structure of the Court carried out in 2012. The Court will consider making a proposal in this regard in the 2014 programme budget.

44. At its sixteenth session, the Committee recommended that the HR-related rules and procedures should be consolidated into an HR Management Manual.<sup>10</sup> The Court welcomed this suggestion and proposed a provision for a consultancy in the 2012 budget. Given the budgetary constraints, this was not feasible in 2012. However, the Court believes that such investment would yield much benefit for the functioning of the Court's administration of its human resources and thus wishes to reiterate its request to allocate resources for this important task in the 2014 budget.

45. At its eighteenth session, the Committee recommended that the Topical Index of Administrative Issuances, prepared by the Court and published on the Intranet, also be published on the Internet.<sup>11</sup> The Court is pleased to confirm that this has been done and the "Vademecum of Administrative Issuances" is available at: [http://www.icc-cpi.int/en\\_menus/icc/legal%20texts%20and%20tools/vademecum/Pages/default.aspx](http://www.icc-cpi.int/en_menus/icc/legal%20texts%20and%20tools/vademecum/Pages/default.aspx).

46. The Vademecum is compiled in the following hierarchical order (i) Staff Regulations, (ii) Staff Rules, (iii) Financial Regulations and Rules, (iv) Presidential Directives, (v) Administrative Instructions, (vi) Information Circulars, and (vii) other relevant policies and guidelines. Corresponding links can be found on the left of the page. Within each category, the documents are presented in chronological order, from the earliest to the most recent.

**(b) Mandatory age of separation**

47. In 2012, the United Nations Joint Staff Pension Board recommended the Fund's normal retirement age be raised to 65 for new entrants only, with effect no later than 1 January 2014. The Fund's "normal retirement age" is defined in article 1 of the Regulations, Rules and Pension Adjustment System of the United Nations Joint Pension Fund. It is age 62 for staff who joined or re-joined the Fund on or after 1 January 1990 and age 60 for staff who joined before 1990.

48. The mandatory age of separation from the Court is defined in Staff Regulation 9.5 and is aligned with the current provisions of the Fund's regulations. In recommending an increase of the Fund's age of retirement, the Board also urged the International Civil Service Commission and member organizations to increase the mandatory age of separation to 65 in time for the proposed change in the Fund's Regulations. The UN General Assembly (GA) considered the report of the Board at its 67th session and, in December 2012, adopted Resolution A/RES/67/240. With respect to the retirement age, the General Assembly "authorize[d] the United Nations Joint Staff Pension Board to increase the normal retirement age to 65 for new participants of the Fund, with effect not later than from 1 January 2014, unless the General Assembly has not decided on a corresponding increase in the mandatory age of separation". The General Assembly will consider an increase in the

<sup>10</sup> *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. II, part B.1, para. 65.

<sup>11</sup> See *supra* footnote 4.

age of separation in the context of review of the 2012 report of the International Civil Service Commission, during its resumed session in March 2013. It is expected that UN organizations will decide on the implementation of the General Assembly's resolution in accordance with their specific organizational needs, particularly when it comes to the option for existing staff to remain in active service beyond the age of 62.

49. If the General Assembly decides to opt for the increase in separation age, the Court would wish to follow the common system in this regard, for two reasons. This measure would be in line with the decisions of many national civil services to raise the retirement age of its employees. The Court therefore intends to submit to the Assembly of States Parties proposed modifications to the provisions in the Court's Staff Regulations concerning the age of retirement and the mandatory age of separation for staff once the outcome of the GA deliberations on the matter is known in the spring 2013.

50. While the Court does not anticipate any budgetary impact resulting from an increase in the separation age, the Court would appreciate the Committee's views and recommendations on this important matter.

## **B. Staff well-being**

### **1. Human resources strategy implementation**

51. As the Court has matured as an organization, the need to focus on staff well-being and health aspects of its staff is taking on increasing importance. This is done through a number of programmes and activities. Both the Medical Officer and the Staff Welfare Officer of the Court conduct workshops and individual consultations with staff. They respond to emergencies, ensure adequate medical and welfare services in the field, contribute to policies and new training initiatives supporting staff health and welfare and advise managers on the optimum way to reintegrate staff who may return from long-term sick leave.

52. As a result of the focus on staff well-being, achievements with respect to the human resources strategy to-date include:

- (a) Support to staff for relocation and integration at their new duty station has been institutionalized;
- (b) Continuous support to spouses/partners and families has been provided; and
- (c) Staff ("climate") surveys were undertaken in 2007 and 2010. Follow up actions have been undertaken since then.

### **2. Update on current activities and issues**

53. In 2012, the Health and Welfare Unit of the Court conducted group sessions, workshops, team trainings, critical incident support and awareness information sessions in the area of staff health and welfare for a total of 523 staff members. At the individual level, the Court conducted 210 consultations with 137 staff members. Recovery and reintegration of staff who were on sick leave for reasons such as burn-out, stress or workplace problems were actively supported by the Medical and the Staff Welfare Officers. This also included close collaboration with supervisors on the successful reintegration of returning staff. The Court's medical staff provided approximately 1,300 occupational health and (emergency) medical consultations.

54. A continuing focus has been on the health and welfare of the Court's field staff. In this context, three training workshops, with the opportunity for individual consultations, were conducted for field staff in Bangui and Bunia, and a stress resilience and trauma training was provided for staff from several field duty stations in Abidjan.

55. In 2012, some staff of the Court and their families and colleagues were, unfortunately, directly or indirectly impacted or exposed to a number of critical incidents. This included the detention of four staff in Libya. As a result, providing critical incident support and aftercare for those involved and their families, as well as for colleagues and supervisors, were health and welfare priorities for the Court in 2012. Additionally, the

Court provided support to the Bunia field office following attacks in November, including support to the five staff evacuated during that time.

56. In line with internal audit recommendations, a draft staff welfare policy was prepared and will be reviewed in 2013. Furthermore, the Court has made preparations for participating in a United Nations online training programme on preventing and dealing with harassment and for promulgating a policy on flexible working conditions.

57. With respect to the latest Staff Survey, the Court has initiated a number of follow-up measures. In particular, the Court has established an inter-organ working group on the working climate, which is developing concrete proposals for addressing staff concerns.

## **C. Administration of internal justice**

### **1. Human resources strategy implementation**

58. With regard to the formal internal justice system, this strategic human resource objective has been achieved, and the Court has in place the relevant mechanisms, i.e. the Appeals Board, the Disciplinary Advisory Board and a performance rebuttal system. Appeals that were brought before the International Labour Organization Administrative Tribunal related mostly to the non-extension of contracts and the administration's decisions in this regard were upheld in recent years.

### **2. Update on current activities and issues**

59. Tasks for the future remain, particularly in the area of informal mediation and settlement of disputes and grievances before they are brought to the formal bodies. It is envisaged to provide further training of internal focal points in this regard. As the Court currently does not have an Ombudsperson, it is also exploring possibilities of collaborating with other international organizations in this connection.

## **V. Career Development**

60. This key strategic area encompasses three specific objectives, namely the institutionalization of a well-functioning performance management system, the provision of learning and training opportunities that contribute to the achievement of the Court's goals and the development and implementation of approaches and systems for career management and advancement of staff.

### **A. Performance management**

#### **1. Human resources strategy implementation**

61. A solid performance management framework, considered credible and effective by managers and staff, is at the core of any organization's human resources management efforts. Since 2008, the Court has made significant progress in institutionalizing its performance appraisal system (PAS). Based on the experience gathered and also in response to a request from the Assembly,<sup>12</sup> the performance appraisal form was revised in 2012 to simplify it and improve the rating system. The new approach was included in a revised Administrative Instruction. The Committee was provided with a progress report at its nineteenth session in September 2012.<sup>13</sup> A final report will be provided to the Committee at its twenty-second session. The final report will also include the Court's findings with regard to the possibility of introducing performance-based incentives, as they were envisaged in the 2008 strategy.

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<sup>12</sup> *Official Records of the Assembly of States Parties to the Rome Statute, of the International Criminal Court, Tenth session, New York, 12-21 December 2011* (ICC-ASP/10/20), vol. I, part III, ICC-ASP/9/Res.4 section I.

<sup>13</sup> CBF/19/20

## 2. Update on current activities and issues

62. The Court has rolled out a performance management training programme for all of its 145 staff with supervisory functions. The training is mandatory and includes all relevant areas such as objective setting, giving feedback, motivation of staff, rebuttal system, and more.

63. The Court is also shortly promulgating a policy on the more rigorous use of the probationary period, which was envisaged in the human resources strategy.

64. The possibility of including multi-rater (360 degree) feedback in the performance appraisal system may be reviewed in the coming years. For the time being, it is used in the managerial leadership programme for developmental purposes.

## B. Learning and Training

### 1. Human resources strategy implementation

65. Several of the activities envisaged in the human resources strategy have been successfully implemented.

66. A systematic approach to identifying the learning needs of staff was introduced in 2009 with the development of annual strategic learning plans for the organs. The strategic learning plans have seven areas of focus:

- (a) Leadership, management and organizational development;
- (b) Substantive and technical knowledge;
- (c) Information Technology;
- (d) Languages;
- (e) Staff well-being;
- (f) Human resources and financial management; and
- (g) Induction and career support.

67. A managerial leadership programme has been developed and is under implementation. It targets all managers from P-3 upwards and includes a multi-rater feedback component. In addition, in 2012 the Court supported training programmes in six of the seven areas. Following the fifty per cent reduction in the Court's training budget in 2012, and the continuing budgetary constraints in 2013, strategic area (d), languages, is currently not supported.

68. Since late 2010, the Registry has been developing a management control system (MCS). The system includes financial, work plan and human resources trackers. In 2012, the financial tracking system was introduced in parts of the Registry and training was provided in this regard. To develop the MCS, a staff member from the human resources section was redeployed to the office of the Deputy Registrar, who is in charge of this project.

### 2. Update on current activities and issues

69. In addition to the performance management training mentioned above, the Court is also currently developing an Ethics training programme, which also focuses on the Code of Conduct.

70. Access to adequate and just-in-time learning and training opportunities is key for any organization that wants to ensure high performance of its staff. Moreover, organizations are well aware that investing in the career development of their staff by providing them with learning opportunities that help position them towards advancement to new challenges is key to organizational effectiveness and staff motivation. Therefore, the widely accepted benchmark is that organizations should invest at least two per cent, and preferably five per cent, of its staff costs in training and learning. With a percentage of less

than one per cent, the Court lags far behind in this regard. The Court wishes to seek the Committee's advice on this matter and explore the possibilities of an increase in the training and learning budget in the second decade of the Court's operations.

## **C. Career management and advancement of staff**

### **1. Human resources strategy implementation**

71. In recent years, more than half of the Court's vacant posts were filled by internal staff. Many staff have advanced to higher levels in the course of their career with the Court. This includes the movement of staff from the general service to the professional categories, which is far less restrictive in the Court than in other organizations following the United Nations common system. These trends are indicative of the opportunities for career development in the Court. Achievements include:

(a) The development of a culturally sensitive assessment process for prospective candidates for selection – two assessment centre exercises have been run for D-1 positions; however, they are considered too expensive to roll out on a larger scale; and

(b) Staff have been provided with career counseling, including temporary and permanent career transition support. A specifically designated career counseling function within the human resources section would be desirable for the future.

### **2. Update on current activities and issues**

72. Notwithstanding the above, this ninth objective of the human resources strategy records the least progress in implementation. The Court's revised Strategic Plan therefore envisages, for the current biennium, that the Court develop a career and development plan including mobility opportunities that can be implemented in the short-term. The Court intends to commence work on developing a systematic and strategic approach to supporting the career management of its staff.

73. The Court has also been pro-active with regard to ensuring its continued participation in the inter-organization mobility agreement of the United Nations common system, given the number of staff exchanges and transfers from and to the UN organizations.

## **VI. Summary and conclusions**

74. Management of its multicultural, multi-skilled and multi-lingual workforce continues to remain a priority for the Court. Human resources management is guided by the Court's Strategic Plan, specifically the goals relating to recruitment, a caring environment and career advancement and management, as well as the nine specific objectives of the human resources strategy established in 2008. These remain relevant as the Court has moved into its second decade, with a population of more than 800 staff from more than 80 countries.

75. With respect to the implementation of the human resources strategy, notable progress was recorded in establishing a coherent set of recruitment policies and systems, with regard to improvements in the conditions of service, including social security provisions and policy development, staff well-being, administration of justice, performance management and training and learning.

76. Further progress is required particularly in the areas of geographical representation, career development and human resources policy development.

77. With respect to its envisaged 2013 and 2014 activities in the area of human resources management, the Court requests the Committee's guidance and recommendations on the following specific issues, outlined in the preceding sections:

(a) Guidance on the conversion of long-standing GTA-funded positions to established posts and on the feasibility of including longer-term GTA positions in the programme budget;

(b) Recommendation to the Assembly to approve the Junior Professional Officer (JPO) programme as of 1 January 2014, together with a recommendation that the Court can start, in 2013, to prepare for the development of bilateral agreements with sponsoring countries; (A specific proposal is provided in a separate document.)

(c) Guidance on the feasibility of including in the proposed 2014 programme budget, a provision for consultancy services to assist with the preparation of a human resources manual, which had been recommended by the Committee;

(d) Recommendation, to the Assembly, to increase the mandatory age of separation from 62 to 65 for all staff joining the Court on or after 1 January 2014, should the UN General Assembly decide to raise the separation age for the UN common system; and

(e) Guidance on the feasibility of reverting, in the proposed 2014 programme budget, to a higher allocation for training and learning in the Court. The training budget was cut in 2012, and the Court does not consider the current allocation sufficient to provide the necessary support to its staff.

## Annex I

### Human resources strategy objectives and activities

1. Define and apply a systematic, fair and transparent selection process to ensure the highest quality of (external) recruitment and (internal) placement.	Review, revise and where necessary develop a coherent set of recruitment policies and systems for their implementation.
	Define and apply a systematic competency-based approach to the selection process.
	Improve existing and develop additional communication tools and Human Resources reporting systems.
2. Strengthen the capabilities of staff with hiring responsibilities.	Increase support to managers with hiring responsibilities.
	Develop a recruitment toolkit
3. Increase external awareness of employment opportunities within the Court.	Develop and implement a strategy to collaborate more closely with member states, NGOs, universities, and other potential partners, including from the commercial sector, to increase awareness of employment opportunities within the Court, including internships. Use of headhunters for specific positions.
	Participate in job fairs and organize targeted recruitment missions.
	Publish brochure on employment opportunities within the Court.
	Collaborate with the Court's field offices for networking and scouting purposes.
4. Ensure competitive conditions of service and compensation systems for all Court staff at headquarters and field locations.	Review alternatives within the common system for remuneration of staff, with a view to identifying models that are most appropriate to the Court's work, with particular emphasis on the Court's compensation systems for internationally-recruited staff serving at field duty stations.
	Expand categories of staff to include nationally-recruited Professional staff ("national officers") and internationally-recruited General Service staff ("field service level").
	Develop and maintain a clearly defined post profile and job evaluation system across the organization to ensure positions are classified and, where appropriate, re-classified, in a timely, fair and transparent manner.
	Review and if necessary revise the Court's social security system.
	Develop and revise policies and guidelines on relevant service conditions and prepare an information package on conditions of service for potential and current staff. This includes the types and duration of contracts provided by the Court to staff.
5. Increase staff well-being by enhancing existing and developing new support programmes.	Provide staff with adequate support for relocation and integration at their new duty station.
	Ensure continuous support to spouses/partners and families of staff at headquarters and the field.
	Ensure healthy working conditions and encourage work/life balance, including flexible working arrangements where feasible.
	Undertake regular staff ("climate") surveys in order to identify the less tangible areas that may enhance individual staff well-being and to initiate suitable follow-up actions.
6. Enhance and develop further the administration of a comprehensive, accessible, transparent, fair and reasonable internal justice system.	Develop and implement an integrated policy for managing conflicts/disagreements at the formal and informal levels, including mechanisms for reporting on perceived injustice.
	Explore the possibility of creating an Ombudsman position.
	Establish (internal and/or external) counseling capacity to advise on internal justice matters.
	Train internal focal points for informal mediation.

7. Institutionalize a well-functioning performance management system.	Develop post and competency profiles that describe the outputs, outcomes, relationships and behaviours required for each post.
	Review and if necessary revise the current Performance Appraisal system, also with a view to incorporating multi-rater feedback systems.
	As part of the revised performance appraisal system, identify and record career objectives (link with learning and training and career advancement).
	Explore possibilities for linking pay to performance, with or without broadbanning (merging) the current grades, and for developing various systems for rewards and sanctions, accelerated annual step increases, merit promotion and the more rigorous use of the probationary period for new staff.
8. Provide learning and training opportunities that contribute to the achievement of the Court's goals and address individual development needs.	Identify the learning and development needs of staff by analyzing the gaps between desired and actual capabilities.
	Develop learning programmes that address identified gaps and are aligned to organizational priorities, including a revised induction programme for new staff.
	Improve the Court's ability to measure the impact that learning programmes have on individual as well as on organizational performance.
	Improve leadership and management practices through leadership development and executive coaching programmes.
	Review and if possible increase the Court's ability to invest in the learning and development of its human resources.
9. Develop and implement approaches and systems for career management and advancement of staff.	Develop and pursue strategic approaches to succession planning and talent management.
	Provide staff with career counseling, including temporary and permanent career transition support.
	Develop and maintain a culturally sensitive assessment process for prospective and current talent pool for selection and development purposes.
	Clearly communicate the Court's career management practices to prospective and current staff.

## Annex II

### Terms of reference for the Selection Review Board

Pursuant to paragraph 5 of the annex to Resolution ICC-ASP/1/Res.10, adopted by the Assembly of States Parties on 9 September 2002 and incorporated as an appendix into the Staff Rules and Regulations for the International Criminal Court, adopted by the Assembly of States Parties as Resolution ICC-ASP/2/Res.2 on 12 September 2003, a Selection Committee is established and its members appointed. The Selection Committee is formally referred to as the Selection Review Board in these terms of reference.

#### 1. Mandate

1.1 The Selection Review Board shall provide advice to the Registrar or the Prosecutor, as appropriate, on the selection and appointment of staff of one year or more, in accordance with the Staff Rules and Regulations as mentioned above.

1.2 The Selection Review Board shall provide advice to the Registrar or the Prosecutor in cases where a staff member, currently placed in a temporary position funded by GTA of less than one year, is recommended for a fixed-term established post of one year or more. The Selection Review Board will review such cases only when the profile of both positions are identical and when a fully documented selection process took place for the position currently held by that the staff member.

1.3 In order to provide that advice, the Selection Review Board shall review the procedure for filling a post as follows:

(a) For posts in the Professional category and above and posts in the General Services category from G-6 to G-7, the advice of the Selection Review Board is mandatory unless otherwise decided by the Registrar or the Prosecutor, as appropriate; and

(b) For posts in the General Services category from G-2 to G-5, the Selection Review Board may be convened upon request of the Registrar or Prosecutor, as appropriate, the Interview Panel or the Chief of the Human Resources Section.

1.4 The Selection Review Board shall examine whether the procedure in question followed the procedural requirements established by the Staff Rules and Regulations, the Administrative Instruction (AI) on Recruitment for Established Posts (Professional and higher and General Services categories).

1.5 Furthermore, the Selection Review Board shall examine whether the interview panel has taken into consideration the exigencies of article 44(2) and article 36(8) of the Rome Statute requiring the “highest standards of efficiency, competency and integrity” and the application of the principles of equitable geographical representation, where applicable, gender balance, and the representation of the principal legal systems of the world, where applicable. The Selection Review Board shall further review whether the interview panel has taken into consideration the language requirements of article 50 of the Rome Statute.

Equitable geographical representation does not apply to language staff in the Professional category, staff in the General Services category or staff funded by GTA.

1.6 The Selection Review Board shall base its review on the report of the interview panel which shall specify the procedure followed in accordance with paragraph 1.4 and indicate how the interview panel considered the criteria listed in paragraph 1.5 of these Terms of Reference.

1.7 The Selection Review Board cannot replace the interview panel’s evaluation of a candidate’s performance. The technical and competency evaluation of the candidate’s performance is assessed solely by the interview panel.

#### 2. Membership

2.1 In performing their duties, members of the Selection Review Board shall act independently in accordance with these Terms of Reference.

2.2 Members of the Selection Review Board shall be bound by confidentiality. To this effect, before taking up their duties, each member shall sign a confidentiality statement.

2.3 The Selection Review Board shall be composed, as set out below, of staff members holding a fixed-term appointment of one year or more under the Staff Rules and Regulations. Every effort shall be made to select members based on a balanced geographical representation and gender as well as an even distribution of the Organs of the Court.

(a) Eight members appointed by the Registrar from the Registry and other Organs (five professional and higher and three general services) and six members selected by the Prosecutor from the Office of the Prosecutor (four professional and higher and two general services);

(b) Six members designated by the Staff Council (three staff members from the Registry and other Organs and three staff members from the Office of the Prosecutor);

(c) One of the members, selected jointly by all members of the Selection Review Board, shall serve as Chairperson of the Board and one of the members, selected jointly by all members, shall serve as alternate Chairperson; and

(d) A representative of the Human Resources Section, designated by the Chief of the Section, shall participate ex officio in the meetings of the Selection Review Board with no right to vote.

2.4 Members shall be appointed for a period of two years.

2.5 Each individual Selection Review Board shall be composed of a minimum of four members, a Chairperson and three additional members, one of whom shall be designated by the Staff Council as indicated in 2.3 (c) above. A representative of Human Resources shall also be present ex officio.

2.6 Should a situation arise in which a member of the Selection Review Board has personal or professional interests that would hinder the faithful performance of his or her duties, that member shall inform the Chairperson in writing and withdraw.

2.7 A member of the Selection Review Board who has participated in the selection process shall not participate in the deliberations of the Selection Review Board concerning the specific recruitment case.

### 3. Procedure

3.1 The Selection Review Board shall be convened by the Human Resources Section. The Human Resources Section will endeavour to select members based on gender, geographical distribution, representation from different Organs of the Court and availability.

3.2 The Human Resources Section shall provide members of the Selection Review Board with the following documentation before the scheduled date of the meeting:

(a) Vacancy announcement;

(b) Complete list of applicants;

(c) Interview panel report;

(d) Personal History Form of the short-listed applicants, including curriculum vitae and letters of intent, if any; and

(e) Monthly report on geographical representation and gender balance as appropriate.

3.3 At the meeting, the Human Resources representative shall explain the procedures followed and provide any relevant information concerning the selection process.

3.4 The Selection Review Board shall review the selection process as stated in article 1 and provide advice to the Registrar or the Prosecutor, as appropriate.

3.5 Where the Selection Review Board finds that the prescribed procedures were followed and the required selection criteria were taken into due consideration, the Committee chairperson shall sign the report in confirmation of that finding.

Where the Selection Review Board has questions on the selection procedure or criteria, it shall request, in writing, the necessary information from the interview panel or invite the chairperson of the interview panel to give an oral explanation.

Where, after obtaining the additional information as specified in paragraph 3.5 of these guidelines, the Selection Review Board finds that the prescribed procedures were not followed or/and the required selection criteria were not taken into consideration, it shall transmit its finding and/or observations and/or recommendations to the Registrar or the Prosecutor, as appropriate, for their consideration.

3.6 In rendering the advice, members of the Selection Review Board shall attempt to achieve unanimity. Where this is not possible, that fact shall be stated in the report and the Selection Review Board shall decide by majority.

3.7 Unless prevented from doing so by circumstances beyond its control, the Selection Review Board shall provide its recommendation to the Registrar or the Prosecutor, as appropriate, no later than thirty (30) calendar days after receipt of the relevant documentation from the Human Resources section.

## Annex III

### Use of General Temporary Assistance (GTA) and rules for short-term staff<sup>8</sup>

#### I. Introduction

1. Staff funded from GTA and short-term staff are two distinctly different categories. While one is a funding source, the other is a contractual modality, i.e. type of appointment. To understand the distinction between the two, it is useful to look at the *Revised ICSC framework for contractual arrangements in the organizations of the United Nations common system*, established by the International Civil Service Commission (ICSC)<sup>9</sup>.

#### II. The ICSC framework for contractual arrangements

2. Until recently, organizations of the United Nations common system operated with a number of different contractual modalities for staff and different staff regulations and staff rules. To harmonize contractual modalities, the ICSC established a framework consisting of three basic appointment types:

(a) *Continuing appointments*: These are the equivalent of the previously used “permanent” appointments. They do not expire and are usually granted after a staff member has served for a number of years and has performed satisfactorily. Inclusion in this category is subject to the continuing needs of the organization and extends to staff who perform functions that are core to the mandate of each organization;

(b) *Fixed-term appointments*: Fixed-term appointments cover the employment of staff engaged for defined periods of time to perform functions that are part of the organization’s regular and continuing activities. The duration of a fixed-term appointment is limited and does not carry expectation of renewal; and

(c) *Temporary appointments*: The purpose of a temporary appointment is to accommodate defined, short-term needs of the organization of less than one year.

3. The ICSC does not require organizations to implement all three types of appointments as described in the framework. Organizations may implement any combination of the defined appointment types in accordance with the particular needs of the organization.

4. In July 2009, the United Nations implemented the provisional Staff Regulations and Staff Rules, defining the three new contractual modalities and terms of employment, and which have since been adopted through Secretary General Bulletin ST/SGB/2011/1.

#### III. Use of appointment types in the Court

5. At its second session in 2003, the Assembly of States Parties (“the Assembly”) adopted Staff Regulations for the Court.<sup>10</sup> Regulation 4.5 (a) of the Staff Regulations stipulates that “[s]taff members shall be granted such fixed-term appointments and short-term appointments that are consistent with the present Regulations [...]”. These two types of appointment were to be modeled in accordance with the contractual modalities existing at the time in the United Nations Secretariat. Under those modalities, a separate series of the United Nations Staff Rules covered the terms for short-term appointments. Since 2011, this type of appointment has been replaced with temporary appointments within the UN common system.

<sup>8</sup> As requested by the Committee at its eighteenth session, *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Eleventh session, The Hague, 4-22 November 2012* (ICC-ASP/11/20), vol. II, part B 1, para. 45.

<sup>9</sup> *Report of the International Civil Service Commission for 2010* (A/65/30), Annex V.

<sup>10</sup> *Official Records ... Second session ... 2003* (ICC-ASP/2/10), part IV, ICC-ASP/2/Res.2

6. The scope and purpose of the Staff Rules of the International Criminal Court provide that “[t]hese Staff Rules shall apply to staff members of the Court holding a fixed-term appointment. Staff members of the Court holding a short-term appointment shall be governed by separate rules drawn up [...]”.<sup>11</sup> Short-term appointments have been used on a very limited scale (i.e. around ten per year) for appointments of less than one month and usually only in connection with temporary services required by the Secretariat of the Assembly of States Parties. Where the modality of short-term appointment has been applied, it is applied in accordance with the obsolete modality for short-term appointments in the United Nations Secretariat.

7. The Court does not offer continuing appointments to its staff.

8. Thus, virtually all staff employed by the Court hold fixed-term appointments. Fixed-term appointments are granted to both staff assigned to established posts and staff funded from GTA. When a fixed-term appointment expires, it can be renewed and the maximum duration of renewal of a fixed-term appointment against an established post is currently three years, subject to operational needs and satisfactory performance.

9. It should be noted that consultants and individual contractors employed through a Special Services Agreement (SSA) are not staff.

#### IV. Use of Staff Rules in the Court

10. The Staff Regulations and Staff Rules apply to all staff holding fixed-term appointments. Therefore, there is no difference in the conditions of employment between staff in established posts and staff funded by GTA.

11. The main difference is in the duration of the appointment. Staff on fixed-term appointments against established posts can currently be renewed for up to three years at a time. Staff funded by GTA can be granted renewable fixed-term appointments of a maximum of twelve months, since GTA-funded positions are subject to annual approval by the Assembly.

12. Given the very small numbers staff that have been employed on short-term appointments, the Court has not as yet given priority to developing the relevant specific staff rules. Instead, the Court has used the Staff Rules for short-term staff as they were applied by the United Nations prior to 2011.<sup>12</sup>

13. Instead of developing separate rules to govern short-term appointments, the Court wishes to amend the existing Staff Rules to cover both types of appointment, i.e. fixed-term and short-term appointments. The use of short-term appointments would then be in line with the modality of temporary appointments within the ICSC framework for contractual arrangements.

14. For the time being, the Court does not wish to introduce the modality of continuing appointments.

#### V. Use of GTA in the Court

15. The Court operates with the following categories of GTA-funded positions:

(a) *Approved function*

GTA is performing a function as approved by the Assembly in the budget. The purpose and description of the function is provided in the proposed programme budget. The function is expected to be temporary, i.e. for a duration limited by the nature of the work required. Currently, approval by the Assembly is granted for a maximum of twelve months within each calendar year. It is noted, however, that there have been a number of GTA-funded positions which have become de-facto “established” in that there is an ongoing and demonstrated need for them. In such cases, the Committee has approved conversions in the past and the Court intends to propose that the remaining positions be converted in 2014.

<sup>11</sup> ICC Staff Rules, “Scope and Purpose”

<sup>12</sup> ST/SGB/2004/3 dated 1 January 2004; *Staff Rules 301.1 to 312.5 governing appointments for service of a limited duration*

*(b) New/changed function*

GTA is performing tasks that were not budgeted for. A typical example would be the need for additional temporary assistance for increased and unforeseen workload, for example when a new project requires additional support.

*(c) Replacement**(i) Direct replacement*

GTA is performing the tasks of an established post:

(a) Which is vacant. Example: When the incumbent of an established post resigns, recruitment procedures are initiated. However, given the average duration of a recruitment process, it may be several months before the replacement takes up the functions. During that period, a temporary replacement may be required and would be recruited under the GTA provision;

(b) Of which the regular incumbent is on extended unpaid leave (e.g. Special Leave Without Pay, Secondment or Loan). Example: A staff member of the Court is seconded for one year to a UN organization, with the right to return to his/her post. A replacement would be hired under the GTA modality.

*(ii) Indirect replacement*

The funds of the vacated post are used to hire a GTA at a different level and this GTA is covering for an internal replacement of the vacated post. For example a P4 is vacant, an existing P3 is covering for the P4 and a new GTA (P3) is covering for the existing P3: this GTA is an 'indirect' replacement of the P4.

*(d) Specific*

GTA requiring separate reporting, e.g.:

- (a) In lieu of contingency fund; and
- (b) In support of Trust Fund projects or other extra-budgetary funded functions.

16. It should be noted that for any fixed-term appointment funded by GTA exceeding two months, the Court applies the same recruitment guidelines and criteria used for appointments against established posts. The position is advertised and a competitive process is required. As noted above, once a staff member is recruited on a fixed-term appointment against a GTA-funded position, the Staff Regulations and Staff Rules of the Court apply with regard to the terms and conditions of the employment.

## VI. Summary

17. Currently, staff on established and GTA-funded posts both hold fixed-term appointments which are governed by the Staff Rules and Staff Regulations of the Court.

18. Very few short-term staff have been recruited in the Court and their appointments have been governed by the 300 series Staff Rules that were in existence in the United Nations until 2011.

19. The Court will review the ICSC Framework for contractual arrangements with a view to further studying the temporary appointment modality.

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