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**Report of the Committee on Budget and Finance on the  
work of its resumed twenty-fourth session**

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## I. Introduction

### A. Opening of the session, adoption of the agenda and organization of work

1. The resumed twenty-fourth session of the Committee on Budget and Finance (“the Committee”), comprising four meetings, was held at the seat of the International Criminal Court (“the Court”) in The Hague, from 14 to 15 July 2015.
2. Taking into account that potentially significant developments regarding the Court’s administrative and budgetary management would take place at the beginning of the second part of 2015, notably as a result of the ReVision project and the Strategic Plan 2016-2018 of the Office of the Prosecutor (“OTP”), the Committee decided that, in accordance with Rule 1, Section I, of its Rules of Procedure, it would hold a resumed twenty-fourth session in The Hague during 14 and 15 of July, before the 2016 proposed programme budget is issued.
3. The Executive Secretary to the Committee on Budget and Finance, Mr. Fakhri Dajani, acted as Secretary of the Committee, and the Secretariat of the Assembly of States Parties (“the Secretariat”) provided the substantive servicing for the Committee.
4. At its first meeting, the Committee adopted the following agenda (CBF/24/25):
  - 1) Opening of the session, adoption of the agenda and organization of work
  - 2) Re-organization of the Registry
  - 3) OTP Strategic plan for 2016-2018
  - 4) Other matters
    - (a) Updates on the re-organization of the Judiciary
    - (b) Ad Hoc Audit Committee
5. The following members attended the resumed twenty-fourth session of the Committee:
  - 1) Hugh Adsett (Canada)
  - 2) David Banyanka (Burundi)
  - 3) Carolina María Fernández Opazo (Mexico)
  - 4) Fawzi A. Gharaibeh (Jordan)
  - 5) Hitoshi Kozaki (Japan)
  - 6) Juhani Lemmik (Estonia)
  - 7) Rivomanantsoa Orlando Robimanana (Madagascar)
  - 8) Gerd Saupe (Germany)
  - 9) Elena Sopková (Slovakia)
  - 10) Richard Veneau (France)
  - 11) Helen Warren (United Kingdom)
6. The following major programmes of the Court were invited to make presentation in the meetings of the Committee: the Presidency, the OTP, and the Registry. The Committee expressed its appreciation for the presentations.

## II. Consideration of issues on the agenda of the Committee at its resumed twenty-fourth session

7. The focus of the Committee’s work at this session was the Registrar’s ReVision project and the Prosecutor’s Strategic Plan for 2016-2018. As a number of documents were received late, either very close to or during the session, further analysis will be required when the draft budget for 2016 is considered by the Committee in September 2015. **The Committee reiterated its earlier requests that all documents, in both official languages, be provided with sufficient time to allow the Committee to review, and be issued in accordance with the relevant rules.**

8. The Committee noted that implementation of the Registrar's ReVision project and the Prosecutor's Strategic Plan for 2016-2018 could have significant impacts on the work of the Court as a whole. For example, elements of the Prosecutor's Strategic Plan that foresee more investigations could lead to increased demand for support from the Registry, and eventually for more capacity in the judiciary. **The Committee expects the Registrar, in accordance with the "One Court" principle, to present a unified proposed programme budget for 2016 that will capture the cost implications of the various activities for all organs of the Court, including where changes in the activities in one lead to changes in the activities in another.**

#### A. Re-organization of the Registry

9. The Committee had before it the Report of the Registry on the outcome of the ReVision process.<sup>1</sup> The Committee noted that even though the ReVision process had concluded, its implementation has yet to be completed. Thus, the Committee took note of the figures provided during its session.

10. With regard to the conditions set out by the Assembly, where the ReVision project would have to be within the scope of i) the approved Registry programme budget of 2015, which amounted to €65.02 million; and ii) the maximum number of stabled posts and approved positions. The Committee noted that the total staff cost for Major Programme III for 2015 amounted to €42.9 million, with the number of staff totaling 561.4 (the sum of the 496 established posts and 65.4 FTE in GTA positions),<sup>2</sup> while the ReVision outcome would result in a €42.5 million and 550 posts. Furthermore, the Committee took note that any additional workload or other requirements that were not included in the 2015 approved budget are not part of the ReVision exercise and need to be treated separately.

11. As a result of the ReVision exercise, 141 posts were abolished, and the total number of staff affected was 113, as there had been 28 vacant posts among the total abolished. The affected staff could choose to either 1) apply for newly advertised posts as a priority candidate or 2) opt for an enhanced separation indemnity package.

12. Should all 113 affected staff opt for the separation indemnity package (which the Registrar considered highly unlikely), the total estimated costs would be €7.6 million. Such costs would be allocated to: a) €4.3 million as termination indemnity; b) €1.6 million and additional 50 per cent pursuant to staff rule 109.2 for agreed terminations; c) €1.6 million for exceptional payment of an additional sum of three months of salary, including allowances and post adjustment. The Committee noted that while the first and second elements were foreseen in the Staff Rules and could be financed from the employee benefit liabilities fund (EBLF) since this fund had been established for the purpose of covering the indemnities ensuing from the termination of staff contracts, the third element would be financed from the regular budget of the Registry. The Committee was informed that €2.2 million savings in non-staff costs had been notionally identified for 2015 and that such savings would be used to pay for the part of the separation indemnity packages that are not covered by the EBLF.

13. As regards the programme budget implications of the Re-Vision project upon the 2016 proposed programme budget, the Committee took note that the new structure would result in savings of approximately €450,000 when compared with what the old structure would have cost had it been replicated for 2016. Furthermore, seven GTA posts were included as part of the Re-Vision outcome, but those posts would be of a provisional nature – for up to two years- and thus they should not be considered part of the new structure.<sup>3</sup>

14. **In addition, the Committee was advised that the proposed budget for 2016 would nonetheless contain an increase in the resources requested for Major Programme III, given the increased level of judicial and prosecutorial activities foreseen, as well as the inherent costs of the move to the permanent premises. In this regard, the Committee requested that if there will be any cost in 2016 of the Re-vision exercise outcome be clearly differentiated from other budget lines in the proposed programme budget.**

<sup>1</sup> CBF/24/27 and Add.1.

<sup>2</sup> Ibid., para. 9.

<sup>3</sup> Ibid., para. 8. Such GTA posts were estimated by the Registrar at €111,800 for 2016 and possibly less for 2017.

15. **In terms of geographical representation in the context of the Re-Vision project, the Committee requested that for recruitment of any post, geographical representation and gender balance be taken into consideration, and be a standard part of the entire recruitment process. Furthermore, the Committee requested that the Court report on the geographical representation and gender balance status, resulting from the ReVision exercise at its twenty-fifth session.**

16. The Committee further noted that the Counsel Support Section, the Office of the Public Counsel for Defense, the Victims Participation and Reparations Section and the Office of Public Counsel for Victims,<sup>4</sup> had not been revised, and that a separate proposal had been submitted to the Judges for their consideration. In this connection, staffing and costing for the old structure had been included in the respective figures of the report corresponding to the new structure.

17. In the budget for 2015, the Assembly of States Parties (“the Assembly”) approved 65.4 full-time equivalent (FTE), being split between 105 approved posts (785.2 work months). The Committee noted that among the 105 approved posts had some were only for a few months duration or are temporary in nature, such as Field Assistants for victims and Court Interpreters, which were considered in the calculation of the approved FTEs. The Committee understands that the Registrar has decided that the structure, resulting from the Registry ReVision project, consists its entirety of 550 established posts.

18. **The Committee expressed the importance of maintaining the flexibility of the Court to respond to changes in service needed to support its activities both at Headquarters and in the field, and thus requested that Registry report on the flexibility of its proposed structure at its twenty-fifth session.**

## **B. OTP strategic plan for 2016-2018**

19. The Committee had before it the OTP Strategic Plan for 2016-2018.

20. The Committee noted that the information provided by an exercise of this nature would serve as the starting point for future financial requirements of the OTP. The Committee noted that the Court, like other international organizations and national governments, will be questioned closely on whether it is able to provide value for money in fulfilling its important mandate, and must strive to ensure efficiency and effectiveness in all of its operations.

21. The Committee was advised that the cost consequences of the Strategic Plan were still being calculated, although it was estimated that the costs of the OTP for 2016, 2017 and 2018 would amount to €45.6, €53.1 and €60.6 million respectively (8, 16 and 14 per cent increases on annual basis respectively) and then levelling out for the next three years (2019-2021) at that level, compared to the basis of €42.2 million<sup>5</sup> for 2015. The increase in staff numbers would correspond to 540 FTE by 2018 vs. 405 FTE at present. The Committee was also advised that further details of the costs would be refined and presented as part of the 2016 proposed programme budget.

22. The OTP Strategic Plan 2012-2015, approved by the Assembly, represented an important increase in resources for the OTP and was fully funded for all activities to support the mandate of the Prosecutor. In order for the Committee to evaluate the budget associated with the proposed Basic Size model, it requested an analysis and evaluation of the Strategic Plan 2012-2015, excluding activities for unforeseen events as the latter costs were met from the Contingency Fund.

23. The OTP suggested that the change in the prosecutorial strategy and consequent increase in resources over the last three years has already brought along improved prosecutorial results, allowing it to achieve 86 per cent level of confirmation of charges against the past<sup>6</sup> performance of 63 per cent.

<sup>4</sup> Ibid., paras. 182-189.

<sup>5</sup> Figures for 2015 and 2016 take into account Contingency Fund notifications for 2015 and the subsequent cost implications for 2016 budget.

<sup>6</sup> For the years 2003-2012.

24. The basis of the OTP Strategic Plan 2016-2018 is a model that the OTP has called ‘the basic size model’, which is drawn up based on three characteristics: a) effective size of the OTP integrated teams; b) past experience of actual workload; and c) a reasonable projection of future demand for OTP involvement in preliminary examinations, investigations and prosecutions. The OTP had based its model on the assumption that the OTP approach would be demand-based rather than resource-driven, meaning that the Office would be able to start core activities when needed, but having to some extent establish priorities in its investigative and prosecutorial decisions. According to the Office, the ‘basic size’ concept relies on the notion that the present resources are insufficient to enable the Office to adequately discharge its mandate and therefore an average team size would need to be increased.

25. The resource requirements of the OTP are based on the following assumptions about the future workload per each year: nine preliminary examinations, one new situation under investigation, six active investigations, nine hibernated investigations, five pre-trial phase prosecutions, five trial phase prosecutions, and two final appeal level prosecutions.

26. The Committee took note of the presentation of the OTP Strategic Plan for 2016-2018 and recognised that implementation of the plan would have resource consequences also on the other organs of the Court, notably to the Registry as the service provider, and to the Judiciary. The immediate resource effect of the plan would be visible in the 2016 proposed programme budget of the Court, but also longer-term consequences for the years 2017 and 2018 would need to be carefully considered well in advance of the future budget discussions. **In that regard, the Committee suggested that the Court develop a high-level multi-year budget estimate for the whole Court, describing the linkages between the cost drivers and their resource effects in all of the organs and submit it at its twenty-sixth session.**

## C. Other matters

### 1. Permanent premises and “one-time” payment

27. The Committee took note of Resolution ICC-ASP/13/Res.6, adopted on 25 June 2015, in which the External Auditor was asked to provide a detailed report on the appropriate level of the cash reserves of the Court and on any risks that might be attached to their reduction, and to carry out an independent and detailed review of the permanent premises project accounts with emphasis on the cost overruns. The Committee also noted that it had been requested to provide its recommendations on reductions to the cash reserves and to analyze the cost overruns.

28. The Committee noted that it would need to await the report of the External Auditor in order to provide its views. The Committee expressed its readiness, through its Chair, to be in contact with the External Auditor once the External Auditor has decided its approach to the request of the Assembly.

29. The Committee also noted that the Oversight Committee had asked for the Committee’s assessment at its resumed twenty-fourth session of a new proposal from the Project Director’s Office on the issue of the calculation of the formula for one-time payments.

30. The Committee considered the information it had received and concluded that the calculations appeared to have been made in accordance with the formula as described in texts of the Assembly in 2009 and 2012. It also noted that this formula appeared to differ from the criteria in the Assembly resolution of 22 November 2008, as well as the formula described in the host State loan agreement of 23 March 2009.

31. The Committee recalled that it had expressed concern about the implementation of the resolutions relating to the recalculation of States Parties contributions and the interest charged for the Project at its twenty-second session in April 2014. The Committee noted that there appeared to be a discrepancy between the text of the host State loan agreement, signed in March 2009, and the explanatory notes later provided to States Parties and reflected in texts of the Assembly.

32. The Committee recalled that one-time payments are subject to a final adjustment once the final costs of the project and the amount drawn on the host State subsidy are

known at the time of completion of the project. It was noted that the amounts in question represent a variation of about three per cent of the contributions of States Parties and also noted that repeatedly receiving revised updates of the “one-time” payments could create confusion and inconvenience. It also noted that the project is expected to be completed in the coming weeks. **In order to avoid uncertainty and to limit the number of notices that States Parties will receive calculating their “one-time” payment, the Committee recommended that any possible lack of clarity be resolved through discussions between the Court and host State prior to the final adjustment being issued.**

## **2. Updates on the re-organization of the Judiciary**

33. The Committee expressed its appreciation for the oral presentation made by the President of the Court, Judge Silvia Fernandez de Gurmendi on the reorganization of the Judiciary to harmonize the systems in place between Pre-trial, Trial and Appeal Chambers, and improve efficiency among the judicial proceedings, and looked forward to receiving the final report on the outcome of this exercise in September 2015.

## **3. Ad Hoc Audit Committee**

34. The Committee noted that, in accordance with one of the recommendations made at its twenty-third session, the previous Audit Committee was disbanded on 13 February 2015 by Presidential directive ICC/PRES/D/G/2015/001 and an Ad Hoc Audit Committee consisting of two members of the Committee, the Vice-President of the Assembly in The Hague and a representative of the Court in an observer role met for the first time on 27 April 2015, on the margins of the twenty-fourth session of the Committee.

35. The Committee received an oral update on the work of the Ad Hoc Committee to date. The Committee welcomed the work done to date and was informed that the Ad Hoc Committee would meet again on 18 September 2015. **The Committee looked forward to receiving a report from the Ad Hoc Committee and its twenty-fifth session and discussing the future work and required resources of the Audit Committee in the context of the budget for 2016.**

## Annex

### List of documents

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<i>CBF document symbol</i>	<i>Title</i>	<i>CBF document symbol has been converted to</i>
CBF/24/25	Provisional agenda	-
CBF/24/26	Office of the Prosecutor: Strategic plan 2016-2018	ICC-ASP/14/20
CBF/24/27	Report of the Registry on the outcome of the ReVision process	ICC-ASP/14/19
CBF/24/27/Add.1	Executive summary of the Registry report on the ReVision project	ICC-ASP/14/19

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