

**ASSEMBLY OF STATES PARTIES TO THE
ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT**

**TWENTIETH SESSION
THE HAGUE, 6 -11 DECEMBER 2021**

**OFFICIAL RECORDS
VOLUME I**

Note

Symbols of documents of the Assembly of States Parties to the Rome Statute of the International Criminal Court are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a document of the Assembly of States Parties to the Rome Statute of the International Criminal Court. Resolutions of the Assembly bear the letters “Res.”, while its decisions bear the letters “Dec.”.

Pursuant to resolution ICC-ASP/7/Res.6, the Official Records are available in Arabic, English, French and Spanish.

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ICC-ASP/20/20
International Criminal Court publication
ISBN No. 92-9227-391-4

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Printed by Ipskamp, The Hague

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Part I Proceedings

A. Introduction

1. At the 4th meeting of the nineteenth session, on 16 December 2020, the Assembly of States Parties to the Rome Statute of the International Criminal Court (“the Assembly”) decided to hold its twentieth session in The Hague from 6 to 11 December 2021.
2. In accordance with the Rules of Procedure of the Assembly of States Parties,¹ (“the Rules of Procedure”), the President of the Assembly invited all States Parties to the Rome Statute to participate in the session. Other States that had signed the Statute or the Final Act were also invited to participate in the session as observers.
3. In accordance with rule 92 of the Rules of Procedure, invitations to participate in the session as observers were also extended to representatives of intergovernmental organizations and other entities that had received a standing invitation from the General Assembly of the United Nations pursuant to its relevant resolutions,² as well as to representatives of regional intergovernmental organizations and other international bodies invited to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, June/July 1998), accredited to the Preparatory Commission for the International Criminal Court or invited by the Assembly.
4. Furthermore, in accordance with rule 93 of the Rules of Procedure, non- governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court, or in consultative status with the Economic and Social Council of the United Nations, whose activities were relevant to the activities of the Court or that had been invited by the Assembly, attended and participated in the work of the Assembly.
5. In accordance with rule 94 of the Rules of Procedure, the following States were invited to be present during the work of the Assembly: Bhutan, Democratic People’s Republic of Korea, Equatorial Guinea, Eswatini, Lao People’s Democratic Republic, Lebanon, Mauritania, Micronesia (Federated States of), Myanmar, Niue, Palau, Papua New Guinea, Rwanda, Somalia, South Sudan, Tonga, Turkmenistan and Tuvalu.
6. The list of delegations to the session is contained in document ICC-ASP/20/INF.1.
7. The session was opened by the President of the Assembly of States Parties, Ms. Silvia Fernández de Gurmendi (Argentina), who had been elected for the twentieth to twenty-second sessions.³
8. At its 1st plenary meeting, the Assembly appointed Mr. Jules-Thierry Legbo (Côte d’Ivoire) as Rapporteur for the twentieth session.
9. The Director of the Secretariat of the Assembly, Mr. Renan Villacis, acted as Secretary of the Assembly. The Assembly was serviced by the Secretariat.
10. At its 1st plenary meeting, on 6 December 2021, the Assembly observed one minute of silence dedicated to prayer or meditation, in accordance with rule 43 of the Rules of Procedure, and remembered, in particular, victims.

¹ *Official Records ... First session... 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part I.I.C.

² General Assembly resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3369 (XXX), 31/3, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6, 51/204, 52/6, 53/5, 53/6, 53/216, 54/5, 54/10, 54/195, 55/160, 55/161, 56/90, 56/91, 56/92, 57/29, 57/30, 57/31, 57/32, 58/83, 58/84, 58/85, 58/86, 59/48, 59/49, 59/50, 59/51, 59/52, 59/53, 60/25, 60/26, 60/27, 60/28, 61/43, 61/259, 62/73, 62/74, 62/77, 62/78, 63/131, 63/132, 64/3, 64/121, 64/122, 64/123, 64/124, 66/109, 66/113, 69/130, 70/124, 71/153, 71/155, and decision 56/475.

³ At its nineteenth session, the Assembly had, pursuant to rule 29 of its Rules of Procedure, elected the Bureau for the twentieth to twenty-second sessions of the Assembly, as follows: *President*: Ms. Silvia Fernández de Gurmendi (Argentina); *Vice-Presidents*: Mr. Robert Rae (Canada) and Ms. Katerina Sequensová (Czech Republic); *Other members of the Bureau*: Argentina, Bangladesh, Brazil, Canada, Côte d’Ivoire, Cyprus, Czech Republic, Ecuador, Ghana, Kenya, Liechtenstein, Mexico, Norway, Romania, Senegal, Serbia, Slovakia, Spain, the State of Palestine, Uganda and the United Kingdom. See: *Official Records... Nineteenth session, first and second resumptions.... 2019* (ICC-ASP/19/20), Add.1, Chapter I, paras. 13-15 and Chapter II, para. 12.

11. At the same meeting, the Assembly adopted the following agenda (ICC-ASP/20/1/Rev.1):

1. Opening of the session by the President.
2. Silent prayer or meditation.
3. Adoption of the agenda.
4. Election of Bureau members.
5. States in arrears.
6. Credentials of representatives of States at the twentieth session:
 - (a) Appointment of the Credentials Committee; and
 - (b) Report of the Credentials Committee.
7. Organization of work.
8. General debate.
9. Report on the activities of the Bureau.
10. Report on the activities of the Court.
11. Report of the Board of Directors of the Trust Fund for Victims.
12. Review of the International Criminal Court and the Rome Statute system.
13. Election of the Deputy Prosecutor.
14. Election of the members of the Board of Directors of the Trust Fund for Victims.
15. Election of the members of the Advisory Committee on nominations of judges.
16. Consideration and adoption of the budget for the twentieth financial year.
17. Consideration of the audit reports.
18. Appointment of the External Auditor.
19. Amendments to the Rome Statute and the Rules of Procedure and Evidence.
20. Cooperation.
21. Review of the work and the operational mandate of the Independent Oversight Mechanism.
22. Decision concerning the date of the next session of the Assembly of States Parties.
23. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance.
24. Other matters.

The annotated list of items included in the provisional agenda was contained in a note by the Secretariat (ICC-ASP/20/1/Add.1).

12. Also at its 1st plenary meeting, on 6 December 2021, the Assembly agreed on a programme of work and decided to meet in plenary session as well as in the working group format. The Assembly established a Working Group on the Programme Budget for 2022.

13. Ms. Frances-Galatia Lanitou Williams (Cyprus) was appointed Coordinator of the Working Group on the Programme Budget for 2022. Mr. Vincent Rittener (Switzerland) was appointed Coordinator for the consultations on the omnibus resolution.

B. Consideration of issues on the agenda of the Assembly at its twentieth session

1. States in arrears

14. At the 1st plenary meeting, on 6 December 2021, the Assembly was informed that article 112, paragraph 8, first sentence, of the Rome Statute was applicable to nine States Parties.

15. The President of the Assembly renewed the appeal to States Parties in arrears to settle their accounts with the Court as soon as possible. The President also appealed to all States Parties to pay their assessed contributions for 2022 in a timely manner.

16. Pursuant to article 112, paragraph 8, of the Rome Statute, one State Party in arrears submitted a request to the Assembly for exemption from the loss of its voting rights, with the Assembly approving the request at its 9th plenary meeting, on 10 December 2021.

2. Credentials of representatives of States Parties at the twentieth session

17. At its twentieth session, the Assembly appointed the following members of the Credentials Committee: Cyprus, El Salvador, Greece, Hungary, Mexico, Romania, Senegal, South Africa and Switzerland.

18. At its 10th plenary meeting, on 10 December 2021, the Assembly adopted the report of the Credentials Committee (see annex I to this report).

3. General debate⁴

19. At the 2nd, 3rd and 5th plenary meetings, on 6, 7 and 8 December 2021, statements were made by the representatives of Albania; Andorra; Argentina; Australia; Austria; Bangladesh; Belgium; Bolivia (Plurinational State of); Brazil; Bulgaria; Canada; Chile; Colombia; Costa Rica; Cyprus; Czech Republic; Democratic Republic of the Congo; Denmark; Ecuador; El Salvador; Estonia; Finland; France; Georgia; Germany; Ghana; Greece; Guatemala; Iceland; Ireland; Italy; Japan; Kenya; Liechtenstein; Luxembourg; Malta; Mexico; Netherlands; New Zealand; Nigeria; Norway; Paraguay; Peru; Poland; Portugal; Republic of Korea; Romania; Samoa; Senegal; Sierra Leone; Slovakia; Slovenia (on behalf of the European Union); South Africa; Spain; State of Palestine; Sweden; Switzerland; Timor-Leste; Uganda; United Kingdom of Great Britain and Northern Ireland; Uruguay; and Venezuela (Bolivarian Republic of). Statements were also made by China (People's Republic of); Cuba; Iran (Islamic Republic of); and United States of America.

20. The following international organization made a statement: International Development Law Organization.

21. A statement was made by the International Criminal Court Bar Association. The following civil society organizations also made statements: Al Haq (jointly with the Palestinian Center for Human Rights and Al-Mezan); Coalition Burundaise pour la Cour Pénale Internationale; Coalition for the International Criminal Court; International Federation for Human Rights; Comisión Mexicana de Defensa y Promoción de Derechos Humanos; Justice Call; Ligue pour la paix, les droits de l'homme et la justice; Parliamentarians for Global Action; Stop Ecocide Foundation; and Ukrainian Legal Advisory Group (jointly with Crimea Human Rights Group, Media Initiative for Human Rights, Truth Hounds, Diya Human Rights Centre, Human Rights Centre ZMINA).

4. Report on the activities of the Bureau

22. At its 1st plenary meeting, on 6 December 2021, the Assembly took note of the oral report on the activities of the Bureau,⁵ delivered by the President, Ms. Silvia Fernández de

⁴ Some of the statements were delivered by pre-recorded video, some in-person and some via written submissions. The list of all statements and pre-recorded videos is found on the website of the Assembly at: https://asp.icc-cpi.int/en_menus/asp/sessions/general%20debate/pages/generaldebate_20th_session.aspx.

⁵ Annex II.

Gurmendi. The President noted that, since the nineteenth session, the Bureau had held nine formal meetings in order to assist the Assembly in the discharge of its responsibilities under the Rome Statute.

23. On behalf of the Bureau, the President expressed her satisfaction with the work conducted in 2021 by its working groups in The Hague and New York, and by the facilitators and the *ad country* focal points, as they had successfully carried out the mandates of the Assembly under the leadership of their respective Coordinators, Mr. Robert Rae (Canada) and Ms. Katerina Sequensová (Czech Republic). She was also pleased with the work of the Study Group on Governance under the leadership of Ambassador Laura Dupuy (Uruguay) and Ambassador Heinz Walker-Nederkoorn (Switzerland), as well as the focal points of the Study Group. This had enabled the Bureau to submit for the Assembly's consideration the respective reports and recommendations on the issues within its mandate.

5. Report on the activities of the Court

24. At its 1st plenary meeting, on 6 December 2021, the Assembly heard statements by Judge Piotr Hofmański, President of the Court and by Mr. Karim Khan, Prosecutor of the Court. At the same meeting, the Assembly took note of the report on the activities of the International Criminal Court.⁶

6. Report of the Board of Directors of the Trust Fund for Victims

25. At its 1st meeting, on 6 December 2020, the Assembly heard a statement by Ms. Mama Koité Doumbia, Chairperson of the Board of Directors of the Trust Fund for Victims. The Assembly considered and took note of the report on the projects and the activities of the Board of Directors of the Trust Fund for Victims for the period 1 July 2020 to 30 June 2021.⁷

7. Review of the International Criminal Court and the Rome Statute system

26. At its 1st plenary meeting, on 6 December 2021, the Assembly heard a statement by a State Party representative on the Review Mechanism, Ambassador Paul van den IJssel (Netherlands).

27. Further to resolution ICC-ASP/19/Res.7 by which the Assembly established a Review Mechanism, under the auspices of the Assembly, led by two State Party Representatives dedicated to planning, coordinating, keeping track and regularly reporting to the Assembly Presidency and the Bureau on the assessment of the recommendations contained in the Report of the Group of Independent Experts⁸ and further action, as appropriate, as well as the issues referenced in resolution ICC-ASP/18/Res.7 paragraphs 18 and 19, and in general in accordance with that resolution,⁹ the Assembly considered the report and recommendations of the Review Mechanism.¹⁰

28. At its 1st plenary meeting, on 6 December 2021, Ambassador Paul van den IJssel (Netherlands) and Ambassador Michael Imran Kanu (Sierra Leone) presented the report of the Review Mechanism and indicated the future work programme of the Mechanism for 2022.

29. The 5th plenary meeting, on 8 December 2021, was dedicated to the Review of the International Criminal Court and the Rome Statute system.¹¹ The plenary discussion provided an interactive platform for a broader exchange of views on the review process and on policy, and the opportunity for all stakeholders to contribute to the discussion of an issue which is of key importance to the Assembly, the Court and all stakeholders. The Assembly President and the Court focal points participated.

⁶ ICC-ASP/20/9.

⁷ ICC-ASP/20/14.

⁸ "Independent Expert Review of the International Criminal Court and the Rome Statute System - Final Report", dated 30 September 2020 (ICC-ASP/19/16).

⁹ ICC-ASP/19/Res.7, para. 4.

¹⁰ ICC-ASP/20/36.

¹¹ https://asp.icc-cpi.int/en_menus/asp/sessions/documentation/20th%20session/Pages/asp-20-panel-discussions.aspx.

30. At its 8th plenary meeting, on 9 December 2021, the Assembly adopted, by consensus, resolution ICC-ASP/20/Res.3 on the Review of the International Criminal Court and the Rome Statute system. The Assembly also adopted resolution ICC-ASP/20/Res.4 titled “Outcome of the work of the Study Group on Governance on recommendations of the Group of Independent Experts” on “Procedure to amend the Rules of Procedure and Evidence (R381-R384)” and “Election of the Registrar (R76-R78)”.

8. Election of the Deputy Prosecutor

31. In a letter dated 10 October 2020, the Prosecutor of the International Criminal Court transmitted to the President of the Assembly his nomination of three candidates on a list A and three candidates on a list B for two positions of Deputy Prosecutor of the Court, in accordance with article 42, paragraph 4, of the Rome Statute.¹²

32. At its 9th meeting, on 10 December 2021, the Assembly proceeded to elect the Deputy Prosecutors of the International Criminal Court on the basis of the nominations submitted by the Prosecutor.

33. Following a drawing of lots, the Assembly conducted three ballots in relation to candidates under List B. In the third round, held on 10 December 2021, 91 ballots were cast, of which none was invalid and 91 were valid. The required absolute majority of the Assembly of States Parties was 62. Having obtained the highest number of votes (67) and the required absolute majority, Mr. Mame Mandiaye NIANG (Senegal) was elected as Deputy Prosecutor of the International Criminal Court for a period of nine years starting from the date of the solemn undertaking pursuant to article 45 of the Rome Statute.

34. The Assembly conducted one ballot in relation to candidates under List A. In the 1st round, held on 10 December 2021, 90 ballots were cast, of which none was invalid and 90 were valid. The required absolute majority of members of the Assembly of States Parties was 62. Having obtained the highest number of votes (62) and the required absolute majority, Ms. Nazhat Shameen KHAN (Fiji) was elected as Deputy Prosecutor of the International Criminal Court for a period of nine years starting from the date of the solemn undertaking pursuant to article 45 of the Rome Statute.

9. Election of the members of the Board of Directors of the Trust Fund for Victims

35. In a note dated 19 November 2021,¹³ the Secretariat indicated that it had received five candidatures and submitted to the Assembly a list of the five candidates nominated by States Parties for election to the Board of Directors of the Trust Fund for Victims.

36. At its 1st meeting, on 6 December 2021, in accordance with paragraph 11 of resolution ICC-ASP/1/Res.7, the Assembly, on the recommendation of the Bureau,¹⁴ dispensed with the secret ballot and elected by acclamation the following five members of the Board of Directors of the Trust Fund for Victims:

Mr. Sheikh Mohammed Belal (Bangladesh);
Mr. Kevin Kelly (Ireland);
Mr. Andres Parmas (Estonia);
Ms. Minerva Josefina Tarávez Mirabal (Dominican Republic); and
Mr. Ibrahim Sorie Yillah (Sierra Leone).

37. The members of the Board elected at the twentieth session were elected for a three-year term commencing on 6 December 2021.

¹² ICC-ASP/20/34.

¹³ ICC-ASP/20/18.

¹⁴ Eighth meeting of the Bureau: https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/Bureau%208.agenda%20and%20decisions.pdf.

10. Election of the members of the Advisory Committee on Nominations of Judges

38. At its 7th plenary meeting, on 9 December 2021, the Assembly, pursuant to the Terms of Reference of the Advisory Committee on nominations of judges,¹⁵ designated the following nine members of the Advisory Committee on the nominations of judges by acclamation for a three-year term commencing on 9 December 2021:

- (a) Mr. Dennis Dominic Adjei (Ghana);
- (b) Mr. Julian Fernandez (France);
- (c) Ms. Lucy Muthoni Kambuni (Kenya);
- (d) Ms. Milica Kolaković-Bojović (Serbia);
- (e) Mr. Erkki Kourula (Finland);
- (f) Ms. Sanji Mmasenono Monageng (Botswana);
- (g) Mr. Mauro Politi (Italy);
- (h) Mr. Eduardo Rodríguez Veltzé (Bolivia); and
- (i) Mr. Sang-Hyun Song, (Republic of Korea)

39. The delegation of Croatia dissociated itself from the election of the member of the Advisory Committee on Nominations of Judges from the Eastern European group and requested that its statement be reflected in the Official Records of the twentieth session of the Assembly.

11. Consideration and adoption of the budget for the twentieth financial year

40. The Assembly heard statements by Mr. Peter Lewis, Registrar of the Court, and Mr. Werner Druml, Chairperson of the Committee on Budget and Finance (“the Committee”).

41. The Assembly, through its Working Group on the Programme Budget, considered the 2022 proposed programme budget, the reports of the Committee on Budget and Finance and the reports of the External Auditor. The Assembly also considered the reports of the Audit Committee.

42. At its 8th meeting, on 9 December 2021, the Assembly adopted the report of the Working Group on the programme budget (ICC-ASP/20/WGPB/1) wherein it, inter alia, conveyed the recommendation of the Working Group that the Assembly endorse the recommendations of the Committee at its thirty-seventh session.

43. At the same meeting, the Assembly also considered and approved, by consensus, the programme budget for 2022.

44. At the same meeting, the Assembly adopted, by consensus, resolution ICC-ASP/20/Res.1, concerning the programme budget in relation to the following:

- (a) Programme budget for 2022, including appropriations totalling €154,855.0 thousand and staffing tables for each of the major programmes. This amount is reduced by the instalments for the host State loan;
- (b) Working Capital Fund for 2022;
- (c) Outstanding contributions;
- (d) Contingency Fund;
- (e) Scale of assessment for the apportionment of expenses of the Court;
- (f) Financing of appropriations for 2022;
- (g) Premises of the Court;
- (h) Transfer of funds between major programmes under the 2021 approved programme budget;
- (i) Audit;
- (j) Budget Management Oversight;

¹⁵ Report of the Bureau on the establishment of an Advisory Committee on nominations of judges of the International Criminal Court (ICC-ASP/10/36), annex, para.1.

- (k) Development of budget proposals;
- (l) A strategic approach to an improved budgetary process;
- (m) Human Resources;
- (n) Referrals by the Security Council; and
- (o) Five-Year Information Technology and Information Management Strategy.

12. Consideration of the audit reports

45. The Assembly heard a statement from Ms. Margaret Wambui Ngugi Shava, Chairperson of the Audit Committee. The Assembly also heard a statement from the External Auditor. The Assembly took note with appreciation of the reports of the External Auditor on the audit of the financial statements of the Court for the period 1 January to 31 December 2020¹⁶ and of the Trust Fund for Victims for the same period.¹⁷

13. Review of the work and operational mandate of the Independent Oversight Mechanism

46. By resolution ICC-ASP/19/Res.6,¹⁸ the Assembly requested the Bureau to remain seized of the review of the work and the operational mandate of the Independent Oversight Mechanism, with a view to considering recommendations of the Independent Expert Review in this regard, subject to relevant decisions of the Assembly on the implementation of the Report of the Independent Expert Review, and to report thereon to the Assembly at its twentieth session. At its 8th plenary meeting, on 9 December 2021, the Assembly adopted, by consensus, resolution ICC-ASP/20/Res.5, by which it requested the Bureau to remain seized of the review of the work and the operational mandate of the Independent Oversight Mechanism, with a view to considering also recommendations of the Independent Expert Review in this regard, and to report thereon to the Assembly at its twenty-first session.

14. Amendments to the Rome Statute and the Rules of Procedure and Evidence

47. At its 10th plenary meeting, on 10 December 2021, the Assembly took note of the report of the Working Group on Amendments.¹⁹

15. Cooperation

48. At its 4th plenary meeting, on 8 December 2021, the Assembly considered the topic of cooperation with the Court, in plenary panel discussions on “High-level interventions on voluntary cooperation” and on “Cooperation in the field of financial investigations, identification and freezing of assets; towards the establishment of a network of operational focal points”.²⁰

49. As its 8th plenary meeting, on 9 December 2021, the Assembly adopted, by consensus, resolution ICC-ASP/20/Res.2 on cooperation.

16. Decision concerning the dates and venues of the next sessions of the Assembly of States Parties

50. At its 8th meeting, on 9 December 2021, the Assembly decided to hold its twenty-first session in The Hague from 5 to 10 December 2022, and to hold its twenty-second session in New York.

¹⁶ *Official Records ... Twentieth session ... 2021* (ICC-ASP/20/20), vol. II, part C.1.

¹⁷ *Ibid.*, part C.2.

¹⁸ Annex I, para. 15.

¹⁹ ICC-ASP/20/28.

²⁰ https://asp.icc-cpi.int/en_menus/asp/sessions/documentation/20th%20session/Pages/asp-20-panel-discussions.aspx.

17. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance

51. At its 8th meeting, on 9 December 2021, the Assembly decided that the Committee on Budget and Finance would hold its thirty-eighth session virtually on 11 January 2022, its resumed thirty-eighth session from 9 to 13 May 2022 and its thirty-ninth session from 12 to 23 September 2022, respectively, in The Hague.

18. Other matters

a) Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly

52. Given the uncertainties resulting from the coronavirus (COVID-19) pandemic on travel and on the working methods of the twentieth session of the Assembly, it was not possible to proceed with the use of the Trust Fund.

Part II

External audit, programme budget for 2022 and related documents

A. Introduction

1. The Assembly of States Parties had before it the 2022 proposed programme budget submitted by the Registrar of the International Criminal Court, on 16 August 2021,¹ the reports of the thirty-sixth² and thirty-seventh³ sessions of the Committee on Budget and Finance, the reports of the Audit Committee on its thirteenth and fourteenth sessions,⁴ the financial statements for the Court for the period 1 January to 31 December 2020,⁵ and the Trust Fund for Victims financial statements for the period 1 January to 31 December 2020.⁶ In addition, the Assembly had before it annex V of the report of the Committee on the work of its thirty-seventh session, in which the Court outlined the budgetary implications of the Committee's recommendations on the budgets of the major programmes.

2. The Assembly was provided with statements by the Registrar of the Court, Mr. Peter Lewis, the Chair of the Committee, Mr. Werner Druml, the Chair of the Audit Committee, Ms. Margaret Wambui Ngugi Shava, and the External Auditor (*la Cour des comptes* (France)).

3. The Working Group on the Programme Budget met on 9 December 2021. During the meeting, the draft resolution was considered and finalized.

4. The Working Group noted that, as a result of the restrictions imposed by the COVID-19 pandemic, there had been limited time available for informal consultations throughout 2021. The Coordinator of the Working Group therefore recommended that informal consultations in The Hague Working Group budget facilitation commence early in 2022, in order for all relevant issues to be considered in full.

B. External audit

5. The Assembly noted with appreciation the reports of the External Auditor and the related comments of the Committee, contained in the report on the work of its thirty-seventh session.

C. Amount of appropriation

6. The Court's 2022 proposed programme budget amounted to €162,395 thousand, including €3,585.1 thousand for Major Programme VII-2 (Host State Loan).

7. The Committee considered the Court's 2022 proposed programme budget at its thirty-seventh session and concluded that there were a number of areas where savings could be made. Accordingly, the Committee recommended that the budget allocation be reduced to a total of €155,564.9 thousand, including €3,585.1 thousand for Major Programme VII-2 (Host State Loan).

8. The Assembly approved a budget appropriation for 2022 of €154,855.0 thousand.

9. The Assembly noted that without Major Programme VII-2 (Host State Loan), the total level of assessed contributions for the 2022 programme budget amounted to €151,269.9 thousand.

¹Official Records ... Twentieth session ... 2021, (ICC-ASP/20/20), vol. II, part A.

²Ibid., part B.1.

³Ibid., part B.2.

⁴Available on the website of the Assembly at http://asp.icc-cpi.int/en_menus/asp/AuditCommittee/.

⁵Ibid., part C.1.

⁶Ibid., part C.2.

D. Contingency Fund

10. The Assembly decided to maintain the notional level of the Contingency Fund at €7.0 million.

11. The Assembly authorized the Court to transfer funds between major programmes at year end if the costs of unforeseen activities could not be absorbed within one major programme while a surplus existed in other major programmes, to ensure that all appropriations for 2021 were exhausted before accessing the Contingency Fund.

E. Working Capital Fund

12. The Assembly took note of the recommendations of the Committee on Budget and Finance and decided that the Working Capital Fund for 2022 shall be established in the amount of €11.6 million. The Assembly also decided that the Court may only use the surplus funds and funds received from the payment of outstanding contributions to reach the established level of the Working Capital Fund.

F. Financing of appropriations for 2022

13. The Assembly resolved that, for 2022, the total assessed contributions amounted to € 151,269.9 thousand.

Part III

Resolutions adopted by the Assembly of States Parties

Resolution ICC-ASP/20/Res.1

Adopted at the 8th plenary meeting, on 9 December 2021, by consensus

ICC-ASP/20/Res.1

Resolution of the Assembly of States Parties on the proposed programme budget for 2022, the Working Capital Fund for 2022, the scale of assessment for the apportionment of expenses of the International Criminal Court, financing appropriations for 2022 and the Contingency Fund

The Assembly of States Parties,

Having considered the 2022 proposed programme budget of the International Criminal Court (“the Court”) and the related conclusions and recommendations contained in the reports of the Committee on Budget and Finance (“the Committee”) on the work of its thirty-sixth¹ and thirty-seventh² sessions,

Taking note of the recommendations in the final report of the Independent Expert Review on the International Criminal Court and the Rome Statute system,³ in particular as they relate to the budget process, without prejudice to the resolution on the review of the International Criminal Court and the Rome Statute system,

A. Programme budget for 2022

1. *Approves* appropriations totalling €154,855,000 in the appropriation sections described in the following table:

<i>Appropriation section</i>			<i>Thousands of euros</i>
Major Programme	I	Judiciary	12,385.7
Major Programme	II	Office of the Prosecutor	49,546.4
Major Programme	III	Registry	79,219.2
Major Programme	IV	Secretariat of the Assembly of States Parties	3,025.6
Major Programme	V	Premises	2,270.0
Major Programme	VI	Secretariat of the Trust Fund for Victims	3,227.2
Major Programme	VII-5	Independent Oversight Mechanism	820.8
Major Programme	VII-6	Office of Internal Audit	775.0
<i>Subtotal</i>			<i>151,269.9</i>
Major Programme	VII-2	Host State Loan	3,585.1
Total			154,855.0

2. *Notes* that those States Parties that have opted for the one-time payment in respect of the permanent premises and have made such payments in full will not be assessed for the contributions corresponding to Major Programme VII-2 Host State Loan, amounting to €3,585,100;

¹ *Official Records ... Twentieth session ... 2021* (ICC-ASP/20/20), vol. II, part B.1.

² *Ibid.*, part B.2.

³ ICC-ASP/19/16.

3. *Further notes* that these contributions will bring down the level of the 2022 programme budget appropriations that need to be assessed for contributions by States Parties from €154,855.000 to €151,269.900, and that this amount will be assessed following the principles described in section E;

4. *Further approves* the following staffing tables for each of the above appropriation sections:

	Office of the Judiciary	Office of the Prosecutor	Registry	Secretariat, Assembly of States Parties	Secretariat, Trust Fund for Victims	Independent Oversight Mechanism	Office of Internal Audit	Total
USG	-	1	-	-	-	-	-	1
ASG	-	2	1	-	-	-	-	3
D-2	-	-	-	-	-	-	-	-
D-1	-	3	3	1	1	-	1	9
P-5	3	18	22	1	-	1	-	45
P-4	3	37	44	1	4	1	1	91
P-3	21	78	85	1	2	-	1	188
P-2	12	79	90	1	2	1	-	185
P-1	-	24	5	-	-	-	-	29
<i>Subtotal</i>	<i>39</i>	<i>242</i>	<i>250</i>	<i>5</i>	<i>9</i>	<i>3</i>	<i>3</i>	<i>551</i>
GS-PL	1	1	15	2	-	-	-	19
GS-OL	11	79	309	3	2	1	1	406
<i>Subtotal</i>	<i>12</i>	<i>80</i>	<i>324</i>	<i>5</i>	<i>2</i>	<i>1</i>	<i>1</i>	<i>425</i>
Total	51	322	574	10	11	4	4	976

B. Working Capital Fund for 2022

The Assembly of States Parties,

Recalling that the Working Capital Fund was established to ensure that the Court be able to meet short-term liquidity problems pending receipt of assessed contributions,⁴

Noting the recommendation of the Committee at its twenty-seventh session to reinstate the Working Capital Fund to represent approximately one month's expenditure of the Court's 2016 approved budget (€11.6 million),⁵

Further noting that the Committee recommended a consideration of a multi-year funding timetable,⁶

1. *Notes* that the Working Capital Fund for 2021 was established in the amount of €11.6 million;
2. *Further notes* that the current level of the Working Capital Fund is €11.5 million;
3. *Resolves* that the Working Capital Fund for 2022 shall be established in the amount of €11.6 million, and *authorizes* the Registrar to make advances from the Fund in accordance with the relevant provisions of the Financial Regulations and Rules of the Court;
4. *Takes note* of the recommendation of the Committee⁷ at its thirty-second session that the Working Capital Fund be maintained at one month of the Court's expenditure, therefore recommending an increase of the notional level to €12.3 million, *notes* that the Committee

⁴ Financial Regulations and Rules 6.2.

⁵ *Official Records ... Fifteenth session ... 2016* (ICC-ASP/15/20), vol. II, part B.2, para. 144.

⁶ *Ibid.*, para. 148.

⁷ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.1, para. 66.

recommended at its thirty-fifth session, in light of the liquidity risk faced by the Court, that the Bureau and the Assembly keep the level of the Working Capital Fund under review, and *further notes* that States Parties will continue to consider this important and urgent matter in The Hague Working Group facilitation on the budget; and

5. *Decides* that the Court may only use the surplus funds and funds received from the payment of outstanding contributions to reach the established level of the Working Capital Fund.

C. Outstanding contributions

The Assembly of States Parties,

Welcoming the report of the Independent Expert Review,⁸ as well as the report of the Bureau on the arrears of States Parties,⁹ and in particular the conclusions and recommendations contained in that report,¹⁰

Recalling paragraphs 42, 43 and 44 of resolution ICC-ASP/4/Res.4,

1. *Notes with serious concern* the state of arrears and the liquidity issues facing the Court, and the associated operational risk, *underlines* the importance of endowing the Court with the necessary financial resources and the relevant provisions of resolution ICC-ASP/4/Res.4 concerning timely payments of assessed contributions and arrears, *urges* all States Parties to pay their assessed contributions in full and on time in accordance with the Financial Regulations and Rules of the Court, and *decides* to keep the issue under review and continue to consider the relevant recommendations of the report of the Independent Expert Review, the Committee, the External Auditor and other bodies; and

2. *Welcomes* the Court's development of guidelines,¹¹ consistent with existing rules and regulations, for States Parties which are in arrears and subject to the provisions of article 112, paragraph 8 of the Rome Statute, and which face significant economic hardship, to enter into voluntary and sustainable payment plans, *strongly encourages* States Parties in arrears and subject to the provisions of article 112, paragraph 8, to work voluntarily, in coordination with the Court, to develop such payment plans, and *further requests* the Court to keep States Parties informed of any such payment plans and their implementation through The Hague Working Group facilitation on the budget, including via the monthly financial reports provided to States Parties.

D. Contingency Fund

The Assembly of States Parties,

Recalling its resolutions ICC-ASP/3/Res.4 establishing the Contingency Fund in the amount of €10,000,000 and ICC-ASP/7/Res.4 requesting the Bureau to consider options for replenishing both the Contingency Fund and the Working Capital Fund,

Recalling further that the Contingency Fund was established to ensure that the Court can meet: a) costs associated with an unforeseen situation following a decision by the Prosecutor to open an investigation; b) unavoidable expenses for developments in existing situations that could not be accurately estimated at the time of the adoption of the budget; and c) costs associated with an unforeseen meeting of the Assembly,¹²

Taking note of the advice of the Committee in the reports on the work of its eleventh, thirteenth, nineteenth and twenty-first sessions,

Recalling that the Assembly, at its sixteenth session, decided that, should the Contingency Fund fall below €5.8 million by its seventeenth session, the Assembly would

⁸ ICC-ASP/19/16, recommendation 140.

⁹ ICC-ASP/20/27.

¹⁰ *Ibid.*, paras. 16 to 17.

¹¹ ICC-ASP/18/6.

¹² Financial Regulations and Rules 6.6.

assess the need for its replenishment, bearing in mind the report of the Committee on Budget and Finance,¹³ and regulation 6.6 of the Financial Regulations and Rules,

1. *Notes* that the current level of the Contingency Fund is €5.2 million;
2. *Decides* to maintain the Contingency Fund at the notional level of €7.0 million for 2022; and
3. *Requests* the Bureau to keep the €7.0 million threshold under review in light of further experience on the functioning of the Contingency Fund.

E. Scale of assessment for the apportionment of expenses of the Court

The Assembly of States Parties,

1. *Decides* that for 2022, the contributions of States Parties should be provisionally assessed, based on the agreed scale of assessment published in the report of the United Nations Committee on Contributions,¹⁴ in the absence of the approved scale for 2022, and adjusted in accordance with the principles on which the scale is based;¹⁵
2. *Further decides* that the final assessments be based on the scale adopted by the United Nations General Assembly at its 76th session for its regular budget, applied for 2022, and adjusted in accordance with the principles on which that scale is based; and
3. *Notes* that, in addition, any maximum assessment rate for the largest contributors and for the least developed countries applicable for the United Nations regular budget will apply to the Court's scale of assessment.

F. Financing of appropriations for 2022

The Assembly of States Parties,

1. *Notes* that the payments corresponding to Major Programme VII-2 Host State Loan will reduce the level of the budget appropriations to be assessed for contributions by States Parties to €151,269.900; and
2. *Resolves* that, for 2022, assessed contributions for the budget amounting to €151,269.900 of the budget appropriations approved by the Assembly under section A, paragraph 1 of the present resolution, will be financed in accordance with regulations 5.1 and 5.2 of the Financial Regulations and Rules of the Court.

G. Premises of the Court

The Assembly of States Parties,

Noting the recommendations of the Committee on Budget and Finance regarding maintenance and capital replacement for the premises of the Court,¹⁶

1. *Approves* capital replacement for the premises of the Court at the level of €331.6 thousand in 2022, while underlining the need to see maintenance and capital replacement in conjunction;
2. *Reiterates* the need for the capital replacement to be fully justified and limited only to those elements which are absolutely necessary, and *requests* the Court to continue to ensure that all measures are taken to achieve savings and efficiencies, including using alternatives to capital replacement whenever possible;
3. *Notes* that any capital replacement needs arising in the foreseeable future should be financed within the scope of the regular budget process;

¹³ *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.2.

¹⁴ A/76/11.

¹⁵ Rome Statute of the International Criminal Court, article 117.

¹⁶ *Official Records ... Twentieth session ... 2021* (ICC-ASP/20/20), vol. II, part B.2, paras. 139 to 147.

4. *Welcomes* the Committee's review of estimates for capital replacement, as well as financial and administrative mechanisms including possible alternatives to current contractual arrangements, at its thirty-sixth and thirty-seventh sessions,¹⁷ and *invites* the Committee to continue to undertake a detailed analysis and evaluation of the proposed budget taking into account the need for prioritization;
5. *Recalls* the recommendations of the Committee¹⁸ regarding a mechanism for *pro bono* expert advice from States Parties in the planning and implementation of capital replacement, and *invites* States Parties to put forward further suggestions in this regard;
6. *Welcomes* Mr. Michael Rotter (Austria) as a *pro bono* expert and *invites* the Court to engage with him and benefit from his advice in its future work on capital replacement;
7. *Reaffirms* that the Bureau is entrusted with the mandate concerning the governance structure and total cost of ownership, via its Hague Working Group which has a facilitation on the budget, and *requests* that a report on the topic be submitted for consideration by the twenty-first session of the Assembly; and
8. *Welcomes* with appreciation the artwork donations to the premises of the Court made by a State Party in 2021.

H. Transfer of funds between major programmes under the 2021 approved programme budget

The Assembly of States Parties,

Recognizing that under regulation 4.8 of the Financial Regulations and Rules no transfer between appropriation sections may be made without authorization by the Assembly,

1. *Decides* that, in line with established practice, the Court may transfer any remaining funds between major programmes at the conclusion of 2021 should costs for activities which were unforeseen or could not be accurately estimated be unable to be absorbed within one major programme, whilst a surplus exists in other major programmes, in order to ensure that appropriations for each major programme are exhausted prior to accessing the Contingency Fund.

I. Audit

The Assembly of States Parties,

Having regard to the Charter of the Audit Committee, adopted at its fourteenth session,¹⁹ as amended,

Further noting the recommendations of the Committee on Budget and Finance concerning audit matters,²⁰

Taking note of the findings and recommendations in the final report of the Independent Expert Review of the International Criminal Court and the Rome Statute system related to Internal and External Oversight Mechanisms,

1. *Welcomes* the reports of the Audit Committee on the work of its thirteenth and fourteenth sessions;
2. *Welcomes* the report of the External Auditor on the International Criminal Court governance oversight,²¹ and *decides* to continue the consideration of the outcome of the

¹⁷ *Ibid*, para.141.

¹⁸ *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.2, para. 104 and *Official Records ... Twentieth session ... 2021* (ICC-ASP/20/20), vol. II, part B.2, para.146.

¹⁹ *Official Records ... Fourteenth session ... 2015* (ICC-ASP/14/20), vol. II, part B.3, annex IV.

²⁰ *Official Records ... Twentieth session ... 2020* (ICC-ASP/20/20), vol. II, part B.1, paras. 109 to 111 and *Official Records ... Twentieth session ... 2020* (ICC-ASP/20/20), vol. II, part B.2, paras. 257 to 274.

²¹ ICC-ASP/20/6 and Add.1.

evaluation in accordance with the resolution on the review of the International Criminal Court and the Rome Statute system²², with a view to further rationalizing and streamlining the governance oversight system in order to maximize its efficiency, cost effectiveness and coherence;

3. *Welcomes* the report of the External Auditor²³ on the performance audit of the administrative management of the Presidency and the Office of the Prosecutor and the conclusions and recommendations contained therein, *notes with appreciation* the efforts undertaken by the Court in implementing the “One Court” principle regarding administrative functions, and *requests* all organs of the Court to make best efforts to further streamline and coordinate administrative functions, including identifying synergies and eliminating duplications between the organs of the Court, in accordance with the resolution on the review of the International Criminal Court and the Rome Statute system;²⁴

4. *Decides* to re-appoint Ms. Margaret Wambui Ngugi Shava (Kenya) as a member of the Audit Committee for a term of three years starting on 1 January 2022, while serving as an active member of the Committee on Budget and Finance;

5. *Takes note* of the recommendation made by the ad hoc selection panel and *decides* to re-appoint Mr. Aiman Ibrahim Hija (Australia) as a member of the Audit Committee for a term of three years starting on 1 January 2022; and

6. *Takes note* of the proposed amendments to the Charter of the Audit Committee contained in annex III to the report of the Audit Committee on its tenth session²⁵ and *decides* to consider those amendments, taking into consideration the outcome of the evaluation undertaken by the External Auditor, the report of the Independent Expert Review,²⁶ and the report of the Review Mechanism in order to take a decision as appropriate.

J. Budget Management Oversight

1. *Notes* that the Strategic Plans of the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims are dynamic and updated on a regular basis;

2. *Notes* the Strategic Plans of the Court, the Office of the Prosecutor and the Registry for the period 2019-2021 and of the Trust Fund for Victims for the period 2020-2021 and *also notes* that the Strategic Plans benefit from the views and comments States Parties make in the dialogue with the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims;

3. *Reiterates* the importance of strengthening the relationship and coherence between the strategic planning process and the budgetary process, which is crucial for the credibility and sustainability of the longer-term strategic approach;

4. *Invites* the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims to report annually to the Assembly on the implementation of the Strategic Plans in writing, and *invites* the Court to hold annual consultations with the working groups of the Bureau in the first trimester on the implementation of its Strategic Plans during the previous calendar year;

5. *Recalls* the management oversight responsibility entrusted to the Assembly of States Parties and the mandates of the Audit Committee, the Committee on Budget and Finance, the External Auditor and the Independent Oversight Mechanism as well as the Office of Internal Audit, and *encourages* these bodies to intensify their coordination in order to optimize oversight capacity and reporting, ensure an effective division of labour and avoid duplication

²² ICC-ASP/20/Res.3.

²³ ICC-ASP/20/35.

²⁴ ICC-ASP/20/Res.3.

²⁵ AC/10/5, available on the website of the Audit Committee at: https://asp.icc-cpi.int/en_menus/asp/AuditCommittee.

²⁶ ICC-ASP/19/16.

of competence and work, in conformity with the resolution on the review of the International Criminal Court and the Rome Statute system.²⁷

K. Development of budget proposals

The Assembly of States Parties,

1. *Requests* the Court to present a sustainable budget proposal for its 2023 programme budget, based on transparent and strict financial assessments and needs-analysis. Proposed increases above the level of the 2022 approved budget should be requested only when necessary for the purpose of mandated activities and after all possible steps have been taken to finance such increases through savings and efficiencies;
2. *Recalls* that the proposed programme budget should present the costs for the following year by first highlighting the costs of maintaining current activities, then proposing changes to those activities including full costings of such changes;
3. *Invites* the Court to continue to ensure a stringent internal budgetary process steered by the Registry as part of an annual cycle taking into account past expenditure and leading to a sound and transparent budget proposal, thus allowing the Court to manage its financial situation responsibly, *encourages* the Court to make all efforts to ensure a balanced budget, as appropriate, across organs, and *emphasizes* that the Court should strive to present accurate and sustainable budget proposals based on robust forecasts;
4. *Welcomes* the recommendation of the External Auditor²⁸ that the Court question the nature of current appropriations when preparing the annual budget proposal, to avoid a gradual drift in budget appropriations;
5. *Recalls* the conclusions of the External Auditor with regard to financial trade-offs²⁹ and *further recalls* that States Parties support the Court in many ways, also outside the normal budgetary process;
6. *Welcomes* the savings and efficiencies achieved by the Court in 2021 and projected for 2022, as set out in the annex to the proposed programme budget for 2022,³⁰ as well as the Court's commitment to continue this practice, *takes note* of the fact that instead of setting annual efficiency targets as requested by the Assembly, the Court promotes a culture of continuous improvement in identifying and implementing efficiencies and savings,³¹ and *requests* the Committee, in consultation with the Court, to consider the feasibility of setting Court- or Programme-wide annual efficiency targets and to report on achievements in combination with the Court's efforts for continuous improvement;
7. *Further welcomes* the recommendations of the Committee in relation to the presentation of the budget proposals and the efforts made by the Court in this regard, *encourages* continued improvement, and *notes* that the Committee will be updated ahead of its thirty-eighth session on the measures taken by the Court and will include its comments in its reports to the Assembly of States Parties;
8. *Requests* the Court to provide, as an annex to the draft budget proposal, an organigram with the number of full-time equivalent posts by section and office indicated, as a way to increase transparency on the organizational structure of the Court; and
9. *Requests* the Court to provide, as an annex to the proposed programme budget, a table presenting the total costs by field office and a breakdown of costs, for each field office, directly related to the different stages of prosecutorial and judicial activities and workload with a view to increasing transparency, *underlines* that some Independent Expert Review recommendations address the issue of use of resources in the field and are to be assessed in 2022, and *urges* the Court to continue to make full use of resources modulation and flexibility, including related to staff, in order to adapt to changes in activity and workload.

²⁷ ICC-ASP/20/Res.3.

²⁸ Final audit report on the budget process of the International Criminal Court (ICC-ASP/18/2/Rev.1), recommendation 2.

²⁹ *Ibid.*, para. 213.

³⁰ *Official Records ... Twentieth session ... 2021* (ICC-ASP/20/20), vol. II, part A, para. 37 and annex XVI.

³¹ *Ibid.*, para. 36.

L. A strategic approach to an improved budgetary process

The Assembly of States Parties,

Bearing in mind the independence and confidentiality required to allow the Judiciary and the Office of the Prosecutor to carry out their duties,

1. *Considering* that the Court was able to mitigate the detrimental effects of the COVID-19 pandemic, and ensure business continuity through flexibility and versatility in its sound management of operations, and *noting* that, in part, cost reductions in the budget were related to these exceptional circumstances;
2. *Reiterates* that in principle documentation should be submitted at least 45 days before the beginning of the respective session of the Committee in both working languages of the Court, *emphasizes* the central role that the report of the Committee on Budget and Finance has on budget discussions in preparation for the Assembly sessions, and *strongly encourages* the Committee to ensure that its reports are published no more than one month after its session;
3. *Stresses* the utmost importance of achieving economies of scale, streamlining activities, identifying potential duplications and promoting synergies within as well as between the different organs of the Court;
4. *Welcomes* the Court's continued efforts to fully implement the "One-Court principle" when establishing the proposed programme budget, which has resulted in improvements to the budgetary process;
5. *Welcomes* the continued work of the Court on the topic of performance indicators as an important tool to fulfil its functions, in particular with regard to effective leadership and management, and *encourages* the Court to continue this work in light of the recommendations of the External Auditor and to share with States Parties any update on the development of performance indicators;
6. *Recalls* the recommendations of the Independent Expert Review concerning the Trust Fund for Victims and the report of the Independent Oversight Mechanism (November 2019) on the evaluation of the Secretariat of the Trust Fund for Victims, *welcomes* the steps already taken by the Board of Directors and the Secretariat of the Trust Fund in addressing the issues identified by the Independent Expert Review and the Independent Oversight Mechanism,³² and *encourages* the Board and Secretariat to continue pursuing measures to improve the performance of the Fund and increase its efficiency and effectiveness in implementing its mandate and Strategic Plan, in accordance with the resolution on the review of the International Criminal Court and the Rome Statute system;³³
7. *Notes* the importance of frequently reconsidering the value of current activity, including any opportunities for redeployment,³⁴ and *recalls* that careful prioritization is an important principle of efficient and effective management and is key to achieving successful outcomes;
8. *Requests* the Court, in consultation with the Committee, to continue to develop its budgetary process, guided by the Registry, by:
 - (a) Further strengthening the "One-Court principle" by ensuring that the budget process and its underlying assumptions and objectives are based on coordinated and robust strategic planning and prioritization;
 - (b) Further enhancing dialogue and information sharing between the Court and States Parties on the assumptions, objectives and priorities which underpin the draft programme budget at an early stage;
 - (c) Employing maximum flexibility in the management of its human resources in reacting to unexpected situations, and to the extent possible redeploying resources based on actual workload requirements;

³² ICC-ASP/20/14.

³³ ICC-ASP/20/Res.33.

³⁴ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 27.

(d) Continuing to explore ways to preserve the Court's long-term ability to deliver on its mandate effectively and efficiently, while being mindful of the financial constraints of States Parties; and

(e) Enhancing the dialogue and information sharing between the Court and States Parties on potential medium-term cost drivers with a view to enhancing budget predictability;

9. *Requests* the Court to continue submitting its annual report on activities and programme performance including, as appropriate, relevant information on the approved budget, expenditure and variance at the sub-programme level with all budget lines, as well as the provisional expenditures and revenues for all trust funds administered by the Court, also being provided by the Court in its financial statements;

10. *Further requests* the Court to consult with the Bureau on a conceptual proposal on the scope and principles for employing a rolling budget forecast and to prepare, based on the outcome of this consultation, a technical assessment on the feasibility of and modalities for employing a medium-term rolling budget forecast based on existing budget assumptions, including the scope for quarterly or biannual updates, and the role of the Committee in this process, and to submit a proposal to the Committee for its consideration at its thirty-ninth session;

11. *Welcomes* the monthly financial reports provided by the Court to States Parties, showing monthly figures on cash flow, balances of the General Fund, the Working Capital Fund and the Contingency Fund, the status of assessed contributions, and monthly and annual cash flow forecasts, and *emphasizes* the usefulness of these reports; and

12. *Commits* itself to financial practices which give utmost priority to the annual budget cycle and *calls for* a restrictive use of multi-annual funds administered outside the cycle.

M. Human Resources

The Assembly of States Parties,

Recalling its resolution ICC-ASP/12/Res.1 endorsing the recommendation of the Committee on Budget and Finance that the Junior Professional Officer programme be introduced to the Court on a trial basis, taking full account of the concerns raised by the Committee, in particular the possible impacts on geographical representation, and subject to a comprehensive review in 2017,

Noting that the Court submitted to the Committee at its thirty-seventh session a report on the comprehensive evaluation of the Junior Professional Officer programme as well as the guidelines for the programme and the template agreement between the Court and the donor countries concerning the provision of Junior Professional Officers,³⁵

Further noting that, at its thirty-seventh session, the Committee recommended establishing the Junior Professional Officer Programme on a permanent basis, as well as adopting the guidelines and the template agreement,³⁶

Noting that the Court requested that the Committee consider at its thirty-sixth session the possibility of introducing the National Professional Officer category in line with the practice within the United Nations Common System and employed by some of its organizations to perform functions of a professional nature that require local knowledge in terms of culture, language and experience,³⁷

Noting also that the Committee recommended that the Assembly approve the establishment of the National Professional Officer category and to endorse the proposed amendments to the Staff Regulations and Rules; and that such application should be implemented once the financial implications can be seen and reflected as part of the proposed

³⁵ CBF/37/10.

³⁶ ICC-ASP/20/15, para. 247.

³⁷ ICC-ASP/20/15, para. 250.

programme budget for 2023; and that the Committee will provide detailed guidance on the application of this new modality at its thirty-eighth resumed session in May 2022,³⁸

Further noting that the Court submitted the proposed amendments to the Staff Regulations and Rules regarding National Professional Officers,³⁹

1. *Decides* to establish the Junior Professional Officer programme on a permanent basis, and to adopt the guidelines and template agreement;
2. *Further decides* to establish the National Professional Officer category provided that its application be subject to the consideration by the Committee at its thirty-eighth resumed session of the respective financial implications, to be identified and reflected by the Court in the context of the proposed programme budget for 2023;
3. *Takes note* of the proposed amendments to the Staff Regulations and Rules relating to the establishment of the National Professional Officer category;
4. *Requests* the Court, in its consideration of relevant Independent Expert Review recommendations, to be guided by the importance of ensuring flexibility in the management of its human resources, notably in reacting to evolving situations, needs and workload, within and between organs, including by, as appropriate, reviewing the relevant administrative instructions related, but not limited, to recruitments and mobility of staff;
5. *Underlines* the inherent value of multilingualism in promoting and preserving the diversity of languages and cultures and its contribution to efficiency, effectiveness and transparency in the activities of the Court, *calls for* greater emphasis to be placed on staff knowledge of the Court's official and working languages, as appropriate, and *recalls* the principles of equitable geographical representation and gender balance in the recruitment of staff,⁴⁰ and
6. *Invites* the Court to expand its training for staff sitting on recruitment panels to avoid any undue disadvantage or unconscious bias against applicants interviewed in a language other than their mother tongue, *requests* the Court to develop its language training policies to promote continuous improvement of the proficiency of staff in the official and working languages of the Court and other languages, as appropriate, including training for newly recruited staff proficient in only one of the working languages, and to consider ways to ensure adequate funding for this purpose.

N. Referrals by the Security Council

The Assembly of States Parties,

Noting with concern that, to date, expenses incurred by the Court due to referrals by the United Nations Security Council⁴¹ have been borne exclusively by States Parties,

Recalling that, pursuant to article 115 of the Rome Statute, expenses of the Court and the Assembly shall be provided, inter alia, by funds of the United Nations, subject to the approval of the General Assembly, in particular in relation to the expenses incurred due to referrals by the Security Council,

Mindful that, pursuant to article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations, the conditions under which any funds may be provided to the Court by a decision of the General Assembly of the United Nations shall be subject to separate arrangements,

1. *Notes* the report of the Registry on the approximate costs allocated so far within the Court in relation to referrals by the Security Council,⁴² and *notes* that to date the approved budget allocated in relation to the referrals amounts to approximately € 75,080.5 thousand, borne exclusively by States Parties;

³⁸ ICC-ASP/20/15, para. 256.

³⁹ CBF/37/8.

⁴⁰ ICC-ASP/20/Res.5, preambular paragraph 26, operative paragraph 88, operative paragraphs 122-131.

⁴¹ United Nations Security Council resolutions 1593 (2005) and 1970 (2011).

⁴² ICC-ASP/20/11.

2. *Encourages* States Parties to continue discussions on a possible way forward on this issue; and
3. *Invites* the Court to continue including this matter in its institutional dialogue with the United Nations and to report thereon to the twenty-first session of the Assembly.

O. Five-Year Information Technology and Information Management Strategy

The Assembly of States Parties,

Noting the recommendation of the Committee at its thirty-first session with regard to multi-year budgeting of the Five-Year Information Technology and Information Management Strategy (“the Strategy”),⁴³

Recalling its request⁴⁴ to the Court to provide the Committee, at its thirty-second session, with a solution within the parameters of the Financial Regulations and Rules for the transfer of unspent funds of the Strategy, caused by objective delays in procurement, from one financial year to the following,

Noting the recommendation of the Committee at its thirty-third session⁴⁵ that the Court continue to implement the Strategy on the basis of the maximum cost estimates for the years 2019-2021 as presented in the report of the Committee on the work of its thirty-first session (2019: €2,168.5 thousand; 2020: €2,072.5 thousand and 2021: €2,559.5 thousand),⁴⁶

Noting also the recommendation of the Committee at its thirty-fifth session⁴⁷ to extend the Strategy until the end of 2022, with new expenditure ceilings in an amount of €2,052.5 thousand for 2021 and €158.0 thousand for 2022,

Noting also the Court’s report to the Committee at its thirty-seventh session regarding extending the strategy until the end of 2022, with an additional requested expenditure of €183.7 thousand, bringing the total expenditure for 2022 to €341.7 thousand,⁴⁸

Noting further that the Strategy, with the requested additional 2022 expenditure, would result in foreseen total savings of €293.2 thousand, based on the forecast execution of €8,377.7 thousand and the Committee’s original endorsed total of €8,670.9 thousand,⁴⁹

Noting that the Court submitted the result of the assessment on the Judicial Workflow Platform before the twentieth session of the Assembly as requested by the Committee at its thirty-seventh session,⁵⁰

Recalling its decision that a portion of the 2020 approved budget for the Strategy amounting to €165,000, and resulting from objective delays in procurement, shall remain available in 2021,⁵¹

1. *Decides*, in view of the nature of this long-term project, that a portion of the 2021 approved budget for the Strategy amounting to €327,000 and resulting from objective delays in procurement, shall remain available in 2022; and
2. *Requests* the Registrar to report annually to the Assembly, through the Committee, on the implementation of the Strategy.

⁴³ *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.2, para. 104.

⁴⁴ ICC-ASP/18/Res.4, section P, para. 1.

⁴⁵ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 86.

⁴⁶ *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.2, para. 98, table 5.

⁴⁷ *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.2, para. 75.

⁴⁸ CBF/37/7, para. 5.

⁴⁹ *Ibid.*, Table 3, para. 74.

⁵⁰ CBF/37/19.

⁵¹ ICC-ASP/19/Res.1, section O, para. 1.

Resolution ICC-ASP/20/Res.2

Adopted at the 8th plenary meeting, on 9 December 2021, by consensus

ICC-ASP/20/Res.2 Resolution on cooperation

The Assembly of States Parties,

Recalling the provisions of the Rome Statute, the Declaration on Cooperation (RC/Dec.2) agreed by States Parties at the Review Conference in Kampala and previous resolutions and declarations of the Assembly of States Parties with regard to cooperation, including ICC-ASP/8/Res.2, ICC-ASP/9/Res.3, ICC-ASP/10/Res.2, ICC-ASP/11/Res.5, ICC-ASP/12/Res.3, ICC-ASP/13/Res.3, ICC-ASP/14/Res.3, ICC-ASP/15/Res.3, ICC-ASP/16/Res.2, ICC-ASP/17/Res.3, ICC-ASP-18/Res.3, ICC-ASP-19/Res.2 and the sixty-six recommendations annexed to resolution ICC-ASP/6/Res.2,

Determined to put an end to impunity by holding to account the perpetrators of the most serious crimes of concern to the international community as a whole, and *reaffirming* that the effective and expeditious prosecution of such crimes must be strengthened, inter alia, by enhancing international cooperation,

Stressing the importance of effective and comprehensive cooperation and assistance by States Parties, other States, and international and regional organizations, to enable the Court to fulfil its mandate as set out in the Rome Statute and that States Parties have a general obligation to cooperate fully with the Court in its investigation and prosecution of crimes within its jurisdiction, including with regard to the execution of arrest warrants and surrender requests, as well as other forms of cooperation set out in article 93 of the Rome Statute,

Welcoming the report of the Court on cooperation,¹ submitted pursuant to paragraph 37 of resolution ICC-ASP/19/Res.2,

Noting that contacts with persons in respect of whom an arrest warrant issued by the Court is outstanding should be avoided when such contacts undermine the objectives of the Rome Statute,

Further noting the arrest guidelines issued by the Office of the Prosecutor for the consideration of States, including inter alia, the elimination of non-essential contacts with individuals subject to an arrest warrant issued by the Court and that, when contacts are necessary, an attempt is first made to interact with individuals not subject to an arrest warrant,

Noting the guidelines setting out the policy of the United Nations Secretariat on contacts between United Nations officials and persons who are the subject of arrest warrants or summonses issued by the Court, as annexed to a letter dated 3 April 2013 by the Secretary General of the United Nations to the President of the General Assembly and the President of the Security Council,

Recognizing that requests for cooperation and the implementation thereof should take into account the rights of the accused,

Commending international and regional organizations' support for strengthening cooperation in the area of voluntary agreements,

Recalling the pledges relating to cooperation made by States Parties at the Review Conference in Kampala and *noting* the importance of ensuring adequate follow-up with regard to the implementation of pledges,

Taking note of the resolution on Review of the International Criminal Court and the Rome Statute system² adopted by the ASP at its eighteen session requesting "the Bureau to address the following issues as a matter of priority in 2020 through its working groups and facilitations, in a fully inclusive manner, in line with their mandates [...]: (a) Strengthening cooperation"; the "Matrix over possible areas of strengthening the Court and the Rome Statute System", dated 11 October 2019, prepared by the Presidency of the Assembly, which

¹ ICC-ASP/19/25.

² Resolution ICC-ASP/18/Res.7, adopted at the 9th plenary meeting, on 6 December 2019.

identifies as a priority issue to be addressed by the Bureau and its working groups, the strengthening of cooperation,

Taking note also of the “Independent Expert Review of the International Criminal Court and the Rome Statute System, Final Report”, dated 30 September 2020, prepared by the Independent Experts,

1. *Emphasizes* the importance of timely and effective cooperation and assistance from States Parties and other States under an obligation or encouraged to cooperate fully with the Court pursuant to Part 9 of the Rome Statute or a United Nations Security Council resolution, as the failure to provide such cooperation in the context of judicial proceedings affects the efficiency of the Court and *stresses* that the non-execution of cooperation requests has a negative impact on the ability of the Court to execute its mandate, in particular when it concerns the arrest and surrender of individuals subject to arrest warrants;

Execution of arrest warrants

2. *Expresses* serious concerns that arrest warrants or surrender requests against 12 individuals remain outstanding despite the arrest and surrender to the Court of one suspects in January 2021 and *urges* States to cooperate fully in accordance with their obligation to arrest and surrender to the Court;

3. *Notes* the OTP and the Registry common efforts to devise and implement common strategies and missions to foster the arrest of suspects within the inter-organ working group on arrest strategies created in March 2016;

4. *Reaffirms* that concrete steps and measures to securing arrests need to be considered in a structured and systematic manner, based on the experience developed in national systems, the international ad hoc and mixed tribunals, as well as by the Court, regarding both tracking efforts and operational support;

5. *Underlines* the necessity to continue the discussions on practical solutions to improve cooperation between States and the Court with a view to enhancing prospects for the implementation of pending arrest warrants following the seminar organized by the facilitators on cooperation on 7 November 2018 in The Hague;

6. *Urges* States Parties to avoid contact with persons subject to a warrant of arrest issued by the Court, unless such contact is deemed essential by the State Party, *welcomes* the efforts of States and international and regional organizations in this regard, and *acknowledges* that States Parties may, on a voluntary basis, advise the ICC of their own contacts with persons subject to a warrant of arrest made as a result of such an assessment;

Implementation legislation of the Rome Statute

7. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, in particular through implementing legislation and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such legislative and to set up effective procedures and structures so as to ensure that they can fully meet their obligations under the Rome Statute regarding cooperation and judicial assistance;

8. *Acknowledges* efforts by States, by civil society organizations and by the Court, including through the Legal Tools Project, to facilitate exchange of information and experiences, with a view to raising awareness and facilitating the drafting of national implementing legislation and *underlines* the need to further exchange experience and best practices between States Parties;

Informal consultations and establishment of focal points

9. *Encourages* States to establish a national focal point and/or a national central authority or working group tasked with the coordination and mainstreaming of Court related issues, including requests for assistance, within and across government institutions, as part of efforts aimed at making national procedures for cooperation more efficient, where appropriate;

10. *Recalls* the report to the thirteenth session of the Assembly on the feasibility study of establishing a coordinating mechanism of national authorities, and *encourages* States Parties to continue the discussion;

11. *Emphasizes* the on-going efforts made by the Court in providing focused requests for cooperation and assistance which contribute to enhancing the capacity of States Parties and other States to respond expeditiously to requests from the Court, *invites* the Court to continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance and *invites* the States to consider offering consultations and facilitating meetings between the Court organs formulating the requests and the competent national authorities ultimately in charge of executing them with a view to finding solutions together on ways to assist or transmit the information sought and when appropriate, to follow up on execution of requests and discuss on the most efficient way forward;

Financial investigations and freezing of assets

12. *Recognizes* that effective and expeditious cooperation with regard to the Court's requests for the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crime is crucial to the provision of reparations to victims and for potentially addressing the costs of legal aid;

13. *Underlines* the importance of effective procedures and mechanisms that enable States Parties and other States to cooperate with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible; *calls on* all States Parties to put in place and further improve effective procedures and mechanisms in this regard, with a view to facilitate cooperation between the Court, States Parties, other States and international organizations;

14. *Recalls* the importance of the non-legally binding Paris Declaration on asset recovery annexed to resolution ICC-ASP/16/Res.2;

15. *Welcomes* the development of the digital platform to reinforce exchange of relevant information between States Parties to encourage inter-State cooperation and to strengthening States' capacity to cooperate with the Court; to identify the practical challenges to the effective execution of the Court's requests for cooperation and to further raise awareness of the Court's mandate and requirements for financial investigations and asset recovery, and *decides* to continue the work with the Court and the Secretariat of the Assembly in order to enhance the platform further in 2022;

16. *Welcomes* the preparatory work launched by the Court in order to set up a network of operational focal points in the States parties to enhance cooperation with the Court regarding financial investigations, localisation and freezing of assets, *encourages* the Court to continue this work in order to launch in 2022 the activities of that network and encourages States parties to support the functioning of that network;

Cooperation with the defence

17. *Urges* States Parties to cooperate with requests of the Court made in the interest of Defence teams, in order to ensure the fairness of proceedings before the Court;

Agreement on the Privileges and Immunities of the International Criminal Court

18. *Calls upon* States Parties as well as non-States Parties that have not yet done so to become parties to the Agreement on Privileges and Immunities of the International Criminal Court as a matter of priority, and to incorporate it in their national legislation, as appropriate;

Voluntary cooperation

19. *Acknowledges* the importance of protective measures for victims and witnesses for the execution of the Court's mandate, *welcomes* the new relocation agreement concluded since the last resolution on cooperation, and *stresses* the need for more relocation agreements or arrangements with the Court for the expeditious relocation of witnesses;

20. *Calls upon* all States Parties and other States, to consider strengthening their cooperation with the Court by entering into agreements or arrangements with the Court, or any other means concerning, inter alia, protective measures for victims and witnesses, their families and others who are at risk on account of testimony given by witnesses;

21. *Acknowledges* that, when relocation of witnesses and their families proves necessary, due account should be given to finding solutions that, while fulfilling the strict safety requirements, also minimize the humanitarian costs of geographical distance and change of

linguistic and cultural environment and *urges* all States Parties to consider making voluntary contributions to the Special Fund for Relocations;

22. *Welcomes* the conclusion of an agreement between the Court and France on the Enforcement of sentences;

23. *Emphasizes* that the need for cooperation with the Court on the enforcement of sentences, and on interim and final release is likely to increase in the coming years as more cases proceed toward conclusion, *recalls* the principle enshrined in the Rome Statute that States Parties should share the responsibility for enforcing sentences of imprisonment and for the interim and final release, in accordance with principles of equitable distribution, and *calls upon* States Parties to actively consider the conclusion of agreements with the Court to this end;

24. *Commends* and *further encourages* the work of the Court on framework agreements or arrangements, or any other means in areas such as interim release, final release - also in cases of acquittal - and sentence enforcement which may be essential to ensuring the rights of suspects and accused persons, in accordance with Rome Statute and guaranteeing the rights of convicted persons and *urges* all States Parties to consider strengthening cooperation in these areas;

25. *Requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its twenty-first session;

Cooperation with United Nations

26. *Welcomes and further encourages* the increased cooperation between the Court and the United Nations, and other international and regional organizations, relevant mechanisms for collecting and preserving evidence, and other inter-governmental institutions with a view to foster prosecution of crimes falling within the jurisdiction of the Court;

27. *Urges* States Parties to explore possibilities for facilitating further cooperation and communication between the Court and international and regional organizations, including by securing adequate and clear mandates when the United Nations Security Council refers situations to the Court, ensuring diplomatic and financial support; cooperation by all United Nations Member States and follow-up of such referrals, as well as taking into account the Court's mandate in the context of other areas of work of the Security Council, including the drafting of Security Council resolutions on sanctions and relevant thematic debates and resolutions;

Diplomatic support

28. *Emphasizes* the importance of States Parties enhancing and mainstreaming diplomatic, political and other forms of support for, as well as promoting greater awareness and understanding of the activities of the Court at the international level, and *encourages* States Parties to use their capacity as members of international and regional organizations to that end;

Promoting dialogue with all stakeholders

29. *Welcomes* the work undertaken on the implementation of the 66 recommendations on cooperation adopted by States Parties in 2007,³ *recalls* the flyer prepared by the Court that can be used by all stakeholders to promote the 66 recommendations and increase their understanding and implementation by relevant national actors and the Court;

30. *Welcomes* the joint panel discussion on strengthening cooperation with the Court organised by the co-facilitators on cooperation and the focal points on non-cooperation on 5 October 2020;

31. *Takes note* of the Bureau's Report on cooperation,⁴ covering inter alia, the follow up to the Paris Declaration on financial investigations and asset recovery and the work on a secured digital platform on cooperation; considerations on the Court's relationship with the United Nations; and proposals concerning the follow-up action regarding cooperation issues

³ Resolution ICC-ASP/6/Res.2, annex II.

⁴ ICC-ASP/20/25.

identified in the framework of the review and strengthening process of the Court and the Rome Statute System, and priority areas for 2021;

32. *Requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court;

33. *Encourages* the Bureau, through its Working Groups to continue its review of the implementation of the 66 recommendations, in close cooperation with the Court, where appropriate;

34. *Requests* the Bureau, through the facilitation on cooperation, in accordance with the resolution on the Review of the International Criminal Court⁵ and the Review Mechanism's Comprehensive Action Plan,⁶ to continue to assess the recommendations related to cooperation and their follow-up including their implementation as appropriate, and to report thereon to the Assembly at its twenty-first session;

35. *Requests* the Bureau, through the facilitation on cooperation, to continue to address a number of issues that have been priorities in recent years, and with a matter of priority : to continue the work to further develop the content of the Secured Platform on Cooperation; to hold consultations on the advisability of developing regional thematic focal points on cooperation, of creating a permanent structure for a network of national practitioners and focal points on cooperation, and on the deepening of the relationship between the UN and its agencies and entities, including for capacity building purpose in order to foster cooperation with the Court;

36. *Encourages* the Bureau to identify issues for the Assembly to continue holding plenary discussions on specific topics related to cooperation, including on the issue of financial investigations and arrests;

37. *Recognizes* the importance of ensuring a safe environment for strengthening and fostering cooperation between civil society and the Court and of taking all necessary action to address threats and intimidation directed at civil society organizations;

38. *Takes note* that due to the COVID-19 pandemic, the Court was not able to organize its 8th Focal Points Seminar on Cooperation during the reporting period, which is expected to take place in 2022, focused on cooperation regarding financial investigations and recovering of assets, *underlines* that those seminars constitute important platforms to enhance dialogue and cooperation between the Court and States Parties including on new developments in technical areas of cooperation, and *encourages* all stakeholders, including civil society organizations, to continue organizing events that allow for exchange of information with the purpose of enhancing cooperation and constructively seeking solutions to identified challenges;

39. *Welcomes* the plenary session on cooperation held during the twentieth session of the Assembly, which offered an opportunity for an exchange of views with a high-level panel on voluntary cooperation, and for States to share their experiences on signature of voluntary cooperation agreements with the Court, as well as a more technical discussion regarding the issue of financial investigations and the freezing of assets, while highlighting the relevance of setting up a network of operational focal points in this area; and

40. *Recognizing* the importance of the Court's contribution to the Assembly's efforts to enhance cooperation, *welcomes* the Court report on cooperation,⁷ which contained disaggregated data over the responses provided by States Parties, including highlighting the main challenges, *requests* the Court to submit an updated report on cooperation to the Assembly at its twenty-first session.

⁵ ICC-ASP/19/ Res.7.

⁶ https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive Action Plan-ENG.pdf.

⁷ ICC-ASP/20/25.

Resolution ICC-ASP/20/Res.3

Adopted at the 8th plenary meeting, on 9 December 2021, by consensus

ICC-ASP/20/Res.3

Review of the International Criminal Court and the Rome Statute system

The Assembly of States Parties,

Recognizing the Court's central role and achievements in the fight against impunity at the international level, as the only permanent International Criminal Court, based on the principle of complementarity,

Reiterating the need for continuous improvement in the performance, efficiency and effectiveness of the Court's operations and *welcoming* the Court's efforts in this respect,

Recalling its resolutions ICC-ASP/18/Res.7 of 6 December 2019 and ICC-ASP/19/Res.7 of 18 December 2020 and *reiterating* its commitment to a transparent, inclusive State Party-driven process for identifying and implementing measures to strengthen the Court and improve its performance, and underlining that, for such a process to be successful, it must involve all States Parties, the Court and other relevant stakeholders,

Welcoming the willingness of the Independent Experts to assist with the continuing review process in providing additional background information on their findings and recommendations, as appropriate and feasible,

Taking note of the fact that some issues identified by the Group of Independent Experts are already under active consideration by the Court or in the Bureau working groups, facilitations and other forums (hereinafter Assembly mandates or mandate holders), with the participation of and input from other stakeholders, *emphasizing* that such work should continue and should be coordinated with the larger review process with a view to avoid duplication and benefit from synergies,

Welcoming the ongoing engagement of the Court and the designation of focal points for the planning, coordinating, monitoring, and reporting on the assessment and possible further action of the recommendations contained in the Report of the Group of Independent Experts,

Stressing the statutory mandates of the organs of the Court and of the Assembly of States Parties and that these independent mandates should inform the assessment of the recommendations of the Group of Independent Experts and possible further action, as appropriate, by the Court, the Assembly, or both depending on the nature and purpose of the individual recommendations, and the entity identified as responsible for implementation,

Encouraging the continued engagement of States Parties, the Court and other relevant stakeholders in an efficient and results oriented manner in the review process,

Acknowledging the importance of the Bureau's decision of 31 May 2021 that welcomed the efforts of the Review Mechanism to be inclusive and transparent in the exercise of its mandate within this State Party-driven process, as well as its reassurance that States Parties will be involved in the discussions on assessment and implementation of recommendations, regardless of whether they have been allocated to the Court or to the Assembly, with respect for existing mandates as well as judicial and prosecutorial independence; and decided to adopt the "Categorization of recommendations and remaining issues", dated 30 April 2021, submitted by the Review Mechanism in accordance with paragraph 4 (a) of Assembly resolution ICC-ASP/19/Res.7,

1. *Welcomes again* the report and recommendations of the Independent Expert Review contained in the document titled "Independent Expert Review of the International Criminal Court and the Rome Statute System - Final Report", dated 30 September 2020, and *takes note* of the diverse, thorough and extensive nature of the Experts' recommendations and the need to address them in a structured, holistic and results-oriented way, and of annex I of the final report identifying a number of proposed priorities;

2. *Also welcomes* the work of the Court, the Review Mechanism, the Bureau working groups, and Assembly mandate-holders on the review process and *notes* the difficult and adverse working conditions caused by the COVID-19 pandemic in 2021, *takes note* with appreciation of the significant progress that has been achieved in assessing and taking further action on the recommendations of the Independent Experts, and resolves to spare no effort in advancing this work further in line with the Comprehensive Action Plan;¹
3. *Takes note* of the overall response of the Court² to the report of the Independent Expert Review submitted pursuant to resolution ICC-ASP/19/Res.7;
4. *Underlines* the need to continuously observe and safeguard the judicial and prosecutorial independence of the Court and the integrity of the Rome Statute throughout the review process, as well as the need to ensure proper management oversight, good governance and administrative accountability throughout the prosecutorial and judicial activities, and to continuously take into account the mandate identified by the Independent Experts for each of the recommendations in the review process;
5. *Decides* to extend the mandate of the Review Mechanism established by resolution ICC-ASP/19/Res.7 under the auspices of the Assembly, led by two State Party Representatives and supported by three *ad country* focal points, dedicated to planning, coordinating, keeping track and regularly reporting to the Assembly Presidency and the Bureau on the assessment of the recommendations contained in the Report of the Group of Independent Experts and further action, as appropriate, as well as the issues referenced in resolution ICC-ASP/18/Res.7 paragraphs 18 and 19, and in general in accordance with that resolution. In the event of a vacancy, the Bureau shall, without delay, appoint a member of the Review Mechanism, in the same manner as set out in resolution ICC-ASP/19/Res.7, paragraph 4;
6. The Review Mechanism shall specifically continue to coordinate the assessment of the recommendations, and continue to serve as a platform for assessment of recommendations in conformity with the comprehensive action plan, as well as monitor further action and implementation, as appropriate, of the assessed recommendations;
7. *Welcomes* the Bureau's adoption of the categorization of recommendations³ and the Comprehensive action plan⁴ referred to in operative paragraph 4 of resolution ICC-ASP/19/Res.7, based on the proposals of the Review Mechanism;
8. *Recognizes* that the relevant Assembly mandates designated as responsible for assessing and taking possible further action as appropriate on relevant recommendations, including the Review Mechanism, have commenced assessment in 2021 of the recommendations and submitted to the Bureau the outcome of their consideration, including on action already taken, as well as proposals for the next steps;⁵
9. *Requests* the relevant Assembly mandates designated as responsible for assessing and taking possible further action as appropriate on relevant recommendations to continue with the assessment and, where appropriate, implementation in 2022 and to submit to the Bureau the outcome of its consideration, including on action already taken and proposals for next steps, by 15 November 2022;
10. *Requests* the Court through its focal points to provide regular updates to the Review Mechanism on progress achieved, including on any impediments to progress identified, and to evaluate the progress in the assessment, possible further action, and, where appropriate, implementation of the recommendations of the Group of Independent Experts, and report to the Assembly ahead of its twenty-first session;
11. *Requests* the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, to provide regular updates to all States Parties through the

¹ https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive%20Action%20Plan-ENG.pdf.

² https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/Overall%20Response%20of%20the%20ICC%20to%20the%20IER%20Final%20Report%20-%20ENG%20-%2014April21.pdf.

³ https://asp.icc-cpi.int/EN_Menu/asp/review-court/pages/categorization-recommendations.aspx.

⁴ https://asp.icc-cpi.int/EN_Menu/asp/review-court/pages/action-plan.aspx.

⁵ See: Report of the Review Mechanism submitted pursuant to ICC-ASP/19/Res.7, paragraph 9 (ICC-ASP/20/36), annex I.

Bureau Working Groups, on the review process including on any impediments to progress identified, to brief the Assembly in writing on the overall progress of its work, before 30 June 2022, and to submit a report on the review process to the Assembly well in advance of its twenty-first session on:

- a) Progress in the assessment of and possible further action on the recommendations of the Independent Experts and measures for the implementation of the review process;
- b) Progress in the work of the relevant Assembly mandates on the issues referenced in resolution ICC-ASP/18/Res.7 paragraphs 18 and 19; and
- c) Any other progress in the review process

12. *Invites* the Secretariat of the Assembly of States Parties to assist the work of the Review Mechanism and *requests* the Bureau to invite the Registrar to consider making available to the Secretariat the necessary additional resources, to support the Review Mechanism, on its request, and within the existing budget, only when the Bureau is satisfied that the work of the Review Mechanism so requires; and

13. *Underlines* that the Review Mechanism shall work in an inclusive and transparent manner, consulting regularly with all States Parties, the three organs of the Court, civil society and other relevant stakeholders.

Resolution ICC-ASP/20/Res.4

Adopted at the 8th plenary meeting, on 9 December 2021, by consensus

ICC-ASP/20/Res.4

Review of the International Criminal Court and the Rome Statute system

Outcome of the work of the Study Group on Governance on recommendations of the Group of Independent Experts

I. Procedure to amend the Rules of Procedure and Evidence (R381-R384)

The Assembly of States Parties,

Recalling the findings in the Report of the Group of Independent Experts (“IER report”) that “[t]here is an urgent need for the Court to consider and adopt practices enhancing the efficiency, effectiveness, considerateness, courtesy, and fairness of proceedings”, and that a deadlock exists that disables the Court from “steadily introducing measures to improve the multifarious aspects of its procedures” (IER Report, para. 983),

Recalling further that the Experts found that, currently, “proposed amendments lie in limbo in the absence of consensus”, while article 51(2) of the Rome Statute provides that such an amendment proposal “shall enter into force upon adoption by a two-thirds majority of the members of the Assembly of States Parties”,¹

Recalling the “Roadmap on reviewing the criminal procedures of the International Criminal Court”;² (“Roadmap”) which, *inter alia*, states that States Parties and the Court will keep under review the effectiveness of the Roadmap,

Considering that recommendation 381 of the IER report states: “Article 51(2) of the Rome Statute should be amended to provide that amendments to the RPE may be proposed by a Judge, the Prosecutor, the Defence Office or any State Party, and that any amendment will enter into force if agreed to by an absolute majority of the Judges at a plenary meeting convened with notice of the proposal. It would have immediate effect. Until such an amendment enters into force, the Assembly should vote on RPE amendments by two thirds majority, rather than consensus, in line with the provisions of Article 51(2)”,

Considering that the efficiency and effectiveness of the Court, a common interest for both the Assembly and the Court, require a procedure that enables the Court as well as States Parties to provide for rule amendments, and that such procedure should respect the provisions of articles 112(7) and 51(2) of the Rome Statute regarding, respectively, the taking of decisions by the Assembly by consensus and, in the absence of consensus, upon adoption by a two-thirds majority of the members of the Assembly of States Parties,

Considering that, in accordance with the Roadmap, the Study Group on Governance engages in a dialogue with the Working Group on Lessons Learnt (WGLL) and the Advisory Committee on Legal Texts (ACLT) on recommendations for rule amendments, and that the Study Group will consider the views of the WGLL and the ACLT before it decides to endorse any such proposal and to send it to the Working Group on Amendments,

1. *Calls upon* all States Parties, in cooperation with the Court, to rigorously and thoroughly review, in accordance with the Roadmap, each rule amendment proposal within the Study Group on Governance as well as the Working Group on Amendments, in line with the “Terms of reference of the Working Group on Amendments” (ICC-ASP/11/20, Annex II);

2. *Decides* that, in accordance with articles 112(7) and 51(2) of the Rome Statute, a decision on the adoption of a rule amendment proposal shall be taken at the session of the Assembly of States Parties that follows the submission of this proposal to the Working Group on Amendments, in accordance with the procedure set out in paragraph 1;

¹ IER Report, para. 980.

² ICC-ASP/12/37 (2013), annex 1.

3. *Requests* the Study Group on Governance to consider the remainder of recommendations 381-384, and to report thereon to the twenty-first session of the Assembly.

II. Election of the Registrar (R76-R78)

The Assembly of States Parties

Recalling the provisions of article 43, paragraph 4, of the Rome Statute according to which the judges shall elect the Registrar by absolute majority, taking into account any recommendation by the Assembly of States Parties,

Recalling further the provisions of rule 12, paragraph 1, of the Rules of Procedure and Evidence that it is the responsibility of the Presidency of the Court to establish a list of candidates who satisfy the criteria laid down in article 43, paragraph 3, of the Rome Statute and transmit the list to the Assembly of States Parties with a request for any recommendations,

Considering the findings of the “Independent Expert Review of the International Criminal Court and the Rome Statute System Final Report” (“IER report”) in paragraph 186 that “the process ought to be more thorough and that States Parties should play a stronger role in the process, in line with the provisions of the Rome Statute.”

Noting that the full implementation of recommendation 76 of the IER report would require an amendment of the Rules of Procedure and Evidence with respect to the entity responsible for the establishment of a list of candidates to be presented to the Assembly of States Parties,

Noting further that the process of the election of the Registrar will commence in the first quarter of 2022, leaving not sufficient time to fully assess and implement recommendation 76 of the IER report beforehand,

1. *Decides* to strengthen the participation of States Parties in the upcoming election of the Registrar in 2023 within the existing legal framework and *decides further* to continue its consideration and possible implementation of recommendation 76 of the IER report for future elections;

2. *Invites* the Court to consult with States Parties on the drafting of the vacancy announcement and collaborate with States Parties on its dissemination in the first quarter of 2022;

3. *Further invites* the Court to take measures to encourage a wider diversity of eligible candidates who satisfy the Rome Statute requirements of article 43, paragraph 3, i.e. persons of high moral character, highly competent and with an excellent knowledge of and fluency in at least one of the working languages of the Court; and also with respect to representation of the principal legal systems of the world, equitable geographical representation and a fair representation of female and male among the candidates;

4. *Requests* the Bureau to establish a due diligence process before September 2022 for candidates for Registrar in consultation with the Presidency of the Court and the Independent Oversight Mechanism, to assist in the determination of the criterion of “high moral character” as required by article 43, paragraph 3, of the Rome Statute;

5. *Requests* the Bureau, through The Hague Working Group, to consider facilitating public roundtable discussions with the candidates in the list transmitted by the President of the Court open to States Parties and civil society and conducted in both working languages of the Court;

6. *Requests* the Bureau, through The Hague Working Group, and in an inclusive manner, to discuss the list of candidates for Registrar and submit a report and any recommendation for consideration by the Assembly of States Parties at its twenty-first session;

7. *Requests* the Study Group on Governance to consider recommendation 77 on the position of the Deputy Registrar and recommendation 78 on a proposed Rome Statute amendment to limit the Registrar’s term to a 7-9 year non-renewable mandate, and to report thereon to the twenty-first session of the Assembly.

Resolution ICC-ASP/20/Res.5

Adopted at the 8th plenary meeting, on 9 December 2021, by consensus

ICC-ASP/20/Res.5

Strengthening the International Criminal Court and the Assembly of States Parties

The Assembly of States Parties,

Mindful that each individual State has the responsibility to protect its population from the crime of genocide, war crimes, and crimes against humanity, that the conscience of humanity continues to be deeply shocked by unimaginable atrocities in various parts of the world, and that the need to prevent and the duty to end the most serious crimes of concern to the international community and to put an end to the impunity of the perpetrators of such crimes is now widely acknowledged,

Convinced that the International Criminal Court (“the Court”) is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law, as well as to the prevention of armed conflicts, the preservation of peace and the strengthening of international security and the advancement of post-conflict peacebuilding and reconciliation with a view to achieving sustainable peace, in accordance with the purposes and principles of the Charter of the United Nations,

Convinced also that justice and peace are complementary and mutually reinforce each other,

Welcoming that the international community has agreed to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels and, in this regard, encouraging societies facing conflicts to move from war to peace through peaceful solutions,

Convinced that justice and the fight against impunity and holding to account the perpetrators of the most serious crimes of concern to the international community and persons criminally responsible under the Statute are, and must remain, indivisible and that in this regard universal adherence to the Rome Statute of the International Criminal Court is essential,

Welcoming the Court’s central role as the only permanent international criminal court within an evolving system of international criminal justice and the contribution of the Court to guarantee lasting respect for and the enforcement of international justice,

Noting the primary responsibility of national jurisdictions to prosecute the most serious crimes of international concern and the increased need for cooperation in ensuring that national legal systems are capable of prosecuting such crimes,

Reaffirming its commitment to the Rome Statute of the International Criminal Court and its determination that the most serious crimes of concern to the international community as a whole must not go unpunished, and *underlining* the importance of the willingness and ability of States to genuinely investigate and prosecute such crimes,

Welcoming the efforts and achievements of the Court in bringing those most responsible for the crimes under the Rome Statute to justice and thus to contribute to the prevention of such crimes and *noting* the jurisprudence of the Court on the issue of complementarity,

Welcoming also in this regard relevant contributions from the Court relating to sexual and gender-based crimes, such as the Office of the Prosecutor’s Policy Paper on Sexual and Gender-Based Crimes,¹ as well as contributions from States Parties and other relevant actors, including initiatives for advancing the knowledge and understanding of such crimes, and *convinced* that these initiatives should be an integral part of strategic dialogues and actions

¹<https://www.icc-cpi.int/iccdocs/otp/OTP-Policy-Paper-on-Sexual-and-Gender-Based-Crimes--June-2014.pdf>.

to strengthen the Court and national courts in the fight against impunity, while fully respecting their judicial independence,

Recalling that the application of articles 17, 18 and 19 of the Rome Statute concerning the admissibility of cases before the Court is a judicial matter to be determined by the judges of the Court,

Recalling further that greater consideration should be given to how the Court will complete its activities in a situation country and that possible completion strategies could provide guidance on how a situation country can be assisted in carrying on national proceedings when the Court completes its activities in a given situation,

Recognizing that crimes within the jurisdiction of the Court threaten the peace, security and well-being of the world and, in consequence, that these are values protected by the Rome Statute,

Underscoring its respect for the independence of the Court and its commitment to ensuring respect for and the implementation of the Court's judicial decisions,

Taking note with appreciation of the annual United Nations General Assembly resolutions concerning the Court,

Welcoming the statement by the President of the Security Council of 12 February 2013 in which the Council stated its intention to continue fighting impunity, reiterated its previous call regarding the importance of State cooperation with the Court in accordance with the respective obligations of States and expressed its commitment to effective follow-up of Council decisions in this regard,

Deeply concerned by the on-going lack of effective follow-up by the Security Council to its resolutions referring situations to the Court and its consequences, despite efforts by States Parties,

Recalling the full range of justice and reconciliation mechanisms with restorative measures that are complementary to criminal justice processes, including truth and reconciliation commissions, national reparations programmes and institutional and legal reforms, including guarantees of non-recurrence,

Acknowledging relevant decisions of the Court that have recognized that contributions to the promotion of peace and reconciliation may be a relevant consideration in sentencing decisions, on a case by case basis,

Recalling the success of the first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010,

Recalling also the decision by the Assembly of States Parties ("the Assembly") to establish a representation of the Court at the African Union Headquarters in Addis Ababa, and *reiterating* that such presence would promote dialogue with the Court and the understanding of its mission within the African Union and among African States, individually and collectively,

Appreciating the invaluable assistance that has been provided by civil society to the Court,

Reaffirming the importance of States Parties' cooperation with the Court to the fulfilment of its mandate, and gravely concerned by attempts at intimidation to deter cooperation,

Concerned by the recent reports of threats and intimidation directed at some civil society organizations cooperating with the Court,

Welcoming the efforts undertaken by the Bureau and its Working Groups to identify ways to strengthen the International Criminal Court and the Rome Statute system through concrete, actionable recommendations aimed at enhancing the performance, efficiency and effectiveness of the Court,

Emphasizing the importance of equitable geographical representation and gender balance in the organs of the Court and, as appropriate, in the work of the Assembly and its subsidiary bodies,

Mindful of the need to encourage the full participation of States Parties, Observers and States not having observer status in the sessions of the Assembly and to ensure the broadest visibility of the Court and the Assembly,

Recognizing that victims' rights to equal and effective access to justice, protection and support; adequate and prompt reparation for harm suffered; and access to relevant information concerning violations and redress mechanisms are essential components of justice, *emphasizing* the importance of effective outreach to victims and affected communities in order to give effect to the unique mandate of the Court towards victims and *determined* to ensure the effective implementation of victims' rights, which constitute a cornerstone of the Rome Statute system,

Mindful of the recommendations of the Group of Independent Experts related to legal aid and noting that the assessment process of these recommendations, including in relation to the possible establishment of a Defence Office, are still ongoing and at an early stage;

Noting that it is the responsibility of the Court to present proposals to the Assembly for reform of the legal policy and calling on the Court to continuously consult with States Parties and other relevant stakeholders using existing structures in the course of drawing up these proposals;

Recalling the commitment of the Court and its States Parties to ensuring equality of arms in proceedings before the Court;

Conscious of the vital role of field operations in the Court's work in situation countries and the importance of stakeholders working together to create suitable conditions for field operations,

Conscious also of the risks faced by personnel of the Court in the field,

Recalling that the Court acts within the constraints of an annual programme budget approved by the Assembly,

1. *Reconfirms* its unwavering support for the Court as an independent and impartial judicial institution, *reiterates* its commitment to uphold and defend the principles and values enshrined in the Rome Statute and to preserve its integrity undeterred by any threats or measures against the Court, its officials and those cooperating with it, and *renews* its resolve to stand united against impunity;

A. Universality of the Rome Statute

2. *Invites* States not yet parties to the Rome Statute of the International Criminal Court to become parties to the Rome Statute, as amended, as soon as possible and *calls upon* all States Parties to intensify their efforts to promote universality;

3. *Notes with deep regret* the notification of withdrawal submitted by a State Party under article 127(1) of the Statute on 17 March 2018 as well as the withdrawal of its instrument of accession by another State on 29 April 2019, and *calls upon* these States to reconsider these withdrawals;²

4. Welcomes with appreciation also the continuation by the President of the Assembly of the dialogue on the "Relationship between Africa and the International Criminal Court" initiated by the Bureau during the fifteenth session of the Assembly of States Parties, and invites the Bureau to further widen and deepen this dialogue as needed with all interested State Parties;

5. *Welcomes* the initiatives undertaken to celebrate 17 July as the Day of International Criminal Justice³ as well as those to commemorate the 20th anniversary of the Rome Statute and *recommends* that, on the basis of lessons learnt, all relevant stakeholders, together with

² Depository Notification C.N.138.2018.TREATIES-XVIII.10, see at: <https://treaties.un.org/doc/Publication/CN/2018/CN.138.2018-Eng.pdf>.

³ *Official Records... Review Conference...* 2010 (RC/11), part II.B, Kampala declaration (RC/Decl.1), para 12.

the Court, continue to engage in preparation of appropriate activities and share information with other stakeholders to that effect through the Secretariat of the Assembly⁴ and otherwise;

6. *Calls upon* all international and regional organizations as well as civil society to intensify their efforts to promote universality;

7. *Decides* to keep the status of ratifications under review and to monitor developments in the field of implementing legislation, inter alia with a view to facilitating the provision of technical assistance that States Parties to the Rome Statute, or States wishing to become parties thereto, may wish to request from other States Parties or institutions in relevant areas, and *calls upon* States to annually provide the Secretariat of the Assembly of States Parties with updated information about actions and activities in support of international justice, as per the Plan of Action (paragraph 6(h));⁵

8. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, notably through implementing legislation, in particular in the areas of criminal law, criminal procedural law, and international cooperation and judicial assistance with the Court and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such implementing legislation as a priority and *encourages* the adoption of victims-related provisions, as and when appropriate;

9. *Welcomes* the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute⁶ and *notes with appreciation* the efforts of the Court's President, the Office of the Prosecutor, the President of the Assembly, the Assembly, States Parties and civil society to enhance the effectiveness of universality-related efforts and to encourage States to become parties to the Rome Statute, as amended, and to the Agreement on Privileges and Immunities, as well as relevant efforts undertaken in the framework of the Universal Periodic Review of the Human Rights Council;

10. *Recalls* rule 42 of the Rules of Procedure of the Assembly of States Parties, *endorses* the Bureau decision of 18 October 2017 whereby it adopted an Understanding on the Participation of Observer States in Meetings of the Assembly of States Parties,⁷ and *underscores* the importance of promoting universality of the Rome Statute and of strengthening the openness and transparency of the Assembly;

B. Agreement on Privileges and Immunities

11. *Welcomes* the States Parties that have become a party to the Agreement on the Privileges and Immunities of the International Criminal Court and *recalls* that the Agreement and international practice exempt salaries, emoluments and allowances paid by the Court to its officials and staff from national taxation, and in this regard *calls upon* States Parties, as well as non-States Parties that have not yet done so to become parties to this Agreement as a matter of priority and to take the necessary legislative or other action, pending their ratification or accession, to exempt their nationals employed by the Court from national income taxation with respect to salaries, emoluments and allowances paid to them by the Court, or to grant relief in any other manner from income taxation in respect of such payments to their nationals;

12. *Reiterates* the obligations of States Parties to respect on their territories such privileges and immunities of the Court as are necessary for the fulfilment of its purposes and *appeals* to all States which are not party to the Agreement on Privileges and Immunities in which the Court's property and assets are located or through which such property and assets are transported, to protect the property and assets of the Court from search, seizure, requisition and any other form of interference;

⁴ See ICC - Secretariat of the Assembly of States Parties at https://asp.icc-cpi.int/en_menus/asp/asp%20events/ICJD/Pages/default.aspx.

⁵ ICC-ASP/5/Res.3, annex I.

⁶ ICC-ASP/20/17.

⁷ See: Agenda and decisions of the sixth meeting of the Bureau, annex II, appendix: https://asp.icc-cpi.int/iccdocs/asp_docs/Bureau/ICC-ASP-2017-Bureau-06.pdf.

C. Cooperation

13. *Refers* to its resolution ICC-ASP/20/Res.2 on cooperation;
14. *Calls upon* States Parties to comply with their obligations under the Rome Statute, in particular the obligation to cooperate in accordance with Part 9, and *also calls upon* States Parties to ensure full and effective cooperation with the Court in accordance with the Rome Statute, in particular in the areas of implementing constitutional and legislative framework, enforcement of Court decisions and execution of arrest warrants;
15. *Reaffirms* the importance of supporting all those cooperating with the Court, including States and relevant international bodies and entities, in order to secure the ability of the Court to fulfil its critical mandate of holding accountable perpetrators of the most serious crimes of concern to the international community and delivering justice to victims;
16. *Further calls upon* States Parties to continue to express their political and diplomatic support to the Court, *recalls* the sixty-six recommendations annexed to resolution ICC-ASP/6/Res.2 and *encourages* States Parties and the Court to consider further measures to enhance their implementation and to strengthen their efforts to ensure full and effective cooperation with the Court;
17. *Welcomes* the Court's report and comprehensive presentation on cooperation,⁸ which contained disaggregated data over the responses provided by States Parties, including highlighting the main challenges;
18. *Underlines* the necessity to continue the discussions on practical solutions to improve cooperation between States and the Court with a view to enhancing prospects for the implementation of pending arrest warrants following the seminar organized by the facilitators on cooperation on 7 November 2018 in The Hague;
19. *Underlines also* the necessity to continue the discussions between the co-facilitators on cooperation and the focal points no-cooperation and the Court, following the joint panel discussion on strengthening cooperation with the Court held on 5 October 2020;
20. *Welcomes* the plenary session on cooperation held during the twentieth session of the Assembly, which offered an opportunity for an exchange of views with a high-level panel on voluntary cooperation, and for States to share their experiences on signature of voluntary cooperation agreements with the Court, as well as a more technical discussion regarding the issue of financial investigations and the freezing of assets, while highlighting the relevance of setting up a network of operational focal points in this area;
21. *Underlines* the importance of effective procedures and mechanisms that enable States Parties and other States to cooperate with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible, and *calls on* all States Parties to put in place and further improve effective procedures and mechanisms in this regard, with a view to facilitate cooperation between the Court, States Parties, other States and international organizations;
22. *Recalls* the importance of the non-legally binding Declaration of Paris on asset recovery annexed to resolution ICC-ASP/16/Res.2;
23. *Recalls* the existence of the secured digital platform for States Parties to exchange relevant information on cooperation and financial investigations and assets recovery; -
24. *Recalls* the recommendations on cooperation contained in the 30 September 2020 Independent Experts Report;⁹
25. *Recalls* the Procedures relating to non-cooperation adopted by the Assembly in ICC-ASP/10/Res.5 and revised by the Assembly in resolution ICC-ASP/17/Res.5, *recognizes* with concern the negative impact that the non-execution of Court requests *continues* to have on the ability of the Court to execute its mandate, *takes note* of the past decisions of the Court on non-cooperation;

⁸ ICC-ASP/20/25.

⁹ ICC-ASP/19/16.

26. *Recalls* the Toolkit for the implementation of the informal dimension of the Assembly procedures relating to non-cooperation,¹⁰ which was revised as annex III to ICC-ASP/17/31 and *encourages* States Parties to make use of it as they see fit in order to improve the implementation of the Assembly procedures relating to non-cooperation;

27. *Takes note* of the report of the Bureau on non-cooperation,¹¹ *welcomes* the efforts of the President of the Assembly in implementing the Assembly procedures relating to non-cooperation and *recalls* that the President serves ex officio as focal point for his or her region,¹² *calls upon* all stakeholders, at all levels, to continue assisting the President of the Assembly, including when accomplishing his or her task with the support of the regional focal points for non-cooperation;

28. *Recalls* the role of the Assembly of States Parties and the Security Council with respect to non-cooperation as provided for by articles 87, paragraph 5, and 87, paragraph 7, of the Rome Statute, and *welcomes* the efforts of States Parties to strengthen the relationship between the Court and the Council;

29. *Calls upon* States Parties to continue their efforts to ensure that the Security Council addresses the communications received from the Court on non-cooperation pursuant to the Rome Statute, *encourages* the President of the Assembly and the Bureau to continue consulting with the Security Council and also *encourages* both the Assembly and the Security Council to strengthen their mutual engagement on this matter;

30. *Takes note with appreciation* that, after a situation of non-cooperation that prevailed over a decade, there have been positive developments in Sudan since the 18th Session of the Assembly and *encourages* effective cooperation with the Court in accordance with Security Council resolution 1593, while *expressing concern* about the military takeover in Sudan on 25 October 2021;

31. *Noting* the past orders of the Pre-Trial Chamber to the Registrar concerning action to be taken in case of information relating to travel of suspects, *urges* States to share with the focal points on non-cooperation any information concerning potential or confirmed travel of persons against whom an arrest warrant has been issued;

D. Host State

32. *Recognizes* the importance of the relationship between the Court and the host State in accordance with the terms of the Headquarters Agreement and *notes with appreciation* the on-going commitment of the host State to the Court with a view to its more efficient functioning;

E. Relationship with the United Nations

33. *Recognizes* the need for enhancing the institutional dialogue with the United Nations, including on Security Council referrals;

34. *Welcomes* the twice-yearly reports of the Prosecutor on the situations referred by the United Nations Security Council pursuant to resolutions 1593 (2005) and 1970 (2011), and *noting* the Prosecutor's repeated requests for effective Security Council follow-up, *recognizes* the efforts of some members of the Security Council in this regard, and *urges* all members of the Security Council to support future such requests;

35. *Recognizes* that ratification or accession to the Rome Statute by members of the United Nations Security Council enhances joint efforts to combat impunity for the most serious crimes of concern to the international community as a whole;

36. *Also recognizes* the Security Council's call regarding the importance of State cooperation with the Court and *encourages* further strengthening of the Security Council's relationship with the Court by:

¹⁰ ICC-ASP/15/31, Add.1, annex II.

¹¹ ICC-ASP/20/23.

¹² ICC-ASP/11/29, para. 12.

- a) providing effective follow-up of situations referred by the Council to the Court and on-going political support;
- b) enabling financial support by the United Nations for expenses incurred by the Court due to referrals of the Council;
- c) continued support for the work of the Court through cooperation and assistance by peacekeeping and special political missions mandated by the Council, including by considering extending best practices with respect to the drafting of mandates of peacekeeping operations while respecting their basic principles, and increased cooperation between Sanctions Committees and the Court;
- d) considering mandating peacekeeping and special political missions to contribute, where appropriate, to the strengthening of national justice systems through training, outreach and other forms of assistance;
- e) enhanced engagement by the Council with Court representatives and on matters related to the Court in various formats; and
- f) institutionalizing Council cooperation with and support for the Court in this regard;

37. *Recalls* the report of the Court on the status of on-going cooperation with the United Nations, including in the field;¹³

38. *Encourages* all United Nations Offices, Funds and Programmes to strengthen their cooperation with the Court, and to collaborate effectively with the Office of Legal Affairs as focal point for cooperation between the United Nations system and the Court;

39. *Recalls* article 4 of the Relationship Agreement between the Court and the United Nations, and *stresses* the continuing need to ensure the ability of the Court to fully exercise its capacity of observer to the United Nations and its ability to interact and engage in dialogue with the United Nations, including through its attendance and participation as observer in the activities of the United Nations General Assembly, and through the Court's officials' regular visits to the United Nations to provide briefings and updates on its activities;

40. *Commends* the important work of the New York Liaison Office of the Court, *reiterates* its full support for the Office and *stresses* the importance of the continued and further strengthening of the implementation of its functions in accordance with ICC-ASP/4/6, paragraphs 2, 3 and 4;

41. *Welcomes* that States Parties have been informed throughout 2021 on Court-related developments at the United Nations and in particular at the Security Council, notably through regular briefings provided by the designated State Party member of the Security Council, and *calls upon* Bureau members and other States Parties to continue providing States Parties with information about their efforts at the United Nations and in any other international or regional fora to promote the fight against impunity;

42. *Welcomes* the presentation of the annual report of the Court to the General Assembly of the United Nations¹⁴ and in particular its focus on the relationship between the Court and the United Nations, *also welcomes* the adoption of resolution A/RES/76/5 by the General Assembly and *encourages* States Parties to continue their constructive engagement with United Nations Member States to further strengthen this resolution;

43. *Notes with concern* that, to date, expenses incurred by the Court due to referrals by the Security Council continue to be borne exclusively by States Parties and *notes* that, to date, the approved budget allocated so far within the Court in relation to the referrals made by the Security Council amounts to approximately €75 million;

44. *Stresses* that, if the United Nations is unable to provide funds for the Court to cover the expenses incurred due to referrals by the Security Council, this will, among other factors, continue to exacerbate resource pressure on the Court;

¹³ ICC-ASP/12/42.

¹⁴ United Nations document A/76/293.

45. *Urges* States Parties to pursue, within the General Assembly of the United Nations, the implementation of article 115, paragraph (b), of the Rome Statute, also taking into account that article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations states that the conditions under which any funds may be provided to the Court by a decision of the General Assembly shall be subject to separate arrangements;

46. *Encourages* the Court to further engage with the relevant Sanctions Committees of the United Nations Security Council with a view to improving their cooperation and achieving better coordination on matters pertaining to areas of mutual concern;

47. *Notes* that all cooperation received by the Court from the United Nations is provided strictly on a reimbursable basis;

F. Relationships with other international organizations and bodies

48. *Welcomes* the efforts undertaken by various regional and other international organizations to support the Court in the fulfilment of its mandate;

49. *Recalls* the memoranda of understanding and agreements on cooperation concluded by the Court with the European Union, the Asian-African Legal Consultative Organization, the Organization of American States, the Commonwealth, the Organisation internationale de la Francophonie, the Parliament of the MERCOSUR, and the Inter-American Court of Human Rights;

50. *Welcomes* the efforts of the Court to engage with various regional bodies and entities, including through its participation in the bi-annual meeting of the Organization of American States on strengthening cooperation with the ICC, the EU Day against Impunity and the organization of a roundtable with the European Union, the briefing to the African, Caribbean and Pacific (“ACP”) Group of States in Brussels, Belgium, as well as the annual session of the Asian-African Legal Consultative Organization;

51. *Emphasizes* the need to pursue efforts aimed at intensifying dialogue with the African Union and to strengthen the relationship between the Court and the African Union and *welcomes* the Court’s further regular engagement in Addis Ababa with the African Union and diplomatic missions in anticipation of establishing its liaison office, *recognizes* the engagement of the President of the Assembly with officials of the African Union in Addis Ababa and *calls upon* all relevant stakeholders to support strengthening the relationship between the Court and the African Union;

52. *Welcomes* the series of meetings previously held in Addis Ababa which took the form of joint seminars between the Court and the African Union, in July 2011, October 2012, July 2014 and October 2015, and consequent retreats in October 2016 and in November 2017 organized by the Court to enable a frank and constructive dialogue between the Court and the African States Parties to the Rome Statute as a key measure to strengthen relations between the Court and its African partners and address challenges within the context of this relationship;

53. *Further welcomes* the organization of a retreat on 12 June 2019 in Addis Ababa, Ethiopia, between the Court and African States Parties to the Rome Statute, with the participation of the Office of the Legal Counsel of the African Union and the Trust Fund for Victims;

54. *Welcomes* the organization of joint seminars between the Court and the Caribbean Community (“CARICOM”) in Port of Spain, Trinidad and Tobago from 16 to 17 May 2011, and from 10 to 11 January 2017, on the importance of working towards the universality of the Rome Statute, adopting implementing legislation and increasing participation in meetings of the Assembly of States Parties;

55. *Also welcomes* the efforts to further the presence of the Court at meetings of regional organizations, including through the organization of a side event at the 48th Pacific Islands Forum held in Apia, Samoa, from 4 to 8 September 2017, and the address by the President of the Court to the 55th Ordinary Session of the Authority of Heads of State and Government of the Economic Community of West African States, in Abuja, Nigeria, on 29 June 2019;

56. *Recalls* the contribution that the International Humanitarian Fact-finding Commission, established by article 90 of the Additional Protocol I to the 1949 Geneva Convention, could make in ascertaining facts related to alleged violations of international humanitarian law and facilitating, where appropriate, the prosecution of war crimes, both at the national level and before the Court;

G. Activities of the Court

57. *Takes note* of the latest report on the activities of the Court to the Assembly;¹⁵

58. *Notes with satisfaction* the fact that owing, not least, to the dedication of its staff, considerable progress continues to be made in the Court's activities including its preliminary examinations, investigations and judicial proceedings in various situations which either States Parties or the United Nations Security Council¹⁶ referred to the Court or which the Prosecutor initiated *proprio motu*;

59. *Recalls* its invitation to the Court to continue to take note of best practices of other relevant international and national organizations, tribunals and mechanisms, including those gained by national institutions that have already investigated and prosecuted crimes that fall within the Court's jurisdiction, in solving challenges similar to those encountered by the Court, while reiterating its respect for the independence of the Court;

60. *Encourages* the Court to take note of the best practices of relevant international and national organizations, tribunals, and mechanisms related to sexual and gender-based crimes, including practices related to investigation, prosecution and training, in solving challenges related to crimes under the Rome Statute, including sexual and gender-based crimes, while reiterating its respect for the independence of the Court;

61. *Recognizes* the importance of achieving accountability for all Rome Statute crimes while recalling that there is no hierarchy between them, *encourages* the Bureau to engage with interested States Parties and other relevant actors to identify ways to support Court efforts in this regard with respect to sexual and gender-based crimes that amount to Rome Statute crimes, with a view to reporting thereon to the twenty-first session of the Assembly;

62. *Notes with appreciation* the efforts undertaken by the Office of the Prosecutor to achieve the efficiency and transparency of its preliminary examinations, investigations and prosecutions;

63. *Welcomes* the continued implementation by the Office of the Prosecutor of its Policy Papers on Case Selection and Prioritization, on Children, and on Sexual and Gender-Based Crimes, and, in this regard, *stresses* the importance of the effective investigation and prosecution of sexual and gender-based crimes and crimes against children by the Court and by national courts, in order to end impunity for perpetrators of such crimes, *calls upon* States Parties to consider the Policy Papers to strengthen the investigation and prosecution of these crimes domestically and *welcomes* the adoption of the Office of the Prosecutor's Policy Paper on the Protection of Cultural Property within the Rome Statute framework;

64. *Notes* the on-going review by the Prosecutor of the various policy papers of the Office, with a view to consolidating and enhancing them where necessary.

65. *Expresses its appreciation* to the Office of the Prosecutor for consulting with States Parties and other stakeholders before the issuance of its policies and strategies and *welcomes* the contributions made by States Parties in this regard;

66. *Also welcomes* the efforts undertaken by the Court to implement the One-Court principle, and to coordinate its activities among its organs at all levels, including through the implementation of measures to increase clarity on the responsibility of different organs, while respecting the independence of the judges and the Prosecutor and the neutrality of the Registry and *encourages* the Court to undertake all necessary efforts to fully implement the One-Court principle, inter alia with a view to ensuring full transparency, good governance, efficient use of financial resources and sound management;

¹⁵ ICC-ASP/20/9.

¹⁶ United Nations Security Council resolutions 1593 (2005) and 1970 (2011).

67. *Notes* the Strategic Plans of the Court, the Office of the Prosecutor and the Registry for the period 2019-2021 and of the Trust Fund for Victims for the period 2020-2021 and *also notes* that the Strategic Plans benefit from the views and comments States Parties make in the dialogue with the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims;

68. *Notes with appreciation* the continued efforts undertaken by the Registrar to mitigate the risks faced by the Court in relation to its field offices and to enhance the Court's field operations with a view to increasing their efficiency and visibility and *encourages* the Court to continue to optimize its field offices and activities in close cooperation with the United Nations, as appropriate, in order to ensure the Court's continued relevance and impact in States in which it carries out its work;

69. *Welcomes* the on-going efforts undertaken by the Court to improve its use of alternative sources of information and evidence as well as its capacities to this end, including in the field of financial investigations, *encourages* the Court to continue these efforts and *notes* the importance of providing the Court with the appropriate means for this purpose;

70. *Recognizes* the important work done by the field-based staff of the Court in difficult and complex environments and *expresses its appreciation* for their dedication to the mission of the Court;

71. *Emphasizes* the need for the Court to continue to improve and adapt outreach activities with a view to further developing and implementing effectively and efficiently the Strategic Plan for Outreach¹⁷ in affected countries, including, where appropriate, by early outreach from the outset of the Court's involvement, including during the preliminary examination stage;

72. *Recalls* that the issues of public information and communication about the Court and its activities constitute a shared responsibility of the Court and States Parties, while *acknowledging* the significant contribution of other stakeholders to developing a coordinated and comprehensive approach;

H. Elections

73. *Refers* to resolution ICC-ASP/18/Res.4, which, inter alia, adopted amendments to the procedure set out in ICC-ASP/3/Res.6 for the nomination and election of judges, and amendments to the terms of reference of the Advisory Committee on Nominations of Judges of the International Criminal Court adopted by the Assembly via resolution ICC-ASP/10/Res.5, paragraph 19;

74. *Stresses* the importance of nominating and electing as judges qualified, competent and experienced persons of the highest quality and of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices, in accordance with article 36 of the Rome Statute, and for this purpose *encourages* States Parties to conduct thorough and transparent processes to identify the best candidates;

75. *Stresses* the importance of elected judges who have made their solemn undertaking being available to take up their full-time service when the Court's workload so requires;

76. *Invites* States Parties to consider the compendium of submissions from States Parties, and the reference document of practices that could be taken into account when States Parties are establishing or utilizing national nomination procedures, as prepared by the Advisory Committee on Nominations;¹⁸

77. *Recalls* its decision that the Advisory Committee on Nominations hold its sessions in The Hague or in New York, depending on the cost effectiveness of the particular venue;

78. *Reiterates* the importance of interviews with candidates, preferably in-person, or by videoconference or similar means if appropriate, to the effective discharge of its mandate and

¹⁷ ICC-ASP/5/12.

¹⁸ As requested by the Assembly in ICC-ASP/18/Res.4.

stresses the responsibility of the nominating States to ensure that candidates attend an interview with the Advisory Committee on Nominations;

79. *Recalls* the terms of reference of the Advisory Committee on Nominations of Judges of the International Criminal Court adopted by the Assembly via resolution ICC-ASP/10/Res.5, paragraph 19, as amended via resolution ICC-ASP/18/Res.4, and *requests* States Parties which may be considering nominations of their nationals as members of the Advisory Committee to bear in mind that the composition of the Committee should reflect, inter alia, “a fair representation of both genders”;

80. *Welcomes* the process established by the Bureau of the Assembly of States Parties for the election of the third Prosecutor of the International Criminal Court and *calls upon* the Bureau, through transparent and inclusive consultations with States Parties and civil society, and with the feedback of the Committee on the Election of the Prosecutor and the Panel of Experts on the implementation of their mandate, within existing resources, to examine ways to continue strengthening the process by which the Prosecutor is elected;

81. *Tasks* the Bureau to continue consultations with States Parties, the Court and civil society for the development of a vetting process for all elected ICC officials, and to report to the Assembly ahead of its twenty-first session with a view to adoption of a vetting process as soon as feasible and no later than its twenty-second session, taking into account the ongoing consideration of the relevant IER recommendations, the outcomes of the lessons learnt exercise of the Prosecutor’s selection process and the Bureau’s review of the due diligence process for candidates for Deputy Prosecutor;

I. Secretariat of the Assembly of States Parties

82. *Recognizes* the important work done by the Secretariat of the Assembly of States Parties (“the Secretariat”), *reiterates* that the relations between the Secretariat and the different organs of the Court shall be governed by principles of cooperation and of sharing and pooling of resources and services, as set out in the annex to resolution ICC-ASP/2/Res.3, and *welcomes* the fact that the Director of the Secretariat participates in the meetings of the Coordination Council when matters of mutual concern are considered;

83. *Recalls* the general oversight function of the Bureau over the Secretariat, as contained in the resolution establishing the Secretariat;¹⁹

84. *Welcomes* the report of the Bureau on the assessment of the Secretariat and the recommendations contained therein;²⁰

J. Counsel

85. *Notes* the important work of independent representative bodies of counsel or legal associations, including any international legal association relevant to rule 20, sub-rule 3, of the Rules of Procedure and Evidence;

86. *Takes note* of the report on the constitution and activities of the International Criminal Court Bar Association;²¹

87. *Invites* the International Criminal Court Bar Association to report to the Assembly, through the Bureau, on its activities in advance of the twenty-first session;

88. *Notes* the need to improve gender balance and equitable geographical representation on the list of counsel and thus *continues to encourage* applications to the list of counsel established as required under rule 21, sub-rule 2, of the Rules of Procedure and Evidence with a particular view to ensuring equitable geographical representation and gender balance, as well as legal expertise on specific issues such as violence against women or children, as appropriate;

¹⁹ ICC-ASP/2/Res.3, annex, para. 10.

²⁰ ICC-ASP/17/39.

²¹ ICC-ASP/20/32.

K. Legal aid

89. *Requests* the Court to continue its review of the functioning of the legal aid system and to present, following further consultation with States Parties and all relevant stakeholders, a range of fully-costed proposals for reform of the legal aid policy for external defence and victims' teams, with full respect for the applicable principles of legal aid, for the consideration of the Assembly, through the Committee on Budget and Finance, at its twenty-first session;

90. *Requests* the Court, in producing these proposals to take account of costs constraints and ensure that all options presented can be funded within existing resources, and within that context, to continue to explore constructive options conducive to a viable way forward to improve the conditions of service of external defence and victims' teams members;

91. *Requests* the Court to ensure appropriate representation of counsel in the Advisory Committee on Legal Texts;

92. *Requests* the Court to finalize its review of the current framework and operation of the functions regarding financial investigations on suspects and accused persons across all organs in order to make proposals to the Assembly through its relevant facilitations (legal aid and cooperation) with a view to strengthen the Registry capacity to trace, freeze and seize assets of the accused in the context of legal aid requests, while paying due respect to the rights of the accused and to ensure increased efficiency of that global framework; and

93. *Requests* the Bureau to continue its work on legal aid and to report to the Assembly at its twenty-first session;

L. Study Group on Governance

94. *Welcomes* the continued structured dialogue between States Parties and the Court with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence;

95. *Takes note* of the Bureau's report on the Study Group on Governance²²;

96. *Extends* for another year the mandate of the Study Group, established in resolution ICC-ASP/9/Res.2 and extended in resolutions ICC-ASP/10/Res.5, ICC-ASP/11/Res.8, ICC-ASP/12/Res.8, ICC-ASP/13/Res.5, ICC-ASP/14/Res.4, ICC-ASP/15/Res.5, ICC-ASP/16/Res.6, ICC-ASP/17/Res.5, ICC-ASP/18/Res.6 and ICC-ASP/19/Res.6;

97. *Takes note* of the final report of the Independent Expert Review, dated 30 September 2020, and the Comprehensive Action Plan, adopted by the Bureau on 28 July 2021 and *notes* that the Study Group will consider recommendations falling within its mandate;

M. Proceedings of the Court

98. *Emphasizes* that the effectiveness of proceedings of the Court is essential to the rights of victims and those of the accused, the credibility and authority of the institution and the promotion of the universality of the Statute, as well as the best possible use of the Court's resources;

99. *Welcomes* the Court's efforts to enhance the efficiency and effectiveness of proceedings, as well as the efforts on the part of States Parties and civil society in this regard, *mindful* of the importance of continued dialogue on this matter and *noting* the shared responsibility of the Court and States Parties in this regard;

N. Working methods review

100. *Recognizes* the benefits of rationalizing the working methods of the subsidiary bodies of the Bureau and the Assembly in order to cope with an increasing workload;

²² ICC-ASP/20/21.

101. *Welcomes* the steps already undertaken by the Bureau for the improvement of the working methods;

102. *Decides* to continue improving the working methods of the Bureau and the governance of the Assembly, and to that effect:

a) *recalls* the revised general roadmap for facilitations contained in annex II of resolution ICC-ASP/15/Res.5 and *stresses* the need for its full implementation;

b) *welcomes* the holding of Bureau meetings both in New York and in The Hague;

c) *acknowledges* the importance of ensuring that the agenda of the Assembly allows sufficient time for substantive discussions;

d) *recognizes* the importance of exchange of information as well as mutual consultations between the New York Working Group and The Hague Working Group on matters of joint concern with a view to enhancing efficiency while avoiding duplication of efforts;

e) *encourages* all States Parties to use the Extranet designed for the work of the subsidiary bodies of the Bureau and the Assembly containing all necessary documentation on the work in progress; and

f) *also encourages* States Parties to deliver statements no longer than five minutes and to submit written statements instead of oral ones;

103. *Recognizes* the importance of the work carried out by the facilitators and the focal points;

104. *Recalls* the representative geographical character of the Bureau and *encourages* Bureau members to strengthen their communication with States Parties of their respective regional group to inform the discussion of the Bureau, including by establishing appropriate mechanisms for providing regular updates on the work of the Bureau;

105. *Reiterates* that the Bureau shall have representative character in its composition, taking into account, in particular, equitable geographical distribution and the adequate representation of the principal legal systems of the world, and *requests* the Bureau to remain seized of the matter and report on it at the latest ahead of the twenty-second session of the Assembly;

106. *Requests* the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report, by the next session of the Assembly, assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first six months of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau and to make recommendations to improve efficiency;

107. *Requests also* the Bureau to address in its report under paragraph 105 the proposal to hold the Assembly sessions as a rule with a length of up to six days, preferably over one calendar week, unless judicial or prosecutorial elections are scheduled;

O. Victims and affected communities, reparations and Trust Fund for Victims

108. *Refers* to its resolution ICC-ASP/13/Res.4 on victims and affected communities, reparations and Trust Fund for Victims;

109. *Reiterates* that victims' right to present and have considered their views and concerns at stages of the proceedings determined to be appropriate by the Court where their personal interests are affected and to protection of their safety, physical and psychological well-being, dignity and privacy, under article 68 of the Rome Statute, as well as access to relevant information are essential components of justice and, in this regard, *emphasizes* the importance of effective outreach to victims and affected communities in order to give effect to the mandate of the Court;

110. *Stresses* the central importance that the Rome Statute accords to the rights and needs of victims, in particular their right to participate in judicial proceedings and to claim

reparations, and *emphasizes* the importance of informing and involving victims and affected communities in order to give effect to the unique mandate of the Court towards victims;

111. *Recalls* article 75 of the Rome Statute and, in this regard, the reparative justice role of the Court, and *notes* that assistance and reparations to victims may promote reconciliation and contribute to peace-building;

112. *Acknowledges* the importance of protective measures for victims and witnesses, including considering the best interests, rights and well-being of children and maintaining the physical and psychological welfare of witnesses, particularly victims of sexual and gender-based crimes, for the execution of the Court's mandate, *stresses* the need for States to conclude agreements with the Court in order to facilitate expeditious international relocation of persons at risk, *urges* all States to consider concluding such relocation agreements and *encourages* all States to contribute to the Special Fund for Relocations;

113. *Stresses* that, since the identification, tracing and freezing or seizure of any assets of the convicted person are indispensable for reparations, it is of paramount importance that all necessary measures are taken to that end, in order for relevant States and relevant entities to provide timely and effective assistance pursuant to articles 75, 93, paragraph 1(k), and 109 of the Rome Statute, and *calls upon* States Parties to enter into voluntary agreements, arrangements or any other means to this end with the Court, as required;

114. *Recalls* the Court's previous commitment to review its Revised Strategy in Relation to Victims once a judicial cycle is finished,²³ and therefore *requests* the Court to initiate consultations for the development of an updated strategy, taking into account the ongoing consideration of the relevant IER recommendations, and to report to the Assembly at its twenty-first session;

115. *Renews its appreciation* to the Board of Directors and the Secretariat of the Trust Fund for Victims for their continuing commitment towards victims and affected communities;

116. *Notes* the significant growth in the activities of the Trust Fund, to include the four ongoing reparations proceedings as well as the expansion of assistance programmes to more situations before the Court, including Central African Republic and Côte d'Ivoire;

117. *Calls upon* States, international and inter-governmental organizations, individuals, corporations and other entities to make voluntary contributions, in accordance with their financial ability, to the Trust Fund for Victims in order to broaden its resource base, improve the predictability of funding and maintain responsiveness to harm suffered by victims as well as to the Court's judicial developments, and *renews its appreciation* to those that have done so;

118. *Invites* States Parties to respond to requests of the Trust Fund for Victims for earmarked contributions for the purposes of funding specific reparations awards, as well as of replenishing and strengthening the Trust Fund's general reparations reserve, and *expresses its appreciation* to those that have already done so;

119. *Invites* States Parties to consider making earmarked voluntary contributions to the Trust Fund to the benefit of victims of sexual and gender-based violence, and *expresses its appreciation* to those that have already done so;

120. *Notes* the intention of the Trust Fund for Victims to raise voluntary contributions and private donations, in order to ensure the implementation of Court-ordered reparations and assistance activities to the benefit of victims in cases and situations before the Court, in particular €20 million in total to complement fully the payment of the reparation awards in the cases of *Thomas Lubanga* and *Bosco Ntaganda* and adequate resources for the continuation in 2023 of multi-annual assistance programmes;

121. *Decides* to amend paragraphs 2 and 3 of the annex of resolution ICC-ASP/1/Res.6,²⁴ as reflected in annex II to the present resolution.

²³ ICC-ASP/13/Res.4, para. 1.

²⁴ As amended by ICC-ASP/4/Res.5.

P. Recruitment of staff

122. *Takes note* of the Court's report on Human Resources Management,²⁵ and requests the Court to further strengthen its efforts, in the recruitment of staff, to seek equitable geographical representation with a particular focus on candidates from non-represented and underrepresented States Parties, gender balance and the highest standards of efficiency, competency and integrity, as well as to seek expertise on specific issues, including, but not limited to, trauma-related psycho-social needs and violence against women or children, and encourages further progress in this regard;

123. *Calls* upon the Court to report the outcome of its efforts to seek equitable geographical representation with a particular focus on candidates from non-represented and underrepresented States Parties and gender balance to the Assembly at its twenty-first session, including, but not limited to, improvements in the recruitment process and annual recruitment data;

124. *Takes note* of the continued dialogue between the Court and the Bureau with regard to ensuring equitable geographical representation and gender balance in the recruitment of staff members, and welcomes the report of the Bureau and its recommendations;²⁶

125. *Urges* States Parties to undertake efforts to identify and enlarge pools of potential applicants to the Court's professional positions from States Parties from non- and under-represented regions and countries, including through the financing by the Assembly of the Court's internship and visiting professional programmes, and by States Parties of Junior Professional Officer (JPO) programmes, through targeted outreach initiatives and through the dissemination among relevant national institutions and organizations of the Court's vacancies;

126. *Welcomes* the establishment by the Court of a programme to fund, through voluntary contributions, the placement of interns and visiting professionals from developing regions with a particular focus on candidates from non-represented and under-represented States Parties, welcomes the voluntary contributions received thus far and calls upon States Parties to contribute to this programme;

127. *Requests* the Court to further devise mechanisms that can ensure in a more sustainable and systematic manner the funding of placements of interns and visiting professionals from developing regions, and further requests the Court to explore and propose modalities for implementing Junior Professional Officer (JPO) programmes for candidates from non- and under-represented States Parties, particularly from developing regions, to be funded through voluntary contributions;

128. *Requests* the Court to continue looking into measures to introduce a rotation policy at the ICC and further requests the Court to report the outcome to the Assembly;

129. *Welcomes* the Court-wide, Office of the Prosecutor and Registry Strategic Plans for 2019-2021 and their three-year programme of action to improve the geographical representation and gender balance as one of the Court's priorities;

130. *Further welcomes* the establishment of the ICC's Focal Point for Gender Equality, as well as the high-level statement on gender equality issued by the Court's Principals and ongoing efforts Court-wide to enhance and reinforce policies and conditions of employment at the Court from a gender perspective, and *notes* in this context the relevant recommendations of the Independent Expert Review of the International Criminal Court and the Rome Statute System;

131. *Takes note* of the report of the Comprehensive action plan,²⁷ and *notes* that the facilitation on geographical representation and gender balance will assess and implement recommendations falling within its ambit;

²⁵ ICC-ASP/20/3.

²⁶ ICC-ASP/20/29.

²⁷ https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive%20Action%20Plan-ENG.pdf.

Q. Complementarity

132. *Recalls* the primary responsibility of States to investigate and prosecute the most serious crimes of international concern and that, to this end, appropriate measures need to be adopted at the national level, and international cooperation and judicial assistance need to be strengthened, in order to ensure that national legal systems are willing and able genuinely to carry out investigations and prosecutions of such crimes;

133. *Resolves* to continue and strengthen, within the appropriate fora, effective domestic implementation of the Rome Statute, to enhance the capacity of national jurisdictions to prosecute the perpetrators of the most serious crimes of international concern in accordance with internationally recognized fair trial standards, pursuant to the principle of complementarity;

134. *Welcomes* the international community's engagement in strengthening the capacity of domestic jurisdictions and inter-State cooperation to enable States to genuinely prosecute Rome Statute crimes;

135. *Also welcomes* efforts by the United Nations, international and regional organizations, States and civil society in mainstreaming capacity-building activities aimed at strengthening national jurisdictions with regard to investigating and prosecuting Rome Statute crimes into existing and new technical assistance programmes and instruments, and *strongly encourages* additional efforts in this regard by other international and regional organizations, States and civil society;

136. *Welcomes*, in this regard, the adoption of the 2030 Agenda for Sustainable Development²⁸ and *acknowledges* the important work being undertaken with regard to promoting the rule of law at the national and international levels and ensuring equal access to justice for all;

137. *Stresses* that the proper functioning of the principle of complementarity entails that States incorporate the crimes set out in articles 6, 7 and 8 of the Rome Statute as punishable offences under their national laws, to establish jurisdiction for these crimes and to ensure effective enforcement of those laws, and *urges* States to do so;

138. *Welcomes* the report of the Bureau on complementarity and the recommendations made on future consultations set out therein,²⁹ and *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, including on complementarity-related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court and the role of partnerships with national authorities and other actors in this regard; and also including to assist on issues such as witness and victims protection and sexual and gender-based crimes;

139. *Also welcomes* the information by the Secretariat of the Assembly of States Parties on the progress in giving effect to its mandate to facilitate the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions; *welcomes further* the work that has already been undertaken by the Secretariat and the President of the Assembly, and *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions, and to invite States to submit information on their capacity needs for the consideration of States and other actors in a position to provide assistance, and to report on the practical steps taken in this regard to the twenty-first session of the Assembly;

140. *Encourages* States, international and regional organizations and civil society to submit to the Secretariat information on their complementarity-related activities and *further welcomes* the efforts made by the international community and national authorities, including national capacity-building activities to investigate and prosecute sexual and gender-based

²⁸ United Nations General Assembly resolution 70/1.

²⁹ ICC-ASP/20/22.

crimes that may amount to Rome Statute crimes, in particular the continued efforts on the strategic actions to ensure access to justice and to enhance empowerment of victims at national level, recalling the recommendations presented by the International Development Law Organization³⁰ during the fourteenth session of the Assembly;

141. *Encourages* the Court to continue its efforts in the field of complementarity, including through exchange of information between the Court and other relevant actors, while recalling the Court's limited role in strengthening national jurisdictions and *also encourages* continued inter-State cooperation, including on engaging international, regional and national actors in the justice sector, as well as civil society, in exchange of information and practices on strategic and sustainable efforts to strengthen national capacity to investigate and prosecute Rome Statute crimes and the strengthening of access to justice for victims of such crimes, including through international development assistance;

142. *Notes* the ongoing review by the Prosecutor of various policies of the Office relevant to the principle of complementarity, particularly in light of recommendations set out in the Report of the Independent Expert Review, and as a matter of priority *encourages* the Prosecutor to continue engaging with the Assembly and other stakeholders as these policies are reviewed and, if necessary, revised bearing in mind the timelines set out in the Comprehensive Action Plan, while reiterating its full respect for judicial and prosecutorial independence as provided for in the Rome Statute.

R. Independent Oversight Mechanism

143. *Recalls* its decision in resolution ICC-ASP/19/Res.6 adopting the revised Operational Mandate of the Independent Oversight Mechanism and requesting the Bureau to remain seized of review of the work and operational mandate of the Independent Oversight Mechanism, with a view to considering recommendations of the Independent Expert Review in this regard, subject to relevant decisions of the Assembly on the implementation of the Report of the Independent Expert Review,³¹ and to report thereon to the Assembly at its twentieth session;

144. *Welcomes* the discussions held during 2021 on the review of the work and operational mandate of the Independent Oversight Mechanism, which is a subsidiary body of the Assembly of States Parties;

145. *Takes note* of the Final Report of the Independent Expert Review of the International Criminal Court and the Rome Statute System,³² in particular its recommendations related to the work and operational mandate of the Independent Oversight Mechanism, which deserves thorough discussions among States Parties and consideration and may call for further revisions of the mandate;

146. *Recalls that* the revised Operational Mandate of the Independent Oversight Mechanism applies provisionally until, and without prejudice to, any decision of the Assembly to amend or replace the mandate after its consideration of the report and the recommendations of the Independent Expert Review;

147. *Welcomes* the complementary initiatives undertaken by the Bureau, the Assembly oversight bodies and the Court to try to ensure that the different organs of the Court have streamlined and updated where required, and, to the extent possible, consistent ethics charters and codes of conduct;

148. *Reiterates* the critical importance of the Independent Oversight Mechanism in carrying out its work in an independent, transparent and impartial manner free from any undue influence;

149. *Welcomes* the annual report of the Head of the Independent Oversight Mechanism;³³

³⁰ International Development Law Organization paper entitled "Complementarity for sexual and gender-based atrocity crimes", November 2015.

³¹ ICC-ASP/19/16.

³² ICC-ASP/19/24.

³³ ICC-ASP/20/16.

150. *Reaffirms* the importance of the Independent Oversight Mechanism reporting to States Parties on the results of its activities;

151. *Emphasizes* the importance of adherence to the highest professional and ethics standards by all Court staff and elected officials, *notes* the efforts being made to further strengthen the professional and ethical framework for elected officials, *acknowledges* the essential role played and work done by the Independent Oversight Mechanism, *welcomes* the steps that continue to be taken by the Court to investigate the potential impact on the Court's work in light of allegations of misconduct surrounding former officials, *welcomes* that following the Office of the Prosecutor's recommendations and ensuing consultations, the revised operational mandate of the Independent Oversight Mechanism enables it to investigate the alleged conduct of former elected officials and staff both while they were in office and when they separated from service as prescribed in its para. 10, *takes note* of the status report provided by the Office of the Prosecutor, and *invites* the Court to provide at the earliest opportunity in advance of the twenty-first session of the Assembly any relevant update and recommendation on any necessary follow-up action for the Court and/or the Assembly;

152. *Welcomes* the progress reported in formally aligning the Regulations of the Court with the operational mandate of the Independent Oversight Mechanism,³⁴ in particular Administrative Instruction on Investigation of Unsatisfactory Conduct and Administrative Instruction on Unsatisfactory Conduct and Disciplinary Proceedings as well as the upcoming new Administrative Instruction on Discrimination, Harassment, including Sexual Harassment, and Abuse of Authority, and *encourages* the Court, with the support of the Independent Oversight Mechanism, as necessary, to finalize the work while ensuring that all relevant documents are updated and aligned with the mandate of the Independent Oversight Mechanism in order to harmonize the applicable rules.

S. Programme budget

153. *Takes note* of the important work done by the Committee on Budget and Finance, and *reaffirms* the independence of the members of the Committee;

154. *Recalls* that, according to its Rules of Procedure,³⁵ the Committee shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications and *emphasizes* the importance of ensuring that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

155. *Takes note with concern* of the report of the Bureau on the arrears of States Parties;³⁶

156. *Emphasizes* the importance of endowing the Court with the necessary financial resources, and *urges* all States Parties to the Rome Statute to transfer their assessed contributions in full and by the deadline for contributions or, in the event of pre-existing arrears, immediately, in accordance with article 115 of the Rome Statute, rule 105.1 of the Financial Regulations and Rules, and other relevant decisions taken by the Assembly;

157. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily to the Court and *expresses its appreciation* to those that have done so;

T. Review Conference

158. *Recalls* that at the successful first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010, States Parties adopted amendments to the Rome Statute, in accordance with article 5, paragraph 2, of the Rome Statute to define the crime of aggression and to establish conditions under which the Court could exercise

³⁴ ICC-ASP/19/Res.6, annex II.

³⁵ ICC-ASP/18/Res.1, annex.

³⁶ ICC-ASP/20/27.

jurisdiction with respect to that crime³⁷ and adopted amendments to the Rome Statute to expand the jurisdiction of the Court to three additional war crimes when committed in armed conflicts not of an international character;³⁸

159. *Notes* that those amendments are subject to ratification or acceptance and shall enter into force in accordance with article 121, paragraph 5, of the Rome Statute, *notes with appreciation* the recent ratifications of the amendments³⁹ and *notes* that two States Parties have lodged declarations in accordance with article 15 *bis*, paragraph 4, of the Rome Statute;⁴⁰

160. *Calls upon* all States Parties to consider ratifying or accepting these amendments;

161. *Welcomes* the activation of the International Criminal Court's jurisdiction over the crime of aggression as of 17 July 2018, as decided by consensus by the Assembly of States Parties in its resolution ICC-ASP/16/Res.5, marking the first time that a permanent international court has the authority to hold individuals accountable in respect of this crime, thereby completing the achievements of the Rome and Kampala Conferences of 1998 and 2010;

162. *Recalls* the discussions on the issue of peace and justice at the stock-taking exercise held at the Review Conference, *notes* the interest to resume the discussions on this issue and *invites* interested States Parties to do so;

163. *Recalls with appreciation* pledges of increased assistance to the Court made by thirty-five States Parties, one observer State, and one regional organization, *calls upon* these States and the regional organization to ensure the swift implementation of these pledges and *also calls upon* States and regional organizations to submit additional pledges and to report further at the twenty-first session of the Assembly, in written form or through their statement at the general debate on the implementation thereof;

U. Consideration of amendments

164. *Welcomes* the report of the Working Group on Amendments;⁴¹

165. *Calls upon* all States Parties to ratify or accept the amendment to article 124;

166. *Also calls upon* all States Parties to ratify or accept the amendments to article 8 adopted at the sixteenth and eighteenth sessions of the Assembly;⁴²

V. Participation in the Assembly of States Parties

167. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute in a timely manner and voluntarily to the Trust Fund to allow the participation of least developed countries and other developing States in the annual session of the Assembly and *expresses its appreciation* to those that have done so;

168. *Encourages* the continuation of efforts undertaken by the President of the Assembly to hold an on-going dialogue with all stakeholders, including regional organizations and *calls upon* all States Parties to support the President in her undertakings aimed at strengthening the Court, the independence of proceedings and the Rome Statute system as a whole;

169. *Recalls* the long-term and continuing cooperation between the Assembly, States Parties, and non-governmental organizations of civil society, and *reaffirms* resolution ICC-ASP/2/Res.8 on recognition of the coordinating and facilitating role of the NGO Coalition for the ICC; and

170. *Decides* to entrust the Court, the President of the Assembly, the Bureau, the Advisory Committee on Nominations, the Working Group on Amendments, the Study Group on

³⁷ *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.6.

³⁸ *Ibid.*, RC/Res.5.

³⁹ https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10-b&chapter=18&lang=en and https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10-a&chapter=18&clang=_en.

⁴⁰ <https://www.icc-cpi.int/resource-library#>.

⁴¹ ICC-ASP/20/28.

⁴² ICC-ASP/16/Res.4 and ICC-ASP/18/Res.5.

Governance, the Independent Oversight Mechanism, the Secretariat, and the Board of Directors and the Secretariat of the Trust Fund for Victims, as appropriate, with the mandates contained in the annex to the present resolution.

Annex I

Mandates of the Assembly of States Parties for the intersessional period

1. With regard to **universality of the Rome Statute**,
 - (a) *endorses* the recommendations of the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute;¹ and
 - (b) *requests* the Bureau to continue to monitor the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute and to report thereon to the Assembly at its twenty-first session;
2. With regard to the **Agreement on Privileges and Immunities**, *requests* the Bureau to continue to support the ratification of the Agreement;
3. With regard to **cooperation**,
 - (a) *urges* the Bureau, through The Hague Working Group, to continue the discussions on the proposals resulting from the seminar of the co-facilitation held in The Hague on 7 November 2018 entitled “Arrests: a key challenge in the fight against impunity”;
 - (b) *requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its twenty-first session;
 - (c) *invites* the Bureau, through its Working Groups, to discuss the feasibility of establishing a coordinating mechanism of national authorities;
 - (d) *invites* the Bureau, through its Working Groups, to continue to strengthen the relationship between the United Nations and its agencies and entities, including for capacity building, the ICC and States Parties, to foster cooperation with the Court;
 - (e) *invites* the Court to continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance, including by considering consultations with the State Party concerned when necessary;
 - (f) *encourages* the Bureau, through its Working Groups, to continue its review of the implementation of the 66 recommendations on cooperation adopted by States Parties in 2007,² in close cooperation with the Court, where appropriate;
 - (g) *requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court;
 - (h) *requests* the Bureau, through the facilitation on cooperation, in accordance with the resolution on the Review of the International Criminal Court³ and the Review Mechanism’s Comprehensive Action Plan⁴, to continue to assess the recommendations related to cooperation and their follow-up including their implementation as appropriate, and to report thereon to the Assembly at its twenty-first session;
 - (i) *requests* the Court to continue to submit an updated report on cooperation to the Assembly at its annual session, containing disaggregated data over the responses provided by States Parties, including highlighting the main challenges;
 - (j) *mandates* the Bureau, through its Working Groups, to continue discussions on cooperation on financial investigations and the freezing and seizing of assets as set out in the Declaration of Paris, including by continuing the work to further develop the secured digital platform;

¹ ICC-ASP/20/17.

² ICC-ASP/6/Res.2, annex II.

³ ICC-ASP/19/Res.7.

⁴ https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive Action Plan-ENG.pdf.

(k) *requests* the President of the Assembly to continue to engage actively and constructively with all relevant stakeholders in accordance with the Assembly procedures relating to non-cooperation, both to prevent instances of non-cooperation and to follow up on any matter of non-cooperation referred by the Court to the Assembly;

(l) *requests* that any information concerning potential or confirmed travel of persons against whom an arrest warrant has been issued be promptly shared with the Court by the focal points on non-cooperation; and

(m) *requests* the Bureau to continue to actively engage throughout the intersessional period with all relevant stakeholders to continue to ensure effective implementation of the Assembly procedures relating to non-cooperation and to submit a report on its activities to the Assembly at its twenty-first session;

4. With regard to the **relationship with the United Nations**,

(a) *invites* the Court to continue its institutional dialogue with the United Nations, based on the Relationship Agreement between the United Nations and the International Criminal Court; and

(b) *requests* the Registry to update its report on the approximate costs allocated so far within the Court in relation to referrals by the Security Council⁵ ahead of the twenty-first session of the Assembly;

5. With regard to **relationships with other international organizations and bodies**, *invites* the Court to include in its annual report to the United Nations General Assembly a section on the status and implementation of specific agreements on cooperation with other international organizations;

6. With regard to **elections**,

(a) *decides* to continue to review the procedure for the nomination and election of judges as set forth in resolution ICC-ASP/3/Res.6, as amended, with a view to making any improvements as may be necessary, taking into account the work conducted so far as reflected in the facilitator's report;⁶ and

(b) *requests* the Bureau to update the Assembly, at its twenty-first session, on the progress of the review of the procedure for the nomination and election of judges;

7. With regard to the **Secretariat**, *invites* the President to report to the twenty-first session of the Assembly on the implementation of the recommendations contained in the report of the Bureau on the assessment of the Secretariat;⁷

8. With regard to **legal aid**,

(a) *Requests* the Court to continue its review of the functioning of the legal aid system and to present, following further consultation with States Parties and all relevant stakeholders, a range of fully-costed proposals for reform of the legal aid policy for external defence and victims' teams, with full respect for the applicable principles of legal aid, for the consideration of the Assembly, through the Committee on Budget and Finance, at its twenty-first session;

(b) *Requests* the Court, in producing these proposals to take account of costs constraints and ensure that all options presented can be funded within existing resources, and within that context, to continue to explore constructive options conducive to a viable way forward to improve the conditions of service of external defence and victims' team members;

(c) *Requests* the Court to ensure appropriate representation of counsel in the Advisory Committee on Legal Texts;

(d) *Requests* the Court to finalize its review of the current framework and operation of the functions regarding financial investigations on suspects and accused persons across all organs in order to make proposals to the Assembly through its relevant facilitations

⁵ ICC-ASP/19/17.

⁶ Report of the Bureau on the review of the procedure for the nomination and election of judges (ICC-ASP/20/30).

⁷ ICC-ASP/17/39.

(legal aid and cooperation) with a view to strengthen the Registry capacity to trace, freeze and seize assets of the accused in the context of legal aid requests, while paying due respect to the rights of the accused and to ensure increased efficiency of that global framework; and

(e) *Requests* the Bureau to continue its work on legal aid and to report to the Assembly at its twenty-first session.

9. With regard to the **Study Group on Governance**,

(a) *invites* the Court to further engage in a structured dialogue with States Parties with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence, and to provide State Parties with its assessment of the respective IER recommendations;

(b) *invites* the Study Group to closely cooperate with the Court, subsidiary bodies and other facilitations established by the Assembly on the assessment and implementation of the Independent Experts' recommendations that address governance issues;

(c) *requests* the Study Group to consider the following issues, and to report thereon to the twenty-first session of the Assembly:

(i) Recommendations of the Independent Experts allocated to the Study Group in the Comprehensive Action Plan; and

(ii) Facilitation of a platform for the discussion of the Independent Experts' recommendations assigned to the Court.

10. With regard to **proceedings of the Court**,

(a) *invites* the Court to intensify its efforts to enhance the efficiency and effectiveness of proceedings including by adopting further changes of practice;

(b) *encourages* the Bureau, including through the two working groups and the Study Group on Governance, to continue to support the Court's efforts to enhance the efficiency and effectiveness of proceedings; and

(c) *encourages* the Court to take note of the best practices of relevant international and national organizations, tribunals, and mechanisms related to sexual and gender-based crimes, including practices related to investigation, prosecution and training, in solving challenges related to crimes under the Rome Statute, including sexual and gender-based crimes, while reiterating its respect for the independence of the Court;

11. With regard to the **working methods review**,

(a) *decides* that its annual session shall have a duration of seven working days with a possible extension of up to two additional days in election years, as required, and to focus, in such cases, the first two days on the elections of judges;

(b) *also decides* that its annual sessions shall include one or two plenary segments on specific agenda items;

(c) *invites* the facilitators and focal points, when appropriate, to present their work to the Assembly;

(d) *also invites* the facilitators and focal points to commit themselves for a period of up to three years considering the particularities and the complexity of each mandate and to submit, in addition to their regular reports, a final written report to the Assembly at the end of their mandate, including lessons learnt;

(e) *invites* the Bureau to implement the recommendations of the 2013 working methods report;⁸

⁸ ICC-ASP/12/59.

(f) *requests* the Bureau to establish facilitations only if the mandate requires open-ended consultations, and the matter cannot be addressed by a less resource-intensive mechanism, such as a rapporteur or a focal point;⁹

(g) *invites* the Bureau to use existing technologies such as video-conferencing in order to ensure participation of members of the Bureau not represented at the venue of the Bureau meeting;

(h) *requests* the Bureau to continue conducting evaluations of the established mandates and, where appropriate, consider the inclusion of end-dates and that it prepare recommendations on the reduction of the number and length of reports;

(i) *requests* the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report, by the next session of the Assembly, assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first six months of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau, and to make recommendations to improve efficiency; and

(j) *requests* all facilitators and focal points, in consultation with States Parties, to undertake an exercise to streamline the present resolution for the twenty-first session;

12. With regard to **victims and affected communities, reparations and the Trust Fund for Victims**,

(a) *requests* the Court to continue to establish principles relating to reparations in accordance with article 75, paragraph 1, of the Rome Statute as a priority in the context of its judicial proceedings;

(b) *encourages* the Board of Directors and the Secretariat of the Trust Fund for Victims to continue to strengthen its on-going dialogue with the organs of the Court, States Parties and the wider international community, including donors as well as non-governmental organizations, who all contribute to the valuable work of the Trust Fund for Victims, so as to ensure increased strategic and operational visibility and to maximize its impact and ensure the continuity and sustainability of the Fund's interventions;

(c) *requests* the Court and the Trust Fund for Victims to continue developing a strong collaborative partnership, mindful of each other's roles and responsibilities, to implement Court-ordered reparations;

(d) *decides* to continue to monitor the implementation of the rights of victims under the Rome Statute, with a view to ensuring that the exercise of these rights is fully realized and that the continued positive impact of the Rome Statute system on victims and affected communities is sustainable;

(e) *requests* the Court to initiate consultations for the development of an updated Revised Strategy in Relation to Victims, taking into account the ongoing consideration of the relevant IER recommendations, and to report to the Assembly at its twenty-first session;

(f) *mandates* the Bureau to continue considering victims-related issues as necessary or as they arise, having recourse to any appropriate process or mechanism; and

(g) *requests* the Court to make available to the Assembly appropriate statistics in relation to victims admitted to participate in proceedings before the Court when these are publicly submitted to the respective Chambers in the context of the judicial proceedings; such statistics may include, as appropriate, information on gender, criminal offense and situation, among other pertinent criteria as determined by the relevant Chamber;

13. With regard to **recruitment of staff**,

(a) *endorses* the recommendations of the Committee on Budget and Finance in relation to geographical representation and gender balance contained in the report of its thirty-seventh session¹⁰ and *urges* the Court to take the necessary steps to implement them;

⁹ As outlined, e.g., in paras. 21(a) and 23(b) of the report on the Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau (ICC-ASP/12/59).

¹⁰ ICC-ASP/20/15.

(b) *requests* the Court to submit to the Assembly a comprehensive report on human resources by the end of May 2022, to be considered by the Assembly at its twenty-first session, which would include an update on the implementation of the recommendations on the topic made by the Committee in 2021;

(c) *requests* the Court to include in that report an outline of its efforts to improve the recruitment process in seeking equitable geographical representation with a particular focus on candidates from non-represented and under-represented States Parties and gender balance, including annual recruitment data;

(d) *requests* the Bureau to continue engaging with the Court to identify ways to improve equitable geographical representation and gender balance in professional posts, as well as to remain seized of the issue of geographical representation and gender balance, and to report thereon to the twenty-first session of the Assembly; and

(e) *urges* the Court to continue to seize the opportunities of the outstanding and future recruitment processes to implement measures that would contribute to the efforts of meeting the desirable ranges of geographical representation and gender balance;

14. With regard to **complementarity**,

(a) *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, including on complementarity-related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court and the role of partnerships with national authorities and other actors in this regard; and also including to assist on issues such as witness and victims protection and sexual and gender-based crimes;

(b) *encourages* the Bureau to engage with interested States Parties and other relevant actors to identify ways to support Court efforts in this regard with respect to sexual and gender-based crimes that amount to Rome Statute crimes, with a view to reporting thereon to the twenty-first session of the Assembly; and

(c) *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions, and to invite States to submit information on their capacity needs for the consideration of States and other actors in a position to provide assistance, and to report on the practical steps taken in this regard to the twenty-first session of the Assembly;

15. With regard to the **Independent Oversight Mechanism**,

a) *requests* the Bureau to remain seized of the review of the work and the operational mandate of the Independent Oversight Mechanism, with a view to considering also recommendations of the Independent Expert Review in this regard, and to report thereon to the Assembly at its twenty-first session;

16. With regard to the **programme budget**,

(a) *requests* the Secretariat, together with the Committee on Budget and Finance, to continue to make the necessary arrangements to ensure that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

(b) *decides* that the Bureau, through the President of the Assembly, the Coordinator of the working group and the facilitator, should continue to monitor the status of payments received throughout the financial year of the Court and consider additional measures to promote payments by all States Parties, as appropriate, continue to engage in dialogue with States Parties that have outstanding contributions or are in arrears, and, via the annual facilitation on the topic of arrears, report thereon to the Assembly at its twenty-first session; and

(c) *requests* the Secretariat to inform States Parties periodically of States that have recovered their voting rights following payment of their arrears;

17. With regard to the **Review Conference**, *requests* the Secretariat to make publicly available on the Court's website information provided by States and regional organizations on the pledges of increased assistance to the Court made in Kampala;

18. With regard to **consideration of amendments**,

(a) *invites* the Working Group to continue its consideration of all amendment proposals, in accordance with the Terms of Reference of the Working Group; and

(b) *requests* the Working Group to submit a report for the consideration of the Assembly at its twenty-first session;

19. With regard to **participation in the Assembly of States Parties**,

(a) *decides* that the Committee on Budget and Finance shall hold its thirty-eighth session virtually on 11 January, its resumed thirty-eighth session from 9 to 13 May 2022 and its thirty-ninth session from 12 to 23 September 2022; and

(b) *also decides* that the Assembly shall hold its twenty-first session in The Hague from 5 to 10 December 2022, and its twenty-second session in New York.

Annex II

Amendments concerning the Trust Fund for Victims

Paragraphs 2 and 3 of the annex to resolution ICC-ASP/1/Res.6¹ are amended as follows:

2. The Board shall have five members who shall be elected for a term of ~~three~~ **four** years and may be re-elected once. They shall serve in an individual capacity on a pro bono basis. **At the first election since the adoption of this resolution, two of the then elected members of the Board shall be selected by lot to serve for a term of two years**

3. The Assembly shall elect the members of the Board, all of whom shall be of a different nationality, on the basis of equitable geographical distribution and taking into account the need to ensure equitable gender distribution and equitable representation of the principal legal systems of the world. The members of the Board shall be of high moral character, impartiality and integrity and shall have competence in the assistance to victims of serious crimes. In the event of a vacancy, an election shall be held in accordance with the procedure for the nomination and election of members of the Board of Directors of the Trust Fund for the benefit of victims. The procedure shall apply mutatis mutandis, subject to the following provisions:

(a) The Bureau of the Assembly of States Parties may fix a nomination period which is shorter than the one used for other elections.

(b) The Bureau of the Assembly of States Parties may elect the member.

(c) A member elected to fill a vacancy shall serve for the remainder of the predecessor's term and may be re-elected once.

(d) A member elected to fill a vacancy who starts to serve during the last twelve months of the predecessor's term may be re-elected twice.

¹ As amended by ICC-ASP/4/Res.5.

Annexes

Annex I

Report of the Credentials Committee

Chairperson: Mr. Giorgos Samouel (Cyprus)

1. At its first and fourth plenary meetings, on 6 and 8 December 2021 respectively, the Assembly of States Parties to the Rome Statute of the International Criminal Court, in accordance with rule 25 of the Rules of Procedure of the Assembly of States Parties, appointed a Credentials Committee for its twentieth session, consisting of the following States Parties: Cyprus, El Salvador, Greece, Hungary, Mexico, Romania, Senegal, South Africa and Switzerland.

2. The Credentials Committee held three meetings, on 6, 7 and 8 December 2021.

3. The Credentials Committee had before it a regularly updated memorandum by the Secretariat concerning the credentials of representatives of States Parties to the Rome Statute of the International Criminal Court to the twentieth session of the Assembly of States Parties.

4. Formal credentials of representatives to the twentieth session of the Assembly of States Parties, in the form required by rule 24 of the Rules of Procedure, had been received as at 17 December 2021 from the following 66 States Parties:

Albania, Andorra, Argentina, Australia, Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Burkina Faso, Central African Republic, Chile, Costa Rica, Côte d'Ivoire, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Ireland, Italy, Japan, Jordan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Mexico, Mongolia, Namibia, Netherlands, New Zealand, North Macedonia, Norway, Panama, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Senegal, Serbia, Sierra Leone, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Timor-Leste, Uganda, United Kingdom of Great Britain and Northern Ireland and Uruguay.

5. Information concerning the appointment of the representatives of States Parties to the twentieth session of the Assembly of States Parties had been communicated to the Secretariat, as at 17 December 2021, by means of a cable, telefax or other electronic communication from the Head of State or Government or the Minister for Foreign Affairs, by the following 27 States Parties:

Bangladesh, Botswana, Brazil, Canada, Colombia, Cook Islands, Croatia, Democratic Republic of the Congo, Fiji, France, Gambia, Ghana, Kiribati, Madagascar, Malawi, Marshall Islands, Nauru, Nigeria, Paraguay, Samoa, South Africa, State of Palestine, Trinidad and Tobago, Tunisia, United Republic of Tanzania, Vanuatu and Venezuela (Bolivarian Republic of).

6. On the recommendation of the Chairperson, the Committee accepted the credentials of the representatives of all States Parties mentioned in the present report, on the understanding that formal credentials for representatives of the States Parties referred to in paragraph 5 of the present report would be communicated to the Secretariat as soon as possible.

7. On the proposal of the Chairperson, the Committee adopted the following draft resolution without a vote:

“The Credentials Committee,

Having examined the credentials of the representatives to the twentieth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court, referred to in paragraphs 4 and 5 of the present report;

Accepts the credentials of the representatives of the States Parties concerned.”

8. The Chairperson then proposed that the Committee recommend to the Assembly of States Parties the adoption of a draft resolution (see paragraph 10 below). The proposal was adopted without a vote.

9. In the light of the foregoing, the present report is submitted to the Assembly of States Parties.

Recommendation of the Credentials Committee

10. The Credentials Committee recommends to the Assembly of States Parties to the Rome Statute of the International Criminal Court the adoption of the following draft resolution:

“Credentials of representatives to the twentieth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court

The Assembly of States Parties to the Rome Statute of the International Criminal Court,

Having considered the report of the Credentials Committee on the credentials of representatives to the twentieth session of the Assembly and the recommendation contained therein,

Approves the report of the Credentials Committee.”

Annex II

Oral report on the activities of the Bureau, presented by the President of the Assembly at the 1st plenary meeting of the twentieth session of the Assembly, on 6 December 2021

1. As the President of the Assembly, I have the honour to report to the Assembly of States Parties on the activities carried out by its Bureau since 13 February 2021..

A. Meetings and mandates

2. Since 13 February the Bureau has held nine meetings to assist the Assembly in the discharge of its responsibilities under the Rome Statute.

3. In light of the circumstances caused by the COVID-19 pandemic, the meetings of the Bureau have been held virtually and via the Zoom platform, which allowed to provide interpretation services in three official languages of the Assembly – English, French and Spanish. The working groups of the Bureau, facilitations and focal points, as well as the Review Mechanism also met virtually and held their meetings via WebEx or Zoom platforms depending on the needs and requests of the respective groups, occasionally in the mode of joint meetings between different bodies. I am grateful to them for their efforts to ensure the continuity of the work of the Assembly despite the existing restrictions.

4. Pursuant to the mandates given to the Bureau by the nineteenth session of the Assembly, the Bureau assigned mandates to its working groups and appointed, on the basis of recommendations of the working groups, the facilitators and focal points for 2021.¹ The Bureau deeply appreciates their work during 2021, as they have successfully carried out the mandates of the Assembly.

5. I wish to express my sincere appreciation for the work carried out by the two Vice-Presidents of the Assembly, Ambassador Bob Rae (Canada) and Ambassador Kateřina Sequensová (Czech Republic), in support of the work of the Bureau and as the Coordinators of the New York Working Group and The Hague Working Group.

B. Independent Oversight Mechanism

6. In accordance with the mandate of the Assembly, the Independent Oversight Mechanism (IOM) submitted the “Annual report of the Head of the Independent Oversight Mechanism to the Assembly”.² The IOM provided invaluable assistance to the design and implementation of the due diligence process approved by the Bureau for the selection of candidates for the positions of two Deputy Prosecutors.

7. Discussions of the recommendations of the Independent Expert Review related to the IOM started in 2021 and will continue in 2022.³ Upon a suggestion of the IOM, on 24 November 2021, the Bureau requested the IOM to conduct an evaluation on the theme “Evaluation of the workplace culture in the Judicial Divisions”, to be finalized in the first semester of 2022.

C. Working methods

8. Pursuant to the “Understanding on the participation of Observer States in meetings of the Assembly”, which was adopted by a Bureau decision of 18 October 2017, the Bureau took note, at its ninth meeting held on 24 November 2021, of a list of meetings of the Assembly and its subsidiary bodies with general membership which had been held in private in 2021.

9. In close coordination with the Secretariat, I provided, in March, the tentative schedule of the Bureau meetings, which have been held in principle the first Wednesday of each month, at a time which has allowed for participation of Hague and New York based Bureau members.

¹ Annex.

² ICC-ASP/19/26.

³ ICC-ASP/19/24.

D. Arrears

10. While most States Parties paid their contributions in a timely manner, the amount of outstanding contributions increased this year. This generated an extremely serious liquidity crisis in the last trimester that threatened the capacity of the Court to fulfill its financial obligations.

11. The Bureau has considered the issue of the requests for the waiver of the loss of voting rights, which some States Parties may request in relation to article 112, paragraph 8. Bearing in mind the exceptional COVID-19 circumstances, the Bureau agreed to recommend the Assembly to grant the waiver of requests received in 2021. However, in light of the serious and recurring liquidity crisis caused by outstanding contributions, it was also agreed that the current practice in relation to such waivers could change in 2022, should such circumstances improve.

E. Secretariat of the Assembly

12. Throughout the year, the Secretariat of the Assembly of States Parties has continued to carry out its mandate in assisting the Assembly and its subsidiary bodies both in The Hague and New York, in accordance with resolution ICC-ASP/2/Res.3.

13. The Assembly, through its Bureau assisted by the Secretariat, has engaged in dialogue with the Court on an increasing number of issues, some of them very complex, which has led to a greater appreciation of the respective responsibilities.

14. The Secretariat continued to support the collection of information on the promotion of universality and the full implementation of the Rome Statute. As of 26 November, the Secretariat had received three responses to the questionnaire concerning the Plan of action for achieving universality and full implementation of the Rome Statute.⁴

15. Further to the year-long assessment of the Secretariat which the Bureau conducted in 2018, the Secretariat has continued to implement the measures foreseen in the respective Bureau report.⁵

16. Pursuant to paragraph 10 of resolution ICC-ASP/19/Res.7 concerning the review of the Court and the Rome Statute system, the Secretariat has steadfastly assisted the work of the Review Mechanism throughout 2021. This has represented a considerable increase in the number and complexity of meetings, given that they have been held virtually. I am grateful also to the Registry for assisting the Secretariat by providing interpretation services in two languages for the meetings of the Review Mechanism as the platform for discussion, and some translation assistance of relevant documentation, despite the fact that such services were not budgeted for.

17. The virtual format of the meetings continued to pose challenges for the Secretariat of the Assembly including, inter alia, scheduling meetings across multiple time zones, additional testing of numerous platforms required prior to meetings, and finding solutions for the provision of interpretation, where necessary. The Secretariat continued to use the Zoom platform to provide English, French and Spanish remote simultaneous interpretation for the virtual meetings of the Bureau and English and French interpretation for some meetings of The Hague Working Group, with the Language Services Section of the Registry providing the interpretation teams.

F. Lessons learnt on the election of the Prosecutor

18. At its first meeting on 18 February, the Bureau agreed to engage in a lessons learnt exercise with respect to the Prosecutor election process pursuant to paragraph 78 of Assembly resolution ICC-ASP/19/Res.6, which “*call[ed]* upon the Bureau, through transparent and inclusive consultations with States Parties and civil society, and with the feedback of the Committee on the Election of the Prosecutor and the Panel of Experts on the implementation of their mandate, within existing resources, to examine ways to continue strengthening the process by which the Prosecutor is elected”. In this connection, the Bureau requested and received reports from the former Presidency of the Assembly, the Committee on the Election of the Prosecutor, and the Panel of Experts. On 2 November, the Bureau adopted a proposal

⁴ See at: https://asp.icc-cpi.int/en_menus/asp/sessions/plan%20of%20action/Pages/2019-Plan-of-Action.aspx.

⁵ ICC.ASP/17/39.

on the mandate, principles, products and deadlines of the lessons learnt process, as well as the appointment of two State representatives as the facilitators. I have spoken to the facilitators, who have indicated that they are reviewing the background material and would start their preparations and consultations in the first trimester of 2022. I propose to invite them to report to the Bureau on their activities as soon as feasible also in the first trimester.

G. Election of the Deputy Prosecutor

19. During the 2020 process to elect the Prosecutor, reference was made to the need for having in place a mechanism to assess the high moral character of the candidates required by the Statute. The Bureau considered this matter at several of its meetings and on 6 July adopted a joint proposal with the Prosecutor on a due diligence process for the candidates for Deputy Prosecutor.

20. The process was implemented as foreseen and on 18 November the IOM submitted to the Presidency a report concluding that there was no evidence of misconduct that warranted informing the Assembly as to the risks that any candidate may not be of high moral character as required by the Statute. The Presidency accepted the conclusions of the IOM and therefore considered that no further actions was required. On 24 November the Bureau took note of an oral report of the Presidency thereon.

21. The Bureau will subsequently consider whether this experience could be applicable to other future elections.

22. In order to allow States and civil society to familiarize themselves with the candidates to the positions the Presidency of the Assembly organized on 15 November a virtual roundtable with two segments, one for each of the two lists of three candidates submitted by the Prosecutor (Lists A and B).

23. Bearing in mind that the Assembly would for the very first time be electing two Deputy Prosecutors at the same session of the Assembly, the Bureau had a discussion on the modalities for the election. Divergent views were expressed by Bureau members regarding the interpretation of article 42 (4) of the Rome Statute, in particular whether one list of six candidates or two separate lists of three candidates should be on the ballot(s).

24. In this connection, the Presidency submitted a proposal to the Bureau which was agreed to on 2 December whereby the Bureau would recommend to the Assembly that:

- a) The election of the two Deputy Prosecutors take place on the basis of list A and list B, as submitted by the Prosecutor to the Assembly (ICC-ASP/20/34)
- b) The election of the two Deputy Prosecutors be done successively, so as to ensure equitable geographical representation of regions and legal systems. The order of the election between the two lists would be determined by drawing lots at the Assembly on the day of the election.

25. Furthermore, the Presidency submitted another proposal which the Bureau agreed to on 5 December whereby the recommendation above is understood to apply solely for the purpose of the fourth election of Deputy Prosecutors and should neither be considered as a precedent for future elections nor construed as acceptance by States Parties of the interpretation of article 42, paragraph 4, of the Rome Statute that resulted in the presentation of two distinct lists. In light of the divergence of views regarding the interpretation of said provisions, the Bureau considers that this matter requires further consideration and discussions among States Parties at the earliest opportunity in 2022.

H. Overview of the President's activities

26. Since the start of my Presidency in February this year, I have used every opportunity to highlight the importance of the Court as a central piece of the global system of justice. I have stressed that for the Court to discharge its crucial mandate in light of contemporary challenges, it is necessary to take actions in three areas, namely to review the entire Rome Statute system with a view to improving and strengthening its functioning, increase cooperation and support and enhance universality of the Rome Statute system.

27. To this effect I have engaged with the diplomatic community in The Hague and New York and participated in numerous events as key note speaker and panelist. Throughout the year, I actively reached out to civil society organizations, in order to bring their perspectives to the work of the Assembly and the Court.

28. On 2 April 2021 I issued a press statement expressing my deep appreciation for the decision by the Government of the United States to revoke the sanctions and visa restrictions against the Court. I have also made statements on several occasions to welcome this new era of cooperation.

29. In September 2021, I visited New York, where I delivered remarks at the Annual meeting of the Informal Ministerial Network for the International Criminal Court, and met with representatives of States Parties, high officials of the United Nations, and representatives of civil society organizations to foster understanding and cooperation for the Court's activities and seek to enhance universality and political support.

30. I have also specifically discussed the importance of countering the instances of non-cooperation. In this regard, I have indicated, in the context of discussions of the Review Mechanism that it would be important to address in 2022 the recommendations of the independent experts on external political measures against the Court.

31. I have engaged on several occasions with the Board of Directors of the Trust Fund for Victims (TFV), which I consider a crucial component of the Rome Statute system. The important work of the TFV, through concrete programs and projects, not only seeks to provide effective remedy to victims who have suffered harm for the crimes committed. It also helps to bring the proceedings closer to them and to increase the knowledge by affected communities of the Court's mandate. I have emphasized on multiple occasions the importance of supporting the TFV and wish to express my appreciation to States that provide financial contributions to their activities.

Annex III

Statement of the Chair of the Committee on Budget and Finance at the twentieth session of the Assembly of States Parties

1. I would like to thank you for the opportunity to address you today and to present the main outcomes of our discussions at the thirty-sixth and thirty-fifth sessions of the Committee on Budget and Finance (“the Committee/CBF”).

2. At the outset, I would like to take this opportunity to thank my fellow colleagues from the Committee for their devotion and hard work in the course of the last two sessions, and to the representatives of the Court for their availability and cooperation especially during these difficult times. I also extend my thanks and appreciation to the Executive Secretary to the CBF and his team for their outstanding support.

3. The Committee held its thirty-seventh session between 6 and 17 September 2021. I had the occasion to brief the Hague Working Group at the end of our meeting on the outcome of our session expressing that final calculations of the cuts made by the Committee will be checked by the Court.

4. I would like to begin with the greatest challenges the Court is facing:

a. The Committee raised its repeated concern with both the Working Groups and the Court that the liquidity issues facing the Court are now at a level that they are a strategic concern for the Court. The Court found temporary and one-off solutions in 2020 to its liquidity issue such as utilizing advance contributions and delaying recruitment and procurement. Those solutions, if repeated, will, however, exacerbate and accelerate the issue of liquidity in each of the following year. The Committee, first and foremost recommends that the Court and States Parties do the utmost to bring the States in areas to fulfill their obligations towards the Court and international justice. Recently, one State made a substantive payment of an outstanding part that may have alleviated this year’s liquidity problem, the concern however remains unchanged.

Also in light of this situation the Committee has over the years been calling the Court to systematically and radically increase the efficiency of the Court operations to manage the inevitable and predictable workload increases. The 2022 PPB clearly demonstrates that what has been done is too little. Increasing efficiency and realization of savings as a result of restructuring and of IER implementation will continue to be necessary;

b. The impact of the COVID-19 pandemic remains also a challenge. The Committee observed that the Court had shown flexibility and versatility in its operations to ensure business sustenance. This challenge will remain however, and the Court will have to adapt accordingly and profit from new working methods;

c. An additional challenge for the Court as for any other institution is to improve the working environment. The Committee took note with great interest the intention of the new Prosecutor to implement a new way of working and culture designed to enhance the work of the Office. Implementation of IER recommendations will be very important in this respect;

d. Finally a permanent challenge relates to the geographical distribution and gender balance. The Court acknowledged that progress has been slow and measures taken in the past not been as effective as has been hoped for. The Committee reiterated its recommendation that the Court draw up a plan to gradually alleviate the geographical imbalances. Concerning the gender balance, the Committee noted the intention of the Principals of the Court to establish a Gender Equality Focal Point to assist with improving the development of Court-wide policies. The Committee reiterated its previous recommendation that the Court draw up a long-term plan to gradually narrow the gender gap.

5. I will now briefly outline the main cross-cutting areas of the 2022 PPB (staff costs, IT, travel) and the main considerations the Committee was guided by.

A. Human resources

6. As regards the human resources, the Committee observed a significant increase in the request for additional positions essentially in Major Programme I (Judiciary), Major Programme II (Office of the Prosecutor) and Major Programme III (Registry) due to the planned increase of judicial activity in 2022.

7. After an in-depth scrutiny of the newly requested posts and positions, of the Office structure and the assumed workload, the latter also against the background of past experiences, the Committee's recommendations were limited to posts whose justification were fully provided. Those recommended new positions were not necessarily always for full 12 months, taking into account time-consuming in recruitment procedures.

B. Information Technology

8. A second crosscutting area of substantial financial impact is the Five-Year Information Technology and Information Management Strategy. The Committee considered the status of the Five-Year Strategy with a total approved budget of over €8.6 million. The total costs of the Strategy by next year will be lower than the total approved budget. The Committee welcomed the savings achieved by the Court in implementing the Strategy. However, the Court added an additional amount of nearly €900 thousand as non-recurrent costs to be spent on different projects in various major programmes, the Committee was of the view that such costs could be reduced.

C. Travel costs

9. As regards the travel costs, both in terms of volume and cost, the Committee observed that although they are likely to increase in 2022, the Court should use the new hybrid ways of working to reduce as much as possible actual travel since the Court successfully performed various activities remotely during the past 18 months, e.g., conducting witness interviews and testimonies or increasing the number of staff in the Country offices, triggering synergies, which should bring additional savings. The Committee believed therefore that travel costs could be reduced to the 2021 approved level taking into account the experience gained over the last two years.

D. Consideration of the 2022 proposed programme budget

10. The Court requested a programme budget of some €162 million for 2022, representing an increase of €14.1 million (or 9.5 per cent) against the total approved budget for 2021.

11. The Committee acknowledged that additional trials, implementation of IER recommendations and the restructuring of the OTP by the new Prosecutor will need to be met with a mixture of increased resources and the realisation of both savings and efficiencies. After an in depth scrutiny of the Court's proposed programme budget for 2022 and the justifications provided, the Committee concluded that total reductions could be achieved in the amount of some €6.8 million from the requested increase of €14.1 million. This represents a net total increase of about €7.3 million (4.9 per cent) as compared to the 2021 approved budget.

12. The recommended reductions, which the Committee always provided with appropriate justifications, will, in our view, not harm the operation of the Court. The still substantial increase of about €7 million in comparison to 2021 (an increase of 5.4 per cent for the Judiciary, 4.7 per cent for the OTP, and 5.3 per cent for the Registry, representing the main major programmes) should allow for the restructuring of the OTP and to meet the increase of the workload of the Court. As we recently learnt, the host State will continue subsidizing the renting of the venue for the Assembly of States Parties ("Assembly/ASP") in 2022, which will be a further reduction from the budget of the Court of about €300 thousand.

13. A final word on the CBFs role in the budget process of the Court, which is going to be addressed in the first part of next year given the report of the former External Auditor on the oversight mechanisms and recommendations by the IER. The central role of the report of the CBF on budget discussions in preparation for the Assembly sessions has been regularly emphasized by the ASP. Also the Independent Experts seem to support the important role of the Committee,

recommending States Parties to defer to the CBF on technical budgetary details. The independent character of technical advice and a professional secretarial support are key in this respect. The current set up of the two independent committees of the Assembly, the CBF and the Audit Committee both serviced by the Executive Secretary proved to be effective, efficient and following international standards and best practices.

Annex IV

Statement to the Assembly by Belgium after adoption of the review resolution at its 8th plenary meeting, on 9 December 2021

1. As stated by my delegation during the segment on the review process of the International Criminal Court and the Rome Statute system, Belgium supports and actively engages in this process.
2. In order not to hinder consensus, Belgium did not oppose the adoption of the resolution entitled "Review of the International Criminal Court and the Rome Statute system" but would like to make the following observations.
3. First, we believe that the approach of the Review Mechanism, namely to reproduce the text of Resolution ICC-ASP/19/Res.7 and to make those updates necessary to continue the process and to clarify the mandate of the Mechanism, was wise. As the delegations present at that time will remember, this Resolution 7 was the subject of difficult negotiations and delicate balances last year, including its Preamble. This is why throughout the negotiations the Belgian delegation tried to preserve the balanced draft produced by the Mechanism.
4. Overall, the final result seems acceptable to us, with the exception of the last preambular paragraph. In its initial version, this amendment reproduced one of the paragraphs of the decision by which the Bureau on the 31st May adopted the Review Mechanism document entitled: « Independent Expert Review: Categorization of recommendations and remaining issues ». This paragraph reads as follows:

“Welcomes the efforts of the Review Mechanism to be inclusive and transparent in the exercise of its mandate within this State driven process as well as its reassurance that States Parties will be involved in the discussions on assessment and implementation of recommendations, regardless of whether they have been allocated to the Court or to the Assembly, with respect for existing mandates as well as judicial and prosecutorial independence”
5. The version eventually submitted for our approval after the discussions indicates that the Assembly acknowledges the importance of this Bureau decision, of which the operative section is then only partly quoted.
6. We take note of the fact that the Assembly does not endorse this decision of the Bureau, as it would have done by welcoming it or expressing its appreciation. It only acknowledges its importance, without other modifications to last year’s resolution than those added to the operative paragraphs of this year’s resolution. That is why we can join consensus.
7. However, this paragraph poses the following problems for Belgium.
8. The Bureau decision in question concerns the categorization of the Independent Experts’ recommendations and remaining review issues according to the entity responsible (the Assembly, the Court or both) for addressing the issue concerned, in accordance with paragraph 4(a) of Resolution ICC-ASP/19/Res.7.
9. As I mentioned, the text eventually adopted does not include the entire operative section of the Bureau decision, yet as we learned during these negotiations, the decision was the result of a delicate package within the Bureau itself, each element of which contributed to this balance, including the reiteration of all the relevant paragraphs of the Assembly’s previous resolutions on the review process, including those recalling essential principles such as judicial independence and the independence of the Office of the Prosecutor.
10. We also have issues with the Bureau decision itself, on which the language introduced in the preamble of the Assembly resolution is based. My country participated in good faith in the categorisation exercise. The classification of some of the recommendations as ‘Court

only' was important, in particular when some recommendations are closely related to the prosecutorial and judicial functions, which should be safeguarded from any interventionist tendencies of States. This is the case, for example, with the recommendations concerning the prioritisation of cases or the gravity threshold for the opening of an investigation. The Mechanism had indicated that if a recommendation is classified as being the responsibility of one actor, it does not mean that the other actor cannot be involved in the assessment and/or implementation through extensive consultations and engagement.

11. This notion of dialogue between the different actors is of course a useful idea that nobody challenges. However, the Bureau's decision (a fortiori when reproduced in an incomplete manner) does something else: it introduces a one-way process that tends to re-establish State Party control over recommendations categorised as within the sole responsibility of the Court.

12. This was not our understanding of the "categorisation" exercise when we took part in it. Nor was this the mandate given by the Assembly of 2020 in its Resolution 7.

13. We wish to remind States Parties that under Article 112 of the Rome Statute :

i. On the one hand, the Bureau "shall have a representative character", which should not be limited to the question of equitable geographical distribution and the need to ensure adequate representation of the principal legal systems of the world; the positions and sensitivities of all States Parties should also be respected, in particular when such an important process as the review of the Court is at stake, which concerns the Court and all its actors.

ii. On the other hand, the Bureau « shall assist the Assembly in the discharge of its responsibilities ». It is not for the Bureau to take the place of the Assembly, even less to go beyond a precise and carefully negotiated mandate given to it by the Assembly.

14. We kindly ask the Bureau to bear this in mind.

Annex V

List of documents

Document symbol	Title
ICC-ASP/20/1	Provisional agenda
ICC-ASP/20/1/Add.1/Rev.1	Annotated list of items included in the provisional agenda
ICC-ASP/20/2	Overall Response of the ICC to the IER report
ICC-ASP/20/3	Report of the Court on Human Resources Management
ICC-ASP/20/4	Report of the Court on its assessment of alternative arrangements to further integrate maintenance and capital replacements
ICC-ASP/20/5 <i>Advance version</i>	Report of the Committee on Budget and Finance on the work of its thirty-sixth session
ICC-ASP/20/5 <i>Final version</i>	Report of the Committee on Budget and Finance on the work of its thirty-sixth session
ICC-ASP/20/6	External Auditor: Final report on the International Criminal Court Governance Oversight
ICC-ASP/20/6-Add.1	External Auditor: Final report on the International Criminal Court Governance Oversight
ICC-ASP/20/7	Report on activities and programme performance of the International Criminal Court for the year 2020
ICC-ASP/20/8	Report of the Court on updated and detailed plans and multi-year financing mechanism for capital replacements
ICC-ASP/20/9	Report on the activities of the International Criminal Court
ICC-ASP/20/10 <i>Advance version</i>	Proposed Programme Budget for 2022 of the International Criminal Court
ICC-ASP/20/10 <i>Final version</i>	Proposed Programme Budget for 2022 of the International Criminal Court
ICC-ASP/20/10/Corr.1	Proposed Programme Budget for 2022 of the International Criminal Court
ICC-ASP/20/10/Corr.2	Proposed Programme Budget for 2022 of the International Criminal Court
ICC-ASP/20/11	Report of the Registry on approximate cost of UNSC referrals
ICC-ASP/20/12	Financial statements of the International Criminal Court for the year ended 31 December 2020
ICC-ASP/20/13	Financial statements of the Trust Fund for Victims for the year ended 31 December 2020
ICC-ASP/20/14	Report to the Assembly of States Parties on the projects and the activities of the Board of Directors of the Trust Fund for Victims for the period 1 July 2020 to 30 June 2021
ICC-ASP/20/15	Report of the Committee on Budget and Finance on the work of its thirty-seventh session
ICC-ASP/20/16	Annual report of the Head of the Independent Oversight Mechanism
ICC-ASP/20/17	Report of the Bureau on the Plan of Action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court
ICC-ASP/20/18	Seventh election of members of the Board of Directors of the Trust Fund for Victims
ICC-ASP/20/19	Designation of the members of the Advisory Committee on Nominations
ICC-ASP/20/21	Report of the Bureau on the Study Group on Governance
ICC-ASP/20/22	Report of the Bureau on complementarity
ICC-ASP/20/23	Report of the Bureau on non-cooperation
ICC-ASP/20/24	Report of the Bureau on the Review of the work and the Operational Mandate of the Independent Oversight Mechanism
ICC-ASP/20/25	Report of the Court on cooperation
ICC-ASP/20/26	Report of the Bureau on cooperation

Document symbol	Title
ICC-ASP/20/27	Report of the Bureau on the arrears of States Parties
ICC-ASP/20/28	Report of the Working Group on Amendments
ICC-ASP/20/29	Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court
ICC-ASP/20/30	Report to the Bureau on the review of the procedure for the nomination and election of judges
ICC-ASP/20/31	Report of the Bureau on the Budget sub-topics of Budget Management Oversight and Premises
ICC-ASP/20/32	Report on the constitution and activities of the International Criminal Court Bar Association (“ICCBA”)
ICC-ASP/20/33	Report of the Bureau on the scheduling of Assembly sessions
ICC-ASP/20/34	Election of the Deputy Prosecutor of the International Criminal Court
ICC-ASP/20/35	External Auditor audit report on the administrative management of the departments of the Presidency and the Office of the Prosecutor
ICC-ASP/20/36	Report of the Review Mechanism submitted pursuant to ICC-ASP/19/Res.7
ICC-ASP/20/37/Rev.1	Guide for the election of the Deputy Prosecutor
ICC-ASP/20/38	Compilation of reports of Assembly mandate holders on Independent Expert Review recommendations
ICC-ASP/20/39	Report of the Bureau on Legal Aid
ICC-ASP/20/INF.1	Delegations to the twentieth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court
ICC-ASP/20/INF.3	Proposed Programme Budget for 2021 of the International Criminal Court - Executive Summary