



Ninth session

New York, 6-10 December 2010

Report of the Court on analytic accountability***I. Introduction**

1. At its thirteenth session held in August 2009, the Committee on Budget and Finance (hereinafter “the Committee”) drew attention to a range of issues pertaining to medium-term budgeting forecast and noted, as indicated by the External Auditor, that the International Criminal Court (hereinafter “the Court”) was able to provide costs only by situation rather than by specific trial. The Committee recommended that the Court implement analytic accountability for each trial in order to foresee its costs.¹

2. Recommendation 7 of the External Auditor’s Report 2008 states the importance of further developing the SAP system capability so as to be able to report on the cost of each trial.²

3. The issues cited by the Committee, together with the recommendations made by the External Auditor, have been examined by the Court with the aim of developing a range of management accounting tools and techniques which would help the Court in planning and making decisions and informed judgements. The present report provides an overview of the status of this work.

II. Rationale for a strategic approach to cost accounting

4. The Court works with the integrated *enterprise resource planning* (ERP) software SAP.³ SAP is a series of integrated modular software applications intended to facilitate the management of electronic business activities in different sections of the Court in an effective, prompt and transparent manner. The Court implemented the SAP system in 2005.

5. SAP captures all budgets of the Court and trust funds, as well as all costs, enabling real-time budget reporting. There are four types of funds under the current SAP system: the general fund, the situation-related fund, the trust funds and the project support funds; and, for exceptional cases, the contingency fund. In addition, there are funds related to the Permanent Premises Project. SAP captures all costs following several possible sorting criteria: per fund type, per month, per general ledger account, per commitment item or per fund centre, thereby allowing sorting by Major Programme, Sub-Programme or Section.

* Previously issued as ICC-ASP/9/CBF.1/4.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Eighth session, The Hague, 18-26 November 2009* (ICC-ASP/8/20), vol. II, part B.2, para. 50.

² *Ibid.*, vol. II, part C.1, para. 48.

³ SAP stands for Systems, Applications and Products in Data Processing.

6. In 2006, the system was re-engineered to include a Project Management module as part of its fund management system. In addition to the fund-centre structure above-mentioned, the Project Management module was configured to utilize a *work breakdown structure* (WBS) to provide the necessary framework for detailed cost estimating and control. The Court currently manages twelve WBS codes in the SAP system. Costs are allocated against codes which have been set up to provide a breakdown of costs by situation. Table 1 shows the WBS codes used by the Court and the situations they relate to.

Table 1: WBS codes used by the Court

| WBS codes | Situation |
|-----------|--|
| CIS-CAR | Court in session – situation in the Central African Republic |
| CIS-DRC | Court in session – situation in the Democratic Republic of the Congo |
| CIS-OPS | Court in session – operational support |
| CIS-SUD | Court in session – situation in Sudan |
| CIS-UGA | Court in session – situation in Uganda |
| FOP-CAR | Field operations – situation in the Central African Republic |
| FOP-DRC | Field operations – situation in the Democratic Republic of the Congo |
| FOP-OPS | Field operations – operational support |
| FOP-SUD | Field operations – situation in Sudan |
| FOP-UGA | Field operations – situation in Uganda |
| FOP-KEN | Field operations – situation in Kenya |
| ICC-GEN | Court – general |

7. However, cost recording in relation to a particular situation is limited to trips and purchases, which are clearly identifiable in SAP. In 2009, around 50 per cent of all trips and purchases were allocated to the Court's general fund and therefore not related to a specific situation. The remaining 50 per cent was spread among other WBS codes. Staff costs are currently not recorded under the WBS structure.

8. The potential of WBS codes is wider than the twelve straightforward codes mentioned above and they offer the option to create hierarchies and trees. The Court therefore needs to analyse the current WBS structure and investigate how it can be further developed in order to improve its analytic accountability.

9. Table 2 gives an indication of the 2009 expenditures of the Court by situation using WBS codes. In order to carry out this exercise, costs not related to a specific situation were allocated to the Court's general fund.

Table 2: Overview of 2009 expenditures using WBS codes*

| | Judiciary | Office of the Prosecutor | Registry | Secretariat of the Assembly of States Parties | Secretariat of the Trust Fund for Victims | Project Office Permanent Premises | Total |
|----------------|------------------|--------------------------|-------------------|---|---|-----------------------------------|-------------------|
| CIS-CAR | 0 | 1,045,147 | 51,157 | 0 | 0 | 0 | 1,096,304 |
| CIS-DRC | 0 | 2,916,913 | 6,184,414 | 0 | 0 | 0 | 9,101,327 |
| CIS-OPS | 506,659 | 798,309 | 7,087,776 | 0 | 0 | 0 | 8,392,744 |
| CIS-SUD | 0 | 175,014 | 327,206 | 0 | 0 | 0 | 502,220 |
| CIS-UGA | 0 | 4,434 | 25,068 | 0 | 0 | 0 | 29,502 |
| FOP-CAR | 0 | 2,377,973 | 1,402,256 | 0 | 12,422 | 0 | 3,792,651 |
| FOP-DRC | 0 | 3,158,866 | 3,859,682 | 0 | 122,659 | 0 | 7,141,207 |
| FOP-OPS | 0 | 5,007,342 | 3,178,831 | 0 | 300,377 | 0 | 8,486,550 |
| FOP-SUD | 0 | 3,354,500 | 2,023,992 | 0 | 0 | 0 | 5,378,492 |
| FOP-UGA | 0 | 391,654 | 1,749,605 | 0 | 129,494 | 0 | 2,270,753 |
| ICC-GEN | 9,292,896 | 4,812,250 | 29,178, 221 | 3,087,375 | 559,926 | 332,139 | 47,262,807 |
| Total € | 9,799,555 | 24,042,402 | 55,068,208 | 3,087,375 | 1,124,878 | 332,139 | 93,454,557 |

* Provisional. As at 24 February 2010.

10. Table 3 shows an overall indication of the 2009 expenditures of the Court by situation.

Table 3: Overview of 2009 expenditures by situation*

| | Judiciary | Office of the Prosecutor | Registry | Others | Total |
|---|------------------|--------------------------|-------------------|------------------|-------------------|
| Central African Republic | 0 | 3,423,120 | 1,453,413 | 12,422 | 4,888,955 |
| Democratic Republic of the Congo | 0 | 6,075,779 | 10,044,096 | 122,659 | 16,242,534 |
| Sudan | 0 | 3,529,514 | 2,351,198 | 0 | 5,880,712 |
| Uganda | 0 | 396,088 | 1,774,673 | 129,494 | 2,300,255 |
| Operational support (Court in session and field operations) | 506,659 | 5,805,651 | 10,266,607 | 300,377 | 16,879,294 |
| Court – general | 9,292,896 | 4,812,250 | 29,178,221 | 3,979,440 | 47,262,807 |
| Total € | 9,799,555 | 24,042,402 | 55,068,208 | 4,544,392 | 93,454,557 |

* Provisional. As at 24 February 2010.

11. As explained in the External Auditor's Report on the audit of the financial statements of the Court for 2008, a situation is the term used to describe referrals to the Court for investigations into a particular wrongdoing in which one or more crimes appear to have been committed.⁴ As a result of the investigations, one or more specific persons could be charged with the commission of such crimes and therefore separate trials may need to be held.

⁴ *Official Records ... Eighth session ... 2009* (ICC-ASP/8/20), vol. II, part C.1, para. 41.

12. The External Auditor's Report further states that identifying the cost of individual trials is very complex and requires deep inter-organ analysis in order to be fully understood.⁵ The Court has identified the following issues that will need to be addressed in order to be able to identify the cost of a trial:

(a) A common, Court-wide definition of what constitutes a trial will need to be established. It is worth highlighting that the Court began its first trials in 2009 and has yet to complete a full-trial cycle. The commencement of the first trials marked a fundamental step not only in the fight against impunity, but also in the Court's own process of understanding its short and long-term financial and operational performance implications for each trial. In order to provide costs by specific trial, a Court-wide definition of trial phases needs to be agreed upon. Although the Court agrees on the existence of different phases in a judicial process, activities related to each of these phases do not necessarily start at the same time for the different actors in a trial, which creates difficulties in agreeing on Court-wide definitions. The technical implementation of these phases will require further analysis by the Court, after completion of a full cycle of trial activities;

(b) Defendants or cases are sometimes either combined or separated during the trial process and a way to account for this will need to be developed; and

(c) Staff divide their time between different trials, situations, cases and general support activities, and a way to accurately allocate staff costs will need to be developed. Salaries are currently allocated according to the Section in which the staff member works, and can be identified under the Court's general fund or under the situation-related fund. They are not split over the different WBS codes, and the Court does not allocate hours worked by staff members on the different situations, investigations, cases, trials, appeals or general support. The Court would need to allocate salaries differently and to introduce a time registration system for all staff, including judges and other specialists. Timesheets alone would not be a practical solution and would not amount to conclusive evidence of time allocation. Access control cards are currently issued as standard identification for staff and eligible contractor personnel. These smart cards enable access to the Court premises but do not qualify as a time management tool, as they do not provide any insight into the tasks that are performed.

13. The Court is in the process of conducting a preliminary analysis of the possibility of allocating costs by specific trial. As a first step, several in-depth interviews have been conducted with some of the different Major Programmes in order to ascertain their views on the possibility of allocating trial costs. Furthermore, the Court is currently approaching other international judicial institutions in order to find out how they allocate trial costs. This initial step would give the Court further insights into the expectations of its different organs as well as an understanding of potential solutions to the allocation of trial costs.

14. Following the analysis of the above-mentioned information, the Court intends to study the different methodologies and compare the characteristics of the various cost accounting methods available in order to identify which method best suits the needs of the Court.

15. The Court needs to evaluate the impact of the proposed cost accounting method on the overall management accounting, strategic goals and budget culture of the Organization.

16. Moreover, the Court needs to assess and analyze the time, materials, training and resources needed to implement the best-suited cost accounting system in the SAP environment. At present, the SAP system does not offer a time management system to record staff hours.

⁵ Ibid., para. 47.

III. Performance indicators

17. Currently, the Court uses a system to measure key performance indicators, the so-called *Tableau de Bord*, which provides monthly ratios and enables the Court to monitor performance. This system offers some insight into the activities of the Court and can contribute to the development of new accounting tools and techniques.

18. Some of the key performance indicators provided by the system are courtroom usage, translation statistics and public affairs and outreach activities. Table 4 shows a summary of courtroom usage for 2009 and 2008.

Table 4: Summary of Courtroom usage 2009-2008

| Courtroom usage | Number of Court Days | | Number of Hearings | | Number of Court Sessions | | Sitting Time (minutes) | | Oral Decisions | | Witnesses ⁶ | |
|----------------------|----------------------|-----------|--------------------|-----------|--------------------------|------------|------------------------|--------------|----------------|------------|------------------------|----------|
| | 2009 | 2008 | 2009 | 2008 | 2009 | 2008 | 2009 | 2008 | 2009 | 2008 | 2009 | 2008 |
| DRC Situation | n/a | n/a | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| DRC Case 01/04-01/06 | n/a | n/a | 116 | 23 | 290 | 48 | 20,321 | 2,517 | 138 | 43 | 40 | 0 |
| DRC Case 01/04-02/06 | n/a | n/a | 0 | 1 | 0 | 1 | 0 | 47 | 0 | 0 | 0 | 0 |
| DRC Case 01/04-01/07 | n/a | n/a | 33 | 24 | 69 | 58 | 5,124 | 3,471 | 88 | 48 | 2 | 0 |
| DRC Case 01/04-02/07 | n/a | n/a | 0 | 4 | 0 | 6 | 0 | 346 | 8 | 10 | 0 | 0 |
| Uganda Situation | n/a | n/a | 1 | 0 | 1 | 0 | 20 | 0 | 0 | 0 | 0 | 0 |
| Uganda Case Kony | n/a | n/a | 1 | 0 | 1 | 0 | 30 | 0 | 0 | 0 | 0 | 0 |
| CAR Situation | n/a | n/a | 0 | 1 | 15 | 1 | 0 | 15 | 0 | 0 | 0 | 0 |
| CAR Case 01/05-01/08 | n/a | n/a | 11 | 7 | 11 | 12 | 1,884 | 896 | 21 | 4 | 0 | 0 |
| Darfur Situation | n/a | n/a | 22 | 1 | 43 | 2 | 3,027 | 186 | 32 | 0 | 4 | 0 |
| Total | 129 | 61 | 184 | 61 | 430 | 128 | 30,406 | 7,478 | 287 | 105 | 46 | 0 |

⁶ Method of calculating number of witnesses: A witness who starts his testimony one month and continues the month after will appear in the statistics for both months. Therefore, the actual overall number of witnesses appearing before the Court will be lower than the current figure in the *Tableau de Bord*.

19. A summary of key indicators of the Defence Support Section since 2005 are shown in table 5.

Table 5: Key indicators of the Defence Support Section

| Indicator | Total previous years | Total 2009 | Cumulative |
|---|-----------------------------|-------------------|-------------------|
| Number of counsel on list | 279 | 47 | 326 |
| Number of assistants on list | 36 | 23 | 59 |
| Number of prof. investigators on list | 24 | 3 | 27 |
| Number of accused | 4 | 1 | 5 |
| Applications for legal assistance-accused | 4 | 1 | 5 |
| Number of accused declared indigent | 3 | 1 | 4 |
| Number of accused declared not indigent | 1 | 1 | 2 |
| Appointments of duty counsel | 41 | 9 | 50 |
| Appointments of Counsel | 9 | 2 | 11 |
| Applications to List of Counsel | 436 | 54 | 490 |
| Applications to List of Assistants | 51 | 19 | 70 |
| Applications to List of Investigators | 87 | 3 | 90 |
| Expert meeting/Seminar DSS | 4 | 1 | 5 |

IV. Conclusions

20. The current structure for recording expenditure in the Court's accounting system allows for a distinction between costs at situation level. Similarly, the Court has a system in place to measure key performance indicators of its judicial activities. However, these structures do not allow expenditure to be recorded by trial.

21. In addressing this issue, the Court is in the process of gathering information from its different organs as part of a study to identify a cost accounting method that would improve its ability to perform activity-based accounting and assist in informed planning and decision making. Data are also being collected from other international judicial organizations. Further work is required to analyse the information and identify an adequate cost accounting system for the Court. After a cost accounting method is identified, the Court would need to assess the time and resources needed for implementation.

22. While developing management accounting and reporting tools to generate new information and add value to the existing statistical data, the Court would welcome more guidance from the Committee regarding the level of analytic accountability required of it.
