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**Proposal regarding conditions of service and compensation of judges
and elected officials**

Note by the Secretariat

The Secretariat of the Assembly of States Parties has received the following proposal from the Presidency of the International Criminal Court and has been requested to submit it to the Assembly for its consideration.

Proposal regarding the conditions of service and compensation of judges and elected officials

1. In accordance with article 49 of the Rome Statute, the present proposal is submitted to the Assembly of States Parties (the Assembly) for consideration and decision. It comprises:

- Draft conditions of service and compensation of judges of the Court (annex I), including draft travel and subsistence regulations for judges (appendix 1), draft pension scheme regulations for judges (appendix 2) and a memorandum addressing the issue of disability and retirement pensions for the first judges of the Court (appendix 3);
- Draft conditions of service and compensation of the Prosecutor and Deputy Prosecutors (annex II), including draft travel and subsistence regulations for the Prosecutor and Deputy Prosecutors (appendix 1) and draft pension scheme regulations for the Prosecutor and Deputy Prosecutors (appendix 2);
- Draft conditions of service and compensation of the Registrar (annex III), including draft travel and subsistence regulations for the Registrar (appendix 1) and draft pension scheme regulations for the Registrar (appendix 2).

2. The conditions of service of the judges were adopted by the Assembly during its first session in September 2002 in annex VI to the Budget for the first financial period of the Court (ICC-ASP/1/3), and revised and reissued by the Assembly during its second session in September 2003 in Part III.A of document ICC-ASP/2/10. Nevertheless, it has come to light in applying the conditions of service of judges that the document does not address important issues such as residency, disability pension and child benefit. After further analysis and reference to the terms and conditions of service of judges of the International Court of Justice and the International Criminal Tribunals for the former Yugoslavia and Rwanda, this proposal was drafted in order to clarify and amend the provisions of Part III.A where appropriate.

3. Although the proposed draft addresses the lacunae mentioned above, it does not deal with the fact that the discrepancy in the length of the terms of office of the first judges of the Court appears to result in inequalities with regard to their disability and retirement pension entitlements. The memorandum contained in annex I attempts to remedy the situation by granting the first judges of the International Criminal Court (ICC) equivalent benefits in terms of retirement and disability pensions.

4. In accordance with article 49 of the Statute, the Assembly of States Parties may also decide upon the conditions of service of the Prosecutor and Deputy Prosecutors. The proposal, attached as annex II, is based on the conditions of service of judges and has been adjusted to reflect the respective status of the Prosecutor and Deputy Prosecutors, as well as their powers and privileges.

5. The conditions of service of the Registrar are drafted along similar lines to the conditions of service of judges. However, the calculation of the Registrar's retirement pension takes into consideration the different duration of the Registrar's term of office. Moreover, as the post of Deputy Registrar is not foreseen in the Court's draft Budget, this position is not yet covered by the document in annex III. It will be necessary to revert to the issue in due course.

Annexes

- Annex I Draft conditions of service and compensation of judges of the International Criminal Court
- Appendix 1. Draft travel and subsistence regulations for judges of the International Criminal Court
 - Appendix 2. Draft pension scheme regulations for judges of the International Criminal Court
 - Appendix 3. Memorandum addressing the issue of disability and retirement pensions for the first judges of the Court
- Annex II Draft conditions of service and compensation of the Prosecutor and Deputy Prosecutors of the International Criminal Court
- Appendix 1. Draft travel and subsistence regulations for the Prosecutor and Deputy Prosecutors of the International Criminal Court
 - Appendix 2. Draft pension scheme regulations for the Prosecutor and Deputy Prosecutors of the International Criminal Court
- Annex III Draft conditions of service and compensation of the Registrar of the International Criminal Court
- Appendix 1. Draft travel and subsistence regulations for the Registrar of the International Criminal Court
 - Appendix 2. Draft pension scheme regulations for the Registrar of the International Criminal Court

Annex I

Draft conditions of service and compensation of judges of the International Criminal Court

Editorial note pertaining to annex I (including appendices 1 and 2):

Items in smaller, italic and bold font refer to the provisions of Part III.A of ICC-ASP/2/10 (hereinafter referred to as “Part III.A”) – Conditions of service and compensation of judges of the International Criminal Court.

Items in smaller, underlined font refer to provisions of the documents laying down the terms and conditions of judges of the International Court of Justice (ICJ) and the International Criminal Tribunal for the former Yugoslavia (ICTY) adopted by the United Nations General Assembly.

Items in smaller italic font provide background information.

The draft conditions of service and compensation of judges embody the fundamental conditions of service of judges of the International Criminal Court (hereinafter: the “Court”), in accordance with articles 35 and 49 of the Rome Statute, annex VI of the budget for the first financial period of the Court (ICC-ASP/1/3, Part III, annex VI) adopted by the Assembly of States Parties (hereinafter: the “Assembly”) during its first session in September 2002 and revised and reissued in Part III.A of document ICC-ASP/2/10 adopted by the Assembly during its second session in September 2003.

I. Use of terms

1. “A judge” shall mean a judge of the Court within the meaning of article 35 of the Rome Statute who serves on a full-time basis.

2. “Annual salary” shall mean, for the purpose of calculating the pension entitlement, the annual remuneration, exclusive of any allowances, fixed by the Assembly and received by a judge at the time he or she ceases to hold office.

Similar to article V, paragraph 2, of the ICJ Pension Scheme; article 5, paragraph 2, of the ICTY Pension Scheme. Important for the purpose of calculating the pension.

3. “Spouse” shall be a partner by marriage recognized as valid under the law of the country of nationality of a judge or by legally recognized domestic partnership contracted by a judge under the law of the country of his or her nationality.

In accordance with, UN ST/SGB/2004/4 dated 20 January 2004. Upon request of a number of the judges of the Court.

II. Residence of judges

1. Judges shall take up residence in the Netherlands within sufficient proximity to the seat of the Court to be available to attend the Court at short notice in order to discharge their duties under the Rome Statute and the Rules of Procedure and Evidence.

The Rome Statute has left open the question of residence of full-time judges. Annex VI of the budget for the first financial period of the Court states in a footnote (see Part III.A of document ICC-ASP/2/10 [hereinafter: "Part III.A"], p. 199) that the Rome Statute has entrusted this matter to the judges. The Presidency has concluded that practicability requires judges of the Court to reside in the vicinity of the Court.

2. Residence status is defined as the establishment, through acquisition or long-term lease, of a permanent residence, coupled with the declaration by the judge concerned of resident status.

Article 7(b) of the ICTY General Terms and Conditions; the ICJ does not have such a provision because only the President of the Court is required to reside at the seat of the Court, in accordance with article 22 of its Statute.

III. Emoluments

1. The annual remuneration of a judge shall be €180,000 net.

Part III.A, paragraph 1.

2. The President shall receive a special allowance paid at the rate of ten (10) per cent of the President's annual remuneration. Based on the remuneration above of €180,000 net, the special annual allowance shall be €18,000 net.

Part III.A, paragraph 2

3. The First or Second Vice-President, or, in exceptional circumstances, any other judge assigned to act as President, shall be entitled to a special allowance of €100 net per day for each working day acting as President, up to a maximum of €10,000 per year.

Part III.A, paragraph 3, with the following addition: "in exceptional circumstances, any other judge assigned to act as President" to provide for all eventualities.

IV. Travel costs and subsistence benefits

1. A judge shall be entitled to payment of travel expenses and subsistence benefits as set forth in the travel and subsistence regulations for judges of the International Criminal Court, attached as appendix 1 hereto.

Partly set forth in Part III.A, paragraph 7 and ff. - for details see appendix 1.

V. Pension scheme

1. A judge shall, upon retirement, be entitled to receive a pension as set forth in the pension scheme regulations for judges of the International Criminal Court, attached as appendix 2 hereto.

Partly set forth in Part III.A, paragraph 5 – for details see appendix 2.

2. Pensions in payment shall be automatically revised by the same percentage and at the same date as remuneration adjustments.

Part III.A, paragraph 5(e).

VI. Surviving spouse's pension

1. Upon the death of a judge or a former judge, the surviving spouse shall be entitled to a surviving spouse's pension as set forth in the pension scheme regulations for judges of the International Criminal Court, attached as appendix 2 hereto.

Part III.A, paragraph 5(d) - for details see appendix 2.

VII. Child benefit

1. Upon the death of a judge or a former judge, his or her natural or legally adopted child shall be entitled to a child benefit as set forth in the pension scheme regulations for judges of the International Criminal Court, attached as appendix 2 hereto.

For details see appendix 2. In accordance with the child benefit accorded to ICJ and ICTY judges.

VIII. Survivor's benefit

1. In the event of the death of a judge, eligible survivor(s), as defined in paragraph 2 below, shall be compensated in the form of a lump-sum payment equivalent to one month of base remuneration for each year of service, subject to a minimum payment equivalent to one month of base remuneration and a maximum of nine months of base remuneration.

Article 5(a) of the ICTY General Terms and Conditions. Recommended by the Secretary-General in A/52/520, dated 22 October 1997 and adopted by the General Assembly in A/RES/53/214 dated 11 February 1999.

2. For the purposes of paragraph 1 above, eligible survivor shall include the surviving spouse of the judge, provided that the spouse was married to the judge at the date of the judge's death, and natural or legally adopted children of a deceased judge who are unmarried and who have not reached the age of twenty-one (21) years as of the date of the judge's death.

Article 5(b) of the ICTY General Terms and Conditions. Recommended by the Secretary-General in A/52/520 dated 22 October 1997 and adopted by the General Assembly in A/RES/53/214 dated 11 February 1999.

IX. Education allowance

1. Judges shall be entitled to an education grant for the benefit of their children equivalent to that applicable to United Nations officials.

Part III.A, paragraph 4.

X. Health insurance

1. Judges shall be responsible for their own health insurance arrangements.

Part III.A, paragraph 6.

XI. Leave

Not explicitly regulated in the terms and conditions of either the ICJ or the ICTY. However, relevant for good administration/management.

1. Annual leave shall accrue to judges at the rate of eight (8) weeks a year. Leave may be taken in accordance with a procedure to be agreed upon by the judges and in accordance with a yearly decision taken by the plenary meeting of the judges concerning the days the Court will be in recess.

2. Annual leave may be accumulated, provided that not more than eighteen (18) weeks of such leave shall be carried forward to the following year.

XII. Entry into force

New provision

1. The conditions of service and compensation of judges of the International Criminal Court embodying the fundamental conditions of service of judges as set forth in this document, including its appendices, shall enter into force upon the adoption of this document by the Assembly.

2. Upon adoption by the Assembly, this document shall supersede the conditions of service and compensation of full-time judges set forth in Part III.A of document ICC-ASP/2/10.

XIII. Revisions

1. The conditions of service and compensation of judges of the International Criminal Court shall be reviewed by the Assembly as soon as practicable following the review of the conditions of service of the judges of the International Court of Justice by the General Assembly of the United Nations.

As the Assembly makes reference to the conditions of service of the ICJ, it appears to make sense to revise the conditions of service of judges of the Court in the same cycle.

Appendix 1

Draft travel and subsistence regulations for judges of the International Criminal Court

Article I Travel expenses

1. The Court shall pay, subject to the conditions of these regulations, the travel expenses of judges necessarily incurred on duly authorized journeys. The following shall be deemed to be duly authorized journeys by judges:

Article 1, paragraph 1, of the ICJ Travel and Subsistence Regulations; article 1, paragraph 1, of the ICTY Travel and Subsistence Regulations.

- (a) A trip from his or her declared home, at the time of appointment, to the seat of the Court, in connection with the transfer of his or her residence;
Part III.A, paragraph 7(a).
- (b) A round trip every second calendar year after the year of appointment from the seat of the Court to his or her declared home at the time of appointment;
Part III.A, paragraph 7(c).
- (c) Upon termination of his or her appointment, a trip from the seat of the Court to his or her declared home at the time of appointment, or to any other place provided that the cost of the journey is not greater than the cost of the trip to his or her declared home at the time of appointment;
Part III.A, paragraph 7(d).

Where the spouse and/or dependent children of a judge reside with him or her at the seat of the Court, the Court shall reimburse the travel expenses for trips undertaken in conjunction with (a), (b) and (c) of this paragraph;

Part III.A, paragraph 7(e).

- (d) Other journeys on official business undertaken under the authority of the President of the Court.

ICJ Travel and Subsistence Regulations, article I, paragraph 1(f); ICTY Travel and Subsistence Regulations, article 1, paragraph 1(e).

2. In all cases, payment by the Court of travel expenses shall comprise the cost of trips actually undertaken, subject to the following maximum entitlements:

ICJ Travel and Subsistence Regulations, article 1, paragraph 2; ICTY Travel and Subsistence Regulations, article 1 paragraph 2.

- (a) The cost of business-class travel, including the expenses normally associated with travel. The cost of transportation of baggage in excess of the weight or size carried free by transportation companies will not be allowable as an expense unless the excess is necessarily carried for official business reasons;
Part III.A, paragraph 8.

- (b) Travel shall be by the most cost-effective and time-efficient means and route. Other arrangements may be authorized by the President of the Court for special reasons.

Along the lines of article 1, paragraph 2(a), (b) and (c) of the ICJ Travel and Subsistence Regulations as well as article 1, paragraph 2(a), (b) and (c) of the ICTY Travel and Subsistence Regulations.

Article II Subsistence allowances

1. A daily subsistence allowance shall be paid to a judge while on official travel under article I, paragraph 1, subparagraphs (a), (c) and (d) of this appendix. The allowance will be regarded as covering all charges for meals, lodging, local transportation costs and gratuities, and other personal expenses.

Article 2, paragraph 1, of the ICJ Travel and Subsistence Regulations; article 2, paragraph 1, of the ICTY Travel and Subsistence Regulations.

2. The daily subsistence allowance will be payable under the conditions and at rates equivalent to the standard travel subsistence allowance rates for United Nations officials, plus forty (40) per cent resulting in one hundred and forty (140) per cent, as set forth in the Administrative Instruction regarding official travel for the Court. This rate will be reduced in the event that board and/or lodging are provided for. The allowance shall normally be payable in euros.

Article 2, paragraph 2, of the ICJ Travel and Subsistence Regulations; article 2, paragraph 2, of the ICTY Travel and Subsistence Regulations.

3. After an extended period of time in any one location, the daily subsistence allowance will be reduced in accordance with the United Nations common system.

In accordance with the United Nations common system standard. The rates applicable are promulgated by the International Civil Service Commission in its monthly circulars: ICSC/CIRC/DSA.

4. Where a judge, undertaking an official journey under article I, paragraph 1, subparagraph (a), (b) or (c) of this appendix, is accompanied by a spouse and/or dependent children, a subsistence allowance of one half of the appropriate rate payable to judges concerned in respect of that journey will be payable for each dependant; where these dependants are travelling unaccompanied on an authorized journey, the full rate of subsistence allowance will be payable in respect of one adult and one half of that rate in respect of each other dependant.

Article 2, paragraph 3, of the ICJ Travel and Subsistence Regulations; article 2, paragraph 3, of the ICTY Travel and Subsistence Regulations.

Article III Removal and assignment

1. Judges residing in the Netherlands in accordance with article II of the conditions of service and compensation of judges of the International Criminal Court shall be entitled to the following:

- (a) Removal costs of household goods and personal effects to the seat of the Court from his or her home equivalent to those applicable to United Nations officials at the Under-Secretary-General (USG) level;

ICJ Travel and Subsistence Regulations, article 3, paragraph 1(a) (i); ICTY Travel and Subsistence Regulations, article 3, paragraph 1(a).

- (b) An assignment grant to cover relocation expenses, in accordance with terms and conditions equivalent to those applicable to United Nations officials at the USG level;

Part III.A, paragraph 7(b).

- (c) Upon termination of appointment, removal costs of household goods and personal effects from the seat of the Court to his or her declared home at the time of appointment (or any other country where he or she may choose to have his or her residence if less expenditure is entailed).

ICJ Travel and Subsistence Regulations, article 3, paragraph 1(b); ICTY Travel and Subsistence Regulations, article 3, paragraph 1(c)

Article IV

Relocation upon completion of service

1. A judge who has taken up and maintained residence at the seat of the Court for at least five (5) continuous years during service with the Court shall receive a lump sum equivalent to eighteen (18) weeks of annual net base remuneration upon completion of appointment and relocation outside the Netherlands. A judge who has taken up and maintained residence at the seat of the Court for nine (9) continuous years or more during service with the Court shall receive the equivalent of twenty-four (24) weeks of annual net base remuneration upon completion of appointment and relocation outside the Netherlands.

Recommended by the Secretary-General in A/52/520 dated 22 October 1997 and adopted by the General Assembly in A/RES/53/214 dated 11 February 1999; ICTY Travel and Subsistence Regulations, article 4.

Article V

Submission and payment of accounts

1. A detailed expense account must be rendered in support of each claim for reimbursement of travel expenses or subsistence allowance as soon as possible after completion of the travel or removal. The claims should show every item of expense, except where such expenses are covered by a subsistence allowance, and every advance drawn from any source of the Court, and must, as far as possible, be supported by receipts showing the service to which the payment is related. All expenses must be shown in the actual currency in which they were made and must be certified as having been necessarily and solely incurred in the discharge of the official business of the Court. Reimbursement shall be made following certification by the President.

Along the lines of article 4 of the ICJ Travel and Subsistence Regulations as well as article 5 of the ICTY Travel and Subsistence Regulations

Appendix 2

Draft pension scheme regulations for judges of the International Criminal Court

Article I Retirement pension

1. A judge who has ceased to hold office and who has reached the age of sixty (60) shall be entitled during the remainder of his or her life, subject to paragraph 6 below, to a retirement pension payable monthly provided that he or she:

Part III.A, paragraph 5(b); ICJ Pension Scheme article 1, paragraph 1; ICTY article 1, paragraph 1

(a) Has completed at least three (3) years of service;

Part III.A, paragraph 5(c).

(b) Has not been required to relinquish his or her appointment for reasons other than the state of his or her health.

ICJ Pension Scheme article 1, paragraph 1(b); ICTY Pension Scheme article 1, paragraph 1(b).

2. A judge who has completed a full nine-year term shall be entitled to a retirement pension equal to half the annual salary.

Part III.A, paragraph 5(b).

3. A proportional reduction shall be applied if a judge has not completed a full nine-year term, provided that the judge has served for at least three (3) years.

Part III.A, paragraph 5(c).

4. No additional pension shall be paid if the judge has completed more than a full nine-year term.

Part III.A, paragraph 5(c).

5. A judge who ceased to hold office before attaining the age of sixty (60) and who would be entitled to a retirement pension when he or she reached that age may elect to receive a pension from any date after the date on which he or she ceases to hold office. Should he or she so elect, the amount of such pension shall be that amount which has the same actuarial value as the retirement pension that would have been paid to him or her at the age of sixty (60).

ICJ Pension Scheme, article I, paragraph 5; ICTY Pension Scheme, article 1, paragraph 3.

6. No retirement pension shall be payable to a former judge who has been re-elected to office until he or she again ceases to hold office. At that time, the amount of his or her pension shall be calculated on the basis of his or her total period of service and shall be subject to a reduction equal in actuarial value to the amount of any retirement pension paid to him or her before he or she reached the age of sixty (60).

ICJ Pension Scheme article 1, paragraph 6; ICTY Pension Scheme, article 1, paragraph 4.

Article II Disability pension

Not provided for in Part III.A.

1. A judge found by the Court to be unable to perform his or her duties because of permanent ill-health or disability shall be entitled upon leaving office to a disability pension payable monthly.

ICJ Pension Scheme, article II, paragraph 1; ICTY Pension Scheme, article 2, paragraph 1.

2. The Court's decision whether a judge is unable to perform his or her duties because of permanent ill-health or disability shall be based on two medical opinions, one issued by a medical doctor designated by the Court and the other issued by a medical doctor of the judge's choice. In the event that the two opinions differ, a third medical opinion shall be obtained through a medical doctor mutually agreed upon by the Court and the judge.

Added by the ICC to prevent potential abuse and to set forth clear procedures to be followed.

3. The amount of the disability pension shall be equal to the amount of the retirement pension that would have been payable to the judge concerned had he or she, at the time of leaving office, completed the term for which he or she had been elected.

ICJ Pension Scheme, article II, paragraph 2; ICTY Pension Scheme, article 2, paragraph 2.

Article III Surviving spouse's pension

Part III.A, paragraph 5(d), just stipulating that the surviving spouse is entitled to receive half of the late judge's pension. We added clarity to this entitlement by setting forth the main possible scenarios in accordance with the ICJ Pension Scheme.

1. Upon the death of a married judge who was entitled to a retirement pension, the surviving spouse, provided he or she was the spouse at the date that the former judge's service ended, shall be entitled to a surviving spouse's pension calculated as follows:

*In accordance with **Part III.A, paragraph 5(d)**; article III, paragraph 3, of ICJ Pension Scheme.*

- (a) If the judge had not begun, at the date of his or her death, to receive his or her retirement pension, the surviving spouse's pension shall amount to one half of the pension that would have been payable to the judge under article I, paragraph 5, above, had the judge commenced receiving such pension on the date of his or her death, provided that the surviving spouse's pension shall not be less than one twelfth of the annual salary;

*In accordance with **Part III.A, paragraph 5(d)**; article III, paragraph 3(a), of ICJ Pension Scheme.*

- (b) If the judge had begun to receive his or her retirement pension under article I, paragraph 5, above, before he or she reached the age of sixty (60), the surviving spouse's pension shall amount to one half of the amount of such pension, but shall not be less than one twelfth of the annual salary;

*In accordance with **Part III.A, paragraph 5(d)**; article III, paragraph 3(b), of ICJ Pension Scheme.*

- (c) If the judge had reached the age of sixty (60) when he or she began to receive his or her retirement pension, the surviving spouse's pension shall amount to one half of the judge's pension, but shall not be less than one sixth of the annual salary.

*In accordance with **Part III.A, paragraph 5(d)**; article III, paragraph 3(c), of ICJ Pension Scheme.*

2. Upon the death of a married judge, his or her surviving spouse shall be entitled to a surviving spouse's pension amounting to one half of the pension which the judge would have received had the judge become entitled to a disability pension at the time of his or her death, provided that the surviving spouse's pension shall not be less than one sixth of the annual salary.

*In accordance with **Part III.A, paragraph 5(d)**; article III, paragraph 1, of ICJ Pension Scheme.*

3. Upon the death of a married former judge who was in receipt of a disability pension, the surviving spouse, provided that he or she was the spouse at the date that the former judge's service ended, shall be entitled to a surviving spouse's pension amounting to one half of the pension which the former judge was receiving, provided that the surviving spouse's pension shall not be less than one sixth of the annual salary.

*In accordance with **Part III.A, paragraph 5(d)**; article III, paragraph 2, of ICJ Pension Scheme.*

4. Upon remarriage, the surviving spouse's pension shall cease and the surviving spouse shall be granted a lump sum equal to twice the amount of his or her current annual benefit as final settlement.

*In accordance with **Part III.A, paragraph 5(d)**; article III, paragraph 4, of ICJ Pension Scheme.*

Article IV Child benefit

Not provided for in Part III.A. In accordance with the ICJ and the ICTY Pension Schemes.

1. Upon the death of a judge or a former judge, his or her natural or legally adopted child shall be entitled, while unmarried and under the age of twenty-one (21), to a benefit calculated as follows:

Article IV, paragraph 1, of the ICJ Pension Scheme; article 4, paragraph 1, of the ICTY Pension Scheme.

(a) Where there is a surviving spouse entitled to a pension under article III above, the annual amount of the child benefit shall be:

(i) The equivalent of ten (10) per cent of the retirement pension that the judge was receiving; or,

Article IV, paragraph 1(a)(i), of the ICJ Pension Scheme; article 4, paragraph 1(a)(i), of the ICTY Pension Scheme.

(ii) If the judge had not begun, at the date of his or her death, to receive his or her retirement pension, ten (10) per cent of the pension that would have been payable to him or her under article I, paragraph 5, had he or she commenced to receive such pension at the date of his or her death; or,

Article IV, paragraph 1(a)(ii), of the ICJ Pension Scheme; article 4, paragraph 1(a)(ii), of the ICTY Pension Scheme.

(iii) In the case of the death of a judge in office, ten (10) per cent of the pension that the judge would have received had he or she qualified for a disability pension at the date of his or her death;

Article IV, paragraph 1(a)(iii), of the ICJ Pension Scheme; article 4, paragraph 1(a)(iii), of the ICTY Pension Scheme.

Provided, in all cases, that the amount of the child's benefit shall not exceed one thirty-sixth of the annual base salary;

Article IV, paragraph 1, of the ICJ Pension Scheme.

(b) Where there is no surviving spouse entitled to a pension under article III, or upon the death of the surviving spouse, the total amount of the child benefit payable under subparagraph (a) above shall be increased by the following amount:

Article IV, paragraph 1(b), of the ICJ Pension Scheme; article 4, paragraph 1(b), of the ICTY Pension Scheme

(i) If there is only one eligible child, by one half of the amount of the pension that was being paid or would have been paid to the surviving spouse;

Article IV, paragraph 1(b)(i), of the ICJ Pension Scheme; article 4, paragraph 1(b)(i), of the ICTY Pension Scheme.

- (ii) If there are two or more eligible children, by the amount of the pension that was being paid or would have been paid to the surviving spouse.

Article IV, paragraph 1(b)(ii), of the ICJ Pension Scheme; article 4, paragraph 1(b)(ii), of the ICTY Pension Scheme.

- (c) The total child benefit payable under subparagraph (b) above shall be divided equally among all of the eligible children to determine the amount of any one child's benefit; as and when a child ceases to be eligible, the total benefit payable to the remainder shall be recalculated in accordance with subparagraph (b).

Article IV, paragraph 1(c), of the ICJ Pension Scheme; article 4, paragraph 1(c), of the ICTY Pension Scheme.

2. The total amount of child benefit, when added to the amount of any surviving spouse's benefit in payment, shall not exceed the pension that the judge or former judge received or would have received had he or she survived.

Article IV, paragraph 2, of the ICJ Pension Scheme; article 4, paragraph 2, of the ICTY Pension Scheme.

3. The age-limit noted in paragraph 1 above shall be waived if the child is incapacitated by illness or injury, and the benefit shall continue to be paid for as long as the child remains incapacitated.

Article IV, paragraph 3, of the ICJ Pension Scheme; article 4, paragraph 3, of the ICTY Pension Scheme.

Article V **Miscellaneous provisions**

1. Pensions provided for by the present regulations shall be calculated in terms of the currency in which the Assembly has fixed the remuneration of the judge concerned, namely euros.

Along the lines of article VI, paragraph 1, of the ICJ Pension Scheme.

2. The pension scheme provided for by these regulations shall be non-contributory and shall be a direct charge to the budget of the Court.

Part III.A, paragraph 5(a).

Appendix 3

Memorandum addressing the issue of disability and retirement pensions for the first judges of the Court

1. This memorandum addresses the issue of the entitlements of the first judges of the Court under the legal framework governing the conditions of service and compensation of judges of the International Criminal Court (“conditions of service”).
2. The attached draft of the conditions of service is intended to apply to all future judges elected in accordance with article 36, paragraph 9(a), of the Rome Statute. It is important to note that this document will therefore apply to judges who will be elected with full knowledge of the length of the term for which they are to be elected in accordance with article 37, paragraph 2, of the Rome Statute.
3. In contrast, the first judges of the Court face a unique situation: not only do their terms of office differ in length (one third serve for three years, one third for six years and one third for nine years in accordance with article 36, paragraph 9(b), of the Statute); in addition, the length of their respective terms of office was not known to the judges at the time of their election, as it was determined by a drawing of lots by the President of the Assembly of the States Parties (the Assembly) after the judges had been elected (resolution ICC-ASP/1/Res.2). Hence, a judge could not foresee whether he or she was going to serve for a period of three, six or nine years.
4. This situation results in inequalities in the entitlement of the first judges of the Court to (1) disability pension and (2) retirement pension.

I. Disability pension

5. The disability pension provision (article II of appendix 2), which is similar to the provision in the pension schemes of the International Court of Justice and the International Criminal Tribunal for the former Yugoslavia, sets out that the disability pension is based on the number of years of election. Therefore, a judge elected for nine years, who becomes disabled within his or her first year of office, would be entitled to a disability pension equal to nine years of service. On the other hand, a judge elected for three or six years, who also becomes disabled during his or her first year of office, would receive a disability pension equal to only three or six years of service, depending upon the number of years for which that judge was elected. Hence, disability pensions vary between thirty and ninety thousand euros.
6. To remedy this discrepancy, it is suggested that all judges elected at the first Assembly should be entitled to the same disability pension, regardless of the length of their term. It is proposed that the disability pension shall be one half of the annual remuneration, in accordance with article II of appendix 2 to the conditions of service and compensation of judges of the International Criminal Court. In order to be entitled to a disability pension, a judge must be declared to be unable to perform his or her duties because of permanent ill-health or disability following two medical opinions, one issued by a medical doctor designated by the Court and the other issued by a medical doctor of the judge’s choice, as provided for in article II, paragraph 2, of appendix 2 to the conditions of service.
7. It is therefore suggested that the Assembly adopt the following proposal:

“The first judges of the Court elected for a three- or six-year term shall be entitled to the same disability pension as the judges elected for a full nine-year term, in accordance with article II of appendix 2 to the conditions of service and compensation of judges of the International Criminal Court.”

II. Retirement pension

8. Paragraph 5(c) of Part III.A of document ICC-ASP/2/10, adopted by the Assembly during its second session in September 2003, states that judges are entitled to a retirement pension “provided the judge has served for at least three years”. While this regime does not raise any particular concerns for the first judges of the Court with a six- or nine-year term, it may result in inequitable treatment for the six judges elected for a three-year term. This is due to the fact that, although all judges are “elected as full-time members of the Court” (article 35, paragraph 1, of the Rome Statute), the Presidency must decide, on the basis of the workload, to what extent the judges are required to serve on a full-time basis (article 35, paragraph 3). During the build-up phase of the Court, the full-time service of most judges has, as a matter of fact, been delayed. As a result, five of the six judges with a three-year mandate will not have served for the full three years at the end of their term. If they are not re-elected, these judges would not be entitled to any retirement pension from the ICC as they would not have fulfilled the requirement of having served as full-time judges for at least three years as set forth in paragraph 5(c) of Part III.A.

9. It is therefore proposed that the requirement to have served on a full-time basis for three years should exceptionally be waived for the judges concerned. In relation to them, it is suggested that the retirement pension should be calculated on a pro rata basis in reference to the time served on a full-time basis during their term of office. This system follows the one that has already been put in place by the Assembly for the other judges and is reiterated in the draft proposal regarding conditions of service. The judges concerned would then be entitled to a retirement pension based on the time they have served on a full-time basis from their appointment by the Presidency pursuant to article 35, paragraph 3, of the Rome Statute. Hence, those judges who will have served on a full-time basis for a period of two years would receive twenty thousand euros, while those who have served on a full-time basis for one year would receive ten thousand euros

10. In this regard, it is suggested that the following proposal be adopted by the Assembly:

“The first judges of the Court elected for a three-year term, who have not served on a full-time basis during their entire term and who are not re-elected, shall be entitled to receive a retirement pension at the end of their term of office, pro rated to the length of time that they have served on a full-time basis, in accordance with article I of appendix 2 to the conditions of service and compensation of judges of the International Criminal Court.”

Annex II

Draft conditions of service and compensation of the Prosecutor and Deputy Prosecutors of the International Criminal Court

The conditions of service and compensation of the Prosecutor and Deputy Prosecutors embody the fundamental conditions of service of the Prosecutor and Deputy Prosecutors of the International Criminal Court (hereinafter: the “Court”), in accordance with articles 42 and 49 of the Rome Statute.

I. Use of terms

1. “The Prosecutor” shall mean the Prosecutor of the Court within the meaning of article 42 of the Rome Statute.
2. “Deputy Prosecutor” shall mean all the Deputy Prosecutors of the Court within the meaning of article 42 of the Rome Statute.
3. “Annual salary” shall mean, for the purpose of calculating the pension entitlement, the annual remuneration, exclusive of any allowances, fixed by the Assembly and received by the Prosecutor or a Deputy Prosecutor at the time he or she ceases to hold office.
4. “Spouse” shall be a partner by marriage recognized as valid under the law of the country of nationality of the Prosecutor or a Deputy Prosecutor or by legally recognized domestic partnership contracted by the Prosecutor or a Deputy Prosecutor under the law of the country of his or her nationality.

II. Residence of the Prosecutor or Deputy Prosecutor

1. The Prosecutor and Deputy Prosecutor shall take up residence in the Netherlands within sufficient proximity to the seat of the Court to be available to attend the Court at short notice in order to discharge their duties under the Rome Statute and the Rules of Procedure and Evidence.
2. Residence status is defined as the establishment, through acquisition or long-term lease, of a permanent residence, coupled with the declaration by the Prosecutor or Deputy Prosecutor concerned of resident status.

III. Emoluments

1. The annual remuneration of the Prosecutor shall be €150,000 net.
2. The annual remuneration of a Deputy Prosecutor shall be €135,000 net.

IV. Travel costs and subsistence benefits

1. The Prosecutor and Deputy Prosecutor shall be entitled to payment of travel expenses and subsistence benefits as set forth in the travel and subsistence regulations for the Prosecutor and Deputy Prosecutors of the International Criminal Court, attached as appendix 1 hereto.

V. Pension scheme

1. The Prosecutor and Deputy Prosecutor shall, upon retirement, be entitled to receive a pension as set forth in the pension scheme regulations for the Prosecutor and Deputy Prosecutors of the International Criminal Court, attached as appendix 2 hereto.

2. Pensions in payment shall be automatically revised by the same percentage and at the same date as remuneration adjustments.

VI. Surviving spouse's pension

1. Upon the death of the Prosecutor or a Deputy Prosecutor or a former Prosecutor or Deputy Prosecutor, the surviving spouse shall be entitled to a surviving spouse's pension as set forth in the pension scheme regulations for the Prosecutor and Deputy Prosecutors of the International Criminal Court, attached as appendix 2 hereto.

VII. Child benefit

1. Upon the death of the Prosecutor or a Deputy Prosecutor or a former Prosecutor or Deputy Prosecutor, his or her natural or legally adopted child shall be entitled to a child benefit as set forth in the pension scheme regulations for the Prosecutor and Deputy Prosecutors of the International Criminal Court, attached as appendix 2 hereto.

VIII. Survivor's benefit

1. In the event of the death of a the Prosecutor or a Deputy Prosecutor, eligible survivor(s), as defined in paragraph 2 below, shall be compensated in the form of a lump-sum payment equivalent to one month of base remuneration for each year of service, subject to a minimum payment equivalent to one month of base remuneration and a maximum of nine months of base remuneration.

2. For the purposes of paragraph 1 above, eligible survivor shall include the surviving spouse of the Prosecutor or a Deputy Prosecutor, provided that the spouse was married to the Prosecutor or Deputy Prosecutor at the date of the Prosecutor's or Deputy Prosecutor's death, and natural or legally adopted children of the deceased Prosecutor or Deputy Prosecutor who are unmarried and who have not reached the age of twenty-one (21) years as of the date of the Prosecutor's or Deputy Prosecutor's death.

IX. Education allowance

1. The Prosecutor or Deputy Prosecutor shall be entitled to an education grant for the benefit of his or her children equivalent to that applicable to United Nations officials.

X. Health insurance

1. The Prosecutor or Deputy Prosecutor shall be responsible for his or her own health insurance arrangements.

XI. Leave

1. Annual leave shall accrue to the Prosecutor or Deputy Prosecutor at the rate of eight (8) weeks a year.

2. Annual leave may be accumulated, provided that not more than eighteen (18) weeks of such leave shall be carried forward to the following year.

XII. Entry into force

1. The conditions of service and compensation of the Prosecutor and Deputy Prosecutors of the International Criminal Court, embodying the fundamental conditions of service of the Prosecutor and Deputy Prosecutors as set forth in this document, including its appendices, shall enter into force upon the adoption of this document by the Assembly.

XIII. Revisions

1. The conditions of service and compensation of the Prosecutor and Deputy Prosecutors of the International Criminal Court shall be reviewed by the Assembly concurrently with its review of the conditions of service and compensation of judges of the International Criminal Court.

Appendix 1

Draft travel and subsistence regulations for the Prosecutor and Deputy Prosecutors of the International Criminal Court

Article I Travel expenses

1. The Court shall pay, subject to the conditions of these regulations, the travel expenses of the Prosecutor and Deputy Prosecutor necessarily incurred on duly authorized journeys. The following shall be deemed to be duly authorized journeys by the Prosecutor and Deputy Prosecutors:

- (a) A trip from his or her declared home, at the time of appointment, to the seat of the Court, in connection with the transfer of his or her residence;
- (b) A round trip every second calendar year after the year of appointment from the seat of the Court to his or her declared home at the time of appointment;
- (c) Upon termination of his or her appointment, a trip from the seat of the Court to his or her declared home at the time of appointment, or to any other place provided that the cost of the journey is not greater than the cost of the trip to his or her declared home at the time of appointment;

Where the spouse and/or dependent children of the Prosecutor or a Deputy Prosecutor reside with him or her at the seat of the Court, the Court shall reimburse the travel expenses for trips undertaken in conjunction with (a), (b) and (c) of this paragraph;

- (d) Other journeys on official business of the Court.

2. In all cases, payment by the Court of travel expenses shall comprise the cost of trips actually undertaken, subject to the following maximum entitlements:

- (a) The cost of business-class travel, including the expenses normally associated with travel. The cost of transportation of baggage in excess of the weight or size carried free by transportation companies will not be allowable as an expense unless the excess is necessarily carried for official business reasons;
- (b) Travel shall be by the most cost-effective and time-efficient means and route.

Article II Subsistence allowances

1. A daily subsistence allowance shall be paid to the Prosecutor and Deputy Prosecutor while on official travel under article I, paragraph 1, subparagraphs (a), (c) and (d) of this appendix. The allowance will be regarded as covering all charges for meals, lodging, local transportation costs and gratuities, and other personal expenses.

2. The daily subsistence allowance will be payable under the conditions and at rates equivalent to the standard travel subsistence allowance rates for United Nations officials, as set forth in the Administrative Instruction regarding official travel for the Court. This rate will be reduced in the event that board and/or lodging are provided for. The allowance shall normally be payable in euros.

3. After an extended period of time in any one location, the daily subsistence allowance will be reduced in accordance with the United Nations common system.

4. Where the Prosecutor or a Deputy Prosecutor, undertaking an official journey under article I, paragraph 1, subparagraph (a), (b) or (c), of this appendix, is accompanied by a spouse and/or dependent children, a subsistence allowance of one half of the appropriate rate payable to the Prosecutor or Deputy Prosecutor concerned in respect of that journey will be payable for each dependant; where these dependants are travelling unaccompanied on an authorized journey, the full rate of subsistence allowance will be payable in respect of one adult and one half of that rate in respect of each other dependant.

Article III Removal and assignment

1. A Prosecutor or Deputy Prosecutor residing in the Netherlands in accordance with article II of the conditions of service and compensation of the Prosecutor and Deputy Prosecutors of the International Criminal Court shall be entitled to the following:

- (a) Removal costs of household goods and personal effects to the seat of the Court from his or her home equivalent to those applicable to United Nations officials at the Under-Secretary-General (USG) level and the Assistant Secretary-General (ASG) level respectively;
- (b) An assignment grant to cover relocation expenses, in accordance with terms and conditions equivalent to those applicable to United Nations officials at the USG level and the ASG level respectively;
- (c) Upon termination of appointment, removal costs of household goods and personal effects from the seat of the Court to his or her declared home at the time of appointment (or any other country where he or she may choose to have his or her residence if less expenditure is entailed).

Article IV Relocation upon completion of service

A Prosecutor or Deputy Prosecutor who has taken up and maintained residence at the seat of the Court for at least five (5) continuous years during service with the Court shall receive a lump sum equivalent to eighteen (18) weeks of annual net base remuneration upon completion of appointment and relocation outside the Netherlands. A Prosecutor or Deputy Prosecutor who has taken up and maintained residence at the seat of the Court for nine (9) continuous years or more during service with the Court shall receive the equivalent of twenty-four (24) weeks of annual net base remuneration upon completion of appointment and relocation outside the Netherlands.

Article V
Submission and payment of accounts

A detailed expense account must be rendered in support of each claim for reimbursement of travel expenses or subsistence allowance as soon as possible after completion of the travel or removal. The claims should show every item of expense, except where such expenses are covered by a subsistence allowance, and every advance drawn from any source of the Court, and must, as far as possible, be supported by receipts showing the service to which the payment is related. All expenses must be shown in the actual currency in which they were made and must be certified as having been necessarily and solely incurred in the discharge of the official business of the Court.

Appendix 2

Draft pension scheme regulations for the Prosecutor and Deputy Prosecutors of the International Criminal Court

Article I

Retirement pension

1. A Prosecutor or Deputy Prosecutor who has ceased to hold office and who has reached the age of sixty (60) shall be entitled during the remainder of his or her life, subject to paragraph 6 below, to a retirement pension payable monthly provided that he or she:
 - (a) Has completed at least three (3) years of service;
 - (b) Has not been required to relinquish his or her appointment for reasons other than the state of his or her health.
2. A Prosecutor or Deputy Prosecutor who has completed a full nine-year term shall be entitled to a retirement pension equal to half of his or her annual salary.
3. A proportional reduction shall be applied if a Prosecutor or Deputy Prosecutor has not completed a full nine-year term, provided that the Prosecutor or Deputy Prosecutor has served for at least three (3) years.
4. No additional pension shall be paid if the Prosecutor or Deputy Prosecutor has completed more than a full nine-year term. The same applies to a Prosecutor or Deputy Prosecutor who, prior or subsequent to his or her term as Prosecutor or Deputy Prosecutor, has served as a judge of the Court and to a Prosecutor who, prior or subsequent to his or her term as Prosecutor, has served as a Deputy Prosecutor.
5. A Prosecutor or Deputy Prosecutor who ceased to hold office before attaining the age of sixty (60) and who would be entitled to a retirement pension when he or she reached that age may elect to receive a pension from any date after the date on which he or she ceases to hold office. Should he or she so elect, the amount of such pension shall be that amount which has the same actuarial value as the retirement pension that would have been paid to him or her at the age of sixty (60).
6. No retirement pension shall be payable to a former Prosecutor or Deputy Prosecutor who has been re-elected to office until he or she again ceases to hold office. At that time, the amount of his or her pension shall be calculated on the basis of his or her total period of service and shall be subject to a reduction equal in actuarial value to the amount of any retirement pension paid to him or her before he or she reached the age of sixty (60).

Article II

Disability pension

1. A Prosecutor or Deputy Prosecutor found by the Bureau of the Assembly of State Parties (hereinafter: "the Bureau") to be unable to perform his or her duties because of permanent ill-health or disability shall be entitled upon leaving office to a disability pension payable monthly.

2. The decision whether a Prosecutor or Deputy Prosecutor is unable to perform his or her duties because of permanent ill-health or disability shall be based on two medical opinions, one issued by a medical doctor designated by the Bureau and the other issued by a medical doctor of the Prosecutor's or the Deputy Prosecutor's choice. In the event that the two opinions differ, a third medical opinion shall be obtained through a medical doctor mutually agreed upon by the Secretariat and the Prosecutor or Deputy Prosecutor.

3. The amount of the disability pension shall be equal to the amount of the retirement pension that would have been payable to the Prosecutor or the Deputy Prosecutor concerned had he or she, at the time of leaving office, completed the term for which he or she had been elected.

Article III **Surviving spouse's pension**

1. Upon the death of a married Prosecutor or Deputy Prosecutor who was entitled to a retirement pension, the surviving spouse, provided he or she was the spouse at the date that the former Prosecutor's or Deputy Prosecutor's service ended, shall be entitled to a surviving spouse's pension calculated as follows:

- (a) If the Prosecutor or Deputy Prosecutor had not begun, at the date of his or her death, to receive his or her retirement pension, the surviving spouse's pension shall amount to one half of the pension that would have been payable to the Prosecutor or Deputy Prosecutor under article I, paragraph 5, above, had the Prosecutor or Deputy Prosecutor commenced receiving such pension on the date of his or her death, provided that the surviving spouse's pension shall not be less than one twelfth of the annual salary;
- (b) If the Prosecutor or Deputy Prosecutor had begun to receive his or her retirement pension under article I, paragraph 5, above, before he or she reached the age of sixty (60), the surviving spouse's pension shall amount to one half of the amount of such pension, but shall not be less than one twelfth of the annual salary;
- (c) If the Prosecutor or Deputy Prosecutor had reached the age of sixty (60) when he or she began to receive his or her retirement pension, the surviving spouse's pension shall amount to one half of a Prosecutor's or Deputy Prosecutor's pension, but shall not be less than one sixth of the annual salary.

2. Upon the death of a married Prosecutor or Deputy Prosecutor, his or her surviving spouse shall be entitled to a surviving spouse's pension amounting to one half of the pension which a Prosecutor or a Deputy Prosecutor would have received had the Prosecutor or the Deputy Prosecutor become entitled to a disability pension at the time of his or her death, provided that the surviving spouse's pension shall not be less than one sixth of the annual salary.

3. Upon the death of a married former Prosecutor or Deputy Prosecutor who was in receipt of a disability pension, the surviving spouse, provided that he or she was the spouse at the date that the former Prosecutor's or the Deputy Prosecutor's service ended, shall be entitled to a surviving spouse's pension amounting to one half of the pension that the former Prosecutor or Deputy Prosecutor was receiving, provided that the surviving spouse's pension shall not be less than one sixth of the annual salary.

4. Upon remarriage, the surviving spouse's pension shall cease and the surviving spouse shall be granted a lump sum equal to twice the amount of his or her current annual benefit as final settlement.

Article IV Child benefit

1. Upon the death of a Prosecutor or Deputy Prosecutor or a former Prosecutor or Deputy Prosecutor, his or her natural or legally adopted child shall be entitled, while unmarried and under the age of twenty-one (21), to a benefit calculated as follows:

- (a) Where there is a surviving spouse entitled to a pension under article III above, the annual amount of the child benefit shall be:
 - (i) The equivalent of ten (10) per cent of the retirement pension that the Prosecutor or Deputy Prosecutor was receiving; or,
 - (ii) If the Prosecutor or Deputy Prosecutor had not begun, at the date of his or her death, to receive his or her retirement pension, ten (10) per cent of the pension that would have been payable to him or her under article I, paragraph 5, had he or she commenced to receive such pension at the date of his or her death; or,
 - (iii) In the case of the death of a Prosecutor or Deputy Prosecutor in office, ten (10) per cent of the pension that the Prosecutor or Deputy Prosecutor would have received had he or she qualified for a disability pension at the date of his or her death.

Provided, in all cases, that the amount of the child's benefit shall not exceed one thirty-sixth of the annual base salary;

- (b) Where there is no surviving spouse entitled to a pension under article III, or upon the death of the surviving spouse, the total amount of the child benefit payable under subparagraph (a) above shall be increased by the following amount:
 - (i) If there is only one eligible child, by one half of the amount of the pension that was being paid or would have been paid to the surviving spouse;
 - (ii) If there are two or more eligible children, by the amount of the pension that was being paid or would have been paid to the surviving spouse;
- (c) The total child benefit payable under subparagraph (b) above shall be divided equally among all of the eligible children to determine the amount of any one child's benefit; as and when a child ceases to be eligible, the total benefit payable to the remainder shall be recalculated in accordance with subparagraph (b).

2. The total amount of child benefit, when added to the amount of any surviving spouse's benefit in payment, shall not exceed the pension that the Prosecutor or Deputy Prosecutor or former Prosecutor or Deputy Prosecutor received or would have received had he or she survived.

3. The age-limit noted in paragraph 1 above shall be waived if the child is incapacitated by illness or injury, and the benefit shall continue to be paid for as long as the child remains incapacitated.

Article VI Miscellaneous provisions

1. Pensions provided for by the present regulations shall be calculated in terms of the currency in which the Assembly has fixed the remuneration of the Prosecutor or Deputy Prosecutor concerned, namely euros.

2. The pension scheme provided for by these regulations shall be non-contributory and shall be a direct charge to the budget of the Court.

Annex III

Draft conditions of service and compensation of the Registrar of the International Criminal Court¹

The conditions of service and compensation of the Registrar embody the fundamental conditions of service of the Registrar of the International Criminal Court (hereinafter: the “Court”), in accordance with articles 43 and 49 of the Rome Statute.

I. Use of terms

1. “The Registrar” shall mean the Registrar of the Court within the meaning of article 43 of the Rome Statute.
2. “Annual salary” shall mean, for the purpose of calculating the pension entitlement, the annual remuneration, exclusive of any allowances, fixed by the Assembly and received by the Registrar at the time he or she ceases to hold office.
3. “Spouse” shall be a partner by marriage recognized as valid under the law of the country of nationality of the Registrar or by legally recognized domestic partnership contracted by the Registrar under the law of the country of his or her nationality.

II. Residence of the Registrar

1. The Registrar shall take up residence in the Netherlands within sufficient proximity to the seat of the Court to be available to attend the Court at short notice in order to discharge his or her duties under the Rome Statute and the Rules of Procedure and Evidence.
2. Residence status is defined as the establishment, through acquisition or long-term lease, of a permanent residence, coupled with the declaration by the Registrar of resident status.

III. Emoluments

1. The annual remuneration of the Registrar shall be €135,000 net.

IV. Travel costs and subsistence benefits

1. The Registrar shall be entitled to payment of travel expenses and subsistence benefits as set forth in the travel and subsistence regulations for the Registrar of the International Criminal Court, attached as appendix 1 hereto.

¹ This document does not address the conditions of service of the Deputy Registrar for two reasons: first, the post of Deputy Registrar is not envisaged in the 2005 budget, second, the Rome Statute and the Rules of Procedure and Evidence of the Court do not specify the duration of the term of office of the Deputy Registrar nor do they regulate whether he or she can be re-elected. It is therefore not possible to calculate the pension entitlements for the Deputy Registrar at this stage.

V. Pension scheme

1. The Registrar shall, upon retirement, be entitled to receive a pension as set forth in the pension scheme regulations for the Registrar of the International Criminal Court, attached as appendix 2 hereto.
2. Pensions in payment shall be automatically revised by the same percentage and at the same date as remuneration adjustments.

VI. Surviving spouse's pension

1. Upon the death of the Registrar or a former Registrar, the surviving spouse shall be entitled to a surviving spouse's pension as set forth in the pension scheme regulations for the Registrar of the International Criminal Court, attached as appendix 2 hereto.

VII. Child benefit

1. Upon the death of the Registrar or a former Registrar, his or her natural or legally adopted child shall be entitled to a child benefit as set forth in the pension scheme regulations for the Registrar of the International Criminal Court, attached as appendix 2 hereto.

VIII. Survivor's benefit

1. In the event of the death of a the Registrar, eligible survivor(s), as defined in paragraph 2 below, shall be compensated in the form of a lump-sum payment equivalent to one month of base remuneration for each year of service, subject to a minimum payment equivalent to one month of base remuneration and a maximum of nine months of base remuneration.
2. For the purposes of paragraph 1 above, eligible survivor shall include the surviving spouse of the Registrar, provided that the spouse was married to the Registrar at the date of the Registrar's death, and natural or legally adopted children of the deceased Registrar who are unmarried and who have not reached the age of twenty-one (21) years as of the date of the Registrar's death.

IX. Education allowance

1. The Registrar shall be entitled to an education grant for the benefit of his or her children equivalent to that applicable to United Nations officials.

X. Health insurance

1. The Registrar shall be responsible for his or her own health insurance arrangements.

XI. Leave

1. Annual leave shall accrue to the Registrar at the rate of eight (8) weeks a year.
2. Annual leave may be accumulated, provided that not more than eighteen (18) weeks of such leave shall be carried forward to the following year.

XII. Entry into force

1. The conditions of service and compensation of the Registrar of the International Criminal Court, embodying the fundamental conditions of service of the Registrar as set forth in this document, including its appendices, shall enter into force upon the adoption of this document by the Assembly.

XIII. Revisions

1. The Conditions of Service of the Registrar of the International Criminal Court shall be reviewed by the Assembly concurrently with its review of the conditions of service and compensation of judges of the International Criminal Court.

Appendix 1

Draft travel and subsistence regulations for the Registrar of the International Criminal Court

Article I Travel expenses

1. The Court shall pay, subject to the conditions of these regulations, the travel expenses of the Registrar necessarily incurred on duly authorized journeys. The following shall be deemed to be duly authorized journeys by the Registrar:

- (a) A trip from his or her declared home, at the time of appointment, to the seat of the Court, in connection with the transfer of his or her residence;
- (b) A round trip every second calendar year after the year of appointment from the seat of the Court to his or her declared home at the time of appointment;
- (c) Upon termination of his or her appointment, a trip from the seat of the Court to his or her declared home at the time of appointment, or to any other place provided that the cost of the journey is not greater than the cost of the trip to his or her declared home at the time of appointment;

Where the spouse and/or dependent children of the Registrar reside with him or her at the seat of the Court, the Court shall reimburse the travel expenses for trips undertaken in conjunction with (a), (b) and (c) of this paragraph;

- (d) Other journeys on official business of the Court.

2. In all cases, payment by the Court of travel expenses shall comprise the cost of trips actually undertaken, subject to the following maximum entitlements:

- (a) The cost of business-class travel, including the expenses normally associated with travel. The cost of transportation of baggage in excess of the weight or size carried free by transportation companies will not be allowable as an expense unless the excess is necessarily carried for official business reasons;
- (b) Travel shall be by the most cost-effective and time-efficient means and route.

Article II Subsistence allowances

1. A daily subsistence allowance shall be paid to the Registrar while on official travel under article I, paragraph 1, subparagraphs (a), (c) and (d) of this appendix. The allowance will be regarded as covering all charges for meals, lodging, local transportation costs and gratuities, and other personal expenses.

2. The daily subsistence allowance will be payable under the conditions and at rates equivalent to the standard travel subsistence allowance rates for United Nations officials, as set forth in the Administrative Instruction regarding official travel for the Court. This rate will be reduced in the event that board and/or lodging are provided for. The allowance shall normally be payable in euros.

3. After an extended period of time in any one location, the daily subsistence allowance will be reduced in accordance with the United Nations common system.

4. Where the Registrar, undertaking an official journey under article I, paragraph 1, subparagraph (a), (b) or (c) of this appendix, is accompanied by a spouse and/or dependent children, a subsistence allowance of one half of the appropriate rate payable to the Registrar concerned in respect of that journey will be payable for each dependant; where these dependants are travelling unaccompanied on an authorized journey, the full rate of subsistence allowance will be payable in respect of one adult and one half of that rate in respect of each other dependant.

Article III Removal and assignment

1. A Registrar residing in the Netherlands in accordance with article II of the conditions of service and compensation of the Registrar of the International Criminal Court shall be entitled to the following:

- (a) Removal costs of household goods and personal effects to the seat of the Court from his or her home equivalent to those applicable to United Nations officials at the Assistant Secretary-General (ASG) level;
- (b) An assignment grant to cover relocation expenses, in accordance with terms and conditions equivalent to those applicable to United Nations officials at the ASG level;
- (c) Upon termination of appointment, removal costs of household goods and personal effects from the seat of the Court to his or her declared home at the time of appointment (or any other country where he or she may choose to have his or her residence if less expenditure is entailed).

Article IV Relocation upon completion of service

A Registrar who has taken up and maintained residence at the seat of the Court for at least five (5) continuous years during service with the Court shall receive a lump sum equivalent to eighteen (18) weeks of annual net base remuneration upon completion of appointment and relocation outside the Netherlands. A Registrar who has taken up and maintained residence at the seat of the Court for nine (9) continuous years or more during service with the Court shall receive the equivalent of twenty-four (24) weeks of annual net base remuneration upon completion of appointment and relocation outside the Netherlands.

Article V Submission and payment of accounts

A detailed expense account must be rendered in support of each claim for reimbursement of travel expenses or subsistence allowance as soon as possible after completion of the travel or removal. The claims should show every item of expense, except where such expenses are covered by a subsistence allowance, and every advance drawn from any source of the Court, and must, as far as possible, be supported by receipts showing the service to which the payment is related. All expenses must be shown in the actual currency in which they were made and must be certified as having been necessarily and solely incurred in the discharge of the official business of the Court.

Appendix 2

Draft pension scheme regulations for the Registrar of the International Criminal Court

Article I Retirement pension

1. A Registrar who has ceased to hold office and who has reached the age of sixty (60) shall be entitled during the remainder of his or her life, subject to paragraph 6 below, to a retirement pension payable monthly provided that he or she:

- (a) Has completed at least three (3) years of service;
- (b) Has not been required to relinquish his or her appointment for reasons other than the state of his or her health.

2. A Registrar who has completed a full five-year term shall be entitled to a retirement pension equal to five eighteenthths (5/18) of his or her annual salary.²

3. If a Registrar is re-elected, he or she shall be entitled to two forty-fifths (2/45) of his or her annual salary³ for every additional year served as Registrar up to a maximum retirement pension amounting to one half of his or her annual salary. No additional pension shall be paid if the Registrar has completed more than ten years of service.

4. A proportional reduction shall be applied if a Registrar has not completed a full five-year term, provided that the Registrar has served for at least three (3) years.

5. A Registrar who ceases to hold office before attaining the age of sixty (60) and who would be entitled to a retirement pension when he or she reached that age may elect to receive a pension from any date after the date on which he or she ceases to hold office. Should he or she so elect, the amount of such pension shall be that amount which has the same actuarial value as the retirement pension that would have been paid to him or her at the age of sixty (60).

² The pension of the Registrar has been established based on the calculation of the pension of the judges of the Court taking into consideration the difference in length of terms (5 year term of the Registrar versus 9 year term of the judges). Judges receive as a retirement pension one half of their annual salary after having served a full nine-year term. The Registrar should therefore receive five ninthths (5/9) of half of his or her annual salary which is equal to five eighteenthths (5/18) of his or her annual salary after having served a full term of five years.

³ If the Registrar is re-elected, he or she should have the right to increase his or her retirement pension up to the maximum of half of his or her salary. Judges receive the maximum retirement pension equal to half of their annual salary after they have served one full term, i.e. 9 years. Consequently, it appears to be reasonable to grant to the Registrar, after he or she has served a full second term, i.e. 10 years in total, the maximum retirement pension equal to half of his or her annual salary. Based on the fact that he or she is entitled to five eighteenthths (5/18) of his or her annual salary, the remaining four eighteenthths (4/18) (adding up to nine eighteenthths (9/18) of the annual salary which is half of the annual salary) shall be acquired incrementally during the 5 years of the second term. The annual increment during the second term therefore amounts to two forty-fifths (2/45) of the annual salary ($4/18 \times 1/5 = 4/90 = 2/45$).

6. No retirement pension shall be payable to a former Registrar who has been re-elected to office until he or she again ceases to hold office. At that time, the amount of his or her pension shall be calculated on the basis of his or her total period of service and shall be subject to a reduction equal in actuarial value to the amount of any retirement pension paid to him or her before he or she reached the age of sixty (60).

Article II Disability pension

1. A Registrar found by the Presidency of the Court to be unable to perform his or her duties because of permanent ill-health or disability shall be entitled upon leaving office to a disability pension payable monthly.

2. The decision whether a Registrar is unable to perform his or her duties because of permanent ill-health or disability shall be based on two medical opinions, one issued by a medical doctor designated by the Presidency and the other issued by a medical doctor of the Registrar's choice. In the event that the two opinions differ, a third medical opinion shall be obtained through a medical doctor mutually agreed upon by the Presidency and the Registrar.

3. The amount of the disability pension shall be equal to the amount of the retirement pension that would have been payable to the Registrar concerned had he or she, at the time of leaving office, completed the term for which he or she had been elected.

Article III Surviving spouse's pension

1. Upon the death of a married Registrar who was entitled to a retirement pension, the surviving spouse, provided he or she was the spouse at the date that the former Registrar's service ended, shall be entitled to a surviving spouse's pension calculated as follows:

- (a) If the Registrar had not begun, at the date of his or her death, to receive his or her retirement pension, the surviving spouse's pension shall amount to one half of the pension that would have been payable to the Registrar under article I, paragraph 5, above, had the Registrar commenced receiving such pension on the date of his or her death, provided that the surviving spouse's pension shall not be less than one twelfth of the annual salary;
- (b) If the Registrar had begun to receive his or her retirement pension under article I, paragraph 5, above, before he or she reached the age of sixty (60), the surviving spouse's pension shall amount to one half of the amount of such pension, but shall not be less than one twelfth of the annual salary;
- (c) If the Registrar had reached the age of sixty (60) when he or she began to receive his or her retirement pension, the surviving spouse's pension shall amount to one half of a Registrar's pension, but shall not be less than one sixth of the annual salary.

2. Upon the death of a married Registrar, his or her surviving spouse shall be entitled to a surviving spouse's pension amounting to one half of the pension that a Registrar would have received had the Registrar become entitled to a disability pension at the time of his or her death, provided that the surviving spouse's pension shall not be less than one sixth of the annual salary.

3. Upon the death of a married former Registrar who was in receipt of a disability pension, the surviving spouse, provided he or she was the spouse at the date that the former Registrar's service ended, shall be entitled to a surviving spouse's pension amounting to one half of the pension that the former Registrar was receiving, provided that the surviving spouse's pension shall not be less than one sixth of the annual salary.

4. Upon remarriage, the surviving spouse's pension shall cease and the surviving spouse shall be granted a lump sum equal to twice the amount of his or her current annual benefit as final settlement.

Article IV Child benefit

1. Upon the death of a Registrar or former Registrar, his or her natural or legally adopted child shall be entitled, while unmarried and under the age of twenty-one (21), to a benefit calculated as follows:

- (a) Where there is a surviving spouse entitled to a pension under article III above, the annual amount of the child benefit shall be:
 - (i) The equivalent of ten (10) per cent of the retirement pension that the Registrar was receiving; or,
 - (ii) If the Registrar had not begun, at the date of his or her death, to receive his or her retirement pension, ten (10) per cent of the pension that would have been payable to him or her under article I, paragraph 5, had he or she commenced to receive such pension at the date of his or her death; or,
 - (iii) In the case of the death of a Registrar in office, ten (10) per cent of the pension that the Registrar would have received had he or she qualified for a disability pension at the date of his or her death;

Provided, in all cases, that the amount of the child's benefit shall not exceed one thirty-sixth of the annual base salary;

- (b) Where there is no surviving spouse entitled to a pension under article III, or upon the death of the surviving spouse, the total amount of the child benefit payable under subparagraph (a) above shall be increased by the following amount:
 - (i) If there is only one eligible child, by one half of the amount of the pension that was being paid or would have been paid to the surviving spouse;
 - (ii) If there are two or more eligible children, by the amount of the pension that was being paid or would have been paid to the surviving spouse;
- (c) The total child benefit payable under subparagraph (b) above shall be divided equally among all of the eligible children to determine the amount of any one child's benefit; as and when a child ceases to be eligible, the total benefit payable to the remainder shall be recalculated in accordance with subparagraph (b).

2. The total amount of child benefit, when added to the amount of any surviving spouse's benefit in payment, shall not exceed the pension that the Registrar or former Registrar received or would have received had he or she survived.

3. The age-limit noted in paragraph 1 above shall be waived if the child is incapacitated by illness or injury, and the benefit shall continue to be paid for as long as the child remains incapacitated.

Article VI
Miscellaneous provisions

1. Pensions provided for by the present regulations shall be calculated in terms of the currency in which the Assembly has fixed the remuneration of the Registrar concerned, namely euros.
2. The pension scheme provided for by these regulations shall be non-contributory and shall be a direct charge to the budget of the Court.

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