
Fourth session

The Hague

28 November to 3 December 2005

**Report of the Bureau on the draft Regulations
of the Trust Fund for Victims**

Note by the Secretariat

Pursuant to operative paragraph 6 of resolution ICC-ASP/3/Res.7 of 10 September 2004, the Bureau of the Assembly of States Parties hereby submits the report on the draft Regulations of the Trust Fund for Victims for consideration by the Assembly. The attached report reflects the outcome of the informal consultations held by the New York Working Group of the Bureau.

Report of the Bureau on the draft Regulations of the Trust Fund for Victims

1. At its third session, the Assembly of States Parties to the Rome Statute of the International Criminal Court (the Assembly) took the following decision in relation to the draft Regulations of the Trust Fund for Victims:

“6. *Requests* the Bureau, in view of the urgency of the matter, to consider further the draft Regulations prepared by the Board of Directors, through an appropriate mechanism and in consultation with the States Parties and the Board of Directors, and to determine criteria for the management of the Trust Fund pursuant to article 79, paragraph 3, of the Rome Statute for adoption by the Assembly of States Parties at its fourth session, and *invites* States Parties to submit their comments thereon;”¹

2. Pursuant to operative paragraph 11 of resolution ICC-ASP/3/Res.3, the Secretariat sent note ICC-ASP/3/S/8 of 5 November 2004 to States Parties, inviting them to submit comments to the Bureau by 30 January 2005.

3. In December 2004, the Bureau of the Assembly decided to establish two working groups, one in The Hague and the other in New York, in accordance with resolution ICC-ASP/3/Res.8, adopted by the Assembly at its third session.² The Coordinator of the Working Group in New York, H.E. Ambassador Allieu Ibrahim Kanu (Sierra Leone), subsequently appointed a facilitator to facilitate discussion of the issue of the draft Regulations of the Trust Fund for Victims, which had been allocated to the Working Group.

4. The Working Group held meetings on 4 and 5 May and on 3 and 4 August 2005, in accordance with the terms of reference for the working groups adopted by the Bureau on 1 December 2004. The Working Group was composed of States Parties and those States which had expressed an interest in participating. In addition, the Registrar of the Court sent a representative to be present at the meetings.

5. In carrying out its mandate, the Working Group relied on the written observations submitted to the Bureau by States Parties, written proposals submitted informally to the Working Group and the oral interventions of the various participants in the meetings. Issues still under consideration or those agreed to provisionally have been retained in the text of the draft Regulations as proposed amendments or options. Although the desirability for some restructuring of the draft Regulations in order to group related issues was discussed, the Working Group agreed to defer consideration of the structure until the major outstanding issues are resolved. These issues on which States hold divergent views include, inter alia, the possibility of earmarking funds contributed to the Trust Fund (draft regulations 30 and 31), as well as on the use of funds and the trigger of the Trust Fund (draft regulations 51 and 53), including the role to be assigned to the Board of Directors and the Court in this regard.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6-10 September 2004* (International Criminal Court publication, ICC-ASP/3/25), part. III, resolution ICC-ASP/3/Res.7.

² *Ibid.*, resolution ICC-ASP/3/Res.8.

6. The Bureau submits herewith the text of the draft Regulations, as received from the facilitator of the New York Working Group. As previously indicated, the draft text contains proposed amendments and deletions and therefore still requires a considerable amount of refinement, including as regards its structure and presentation. Accordingly, the Bureau recommends that the Assembly establish a working group during its fourth session with a view to finalizing an amended version of the draft Regulations for adoption by the Assembly. It is the understanding of the Bureau that delegations interested in having their proposals discussed at the fourth session would submit them directly to the Secretariat, preferably prior to the beginning of the session.

Annex

Draft Regulations of the Trust Fund for Victims

PART I MANAGEMENT AND OVERSIGHT OF THE TRUST FUND

[CHAPTER before I OBJECTIVES]

[.....]

CHAPTER I THE BOARD OF DIRECTORS

Section I Election of a Chair of the Board of Directors

1. A Chair shall be elected by an absolute majority of the members of the Board of Directors. The Chair shall serve until the end of his/her respective term as Board member. He/she shall be eligible for re-election as Chair once. If the Chair finds it necessary to be absent during a meeting or any part thereof, he/she may designate another Board member to take his/her place. If the Chair is unable to perform his/her functions, a new Chair shall be elected for the unexpired term.
2. The Chair shall be responsible for coordinating the work of the Board of Directors.

Section II Meetings

3. The Board of Directors shall meet in regular session at least once a year at the seat of the Court.
4. The Board may hold special sessions when circumstances so require, and the Chair shall fix the date of commencement, the duration and the location of each such special session. Special sessions may be held in person, or by telephone, web or video conferencing.
5. The Chair shall determine the provisional agenda for the regular and special sessions of the Board. The Chair may receive suggestions for agenda items from other members of the Board, the Bureau of the Assembly of States Parties, the President of the Court, the Prosecutor and the Registrar. Any item proposed for inclusion in the agenda shall be accompanied by an explanatory memorandum and, if possible, by basic documents or by a draft decision. All materials shall be distributed to members of the Board sufficiently in advance and, where possible, at least one month in advance of the session. The provisional agenda for any session shall be submitted for consideration and adoption to the Board of Directors at the commencement of that session.
6. The Chair shall preside over each session.

7. The Registrar may participate in sessions of the Board in an advisory capacity. Members of the Trust Fund Secretariat may attend sessions of the Board.
8. The Board of Directors may invite others with relevant expertise to participate, as appropriate, in specified sessions of the Board and to make oral or written statements and provide information on any question under consideration.
9. As a general rule, sessions of the Board of Directors shall **meet** in **[open] [closed] session** unless **it** decides otherwise **[when discussing matters of a confidential nature, including those related to the circumstances of victims, in which case the Board may meet in closed session]**. Decisions **and minutes** of the Board of Directors shall be made public, subject to confidentiality, and shall be communicated **to the Court and to interested States, to implementing partners as appropriate and**, to the extent possible, to beneficiaries. At the close of a meeting of the Board of Directors, the Chair may issue a communiqué through its Secretariat or the Registry, as appropriate.
10. For the purposes of these Regulations, all participating Board members shall be considered present during telephone, web or video conferences. Moreover, an electronic signature may be used to sign a document or agreement.
11. The working languages of the Board of Directors shall be English and French. The Board may decide that one of the other working languages of the Assembly of States Parties may be used where that language is understood and spoken by the majority of persons concerned and where its use would facilitate the proceedings of the Board.

Section III

Decisions of the Board of Directors

12. Decisions of the Board of Directors shall be taken in regular or special sessions, in person as well as by telephone, web or video conferencing.
13. Every effort shall be made to reach decisions by consensus. If consensus cannot be reached, all decisions must be approved by a majority of the voting members representing a majority of the members of the Board. **The five members of the Board shall have one vote each. A majority of the members of the Board shall be required for any decision to be taken.**
14. If necessary, the Chair shall take provisional decisions **of an administrative nature** between sessions in consultation with the Secretariat. Subsequently, the Chair shall submit the decision(s) to the Board for their approval in accordance with the procedures stipulated in paragraph 13 above.
15. The Board of Directors may adopt such additional administrative procedures as are necessary to implement these Regulations.

Section IV

Costs of the Board of Directors

16. Members of the Board of Directors shall act in their personal capacity on a pro bono basis.
17. [Expenses of the Board of Directors shall be paid from the funds of the Court.] **[delete language on financing of VTF and its Secretariat, in Rules 17 and 22]**

CHAPTER II THE SECRETARIAT

Section I Seat and establishment

18. The Secretariat shall be responsible for the day-to-day administration of the Trust Fund and for providing such assistance as is necessary for the proper functioning of the Board in carrying out its tasks, including the preparation of draft agendas for meetings of the Board.

~~19. The Secretariat shall be established in accordance with paragraph 6 of the annex to the resolution of the Assembly of States Parties relating to the establishment of a fund for the benefit of victims of crimes within the jurisdiction of the Court, as defined in rule 85, and, where natural persons are concerned, their families. (to be replaced by a reference to ICC/ASP/3/Res.7, by which the VTF Secretariat was founded. Regulations 18 and 19 should therefore be merged.)~~

Section II Reporting of the Secretariat

20. The Secretariat shall provide periodic reports to the Board on its activities.

21. **[Bearing in mind the independence of the Secretariat]**, it shall consult the Registrar on all administrative and legal matters for which it has received the assistance of the Registry.

Section III Costs of the Secretariat

22. [The base costs of the Secretariat shall be borne by the Court. If the Assembly of States Parties decides to create an expanded capacity, including the appointment of an Executive Director, the Assembly of States Parties may consider attributing the costs of this expansion to the voluntary contributions accruing to the Trust Fund. – *see Note at the end of Rule 17*]

PART II RECEIPT OF FUNDS

CHAPTER I PRIMARY CONSIDERATIONS

23. The Board of Directors shall ensure, through a variety of means, publicity regarding the Trust Fund and the plight of victims of crimes within the jurisdiction of the Court, as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families.

24. The Trust Fund shall be funded by:

- (a) Voluntary contributions from governments, international organizations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties;

- (b) Money and other property collected through fines or forfeiture transferred to the Trust Fund as ordered by the Court pursuant to article 79, paragraph 2, of the Rome Statute (“the Statute”);
- (c) Resources collected through awards for reparations if ordered by the Court pursuant to rule 98 of the Rules of Procedure and Evidence;
- (d) Such resources, other than assessed contributions, as the Assembly of States Parties may decide to allocate to the Trust Fund.] *[this Rule should be formulated along the lines of the Rome Statute and the RPE]*

CHAPTER II VOLUNTARY CONTRIBUTIONS

25. The Board, as part of its annual report to the Assembly of States Parties on the activities and projects of the Trust Fund, shall present an annual appeal for voluntary contributions to the Trust Fund.

26. The Board, with the support of the Secretariat, shall establish contact with governments, international organizations, individuals, corporations and other entities to solicit voluntary contributions to the Trust Fund.

27. The Board shall adopt guidelines on how to solicit financial contributions from private institutions.

28. The Trust Fund shall take receipt of all voluntary contributions from sources stipulated in resolution 6, paragraph 2(a), and shall note the sources and amounts received.

29. The Board shall establish mechanisms that will facilitate the verification of the sources of funds received by the Trust Fund.

30. The Trust Fund shall refuse voluntary contributions

[a] which are deemed to be in any way inconsistent with the goals and activities of the Trust Fund;

[b] **which are deemed to be earmarked in a manner inconsistent with Rule 31. Before refusing such a contribution, the Trust Fund/Board of Directors may seek a decision by the donor to withdraw the earmarking or to change it in an acceptable manner.]**

(In case of amendment, Rule 30 to be placed after Rule 31)

31. Voluntary contributions may be ~~partially~~ earmarked by the donor **[for a Trust Fund activity or project]** so long as the allocation, as requested by the donor,

[a] benefits victims as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families;

[b] **is not discriminatory on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or other origin, property, birth or other status, and**

- c) **does not lead to a manifestly inequitable distribution of available funds between different groups of victims.]**

32. In the event that a voluntary contribution is earmarked and the related purpose cannot be achieved, the Board shall allocate the contribution to its General Account subject to the agreement of the donor.

33. The Board shall regularly review the nature and level of voluntary contributions in order to ensure that no such allocation would result in a manifestly inequitable distribution of available funds and property among the different groups of victims. To accomplish this, the Board may adopt specific measures allowing for a more equitable distribution of funds among groups of victims.

CHAPTER III MONEY AND OTHER PROPERTY COLLECTED THROUGH FINES OR FORFEITURE

34. The Board of Directors shall, at the request of the Chamber pursuant to rule 148 of the Rules of Procedure and Evidence, make written or oral observations on the transfer of fines or forfeitures to the Trust Fund.

35. The Board shall, at the request of the Presidency, submit written or oral observations on the disposition or allocation of property or assets in accordance with rule 221 of the Rules of Procedure and Evidence.

36. The Trust Fund shall take receipt of all money and other property collected through fines or forfeiture that is transferred, by order of the Court, to the Trust Fund.

CHAPTER IV RESOURCES COLLECTED THROUGH AWARDS FOR REPARATIONS

37. The Trust Fund shall take receipt of resources collected through awards for reparations and shall separate such resources from the remaining resources of the Trust Fund in accordance with rule 98 of the Rules of Procedure and Evidence. It shall note the sources and amounts received, together with any stipulations contained in the order of the Court as to the use of the funds.

CHAPTER V RESOURCES ALLOCATED BY THE ASSEMBLY OF STATES PARTIES

38. In its annual report to the Assembly, the Board of Directors may make suggestions of financial or other contributions, other than assessed contributions, that the Assembly of States Parties may allocate to the Trust Fund.

39. Where no such stipulation has been made by the Assembly of States Parties as to the uses of the financial or other contributions other than assessed contributions, the Trust Fund may allocate these contributions to its General Account for the benefit of victims, as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families.

CHAPTER VI
OPERATIONAL ISSUES REGARDING THE
RECEIPT OF FUNDS

40. Bank account(s) of the Trust Fund shall be opened in conformity with rule 108(1) of the Financial Regulations and Rules.
41. The accounting system of the Trust Fund shall allow for the separation of funds to facilitate the receipt of earmarked contributions, money and other property collected through fines or forfeiture transferred by the Court where the Court has stipulated particular usages, or resources collected through awards for reparations.
42. A computer tracking system shall be established to enable tracking of, inter alia:
- (a) The sources of funds received as stipulated in resolution 6, paragraph 2, including the name of the donor, the location, the region, the date and the amount of the contribution;
 - (b) All requests for earmarked contributions, including the nature of the request, and what was ultimately agreed upon and received;
 - (c) All pledges received, the date and nature of the pledge, any follow-up by the Court, and the date on which funds were actually received;
 - (d) Separation of funds within the Trust Fund on the basis of categories of restrictions on use and on the basis of actual restrictions;
 - (e) All resources that have been attributed by the Trust Fund, sorted by sources of funds, by the nature of the attribution, and by beneficiary(ies);
 - (f) Receipt by beneficiaries of all attributed resources, by the date of the award, by the date of receipt by the beneficiary, where possible, or by the date of payment by the donor;
 - (g) All resources that have been attributed by way of grants to organizations. A programme that is separate but linked to the main system will monitor by grantee: the beneficiary group, the object of the grant, the amount of the grant, obligations under the grant contract, reporting deadlines, verification of completion and the accomplishment of results.
43. The Secretariat shall take receipt of resources that the Assembly of States Parties may decide to allocate to the Trust Fund. It shall note the sources and amounts received, together with any stipulations contained as to the use of the funds.
44. The Board of Directors shall advise the Court of any difficulties or delays in the receipt of funds.

PART III
THE ACTIVITIES AND PROJECTS OF THE TRUST FUND

CHAPTER I
USE OF FUNDS

Section I
Beneficiaries

45. The resources of the Trust Fund shall be for the benefit of victims of crimes within the jurisdiction of the Court, as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families[, **irrespective of the participation of the victim in the Court proceedings or his testimony before the Court**].

Section II
*Resources collected through fines or forfeiture
and awards for reparations*

46. When resources collected through fines or forfeiture or awards for reparations are transferred to the Trust Fund pursuant to article 75, paragraph 2, or article 79, paragraph 2, of the Statute or rule 98, sub-rules 2-4, of the Rules of Procedure and Evidence, the Board of Directors shall determine the uses of such resources in accordance with any stipulations or instructions contained in such orders, in particular on the scope of beneficiaries and the nature and amount of the award(s).

47. Where no further stipulations or instructions accompany the orders, the Board of Directors may determine the uses of such resources in accordance with rule 98 of the Rules of Procedure and Evidence, taking into account any relevant decisions issued by the Court on the case at issue and, in particular, decisions issued pursuant to article 75, paragraph 1, of the Statute and rule 97 of the Rules of Procedure and Evidence.

48. The Board of Directors may seek further instructions from the relevant Chamber on the implementation of its orders.

49. Resources collected through awards for reparations may only benefit victims as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families, affected directly or indirectly by the crimes committed by the convicted person.

Section III
Other resources of the Trust Fund

50. For the purpose of these regulations, “other resources of the Trust Fund” set out in of rule 98, paragraph 5, of the Rules of Procedure and Evidence refers to resources other than those collected from awards for reparations, fines and forfeitures.

51. Other resources of the Trust Fund shall be used to benefit victims of crimes as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families, who have suffered physical, psychological and/or material harm as a result of these crimes:

- (a) To complement resources collected through awards for reparations, where the Court has made an order directly against a convicted person in accordance

with article 75, paragraph 2, of the Statute and rule 98, sub-rules 1-4, of the Rules of Procedure and Evidence;

- (b) [**Alternative 1:** To provide for physical or psychological rehabilitation or material support where the Pre-Trial Chamber has authorized the commencement of an investigation in accordance with article 15, paragraph 3, and article 53 of the Statute, or where a situation has been referred to the Prosecutor by a State Party or the Security Council and the Prosecutor decides to initiate an investigation in accordance with article 53 of the Statute. The Board of Directors will determine the applicability of this provision.]

[**Alternative 2:** To provide for {reparation, including} physical or psychological rehabilitation or material support where the Pre-Trial Chamber has issued, on the application of the Prosecutor and in conformity with article 58 of the Statute, a warrant of arrest of a person that is believed on reasonable grounds to have committed a crime within the jurisdiction of the Court.]

[**Alternative 3:** mirroring the language of Rule 53, Alternative 3]

[**Alternative 4:** delete]

- (c) [To provide for physical or psychological rehabilitation or material support, in exceptional circumstances, where the situation or the case is not being investigated or prosecuted by the Court because it is or has been investigated or prosecuted by a State which has jurisdiction over it in accordance with article 17 of the Statute or when a situation or case is not being investigated or prosecuted for reasons described in articles 53, paragraph 1(c) or 2(c). The Board of Directors will make a request to the Pre-Trial Chamber to determine the applicability of this provision, taking into account the situation of victims and the existence (or lack) of national or international programmes for the benefit of victims and their family members.] *[delete]*

CHAPTER II IMPLEMENTATION OF THE ACTIVITIES AND PROJECTS OF THE TRUST FUND

Section I General principles

[x. If not otherwise ordered by the Court or when using other resources than those collected from awards for reparations, fines and forfeitures, the Trust Fund will, as a rule, provide collective reparation through single payments.]

52. The Board of Directors shall only undertake the actions set out in this chapter once the Trust Fund is considered to be seized in accordance with paragraph 53.
53. For the purposes of these regulations, the Trust Fund shall be considered to be seized:

(a) *By order of the Court*

When the Court makes an order for reparations against a convicted person and orders that the award be deposited with or made through the Trust Fund in accordance with rule 98, sub-rules 2-4, of the Rules of Procedure and Evidence.

(b) *[Alternative 1: By the initiation of an investigation by the Prosecutor, authorized by the Pre-Trial Chamber, as appropriate*

When the Pre-Trial Chamber has authorized the commencement of an investigation in accordance with article 15, paragraph 3, and article 53 of the Statute, or where a situation has been referred to the Prosecutor by a State Party or the Security Council acting under Chapter VII of the Charter of the United Nations and the Prosecutor decides to initiate an investigation in accordance with article 53 of the Statute. The Board of Directors will determine the applicability of this provision.]

(b) *[Alternative 2: By the issuance of an arrest warrant according to article 58 of the Statute*

When, at any time after the initiation of an investigation, the Pre-Trial Chamber issues, on the application of the Prosecutor and in conformity with article 58 of the Statute, a warrant of arrest of a person that is believed on reasonable grounds to have committed a crime within the jurisdiction of the Court. The Board of Directors will determine the applicability of this provision.]

(b) *[Alternative 3: By final decision of the Appeals Chamber on a challenge to the admissibility or jurisdiction in conformity with article 82 of the Statute*

In exceptional circumstances, where

- (i) **the Appeals Chamber has finally decided on appeal, pursuant to article 82 of the Statute, any challenge to the admissibility or jurisdiction pursuant to articles 18 and 19,**
- (ii) **such seizure will not pre-determine any issue to be determined by the Trial Chamber or violate the presumption of innocence pursuant to article 66, and**
- (iii) **the seizure of the Trust Fund represents the only possibility of the provision of physical or psychological rehabilitation or material support for the benefit of victims and their family members.**

The Appeals Chamber will determine the applicability of this provision following representations from the Board of Directors and other interested parties.]

(b) *[Alternative 4: delete]*

(c) *[By decision of the Pre-Trial Chamber*

In exceptional circumstances, where the situation or case is not being investigated or prosecuted by the Court because it is or has been investigated or prosecuted by a State which has jurisdiction over it in accordance with article 17 of the Statute or when a situation or case is not being investigated or prosecuted for reasons described in articles 53, paragraph 1(c) or 2(c), the Board of Directors will

make a request to the Pre-Trial Chamber to determine the applicability of this provision, taking into account the situation of victims and existence (or lack) of national or international programmes for the benefit of victims and their family members.] *[delete]*

*Section II
Outreach*

54. Once the Trust Fund has been seized in accordance with paragraph 53, the Chair of the Board of Directors may issue a communiqué through its Secretariat or the Registry, as appropriate.

55. The communiqué may indicate the basis for its activities and projects in accordance with paragraph 53 and may provide any additional information, as appropriate. A call for voluntary contributions may accompany the communiqué.

56. The Board of Directors may engage in any outreach and information campaigns it deems appropriate for the purpose of raising voluntary contributions. The Board of Directors may ask for the assistance of the Registrar in this matter.

*[Section III
If the activities and projects of the Trust Fund are triggered by
a decision of the Court*

Note: Sections III and IV to be reconsidered in the light of discussions on Rules 51 and 53

57. When the Court orders that an award for reparations against a convicted person be deposited with the Trust Fund or made through the Trust Fund in accordance with rule 98, sub-rules 2-4, of the Rules of Procedure and Evidence, the Secretariat shall prepare a draft plan to implement the order of the Court, to be approved by the Board of Directors.

58. The Board of Directors may consult victims as defined in rule 85 of the Rules of Procedure and Evidence and, where natural persons are concerned, their families, as well as their legal representatives, and may consult any competent expert or expert organization in the preparation of the draft implementation plan.

59. Subject to the order of the Court, the Trust Fund shall take into account the following factors in determining the nature and/or size of awards, inter alia: the nature of the crimes, the particular injuries to the victims and the nature of the evidence to support such injuries, as well as the size and location of the beneficiary group.

60. The Board of Directors shall determine whether to complement the resources collected through awards for reparations with “other resources of the Trust Fund” and shall advise the Court accordingly.

61. The Trust Fund shall submit to the relevant Chamber, via the Registrar, the draft implementation plan for approval and shall consult the relevant Chamber, as appropriate, on any questions that arise in connection with the implementation of the award.

62. The Trust Fund shall provide updates to the relevant Chamber on progress in the implementation of the award, in accordance with the Chamber’s order. At the end of the implementation period, the Trust Fund shall submit a final narrative and financial report to the relevant Chamber.

Section IV

If the activities and projects of the Trust Fund are triggered by the initiation of an investigation, or by the decision of the Pre-Trial Chamber

63. The Board of Directors may use other resources of the Trust Fund to benefit victims as defined in rule 85 of the Rules of Procedure and Evidence and, where natural persons are concerned, their families, from the moment that the activities and projects of the Trust Fund are triggered by the initiation of an investigation by the Prosecutor (authorized by the Pre-Trial Chamber as appropriate), or in exceptional circumstances by the decision of the Pre-Trial Chamber at the request of the Board of Directors.

64. The Board of Directors may consult victims, as defined in rule 85 of the Rules of Procedure and Evidence, and, where natural persons are concerned, their families, as well as their legal representatives, and may consult any competent expert or expert organization on the situation of the potential beneficiaries that may be affected and on the practicalities of reaching and assisting them, as well as on any proposed plan of allocation.

65. The Board of Directors shall determine the priority activity and project areas, bearing in mind the available resources and taking into account that no allocation should result in a manifestly inequitable distribution of available funds and property among the different groups of victims. The Trust Fund may invite proposals from international or national organizations which are specifically geared to addressing the enumerated priority activity and project areas.]

CHAPTER III

INDIVIDUAL AWARDS TO VICTIMS PURSUANT TO RULE 98(2)

Section I

Cases where the Court identifies each beneficiary

66. Where the Court orders that an award for reparations against a convicted person be deposited with the Trust Fund in accordance with rule 98, sub-rule 2, of the Rules of Procedure and Evidence, the draft implementation plan shall set out the names and locations of victims to whom the award applies, where known (and subject to confidentiality), any procedures that the Trust Fund intends to employ to collect missing details, and methods of disbursement.

Section II

Cases where the Court does not identify the beneficiaries

67. Where the names and/or locations of the victims are not known, or where the number of victims is such that it is impossible or impracticable for the Secretariat to determine these with precision, the Secretariat shall set out all relevant demographic/statistical data about the group of victims, as defined in the order of the Court, and shall list options for determining any missing details for approval by the Board of Directors.

68. Such options may include:

- (a) The use of demographic data to determine the members of the beneficiary group; and/or:
- (b) Targeted outreach to the beneficiary group to invite any potential members of the group who have not already been identified through the reparations process to identify themselves to the Trust Fund, and, where appropriate,

these actions may be undertaken in collaboration with interested States, intergovernmental organizations, as well as national or international non-governmental organizations. The Board of Directors may put in place reasonable deadlines for the receipt of communications, taking into account the situation and location of victims.

- (c) The Secretariat may consult victims or their legal representatives and the families of individual victims, as well as interested persons, interested States and any competent expert or expert organization, in developing these options.

Section III Verification

69. The Secretariat shall verify that any persons who identify themselves to the Trust Fund are in fact members of the beneficiary group, in accordance with any principles set out in the order of the Court.

70. [The Board of Directors shall determine the standard of proof for the verification exercise, having regard to the prevailing circumstances of the beneficiary group and the available evidence, subject to any stipulations set out in the order of the Court.]

71. A final list of beneficiaries shall be approved by the Board of Directors.

72. Taking into account the urgent situation of the beneficiaries, the Board of Directors may decide to institute phased or priority verification and disbursement procedures. In such cases, the Board of Directors may prioritize a certain sub-group of victims for verification and disbursement.

Section IV Disbursement of reparations awards

73. The Trust Fund shall determine the modalities for the disbursement of reparations awards to beneficiaries taking into account their present circumstances and locations.

74. The Trust Fund may decide to use intermediaries to facilitate the disbursement of reparations awards, as necessary, where to do so would provide greater access to the beneficiary group and would not create any conflict of interest. Intermediaries may include interested States, intergovernmental organizations, as well as national or international non-governmental organizations working in close proximity with the beneficiary groups.

75. The Secretariat shall put in place procedures to verify that awards were received by beneficiaries, following the implementation of a disbursement programme. Beneficiaries shall be required to acknowledge receipt of the award in writing or by other means of identification, and these acknowledgments shall be stored by the Secretariat. Additional spot checks and monitoring of the receipt of awards should be implemented to avoid unforeseen difficulties or the potential for fraud or corruption.

CHAPTER IV COLLECTIVE AWARDS TO VICTIMS PURSUANT TO RULE 98(3)

76. Where the Court orders that an award for reparations against a convicted person be made through the Trust Fund where the number of the victims and the scope, forms and modalities of reparations makes a collective award more appropriate, in accordance with rule 98, sub-rule 3, of the Rules of Procedure and Evidence, the draft implementation plan shall

set out the precise nature of the collective award(s), where not already specified by the Court, as well as the methods for its/their implementation. Determinations made in this regard should be approved by the Court.

77. The Board of Directors may consult victims as defined in rule 85 of the Rules of Procedure and Evidence and, where natural persons are concerned, their families, as well as their legal representatives, and may consult any competent expert or expert organization on the nature of the collective award(s) and the methods for its/their implementation.

78. The Trust Fund may identify intermediaries or partners, or invite proposals for the implementation of the award.

79. The Secretariat shall put in place procedures to monitor the implementation of a collective award.

CHAPTER V
AWARDS TO AN INTERGOVERNMENTAL, INTERNATIONAL OR
NATIONAL ORGANIZATION, PURSUANT TO RULE 98(4)

80. Where the Court orders that an award for reparations against a convicted person be made through the Trust Fund to an intergovernmental, international or national organization, in accordance with rule 98, sub-rule 4, of the Rules of Procedure and Evidence, the draft implementation plan shall set out, where not already specified by the Court:

- (a) The concerned organization(s) and a summary of their relevant expertise;
- (b) A list of the specific functions that the concerned organization(s) is/are to undertake in fulfilment of the Court's order;
- (c) A memorandum of understanding and/or other contractual terms between the Board of Directors and the concerned organization(s) setting out roles and responsibilities, monitoring and oversight.

81. The Secretariat shall oversee the work of the concerned organization(s) in fulfilling the Court's orders, subject to the overall oversight of the Court. [The Board of Directors shall adopt guidelines and procedures in accordance with regulation 15 relating to the oversight to be exercised by the Secretariat.]

82. The regulations that relate to individual awards to victims pursuant to rule 98, sub-rule 2, and collective awards to victims in accordance with rule 98, sub-rule 3, shall apply mutatis mutandis to the procedures of the Board in implementing rule 98, and sub-rule 4, as appropriate, depending on whether the Court has indicated that the award shall be individual or collective.

**[PART III bis
ARRANGEMENTS FOR ACCOUNTABILITY TO THE ASSEMBLY,
THE COMMITTEE ON BUDGET AND FINANCE, AND THE EXTERNAL
AUDITOR]**

**~~CHAPTER VI~~ PART IV
FINAL PROVISIONS**

*Section I
Amendments*

83. These Regulations may be amended by **decision of the Assembly of States Parties. Proposals to amend the regulations may be made by States, by the Court or by the Board.** Proposals of the Board **shall be** taken by a decision that must be approved by a majority of the voting members representing a majority of the members of the Board. Decisions to propose an amendment shall be taken in regular or special sessions, in person as well as by telephone, web or video conferencing. ~~A decision by the Board of Directors for amendment shall be provisionally binding until its approval or disapproval by the Assembly of States Parties.~~

[Amendments to these Regulations may be proposed by a State Party or by the Court or, following a decision of a majority of its members, by the Board of Directors. All proposals to amend these Regulations shall require the approval of the Assembly of States Parties in accordance with article 112(7) of the Statute.] (agreed provisionally.)

*Section II
Entry into force*

84. These Regulations, and any amendments to them, shall enter into force immediately after their adoption by the Assembly of States Parties.