

International Criminal Court

ICC-ASP/4/2

Assembly of States Parties

Distr.: General
15 April 2005

Original: English

Fourth Session

The Hague

28 November to 3 December 2005

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

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I. Introduction

A. Opening of the session and adoption of the agenda

1. The fourth session of the Committee on Budget and Finance (the Committee) was convened in accordance with a decision of the Assembly of States Parties (the Assembly) taken at the 6th plenary meeting of its third session on 10 September 2004. The Committee held its fourth session, comprising six meetings, at the seat of the Court in The Hague from 4 to 6 April 2005. The President of the Court, Mr. Philippe Kirsch, delivered welcoming remarks at the opening of the session.

2. The session was presided over by the Chairperson, Mr. Karl Paschke (Germany). Mr. John F. S. Muwanga (Uganda) served as Vice-Chairperson. The Committee appointed Mr. David Dutton (Australia) as Rapporteur for the session.

3. The Secretariat of the Assembly of States Parties (the Secretariat) provided the substantive servicing for the Committee, and its Director, Mr. Medard Rwelamira, acted as Secretary of the Committee.

4. At its 1st meeting, the Committee adopted the following agenda, subsuming agenda item 7 of the provisional agenda (ICC-ASP/4/CBF.1/L.1) under item 6:

1. Opening of the meeting
2. Adoption of the agenda
3. Participation of observers
4. Organization of work
5. Premises of the Court
6. Report on the Strategic Plan of the Court
7. Report on rationalizing translation capacities
8. Report on human resources management policies
9. Report on performance assessment for staff
10. Report concerning consultants
11. Report on options for ensuring adequate defence counsel for accused persons
12. Report on procurement activities
13. Briefing on the performance of the 2004 budget
14. Revised assumptions for the programme budget for 2005
15. Update on the budget preparation process for the draft programme budget for 2006
16. Review of the budget for 2005 of the Secretariat of the Trust Fund for Victims
17. Long-term budgetary implications of pensions for elected officials
18. Approval of the report of the session
19. Other matters

20. Closure of the session

5. The following members attended the fourth session of the Committee:
 1. Lambert Dah Kindji (Benin)
 2. David Dutton (Australia)
 3. Eduardo Gallardo Aparicio (Bolivia)
 4. Fawzi A. Gharaibeh (Jordan)
 5. Myung-jae Hahn (Republic of Korea)
 6. Peter Lovell (United Kingdom of Great Britain and Northern Ireland)
 7. John F. S. Muwanga (Uganda)
 8. Karl Paschke (Germany)
 9. Elena Sopková (Slovakia)
 10. Inna Šteinbuka (Latvia)
 11. Michel-Etienne Tilemans (Belgium)

6. The following organs of the Court were invited to participate in the meetings of the Committee to introduce the reports: the Presidency, the Office of the Prosecutor and the Registry.

B. Participation of observers

7. The Committee decided to accept the request of the Coalition for the International Criminal Court to make a presentation to the Committee.

II. Consideration of issues on the agenda of the Committee at its fourth session

A. Review of the financial situation

8. The Committee reviewed the status of contributions as at 5 April 2005. It noted that a total of €1,152,105 was outstanding for the 2002-2003 financial period and a total of €4,683,966 for the 2004 period. It also noted a worrying trend in the payment of contributions in 2005, since only 50 per cent of contributions had been received to date as against about 55 per cent at the same time in 2004. The Committee expressed concern that only 21 States Parties had thus far paid their 2005 contributions in full, leaving €33,472,000 outstanding for 2005.

9. The Committee also expressed concern that 11 States Parties had not yet made any payment for any financial period. It noted that the Assembly had requested its Secretariat to write to States Parties that could lose their voting rights in accordance with article 112, paragraph 8, of the Rome Statute. **The Committee recommends that the Assembly request the Secretariat to advise States Parties each year in January, and the Assembly at the opening of each session, of the States that are ineligible to vote. The Secretariat should also be requested to inform States Parties periodically of States that have recovered their voting rights following payment of their arrears. The Committee further recommends that the Court take any additional measures that would encourage States to pay their contributions.**

B. Budgetary matters

1. Preliminary report on programme performance of the International Criminal Court for the year 2004

10. The Committee had before it a preliminary brief on programme performance of the International Criminal Court for the year 2004 (ICC-ASP/4/CBF.1/9). It was indicated that the Court's overall financial implementation rate during the year 2004 was 81.4 per cent of the approved budget. The under-spending had been due primarily to changes in the Prosecutor's planned assumptions regarding the level of investigations and trial activities, which had resulted in lower staff costs. The latter had been partly offset by a reallocation of resources for the establishment of field offices, but had led nonetheless to a substantial unencumbered balance in Major Programme II. The lack of trial activity had further resulted in savings in Major Programme I, as the assumption by some judges of full-time duty in The Hague had been postponed. There was also an unencumbered balance in Major Programme IV due to staggered recruitment during the first year of operation of the Secretariat of the Assembly of States Parties combined with an unbudgeted discount on the conference premises. **The Committee, having been informed that the total unencumbered balance amounted to €9,876,000, indicated to the Registry that this surplus should be apportioned among States Parties in accordance with regulation 4.7 of the Financial Regulations and Rules.**

11. The Committee took note of the preliminary report on programme performance during the 2004 financial period. Further to paragraph 50 of the report on its third session,¹ in which the Committee recommended that the Court include in future performance reports data on financial performance and results achieved, **the Committee recommends that the Court provide annual performance reports to the Committee at its spring sessions.**

2. Revised assumptions for the programme budget for 2005

12. The Prosecutor updated the Committee on progress in his work regarding the situations in Uganda and the Democratic Republic of the Congo. The assumptions on which the 2005 budget were based² had been revised and he now expected pre-trial activity for the Uganda situation in April or May and for one case in the Democratic Republic of the Congo in September or October. At the time of his presentation, he had not yet received the sealed list of names of alleged perpetrators of crimes in Darfur, following the referral by the Security Council of the United Nations of that situation which had taken place the previous week. It was therefore premature to forecast how work there might proceed.

13. The Committee expressed appreciation for the update by the Prosecutor on his work and its implications for the assumptions and budget. The Committee noted that Darfur would be the third situation dealt with by the Court and that the Assembly had already approved resources for investigations for a third situation. It observed that the complexities that had emerged in Uganda and the Democratic Republic of the Congo, together with the additional responsibilities entailed by the Darfur referral, constituted a very challenging agenda. Indeed, the Court had received four referrals before any investigations were ready for trial and it was likely to be some years before it would dispose of any of the three

¹ Report of the Committee on Budget and Finance on the work of its third session, August 2004, *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*, Part II.A.8(b).

² *Ibid.*, para. 35.

situations under investigation. **The Committee asked to be informed regularly, including through the Extranet that the Court was developing for communication with and among the members of the Committee, of progress in each situation and of any decision to commence investigations in the Central African Republic.**

14. **The Committee recommends that the Court provide it with first-quarter financial performance data for the ongoing fiscal year at its spring sessions.**

3. Update on the preparation of the draft programme budget for 2006

15. The Committee received a presentation by the Registry regarding the preparation of the draft programme budget for 2006. The Court observed that it operated within resource constraints but needed also to respond rapidly to changing situations in complex environments. The Court had therefore been developing a costing model that would distinguish between resources required to maintain the basic operational infrastructure (termed “base structure” or “core”) and those relating to specific situations addressed by the Court. The base structure would be related directly to a stated capacity for the Court, and should activity increase beyond that level, a step change in base resources would be needed.

16. The Court was also developing notional standardized resource requirements (“building blocks”) for each phase of a situation that would enable the Court to budget for each situation as it moved from analysis through investigations to pre-trial, trial and appeal over successive budgetary periods. Such an approach could provide a much clearer basis for the Assembly to review the budget of the Court and it would enable the Court to account separately for each situation. The Court stated that this conceptual work was not yet finished.

17. The Committee had the impression that the approach outlined by the Court offered an improved planning, budgeting and reporting process than had been in place thus far. It welcomed the Court’s efforts to track expenditure against each situation, as requested by the Committee in its previous reports.³ The Committee observed that, if well implemented, the new approach would be beneficial to the Court, the Committee and the Assembly. In particular, the Committee hoped that the Court would be able to produce robust definitions for distinguishing between core and situation-related expenses and that these definitions could be examined by the Committee in the context of the budget. The Committee also hoped that the Court would produce standard costings for each phase of activity in a situation that were sufficiently generic to be used as “building blocks” but were nonetheless flexible enough to enable the Court to operate effectively in different situations. Such costings could be examined by the Committee and the Assembly to obtain assurances regarding value for money while avoiding undue micro-level examination, thus enabling them to undertake a more strategic review of future draft budgets. Moreover, the system could ensure transparency in the Court’s use of resources for each situation. Finally, the Committee observed that this work on preparing the budget needed to be integrated effectively with the Court’s strategic planning efforts (see paragraphs 40 to 42 below).

18. **The Committee also recalled its comments and recommendations, in paragraphs 43 to 49 of the report on its third session,⁴ regarding results-based budgeting and**

³ Ibid., paras. 39-42.

⁴ Ibid.

presentation, in particular the need for comparable data from one budgeting period to the next.

4. Draft 2005 budget for the Secretariat of the Trust Fund for Victims

19. The Court presented a report on the draft 2005 budget of the Secretariat of the Trust Fund for Victims (ICC-ASP/4/CBF.1/4). As regards the relationship between the Registry and the Secretariat of the Trust Fund for Victims, the Registry indicated that, although it had taken on the responsibility of representing and supporting the Board of Directors of the Trust Fund for Victims, it understood that this was a temporary arrangement since the Trust Fund was independent of the Court. With regard to the differentiation of the work of the Secretariat of the Trust Fund from that carried out by the Victims Participation and Reparations Section, the Court would submit a report to the Committee at its fifth session. In response to a query on the definition of “victim”, the Court indicated that it was a matter to be decided upon by the judges.

20. The Committee took note of the Assembly’s decision to establish the Secretariat of the Trust Fund for Victims, and stated that it had no objection to the planned use of the 2005 budget. **It decided to resume consideration of this item at its next session, when it would receive a report on victims issues, explaining, inter alia, how the work of the Secretariat and the Victims Participation and Reparations Section had been delineated. The Committee recommends that the Trust Fund and its Secretariat be within the scope of the audit arrangements applicable to the Court.**

21. With regard to the request by the Assembly for the Committee to review the draft Regulations of the Trust Fund,⁵ the Committee noted that the New York Working Group of the Bureau of the Assembly had begun to consider the draft Regulations and **decided to consult with the Working Group in order to determine how the Committee could contribute to the review, through informal intersessional communication among its members, so as to report to the Bureau prior to the Committee’s fifth session.**

5. Long-term budgetary implications of pensions for elected officials

22. At the request of the Assembly,⁶ the Committee engaged in an initial discussion of the long-term budgetary implications of the pension scheme regulations for judges. The Court informed the Committee that a preliminary actuarial examination showed that the annual cash flow implications of pensions for judges would rise to about €400,000 in 2009, €1,400,000 in 2015 and €1,900,000 in 2019. The Court indicated that these costs could be budgeted on the basis of annual cash flow; alternatively, reserves could be accumulated each year in line with the accruing liabilities.

23. The Committee noted that the proposal regarding conditions of service and compensation of judges and elected officials had not been submitted to it despite the fact that paragraph 3 of resolution ICC-ASP/1/Res.4 conferred responsibility on the Committee for the “technical examination of any document submitted to the Assembly that contains financial or budgetary implications”. The Committee had therefore been unable to provide the Assembly with advice prior to its last session. The Committee further noted that the proposal, and the action taken by the Assembly thereon, had significant budgetary

⁵Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third Session, The Hague, 6-10 September 2004, Part III, ICC-ASP/3/Res.7, para. 8.

⁶Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third Session, The Hague, 6-10 September 2004, Part III, ICC-ASP/3/Res.3, para. 25.

implications and could have implications for the policies of the Court pertaining to other staff for conditions of service, including compensation, travel and pensions.

24. The Committee noted that it had not been provided with sufficient information regarding the options available for meeting the budgetary implications of the pension scheme regulations for judges. It therefore requests the Court to prepare an appraisal of the options and to submit a report to the Committee at its next session.

25. The Committee also decided to examine the proposal regarding conditions of service and compensation of the Prosecutor and Deputy Prosecutors, as requested by the Assembly,⁷ at its next session.

C. Premises of the Court

1. Introduction

26. The Committee received two reports regarding the issue of the future permanent premises of the Court, which were introduced by Judge Hans-Peter Kaul, Chairman of the Inter-Organ Committee on the Permanent Premises: a report on housing options (ICC-ASP/4/1) and a report containing a Project Presentation (ICC-ASP/4/CBF.1/3). With regard to housing options, the following options were considered: continued use of the present premises, i.e. the Arc; use of the premises of the International Criminal Tribunal for the former Yugoslavia (ICTY); and building of new permanent premises on the site of the Alexanderkazerne. The advantages and disadvantages of each option were considered in light of a number of requirements, which were weighted by the Court: space, function, security, cost, public identity and legal feasibility. The Court's evaluation led to the conclusion that the preferable option was to build new premises on the site of the Alexanderkazerne.

27. The Project Presentation contained an overview of the Court's requirements for its permanent premises. Emphasis was placed on the need to provide for permanent premises that reflected the character of the Court; to select a site for an unlimited period of time; to house all organs together on a single site; and to ensure that the premises were in full conformity with the Court's general functional, organizational, security and other needs. It was indicated that the size of the premises would need to be flexible enough to accommodate staffing levels currently estimated to range from a standing capacity of 950 to a full capacity of 1,300. High-quality and low-maintenance materials should be used in the whole complex. The permanent premises would also need to be completely secure, while at the same time remaining open and welcoming. On the basis of the above and other criteria mentioned in the Project Presentation, the Court and the host State had come to the conclusion that the site of the Alexanderkazerne was best suited for the location of the permanent premises. The Court expressed the hope that the Assembly of States Parties would grant general approval in 2005 for the project presented in the report, enabling an international design competition to be launched in 2006 and allowing for completion of the project by 2012 when the ten-year rent-free arrangement at the Arc would cease.

28. The Committee heard a further presentation on financing models, which, as explained by Mr. Edmond Wellenstein, Director-General, ICC Task Force, Ministry of Foreign Affairs of the Netherlands, had been prepared by a private firm at the host State's request. The document was intended to stimulate discussion on the issue. Four financing models for

⁷ Ibid., ICC-ASP/3/Res.3, para. 26.

the permanent premises were identified: a commercial lease; a lease from the host State; ownership by the Court; and an integrated design-build-finance-maintain-operate approach. The relative advantages and disadvantages of each option were evaluated on the basis of the following criteria: manageability of risks for the Court, influence of the Court on the project, organizational burden and contractual flexibility.

2. Housing options

29. The Committee referred to paragraphs 101 and 102 of the report on its third session,⁸ in which it had drawn attention to the need for the Assembly to indicate its views on the possible construction of permanent premises and had suggested that the Court and the Assembly might also consider the possibility of continuing to use the current premises in the longer term. The Committee also took note of the creation of a Working Group of the Bureau of the Assembly to consider the issue further and looked forward to assisting the Working Group in its deliberations.

30. The Committee agreed that there were deficiencies in the suitability of the current premises, particularly with regard to the lack of adequate space and the difficulties of providing appropriate security. It agreed that the premises of the ICTY were not ideal for the Court in view of the age of the existing building, that staff were spread over several buildings and that the courtrooms were small. Moreover, the Committee felt that since a purpose-built complex would be designed to meet the particular needs and character of the Court, it would necessarily offer the best solution in the long term.

31. However, the Committee was concerned that the report on housing options concluded that the construction of a purpose-built complex at the Alexanderkazerne was the best option for the Court without providing a sufficiently detailed assessment of the probable costs of each of the three options. The lack of information on potential costs would not provide the Assembly with a sufficient basis on which to reach a decision, given the possible wide variance between the cost of constructing new premises and continuing to occupy the Arc or refurbishing the ICTY premises. **The Committee therefore recommends that the Court prepare a report containing estimates of the possible range of costs for each of the three options, including maintenance and energy costs, over a period of 25 years from 2012, setting out the net present value of each option. This report should be submitted to the Assembly through the Committee.**

3. Specifications for permanent premises

32. The Committee observed that significant progress had been made in determining the requirements for a purpose-built campus at Alexanderkazerne. The Committee noted that the Court envisaged a campus-style arrangement that would allow each of the major organs to be appropriately accommodated. The premises would accommodate up to six hearings per day in three courtrooms, involving the presence of witnesses, victims and their counsel, and including facilities for the international media. A high level of security would be provided while preserving public access to proceedings. Moreover, the Court envisaged premises that would project the Court's image and role in international criminal justice. The Committee felt that the Assembly's deliberations on the question of premises should

⁸ Report of the Committee on Budget and Finance on the work of its third session, August 2004, *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*, Part II.A.8(b).

encompass this vision of the Court alongside considerations of functional needs, the anticipated pace of Court activity, and short- and long-term costs.

33. The Committee sought clarification from the Court regarding the estimated number of staff in the specifications for the permanent premises. The Court advised that the specifications covered a range of between 950 and 1,300 workstations and that the premises would be designed in such a way that space could be opened and closed according to the tempo of work and the shifting size of the workforce. The estimates of 950 for the Court at standing capacity and 1,300 at full capacity were the result of careful internal planning, although the Court was still evolving and it was not possible to predict its size accurately beyond 2012.

34. The Committee observed that the figures represented only workstations and not the full staffing complement envisaged by the Court, since they did not reflect staff in the field and staff not working at desks (including security officers). While the Committee recognized that the Court would continue to grow and evolve in the coming years, possibly exceeding any current expectations or plans, it noted that the estimates did not appear to correlate with current staffing levels. **The Committee therefore asked the Court to provide more detailed information on the composition of its staffing estimates at the Committee's next session.** Further, the Committee recognized that since planning for the premises would take some years, it would be possible to adjust the specifications on the basis of more accurate estimates.

35. The Committee noted that provision did not appear to have been made in the specifications for housing of the Secretariat of the Assembly of States Parties. **The Committee agreed that the specifications for the permanent premises should include sufficient space to meet the needs of the Secretariat of the Assembly and to cater for small- to medium-sized meetings of the Bureau, the Committee and other subsidiary bodies of the Assembly. The Committee recommends that the Court take this into account in its future planning.**

36. The Committee also noted that its own consideration of the specifications for permanent premises would be limited, given the Committee's mandate and composition, to evaluating functional requirements and costs. **The Committee recommends that, should the Assembly decide to proceed with the construction of permanent premises, it should request the Court to ensure appropriate independent confirmation of the technical aspects of design and construction. Such advice might be obtained from the External Auditor and by engaging an independent consultant with appropriate expertise.**

4. Financing

37. The Committee recognized that the efforts of the Court so far had been directed primarily at the specifications for purpose-built permanent premises and that the Court had not yet developed financing options for the project. However, while a decision by the Assembly on financing the project would not be required until a later stage, **the Committee emphasized that a clearer sense of costs and financing issues would be required before the Assembly would be ready to proceed with the option of purpose-built permanent premises. Further, the possible considerable impact of constructing new premises on the budget of the Court required early attention to financing issues.**

38. The Committee took note of the presentation of the host State on financing options, observing that each of the alternatives identified was predicated on the assumption that land, construction and maintenance in respect of permanent premises at the Alexanderkazerne would be financed on commercial terms. The Committee doubted whether financing options on commercial terms would meet expectations in the Assembly regarding the appropriate level of host State support.

39. The Committee therefore recommends that the Court prepare a report on financing methods used for the new premises of other major international organizations, including comparable international judicial institutions. The Committee requests that the Court also consider creative financing options such as the possibility of inviting States Parties to consider individual donations for the construction of the premises (for instance particular courtrooms or conference rooms). The report should be submitted to the Committee at its next session to facilitate informed discussion in the Assembly of financing modalities.

D. Strategic Plan of the Court

1. Strategic Plan

40. The Court made a presentation to the Committee concerning the steps it had taken in preparing the Strategic Plan of the Court. The Plan constituted a partial response to the Committee's recommendations, contained in paragraphs 43 to 48 of the report on its third session,⁹ that the Court prepare overarching objectives for its work, improve its application of results-based budgeting, and enhance consistency in the activities of each organ. The Plan would be a key management instrument and facilitate a continual improvement in the planning of the Court; it would also, while respecting the specific nature and role of each organ, ensure consistency between long-term goals and short-term action. The Court stressed that the Plan was a work in progress, still subject to refinement, and that a report on a first Strategic Plan would be finalized in June 2005, with proposals on an improved planning process to be submitted to the Committee at its autumn session.

41. The Committee welcomed the presentation on the Court's conceptual work aimed at developing a Strategic Plan for the Court as a whole and agreed that this work appeared likely to address concerns it had previously expressed. It was impressed, in particular, with the work that had been undertaken to identify capacity constraints in the end-to-end process of the Court. **However, while the conceptual framework seemed promising, the Committee also emphasized that it needed to be translated into a meaningful set of interrelated strategic goals, expected accomplishments and performance indicators that could be used by the Court to focus its work in the short to long term on achieving results. It would also assist in identifying key risks and countermeasures for the corporate governance arrangements of the Court.**

42. The Committee was concerned that resource constraints appeared to be affecting the pace of this critical project. **It recommends that the Court ensure that work on the Strategic Plan is effectively connected to the Court's planning and budgeting processes and the preparation of the 2006 budget, and that senior management is closely engaged in both processes. The Committee requested the Court to provide a**

⁹ Ibid.

report on its work towards a Strategic Plan to complement the proposed budget for 2006.

2. Outreach activities of the Court

43. In its presentation, the Court indicated that an external relations strategy group had been formed with representatives of the three organs. The project on outreach activities constituted part of the Strategic Plan of the Court and, after further discussion and refinement, would be ready by the time the proposed programme budget for 2006 was finalized. The Committee also noted that specific meanings had been attached to each of the following terms: “external relations” referred to contacts with governments, international organizations and other major actors; “public information” denoted efforts to disseminate messages about the Court to wide, diffuse audiences; and “outreach” referred to situation-specific activities.

44. The Committee also welcomed the presentation of the Court on its efforts to develop an integrated strategy for external relations, public information and outreach, and to delineate the roles of each organ. These efforts appeared to address the concerns expressed previously by the Committee¹⁰ as to the fragmentation and duplication of such work and the need to set targets and measure performance. **The Committee requested the Court to provide details of the integrated strategy to the Committee in the context of the 2006 budget.**

E. Human resources

45. The Court made a presentation on its human resources management policies, which included information on: comparative indicators of staff growth between 2004 and 2005; geographical distribution among the different regions; gender balance; the process of recruitment; staff requirements to manage the recruitment process; and the Internship and Visiting Professionals Programmes. The Committee was informed that, as of 1 April 2005, the Court employed 299 staff members (152 in the Professional category and 147 in the General Service category) against 489 established budgeted posts. Furthermore, there were 97 staff members employed under general temporary assistance (26 in the Professional category, 65 in the General Service category and 6 as interpreters), 61 interns and 4 visiting professionals. Accordingly, a total of 461 persons were attached to the Court. In addition, there were 18 judges and 4 elected officials (Prosecutor, 2 Deputy Prosecutors, Registrar). The Court also made a presentation on the performance appraisal system it was developing; such a system would be based on seven core competencies. In order to assist in this process, a consultant had been hired to conduct a classification of all posts. The Court indicated that all posts would be classified for the proposed programme budget for 2006.

46. The Committee welcomed the information in the presentations but noted that it would have been desirable to include more information in the report on human resources management policies (ICC-ASP/4/CBF.1/1), which also referred to the development of the performance appraisal system, and the report on consultants (ICC-ASP/3/23). Nonetheless, the Committee was impressed by the progress made in developing the human resources system, recognizing its importance for the Court’s future success. **The Committee decided to continue to be seized of the issue of human resources.**

¹⁰ Ibid, paras. 107 and 108.

F. Legal aid

47. The Committee had before it a report on options for ensuring adequate defence counsel (ICC-ASP/3/CBF.2/3) and an update to annex 2 thereof (ICC-ASP/4/CBF.1/8). The Court indicated that the proposed scheme, which had been devised following consultations with legal professionals as well as the ad hoc tribunals and the Special Court for Sierra Leone, was aimed at ensuring respect for the principle of equality of arms while taking due care to keep costs at a minimum. The latter goal was to be achieved, in particular, through the payment of monthly fees and through the requirement for defence counsel to submit an action/stage plan to the Registrar.

48. The Committee also had before it a report on the principles and criteria for the determination of indigence for the purposes of legal aid (ICC-ASP/4/CBF.1/2). The Court indicated in its presentation of the report that the proposed system was based on the principles of objectivity, flexibility and simplicity and took into account the obligations of the person requesting legal assistance to his or her dependants. It was also consistent with the proposed system for payment of legal aid.

49. The Committee emphasized that the delivery of legal aid was an area of considerable risk for the Court. Experience in the ad hoc tribunals had shown that administration of legal aid without rigorous controls could result in unreasonably high costs and abuses by some defence counsel and defendants. **While recognizing the importance of an effective legal aid system for guaranteeing the rights of indigent accused, the Committee felt that legal aid must be managed very carefully to avoid abuses and contain costs.**

50. **The Committee agreed that the determination of indigence should be conducted in an objective manner on the basis of a full examination of each applicant's financial assets and income. It therefore encouraged the Court to propose appropriate resources to fund an investigation capacity to locate financial assets. The Committee was not convinced that daily subsistence allowance (DSA) was an appropriate basis on which to conduct an assessment of living expenses since DSA was intended as a payment to cover the costs of short-term travel (and was therefore higher than a reasonable measure of the ongoing cost of living expenses). The Committee therefore recommends that the Court employ another measure of cost of living, obtaining such data either from the private sector or from an international data set such as that maintained by the International Civil Service Commission for the determination of common system salaries. Nor was the Committee convinced by the exclusion of certain assets, such as residence, furnishings and vehicles, from the assessment, where such assets were of a luxurious or lavish nature, for the purpose of determination of indigence.**

51. The Committee observed that the monthly cap system proposed by the Court could be insufficient to preclude the risk of some counsel prolonging proceedings for financial gain. The Committee recognized that the Registry would seek to control costs generated by defence counsel through the mechanism of quarterly action plans. However, the Committee was concerned that such an approach might prove ineffective and that the Registry would be subjected to considerable pressure by counsel. **The Committee recommends that the Court consider further whether flat-rate payments could be used for some phases of the proceedings so as to avoid creating incentives for unnecessary work and delays in proceedings.**

52. With respect to the rates proposed, the Committee noted that expenditure for defence costs (i.e. monthly fees per defendant of €19,864 for the initial phase, €36,509 for the trial phase and €26,451 for the appeals phase, as well as a fee of €55,315 for 90 days of investigation) would amount in the future to a considerable sum in the Registry's budget. It noted that the Court proposed that salary rates be calculated on the basis of a comparison with the Office of the Prosecutor plus a 40 per cent increase to compensate for various professional factors. The Committee felt that it could only be ascertained whether this was an appropriate level of remuneration in light of practical experience.

53. In view of this, and the need to manage the risks to the Court's credibility from having either an extravagant or an ineffective legal aid system, the Committee recommends that the Court put in place a formal procedure to evaluate the legal aid system and ensure that the criteria of equality of arms, objectivity, transparency, continuity and economy are met in a balanced and judicious manner. It also decided to revert to the question of legal aid in the context of the 2006 budget and at that time to discuss further the role of the Office of Public Counsel for the defence and the assignment of counsel to indigent accused.

G. Other reports

1. Rationalization of the translation capacities of the Court

54. The Committee had before it a report on rationalizing the translation capacity of the Court (ICC-ASP/4/CBF.1/7), which stated that no duplication occurred solely by virtue of the fact that translation services were performed in more than one organ, as there was a clear distinction between, on the one hand, official translations of Court documents which were the sole responsibility of the Registrar and, on the other, translations related to operational investigative activities which, for reasons of confidentiality, had to be performed under the supervision of the Office of the Prosecutor. The Committee was apprised of the efforts undertaken to avoid possible duplication and waste of resources in the field of translation, in particular centralization within the Registry of the revision of translations, the use of the same IT system for translation support, the administration of resources in a common register, and the joint recruitment of translators and field interpreters. Any further centralization, it was stated, would not bring about any savings.

55. The Committee accepted the reasoning for maintaining separate translation capacities in the Registry and the Office of the Prosecutor and noted that the translation capacity of the Office of the Prosecutor would be limited to investigation material, witness statements and certain supporting documents regarding requests for charges to be issued. **However, notwithstanding the need for confidentiality in the handling of some documents, the Committee expected that the two translation units would use the same systems, assist each other where required, and employ document management systems that would minimize the risk of multiple translations of the same document.**

2. Procurement

56. The Court made a presentation on its procurement process. It noted that the challenges ahead included improvement of procurement planning, implementation of local procurement for field offices, reduction of the number of suppliers, achievement of cost savings and cost avoidance.

57. The Committee took note of the presentation and the report submitted on this matter (ICC-ASP/3/CBF.2/13).

H. Other matters

58. The Committee noted that its third and fourth sessions had become overburdened due to the increasing activity of the Court and the consequent number and complexity of issues that the Committee needed to consider in dialogue with the Court. The overloaded agenda and the time spent on hearing presentations had precluded a full discussion of some issues that warranted more extensive consideration. **The Committee therefore emphasized that priorities for the agenda of each session should be selected in advance and requested the Chairperson of the Committee to liaise with the Secretariat and the Court to ensure the most stringent time management.**

59. Further, the Committee noted the tendency of the Court to submit very short reports on some issues which were supplemented during the session with substantial presentations. The Committee emphasized that it wished to minimize time spent on presentations during future sessions and to maximize time for dialogue with Court officials and deliberations on its recommendations. **It therefore requests the Court to be more economical in its presentations and to avoid presentations where the relevant information can be provided to the Committee in advance.**

60. The Committee expressed appreciation of the Court's continued work on the Extranet which would facilitate communication between the members of the Committee and between the Committee and the Court. The Committee agreed that the Extranet should provide a medium for the dissemination of information outside sessions, thereby alleviating pressure on the Committee's sessions.

61. Finally, the Committee decided to hold its fifth session in The Hague from 10 to 14 October 2005.

Annex I

Status of contributions as at 5 April 2005

States Parties	Prior years assessed contributions	Prior years receipts	Prior year outstanding contributions	2005 assessed contributions	2005 contributions receipt	2005 outstanding contributions	Total outstanding contributions
1 Afghanistan	2.501	539	1.962	2.767	-	2.767	4.729
2 Albania	6.522	6.522	-	6.916	-	6.916	6.916
3 Andorra	7.959	7.959	-	6.916	-	6.916	6.916
4 Antigua and Barbuda	4.529	-	4.529	4.150	-	4.150	8.679
5 Argentina	1.678.107	369.282	1.308.825	1.322.414	-	1.322.414	2.631.239
6 Australia	2.754.677	2.754.677	-	2.202.179	2.202.256	-	-
7 Austria	1.529.049	1.529.049	-	1.188.236	1.009.723	178.513	178.513
8 Barbados	14.421	14.421	-	13.833	13.834	-	-
9 Belgium	1.872.310	1.872.310	-	1.478.725	-	1.478.725	1.478.725
10 Belize	1.716	-	1.716	1.383	-	1.383	3.099
11 Benin	3.431	3.431	-	2.767	-	2.767	2.767
12 Bolivia	14.821	3.048	11.773	12.450	-	12.450	24.223
13 Bosnia & Herzegovina	5.764	5.764	-	4.150	-	4.150	4.150
14 Botswana	19.349	19.349	-	16.599	2.622	13.977	13.977
15 Brazil	3.101.239	677.439	2.423.800	2.106.733	-	2.106.733	4.530.533
16 Bulgaria	26.691	26.691	-	23.516	15.059	8.457	8.457
17 Burkina Faso	1.098	-	1.098	2.767	-	2.767	3.865
18 Burundi	91	91	-	1.383	-	1.383	1.383
19 Cambodia	3.431	2.830	601	2.767	-	2.767	3.368
20 Canada	4.671.329	4.671.329	-	3.891.163	3.891.304	-	-
21 Central African Republic	1.716	-	1.716	1.383	-	1.383	3.099
22 Colombia	276.014	145.149	130.865	214.408	-	214.408	345.273
23 Congo	457	-	457	1.383	-	1.383	1.840
24 Costa Rica	45.285	4.661	40.624	41.498	-	41.498	82.122
25 Croatia	64.707	64.707	-	51.181	8.366	42.815	42.815
26 Cyprus	66.284	66.284	-	53.949	53.951	-	-
27 Democratic Republic of the Congo	5.764	2.026	3.738	4.150	-	4.150	7.888
28 Denmark	1.251.795	1.251.795	-	993.194	1.038.531	-	-
29 Djibouti	1.519	421	1.098	1.383	-	1.383	2.481
30 Dominica	1.716	-	1.716	1.383	-	1.383	3.099
31 Ecuador	36.300	24.477	11.823	26.282	-	26.282	38.105
32 Estonia	19.349	19.349	-	16.599	16.600	-	-
33 Fiji	6.861	6.861	-	5.533	-	5.533	5.533
34 Finland	908.171	908.171	-	737.287	737.316	-	-
35 France	10.621.451	10.621.451	-	8.341.171	8.341.469	-	-
36 Gabon	18.528	12.897	5.631	12.450	-	12.450	18.081
37 Gambia	1.716	618	1.098	1.383	-	1.383	2.481
38 Georgia	3.484	-	3.484	4.150	-	4.150	7.634
39 Germany	15.555.205	15.555.205	-	11.981.960	5.888.375	6.093.585	6.093.585
40 Ghana	7.479	3.089	4.390	5.533	-	5.533	9.923
41 Greece	915.382	915.382	-	733.138	185.874	547.264	547.264
42 Guinea	4.441	-	4.441	4.150	-	4.150	8.591
43 Guyana	91	-	91	1.383	-	1.383	1.474
44 Honduras	8.419	-	8.419	6.916	-	6.916	15.335
45 Hungary	212.597	212.597	-	174.293	174.299	-	-
46 Iceland	57.707	57.707	-	47.031	47.034	-	-
47 Ireland	566.283	566.283	-	484.147	484.165	-	-
48 Italy	8.497.237	7.891.720	605.517	6.757.316	-	6.757.316	7.362.833
49 Jordan	17.017	17.017	-	15.216	-	15.216	15.216
50 Latvia	22.642	22.642	-	20.749	20.750	-	-
51 Lesotho	1.716	39	1.677	1.383	-	1.383	3.060
52 Liberia	91	-	91	1.383	-	1.383	1.474
53 Liechtenstein	9.195	9.195	-	6.916	6.917	-	-
54 Lithuania	29.596	21.013	8.583	33.199	-	33.199	41.782
55 Luxembourg	133.943	133.943	-	106.512	106.516	-	-
56 Malawi	2.096	-	2.096	1.383	-	1.383	3.479
57 Mali	3.431	3.234	197	2.767	-	2.767	2.964
58 Malta	21.683	6.870	14.813	19.366	-	19.366	34.179
59 Marshall Islands	1.716	1.415	301	1.383	-	1.383	1.684
60 Mauritius	18.870	15.562	3.308	15.216	-	15.216	18.524
61 Mongolia	1.716	1.716	-	1.383	595	788	788
62 Namibia	10.911	10.911	-	8.300	8.301	-	-
63 Nauru	1.716	618	1.098	1.383	-	1.383	2.481
64 Netherlands	2.930.823	2.930.823	-	2.337.741	2.337.826	-	-
65 New Zealand	391.787	391.787	-	305.705	305.717	-	-
66 Niger	1.716	-	1.716	1.383	-	1.383	3.099
67 Nigeria	86.211	86.211	-	58.098	172	57.926	57.926
68 Norway	1.145.351	1.145.351	-	939.246	939.281	-	-
69 Panama	31.975	10.396	21.579	26.282	-	26.282	47.861
70 Paraguay	23.057	-	23.057	16.599	-	16.599	39.656
71 Peru	174.044	3.066	170.978	127.262	-	127.262	298.240
72 Poland	730.190	730.190	-	637.691	637.714	-	-
73 Portugal	801.952	801.952	-	650.141	-	650.141	650.141
74 Republic of Korea	2.750.756	2.074.783	675.973	2.484.368	-	2.484.368	3.160.341
75 Romania	101.850	101.850	-	82.997	40.273	42.724	42.724
76 Samoa	1.597	1.597	-	1.383	636	747	747
77 San Marino	4.529	1.236	3.293	4.150	-	4.150	7.443
78 Senegal	8.577	6.978	1.599	6.916	-	6.916	8.515
79 Serbia and Montenegro	33.211	19.226	13.985	26.282	-	26.282	40.267
80 Sierra Leone	1.716	618	1.098	1.383	-	1.383	2.481
81 Slovakia	82.545	82.545	-	70.547	70.547	-	-
82 Slovenia	140.049	140.049	-	113.429	-	113.429	113.429
83 South Africa	573.056	561.858	11.198	403.917	-	403.917	415.115
84 Spain	4.325.364	4.325.364	-	3.485.862	-	3.485.862	3.485.862
85 St. Vincent and the Grenadines	1.519	1.219	300	1.383	-	1.383	1.683
86 Sweden	1.731.087	1.731.087	-	1.380.512	1.380.562	-	-
87 Switzerland	2.100.964	2.100.964	-	1.655.784	1.471.608	184.176	184.176
88 Tajikistan	1.716	-	1.716	1.383	-	1.383	3.099
89 The former Yugoslav Republic of Macedonia	10.293	6.242	4.051	8.300	-	8.300	12.351
90 Timor-Leste	1.597	498	1.099	1.383	-	1.383	2.482
91 Trinidad and Tobago	34.033	34.033	-	30.432	17.205	13.227	13.227
92 Uganda	9.675	3.701	5.974	8.300	-	8.300	14.274
93 United Kingdom of Great Britain and Northern Ireland	10.152.211	10.152.211	-	8.475.349	2.009.927	6.465.422	6.465.422
94 United Republic of Tanzania	8.740	2.155	6.585	8.300	-	8.300	14.885
95 Uruguay	102.271	9.778	92.493	66.397	-	66.397	158.890
96 Venezuela	316.518	128.829	187.689	236.541	-	236.541	424.230
97 Zambia	3.037	2.620	417	2.767	-	2.767	3.184
	83.965.349	78.128.973	5.836.376	66.891.200	33.465.325	33.472.000	39.308.376

Annex II

List of documents

Committee on Budget and Finance

ICC-ASP/4/1	Report to the Assembly of States Parties on the future permanent premises of the International Criminal Court: housing options
ICC-ASP/4/CBF.1/L.1	Provisional agenda
ICC-ASP/4/CBF.1/L.2/Rev.1	Annotated list of items included in the provisional agenda
ICC-ASP/4/CBF.1/L.3	Draft report of the Committee on Budget and Finance on the work of its fourth session
ICC-ASP/4/CBF.1/1	Report on human resources management policies of the Court
ICC-ASP/4/CBF.1/2	Report on the principles and criteria for the determination of indigence for the purposes of legal aid
ICC-ASP/4/CBF.1/3	Report on the future permanent premises of the International Criminal Court: Project Presentation
ICC-ASP/4/CBF.1/4	Report on the draft 2005 budget of the Secretariat of the Trust Fund for Victims
ICC-ASP/4/CBF.1/5	Report on the Strategic Plan of the Court
ICC-ASP/4/CBF.1/6/Rev.1	Report on the outreach activities of the Court
ICC-ASP/4/CBF.1/7	Report on rationalizing the translation capacity of the Court
ICC-ASP/4/CBF.1/8/Corr.1	Report to the Assembly of States Parties on options for ensuring adequate defence counsel for accused persons Update to annex 2: Payment details of the ICC legal aid scheme
ICC-ASP/4/CBF.1/9	Preliminary report on programme performance of the International Criminal Court for the year 2004
ICC-ASP/4/CBF.1/INF.1	Future permanent premises of the International Criminal Court: financing models
ICC-ASP/3/12, annex II	Proposal concerning conditions of service and compensation of judges and elected officials
ICC-ASP/3/23	Report to the Assembly of States Parties concerning consultants
ICC-ASP/3/CBF.2/3	Report to the Assembly of States Parties on options for ensuring adequate defence counsel for accused persons

ICC-ASP/3/CBF.2/13

Procurement activities of the Procurement Review Committee:
1 January 2003 to 30 April 2004

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