
Fourth session

The Hague

28 November to 3 December 2005

**Report on changes to the Financial Regulations and Rules
as a result of the establishment of the Contingency Fund
pursuant to paragraph 2 of resolution ICC-ASP/3/Res. 4**

1. In resolution ICC-ASP/3/Res.4,¹ the Assembly of States Parties approved the establishment, and decided on the mechanism for the funding, of a Contingency Fund to ensure that the Court can meet:
 - a) Costs associated with an unforeseen situation following a decision by the Prosecutor to open an investigation; or
 - b) Unavoidable expenses for developments in existing situations that could not be foreseen or could not be accurately estimated at the time of adoption of the budget; or
 - c) Costs associated with an unforeseen meeting of the Assembly of States Parties.

In order to provide a framework for the regulation of the use of the Contingency Fund, the Assembly of States Parties approved provisionally certain amendments to financial regulations 4.7 and 5.8 and the insertion of new financial regulations 6.6 to 6.10. At the same time, the Assembly requested the Court to submit to it, through the Committee on Budget and Finance, a report on additional changes to the Financial Regulations and Rules which might be necessitated by the establishment of the Contingency Fund. This report is submitted pursuant to that request.

2. The Court has not yet had recourse to the Contingency Fund since its establishment, neither has it made use of other mechanisms for unforeseen expenses as envisaged under regulations 3.6 and 4.2 of the Financial Regulations and Rules. The Court cannot therefore be said to have had its consideration of the necessity for amendments to the Financial Regulations and Rules informed by the practical experience of resorting to one or both of these mechanisms at any given time.

Nevertheless, the Court has carefully reviewed the Financial Regulations and Rules and, in particular, the mechanisms which would be followed in the circumstance that unforeseen or

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), Part III.*

unavoidable expenses which were not provided for in the programme budget were to arise. The conclusion reached is that only minimal additional changes are required, as recommended below.

However, the necessity for further amendments to the Financial Regulations and Rules may have to be revisited in the future in the light of the Court's experience and practice in the use of either one or other of the mechanisms envisaged under the above-mentioned Financial Regulations and Rules for unforeseen expenses.

3. In summary, consequential additional amendments necessitated by the Contingency Fund relate to the chapeau of regulation 5.5, to regulation 5.5 (b) and regulation 5.7.
4. Under new regulation 6.6, the Assembly of States Parties can determine that the Contingency Fund should be financed from assessed contributions. This determination will be made at the time of adoption of the budget, hence the need to amend the chapeau of regulation 5.5 in order to cater for this possibility. A consequential change would also be necessary for regulation 5.5 (b) to enable the Registrar to communicate to States Parties their assessed contributions to the Working Capital Fund as well as to the Contingency Fund.
5. According to regulation 5.7, all assessed contributions are to be made in the currency of the statutory headquarters of the Court. Accordingly, a reference to the Contingency Fund in regulation 5.7 would make it clear that assessed contributions to the Fund should also be made in the same currency.
6. The recommended amendments are as follows:

Add the following wording to the chapeau of regulation 5.5 after "Working Capital Fund":

"or the Contingency Fund if the Assembly of States Parties has determined in accordance with regulation 6.6 that the Fund shall be financed from assessed contributions...".

Add the following wording in regulation 5.5 (b) after "Working Capital Fund":

"or Contingency Fund".

In regulation 5.7, after "Working Capital Fund," in both instances, add the following wording:

"and as appropriate, to the Contingency Fund".

In all other respects the Court is of the view that the Financial Regulations and Rules, as provisionally amended by ICC-ASP/3/Res.4,² adequately provide for the operation and regulation of the Contingency Fund.

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² Ibid.