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

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I. Introduction

A. Opening of the session and adoption of the agenda

1. The sixth 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 4th plenary meeting of its fourth session on 3 December 2005. The Committee held its sixth session, comprising six meetings, at the seat of the Court in The Hague, from 24 to 26 April 2006. 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. Eduardo Gallardo Aparicio (Bolivia) 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 *ad interim*, Mr. Renan Villacis, acted as Secretary of the Committee.

4. At its 1st meeting, the Committee adopted the following agenda (ICC-ASP/5/CBF.1/L.1):

1. Opening of the session
2. Adoption of the agenda
3. Participation of observers
4. Organization of work
5. Programme performance of the 2005 budget
6. Financial performance data of the 2006 budget: first quarter
7. Assumptions for the programme budget for 2006
8. Premises of the Court:
 - a) Permanent premises
 - b) Interim premises
9. Security personnel services
10. Detention costs
11. Pension scheme for judges
12. Conditions of service and compensation of the Prosecutor and Deputy Prosecutors
13. Strategic Plan of the Court
14. Implications of changing the financial period
15. States in arrears
16. Other matters
17. Approval of the report of the session

5. The following members attended the sixth session of the Committee:

1. Lambert Dah Kindji (Benin)
2. David Dutton (Australia)
3. Eduardo Gallardo Aparicio (Bolivia)
4. Fawzi A. Gharaibeh (Jordan)
5. Peter Lovell (United Kingdom of Great Britain and Northern Ireland)
6. John F.S. Muwanga (Uganda)

7. Karl Paschke (Germany)
8. Elena Sopková (Slovakia)
9. Michel-Etienne Tilemans (Belgium)
10. Santiago Wins (Uruguay)

6. Due to work-related reasons, Mr. Myung-jae Hahn (Republic of Korea), was unable to attend the session and sent his apologies.

7. The Committee noted with regret that the Eastern European Group had not yet identified a candidate as replacement for Ms. Inna Šteinbuka (Latvia) who had resigned due to work-related reasons and urged that this be done before the next session of the Assembly.

8. 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.

9. The Committee observed one minute of silence in tribute to Dr. Medard Rwelamira, the former Director of the Secretariat of the Assembly of States Parties and Secretary of the Committee, who passed away earlier in the year. The Chairperson and the President of the Court made statements.

B. Participation of observers

10. The Committee accepted the request of the Coalition for the International Criminal Court to make a presentation to the Committee.

C. Statements by a representative of the host State

11. At the 2nd meeting on 24 April 2006, Ambassador Edmond Wellenstein, Director General, ICC Task Force, Ministry of Foreign Affairs of the Netherlands, made statements on behalf of the host State on the issues of permanent premises, interim premises and detention costs.

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

A. Review of financial issues

1. Status of contributions

12. The Committee reviewed the status of contributions as at 27 April 2006 (annex I). It noted that a total of €10,438,341 was outstanding from previous financial periods. It expressed concern that the rate of payment had deteriorated further in 2006 from previous years: 55 per cent of contributions had been received by this point in 2004, and 50 per cent in 2005, but only 44 per cent had been received in the current year. The Committee expressed concern that only 30 States were fully paid up for all their contributions, leaving a total of €53,974,560 outstanding for all financial periods.

13. The Committee noted that the New York Working Group of the Bureau would continue to consider arrears, including suggestions to promote timely payment.

The Committee expressed concern at the potential for future cash shortages caused by non-payment of contributions by States Parties and encouraged the Assembly and the New York Working Group to continue to develop measures to encourage timely payment.

2. States in arrears

14. The Committee took note of paragraphs 40 to 47 of resolution ICC-ASP/4/Res.4, regarding procedures for applying article 112, paragraph 8, of the Statute to States in arrears. The Committee took note of the Assembly's decision that the Committee should consider future applications for exemption under article 112, paragraph 8, of the Statute, and had an initial discussion on how it could best carry out this task.

15. The Committee emphasised that it would not be possible for it to adequately perform the task entrusted to it by the Assembly within the five day session that the Committee holds in October each year. The Committee was concerned that the workload of considering the budget, premises, financial accounts and an array of other budgetary and administrative issues was already becoming too great for the Committee to be able to provide the Assembly with good quality advice in accordance with its terms of reference. However, the Committee wished to avoid, if possible, an extension of its October session.

16. As such, **the Committee agreed that the Chair should ask three members of the Committee to meet for one or two days immediately in advance of its seventh session to consider applications for exemption in accordance with the Assembly's decision. The three Committee members would meet informally and present their conclusions to the Committee as a whole. In turn, the Committee would adopt recommendations to the Assembly. This arrangement would be applied initially in 2006 and then be reviewed by the Committee.**

17. The Committee also noted that the New York Working Group of the Bureau had been tasked to examine possible guidelines for submission of documentation regarding exemption requests in accordance with paragraph 48 of the Assembly's resolution referred to in paragraph 14 above. The Committee observed that it would need to develop its own procedures for considering exemption requests, and these would necessarily be related to the guidelines adopted by the Bureau. **The Committee therefore asked the Secretariat to keep it informed of relevant developments in the New York Working Group and agreed that the three members identified to examine requests for exemption should also consider this question in advance of the seventh session of the Committee.**

3. Contingency Fund

18. The Committee noted advice from the Court that the Contingency Fund remained at a level of €10 million and had not been employed since its creation by the Assembly in 2004. It appreciated advice that the Court would seek to use existing flexibility within its budget before utilising the Fund, as well as the Court's strict interpretation of the requirements for accessing the fund. At the same time, the Committee remained of the view that the Contingency Fund was a valuable financial tool for providing additional, unanticipated financial resources in certain circumstances, and for avoiding the inclusion of appropriations for unlikely contingencies in the approved budget. Accordingly, it agreed that the decision of the Prosecutor not to include costs for forensic investigations in the budget for 2006, but

to seek such resources from the Contingency Fund should that be necessary, represented a good use of the contingency fund tool. **The Committee decided that it should keep the fund under review in light of experience with its use and noted that the Assembly would review the fund in 2008.**

4. Investment of surplus funds

19. The Committee noted the Report on investments of surplus funds (ICC-ASP/5/CBF.1/9). It observed that, notwithstanding creation of the Investment Review Committee within the Court, the Registrar was the accountable officer for the investment of surplus funds according to Regulation 9 of the Financial Regulations and Rules. The Committee noted that the Registrar intended to review current arrangements in the near future. The Committee further noted that income generated from investment of the general fund and working capital fund would be credited to miscellaneous income as provided in Rule 109.4 of the Financial Regulations and Rules.

20. The Committee **also noted that surplus funds should be returned to States Parties on an annual basis, unless the Assembly decides otherwise.**

B. Budgetary matters

1. Programme performance of the 2005 budget

21. The Committee had before it the Report on programme performance of the International Criminal Court for the year 2005 (ICC-ASP/5/CBF.1/4). The Court advised that its overall financial implementation rate during the year 2005 was 83.4 per cent of the approved budget. The assumptions for trial activity during 2005 had not been realised, resulting in lower staff costs.

22. The Committee recalled its previous recommendations on results-based budgeting and the formulation of performance indicators.¹ In that context, it noted some variability in the quality of the achievements identified for different programmes. Although the Committee agreed that there appeared to be continuing progress in the application of results-based budgeting, **many of the achievements identified in the report represented outputs (rather than results) and should be improved in future.**

23. The Committee noted that the rate of utilisation of the 2005 budget was higher than it had expected given that the assumptions for the period pertaining to trial activity had not been realised. In particular, the Committee observed that there had been a significant over-run of expenses for general temporary assistance (GTA) and smaller over-expenditure for several other items. The Committee was unable to analyse the causes of these over-runs since the report contained only aggregate financial data for the period. **The Committee therefore requested that, in future, the report include a breakdown of expenditure by programme, which would facilitate more rigorous oversight of the Court's expenditure. Finally, the Committee recommended that in future, the report also contain information on actual versus budgeted staffing levels.**

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November-3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), Part II.B.6 (b), para. 27.

2. Financial performance data of the 2006 budget: first quarter

24. The Committee had before it the Report on budget performance of the International Criminal Court as at 31 March 2006 (ICC-ASP/5/CBF.1/10). The Committee noted that approximately 21 per cent of the budget was spent during the first quarter of 2006 and that some items of expenditure (including GTA, overtime and consultants) were being utilized above the average implementation rate. **The Committee reiterated its expectation that expenditure be carefully managed to avoid exceeding the authorised levels for each object of expenditure. Furthermore, the Committee expected that resources would be managed carefully in line with the realisation of the assumptions on which the budget was based. Finally, the Committee requested that in future the report include data on post occupancy.**

3. Assumptions for the programme budget for 2006

25. The Prosecutor updated the Committee on progress in the three situations in which he was conducting active investigations (Uganda, the Democratic Republic of the Congo (DRC) and Darfur), as well as the recent arrest and transfer to the Court of a person indicted in the DRC investigation. Five arrest warrants had also been issued in the Ugandan situation. Pre-trial activity had already commenced and further trials work would take place during 2006, but trials might not occur as quickly as had been assumed in the 2006 budget. It was also uncertain whether and when further arrests would take place. These factors would necessarily affect the budget of the Court. He informed the Committee that a fourth situation will be opened during the course of 2006, as previously foreseen in the assumptions made for the current budget, noting that some redeployment of resources to a fourth situation might be possible depending on progress in the other investigations.

26. The Committee expressed appreciation for the update by the Prosecutor on his work and its implications for the budget of the Court.

4. Preparation of the proposed programme budget for 2007

27. The Committee was informed by the Court that the level of the 2007 budget would be likely to increase by at least €10 million due to the full costs of previously approved posts that were partially costed in 2006, inflation, pension liabilities and new costs for additional interim premises. Additional costs might also arise in 2007 for the detention facilities and for trial activity. The Court advised that these costs arose from previous decisions of the Assembly and factors outside of the Court's control, but would not add to the Court's capacity. The Court would, of course, examine closely its requirements for 2007 and additional costs for 2007 during its preparation of the proposed programme budget for 2007.

28. The Committee observed that the Court had experienced several years of rapid growth which now provided a large staffing complement and substantial capacity for the Court. While it understood that the budget assumptions for 2007 would not be finalised until later in the year, it noted the Prosecutor's advice that assumptions for 2007 were unlikely to vary significantly from those in 2006. **In view of this, the Committee emphasised its expectation that any proposed increases for the 2007 budget would be kept to the minimum and derive from changes to the assumptions of the Court.**

5. Security personnel services

29. The Committee had before it the Report on the costs and benefits of outsourcing certain security personnel services (ICC-ASP/5/CBF.1/3), which set out the comparative costs and benefits of outsourcing certain security functions which were currently performed by staff paid from GTA funds. The Committee concurred with the report's finding that there were benefits to the Court – both in terms of efficiency and of cost savings – in preserving current arrangements. The Committee welcomed advice that the Office of Internal Audit had verified the methodology and findings of the report. **Accordingly, the Committee recommended that the security personnel required for the identified services continue to be employed by the Court on the current basis.**

6. Detention costs

30. The Committee received presentations from representatives of the host State and of the Court regarding detention costs. The Committee was informed that the current cost charged to the Court was €289 per cell per day. However, discussions were continuing between the host State and the Court and a final price had not been agreed. The Committee expressed its hope that a satisfactory conclusion would be reached. The Committee also sought clarification of whether the price charged by the host government was based on the principle of full cost recovery, or whether the price included either a profit for, or subsidy from, the host State. The Committee observed that application of a full cost recovery principle should allow the costs to be resolved at the technical level based upon an open-book policy by the host State, without requiring extensive negotiations. **The Committee decided to return to this issue during its consideration of the proposed programme budget for 2007.**

C. Premises of the Court

(a) Permanent premises

31. The Committee heard the introduction of the Report on the Future Permanent Premises of the International Criminal Court: Update of Financial Comparison of Housing Options (ICC-ASP/5/CBF.1/1) made by a team led by the Chairman of the Inter-Organ Committee on the Permanent Premises (IOCPP), Judge Hans-Peter Kaul.

32. The IOCPP informed the Committee that the new report on financial comparison of housing options provided an update of the previous year's report, conducted in light of the new offer from the host State for the Alexanderkaserne, contained in its letter of 25 January 2006.² The terms of the offer made this option more advantageous in financial terms than the other two options previously identified (continued use of the Arc building or refitting the premises of the International Criminal Tribunal for the former Yugoslavia). The IOCPP also indicated a strong preference for the Alexanderkaserne option based on its purpose-built nature, functionality, security and reflection of the Court's identity.

33. The IOCPP informed the Committee that the Court Capacity Model would provide a sound methodology to formulate staffing levels for use in defining requirements for the permanent premises. Continuously updated estimations, as well

² *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Resumed fourth session, New York, 26-27 January 2006* (International Criminal Court publication, ICC-ASP/4/37), annex IV.

as the assumptions about their required flexibility and distribution, could be used as input for the international architectural design competition. Consequently, the IOCPP believed that a final decision on staffing estimates was not needed at the present time. Even in the case of changes later in the process, the cost of modifications during the design phase would probably be significantly lower than postponing the start of the project until firm figures were available.

34. The IOCPP also drew the Committee's attention to the likely additional costs that a delay on a final decision on permanent premises might entail. After the rent-free period (which would end in 2012), each year of delay would cost one year of rent for the Arc building (currently €5.3 million) plus the cost of renting additional interim premises that were presently under consideration. Furthermore, since building costs would increase with inflation, the purchasing power of the €200 million loan offered by the host State would decline over time.

35. The Committee also heard a statement by Mr. Edmond Wellenstein, Director-General, ICC Task Force, Ministry of Foreign Affairs of the Netherlands, who stressed that the permanent premises should be accorded priority. He said the project presentation of the Court for the Alexanderkazerne provided a good basis for selection of an architect, but more detailed information on requirements would be needed from the Court. He indicated that the host government wished to see clear decisions on the options to be pursued, including advice on which aspects of financing modalities needed clarification.

Housing options

36. The Committee recalled its previous recommendations on housing options contained in paragraph 83 of the report on the work of the fifth session.³ It also recalled that resolution ICC-ASP/4/Res.2 of the Assembly of States Parties had recognised that the Alexanderkazerne "would probably offer the most flexible solution in matching the requirements of a permanent Court, in terms of size, functionality and security" and that a decision on permanent premises would have significant financial implications for States Parties. The offer by the host State appeared to reinforce that judgement. However, in the absence of a decision by the Assembly to select the Alexanderkazerne option, it was incumbent upon the Court to continue to work on alternative proposals for renting housing in the Hague (including the Arc and ICTY sites) in order to present the Assembly with genuine choices.

37. The Committee noted that the IOCPP and the host State favoured the Alexanderkazerne option for the Court's permanent premises, and did not regard the Arc or ICTY sites as viable alternatives.

38. The Committee took note of advice that delays in the project would increase costs. While the Committee acknowledged this possibility, it underlined the significant financial implications of the project and the considerable risks attendant to it. These factors warranted careful consideration of all aspects of the project and a cautious decision-making process.

³ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November – 3 December 2005* (International Criminal Court publication, ICC-ASPS/4/32, Part II.B.6, para. 83).

Staffing levels and project specifications

39. The Committee recalled its previous comments on the importance of establishing a robust estimate of the likely maximum staffing level for the Court in order to inform consideration of housing options and development of specifications for permanent premises.⁴ It noted the argument of the IOCPP that staffing numbers could be integrated at later stages of the planning process. However, it observed that staffing levels had a direct bearing on the viability of the options of using the Arc or ICTY since those sites might be suitable for a total of 850 staff but could not be extended to a level of 1300. The Committee also noted the current headcount which the Court provided (annex II, Total number of persons working at the Court) and that the Court Capacity Model, when finalised in August 2006, was expected to provide new estimates of staffing levels.

Financial comparison of housing options

40. The Committee examined the submission of the Court containing a financial comparison of housing options taking into account the offer of the host State for the construction of permanent premises at the Alexanderkazerne (ICC-ASP/5/CBF.1/1), as well as the underlying paper that had been initially submitted in 2005 (ICC-ASP/4/23). The Committee noted that the methodology employed by the Court compared the three options for permanent premises by assuming certain costs for the construction of additional office space at the Arc and ICTY to raise the capacity of those sites to a total of 1300 staff. While the Committee thought the paper provided some useful comparative financial data, it felt that the paper contained an insufficient basis to draw definite conclusions on the overall costs of each of the three options. Specifically, the Committee felt the paper did not reflect genuine choices open to the Assembly since additional office space could not be constructed on the Arc or ICTY sites.

41. **The Committee also noted that the Court's financial comparison of options assumed that the Court would own the buildings constructed at the Alexanderkazerne while the host government would retain ownership of the site. It was informed that this may pose difficulties under the property law of the host State and the Committee requested that the situation be clarified at its next session.**

42. **The Committee concluded that more progress would need to be made on the Alexanderkazerne project in order to prepare firm and reliable estimates of the range of likely costs for the project. The Committee requested the Court, in preparing such estimates, to explore different possibilities for constructing and maintaining permanent premises in partnership with the private sector. It also requested that the Court differentiate the essential features of permanent premises at the Alexanderkazerne from optional features, thereby assisting the Assembly to make choices on the scope and cost of the project. The Committee further requested that the development of such estimates be based on consultations with a range of architectural or construction companies with experience of major construction projects in the Netherlands.**

⁴ *Ibid*, Part II.B.6 (b), para. 82 and Part II.B.6 (a) paras. 33-34.

Project office and governance arrangements

43. The Committee agreed with the contention of the IOCPP that the Court needed to acquire greater specialist capacity to lead its work on permanent premises. The Committee also felt that it was imperative to establish a strong framework for the management at an early stage. This arrangement should include appropriate specialist capacity within the Court supported by external consultants. The Committee also emphasised that there needed to be strong continuous governance arrangements in place including clear lines of responsibility and accountability within the Court and to the Assembly. **The Committee therefore requested the Court to review its internal governance arrangements for the permanent premises, with a view to ensuring that the Registrar is the accountable officer for the project within the Court and that he is supported by an appropriate, high-level steering group or other coordinating mechanism.**

44. Accordingly, the Committee invited the Registrar to submit proposals for consideration at its next session identifying the roles, responsibilities and lines of accountability for the permanent premises. The proposals should, in particular, cover the critical areas of:

- Design specification (the customer requirement)
- Approval and authorisation to commit (including delegated levels of authority)
- Delivering the building to the agreed standards on time, quality and cost.
- Providing (independent) assurance specifically on issues relating to the identification and management of risks.

Further consideration

45. Finally, the Committee recommended that the Court submit a further update on the project for consideration at its next session, including information on the points mentioned above. In particular, the Committee requested the Court to submit a firm and reliable estimate of the likely range of costs for construction at the Alexanderkazerne in order to provide the Assembly with a strong basis for considering the full financial implications of the project.

(b) Interim premises

46. The Committee had before it an informal report of the Bureau, as adopted on 20 April 2006.⁵ In its report the Bureau had considered the three housing options for the Court, with one option containing two variations:

- | | |
|-----------|------------------------------|
| Option A: | Binckhorstlaan |
| Option B: | Prefabricated premises |
| | Sub-option i) Saturnusstraat |
| | Sub-option ii) Wegastraat |
| Option C: | Leidschendam |

⁵ The informal report of the Bureau was based on the work carried out by The Hague Working Group of the Bureau on the issue of interim premises.

47. The Bureau had made two recommendations:

Bureau recommendation 1

[The Bureau recommended:]

“The endorsement of option B (the prefabricated option), provided that:

- a) The Committee on Budget and Finance at its sixth session, on review of costs in annex IV, does not consider the potential budgetary implications for States Parties significantly less favourable than for the other options;
- b) The host State would determine whether to pursue sub-option B i) or B ii); and
- c) The new interim premises would initially accommodate a maximum of 300 persons, pending future decisions emanating from the strategic planning process between States Parties and the Court.”

Bureau recommendation 2

[The Bureau recommended:]

“In light of the uncertainty surrounding the true capacity of the part of the ARC building currently occupied by the Court, that the Committee on Budget and Finance provide advice on this matter to assist States Parties in their future deliberations on interim premises issues.”

The report of the Bureau also reflected the need for the Court to occupy temporary interim premises (Hoftoren building) before option B could be fully implemented.

Consideration by the Committee

48. The Committee examined the question of interim premises for the Court in light of the decision of the Assembly, contained in resolution ICC-ASP/4/Res.12, and on the basis of the subsequent informal report of the Bureau containing the report of the Hague Working Group.

49. The Committee expressed disappointment that, contrary to previous expectations, the ‘B wing’ of the Arc would no longer be available to the Court. Recalling that the host State had undertaken to provide the Court with rent-free premises for ten years, the Committee welcomed the host State’s commitment to provide €16.5 million for additional interim premises. The Committee further observed that costs attributable to the host State could exceed €16.5 million over the remainder of the rent-free period and expected that the host State would provide such funds as would be necessary to fulfil its commitment to provide rent-free premises.

50. The Committee considered the points referred to it by the Hague Working Group within the limited time available. **It concluded that the budgetary implications of prefabricated premises would not be significantly less favourable to States Parties than the other options considered by the Hague Working Group. In addition, the Committee noted the Court’s advice of current requirements for office space (annex II) and agreed that the Court required new interim premises, for a maximum of 300 people, as a matter of some urgency.**

51. The Committee also considered the capacity of the two wings of the Arc building presently occupied by the Court. It noted the Court's advice that the Arc, as presently configured, could accommodate up to 650 staff. Recalling that the Arc had only recently been fitted out for use by the Court, the Committee noted that it appeared that there may have been some scope to fit out the Arc to attain a slightly higher capacity. However, **the Committee concluded that re-fitting the Arc would be costly and disruptive but could not increase the Arc's capacity sufficiently to obviate the need for additional interim premises.**

52. The Committee took note of the financial estimates presented by the Court and alternative estimates prepared by the host State. The Committee had insufficient time available to attempt to conduct a line by line comparison between these estimates. Nonetheless, the Committee was convinced that additional costs would arise for the Court's budget in 2006 and subsequent financial years.

53. The Committee noted the Court's view that the level of funding in Major Programme V for the 2006 budget would be approximately €200,000 less than the amount required to meet the additional costs of interim premises. The Committee noted that convening the Assembly solely to authorise expenditure of such a sum would not be justified, especially since a special session of the Assembly would itself be more costly. **The Committee therefore expected the Court to seek to absorb the additional costs within the existing budget, while recognising that in such exceptional and unforeseen circumstances it could become necessary to incur a deficit in Major Programme V for 2006. The Committee would review any expenditure at its next session and expected that the Court would keep the Committee and the Assembly informed of additional costs incurred during 2006. Finally, the Committee requested that additional costs for 2007 and beyond be included in future budget proposals.**

D. Strategic Plan of the Court

1. Strategic planning process

54. The Committee heard the introduction of the Report on the Strategic Plan of the Court (ICC-ASP/5/CBF.1/5). The Court noted that the strategic plan had been devised as a common, overarching plan for the Court, covering the full scope of its activities. Where needed, the plan would be supplemented, as in the case of the Office of the Prosecutor, by organ-specific strategies harmonized with the strategic plan. The plan included a mission statement and three interconnected strategic goals. The plan identified specific objectives or actions for each goal, differentiating those to be achieved within one to three years from longer term objectives.

55. The Committee congratulated the Court on its presentation on progress towards finalising the Court's first strategic plan. It observed that the Court had made significant progress over the previous year, and that this work responded effectively to the Committee's own recommendations in prior sessions. The Committee agreed that the plan should provide an excellent basis for guiding and disciplining the Court's activities. **In that regard, it emphasised that the Court should ensure that its annual budget and the individual performance frameworks for staff are strongly shaped by the strategic plan.**

56. The Committee agreed with the Court that **it was essential that ownership of the strategic plan should remain with the Court and that it enjoy the support**

of States Parties. It welcomed advice that the Court would conduct a dialogue with the Committee, the Assembly and other stakeholders on the draft strategic plan over the course of the year.

57. The Committee agreed that **the priority actions identified for Goal 3 “A Model for Public Administration” should also specify that the Court will apply rigorous budgetary discipline and control and seek to maximise the productivity of its staff and processes. The Committee invited the Court to consider injecting these concepts during its finalisation of the plan. Finally, the Committee looked forward to further consideration of the strategic plan at its next session.**

2. Court Capacity Model

58. The Committee heard the introduction of the Report on the Court Capacity Model (ICC-ASP/5/CBF.1/6). The Court noted that the model was intended to simulate and calculate resources and outputs according to various assumptions. The Court hoped that the model would assist in planning and decision-making, especially with regard to the overall size of the Court, and would increase efficiency by identifying areas of overcapacity between organizational units. The model would help the Court to coordinate the capacity and output of units, sections, divisions and organs and would enhance the budget process by assisting the Court in justifying budget requests in terms of expected results. It would also help the Court determine staffing levels for the permanent premises (see paragraphs 33 and 39 above, under C). The Model had been developed by gathering information from all units throughout the Court, integrating the collected data into a model that linked all the functions with their respective dependency factors and running simulations in order to identify the different possible combinations of resources and outputs over a given time frame.

59. The Committee took note with interest of progress made by the Court in developing the Court Capacity Model. **It encouraged the Court to complete its work on the model and decided to evaluate the model carefully at its next session.**

E. Other reports

1. Conditions of service and compensation of the Prosecutor and Deputy Prosecutors

60. The Committee had before it the report on the Conditions of service and compensation of the Prosecutor and Deputy Prosecutors (ICC-ASP/5/CBF.1/2). Recalling that article 49 of the Statute provided that the Assembly should determine the salaries, allowances and expenses of the elected officials of the Court, the Committee noted that the Assembly had adopted specific conditions of service for judges and decided that the Registrar should be designated as an Assistant-Secretary-General (ASG) for conditions of service.⁶ However, the Assembly had not yet determined the conditions of service for the Prosecutor and Deputy Prosecutors under article 49, who were being treated on an interim basis at the Under-Secretary-General (USG) and ASG levels respectively, based on a

⁶ 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), resolution ICC-ASP/3/Res.3, annex and operative para. 27, respectively.

paragraph complemented by a footnote in the budget for the first financial period.⁷ However, the Committee understood that no pension arrangements had yet been put in place for these officials. **Accordingly, the Committee recommended that the Assembly ensure that appropriate action is taken at its next session, to determine the conditions of service for the Prosecutor and Deputy Prosecutors under article 49.**

61. The Committee noted that there appeared to be at least three appropriate options available to the Assembly. First, the Assembly could decide that the Prosecutor and Deputy Prosecutors should be confirmed at the USG and ASG levels, respectively. Second, the Assembly could apply arrangements comparable to the ad hoc tribunals. Third, the Assembly could adopt the conditions of service proposed by the Court in annex II of ICC-ASP/3/12. If the Assembly were to adopt this third option then the Committee believed that the Assembly should also consider the level of remuneration for the Prosecutor and Deputy Prosecutors. The Committee observed that the Statute gave extensive responsibilities to the Prosecutor, and that the execution of those responsibilities was one of the most important factors in the success of the Court. As such, it might be more appropriate to remunerate the Prosecutor at the same level as the judges, rather than at a lower level, and to set remuneration for the Deputy Prosecutors at 75 per cent of that level.

62. Finally, the Committee noted that, in the absence of a previous decision under article 49, it may be appropriate or necessary to apply the arrangements for salary and pension of these officials retrospectively to the commencement of their terms of office. Without such retrospective action, the delay in adopting a decision under article 49 would effectively have reduced the pensions available to those officials.

63. **The Committee requested the Registrar to provide to the Committee at its next session financial costings for remunerating the Prosecutor and Deputy Prosecutors according to each of the options identified above. The Committee agreed that the provision of such information would assist the Assembly's considerations.**

2. Pension scheme for judges

64. The Committee took note of the report on the pension scheme for judges (ICC-ASP/5/CBF.1/8) which advised that the pension scheme for judges could not be administered by the United Nations Joint Staff Pension Fund. **The Committee agreed to revisit the issue of an external provider following completion of the Court's tender to identify an insurer able to fulfil the requirements of the pension scheme.**

65. The Committee noted that the Assembly had decided in paragraphs 6 and 7 of its resolution ICC-ASP/4/Res.9 that the Committee should further consider the issue of the pension regime applicable to judges. The Committee had an initial discussion of the issues entailed in responding effectively to the Assembly's decision. **In order to advance its consideration it requested the Registrar to submit a further report**

⁷ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (ICC-ASP/1/3), Part III, para. 55, footnote 14. Paragraph 55 of said document begins as follows: "This Office would include the Prosecutor, at the Under-Secretary-General level,¹⁴...". For its part, footnote 14 reads: "This level of the Prosecutor is shown for illustration purposes and without prejudice to the future discussion thereon."

at the Committee's next session. That report should include advice as to the possibilities of allowing judges to direct pension contributions to a fund of their choice. It should also contain a financial comparison of the current pension scheme with the option of limiting the level of the pension for judges to 12.5 or 16.5 per cent of the final remuneration level. Such an additional option would allow the Assembly to consider the financial implications of a pension model based on the principle that judges should receive a pension commensurate with their term of office as a proportion of their total working life. The Committee felt that provision of a full pension in return for nine year's service provided the judges with a level of pension income which was excessive and inconsistent with the pensions available to all other Court staff. It recognised that any change in the pension scheme would be applicable only to judges elected after the adoption of any decision by the Assembly.

66. Finally, the Committee requested the Registrar to include in his report information on the pension schemes applicable to judges in other international tribunals and advise on the practicability of determining pensions payable by the Court to individual judges on the basis of their previous service with other international organisations. The Committee decided to revert to this issue at its next session.

3. Implications of changing the financial period

67. The Committee took note of the report on the implications of changing the Court's financial year (ICC-ASP/5/CBF.1/7). It recalled that it had considered the question of the term of the financial year in detail at its third session.⁸ The Committee saw no reason to deviate from the advice it provided at that time. **Accordingly, the Committee recommended that, should the Assembly wish to reconsider this issue, the Assembly should take into account the recommendations of the Committee in the report on the work of its third session and the advice of the Court contained in the report.**

F. Other matters

1. Office of Internal Audit

68. The Committee welcomed the opportunity to meet the Internal Auditor and receive an update on the work of his Office. The Committee recalled that the report from its fifth session had noted the need for the internal auditor to be given access at all times to the officials of the Court and have timely receipt of information requested. Although the Committee was pleased to hear of some improvement, it remained concerned that in some areas there was a lack of supporting documentation to record decision making and to provide an adequate audit trail. The Committee was also concerned that in some instances there had been a lack of timely response from auditees to progress the completion of the audit process.

69. The Committee was pleased that the Oversight Committee was in existence and fulfilling the role of the audit committee. However it remained concerned about the composition of the committee and the lack of a non-executive stakeholder.

⁸ *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 II.A.8 (b), paras. 24-26.

70. **The Committee looked forward to receiving the Internal Auditor's next annual report. This should be forwarded to the next session of the Assembly and would provide States Parties with an insight into the quality of management being exercised within the Court.** This procedure accorded with normal best practice as observed by internal audit functions in other international organisations.

2. Dates for seventh session

71. **The Committee agreed that its seventh session would be held in The Hague, from 9 to 13 October 2006.**

3. Documentation

72. **The Committee requested the Court to submit documents to the Secretariat in a timely manner, so as to ensure that they are distributed to the Committee at least three weeks in advance of its sessions.**

Annex I

Status of contributions*

| States Parties | Prior Year Assessed Contributions | Prior Year Receipts Contributions | Prior Year Outstanding Contributions | 2006 Assessed Contributions | 2006 Contributions Receipt | 2006 Outstanding Contributions | Total Outstanding Contributions |
|-------------------------------------|-----------------------------------|-----------------------------------|--------------------------------------|-----------------------------|----------------------------|--------------------------------|---------------------------------|
| 1 Afghanistan | 5,266 | 5,266 | - | 3,199 | - | 3,199 | 3,199 |
| 2 Albania | 13,436 | 13,436 | - | 7,996 | - | 7,996 | 7,996 |
| 3 Andorra | 14,873 | 14,873 | - | 7,996 | - | 7,996 | 7,996 |
| 4 Antigua and Barbuda | 8,677 | 8,677 | - | 4,798 | 4,814 | - | - |
| 5 Argentina | 2,999,978 | 1,678,206 | 1,321,772 | 1,528,893 | - | 1,528,893 | 2,850,665 |
| 6 Australia | 4,955,953 | 4,955,953 | - | 2,546,022 | 2,546,022 | - | - |
| 7 Austria | 2,716,797 | 2,716,797 | - | 1,373,765 | 1,373,765 | - | - |
| 8 Barbados | 28,248 | 28,248 | - | 15,993 | 15,993 | - | - |
| 9 Belgium | 3,350,429 | 3,350,429 | - | 1,709,609 | - | 1,709,609 | 1,709,609 |
| 10 Belize | 3,099 | 3,099 | - | 1,599 | 1,599 | - | - |
| 11 Benin | 6,196 | 6,196 | - | 3,199 | - | 3,199 | 3,199 |
| 12 Bolivia | 27,265 | 3,048 | 24,217 | 14,393 | - | 14,393 | 38,610 |
| 13 Bosnia & Herzegovina | 9,912 | 9,912 | - | 4,798 | 4,798 | - | - |
| 14 Botswana | 35,942 | 35,942 | - | 19,191 | - | 19,191 | 19,191 |
| 15 Brazil | 5,207,107 | 1,438,402 | 3,768,705 | 2,435,673 | - | 2,435,673 | 6,204,378 |
| 16 Bulgaria | 50,197 | 50,197 | - | 27,187 | 27,187 | - | - |
| 17 Burkina Faso | 3,863 | - | 3,863 | 3,199 | - | 3,199 | 7,062 |
| 18 Burundi | 1,474 | 91 | 1,383 | 1,599 | - | 1,599 | 2,982 |
| 19 Cambodia | 6,196 | 5,598 | 598 | 3,199 | - | 3,199 | 3,797 |
| 20 Canada | 8,560,895 | 8,560,895 | - | 4,498,719 | 4,498,719 | - | - |
| 21 Central African Republic | 3,099 | 1,527 | 1,572 | 1,599 | - | 1,599 | 3,171 |
| 22 Colombia | 490,334 | 490,334 | - | 247,885 | 241,954 | 5,931 | 5,931 |
| 23 Congo | 1,840 | - | 1,840 | 1,599 | - | 1,599 | 3,439 |
| 24 Costa Rica | 86,766 | 13,913 | 72,853 | 47,978 | - | 47,978 | 120,831 |
| 25 Croatia | 115,867 | 115,867 | - | 59,173 | 59,173 | - | - |
| 26 Cyprus | 120,210 | 120,210 | - | 62,371 | 62,371 | - | - |
| 27 Democratic Republic of the Congo | 9,912 | 2,026 | 7,886 | 4,798 | - | 4,798 | 12,684 |
| 28 Denmark | 2,244,582 | 2,244,582 | - | 1,148,269 | - | 1,148,269 | 1,148,269 |
| 29 Djibouti | 2,902 | 2,902 | - | 1,599 | - | 1,599 | 1,599 |
| 30 Dominica | 3,099 | 2,985 | 114 | 1,599 | - | 1,599 | 1,713 |
| 31 Dominican Republic | 20,165 | - | 20,165 | 55,974 | - | 55,974 | 76,139 |
| 32 Ecuador | 62,572 | 43,611 | 18,961 | 30,386 | - | 30,386 | 49,347 |
| 33 Estonia | 35,942 | 35,942 | - | 19,191 | 19,191 | - | - |
| 34 Fiji | 12,392 | 12,375 | 17 | 6,397 | - | 6,397 | 6,414 |
| 35 Finland | 1,645,156 | 1,645,156 | - | 852,406 | 852,406 | - | - |
| 36 France | 18,959,201 | 18,959,201 | - | 9,643,539 | - | 9,643,539 | 9,643,539 |
| 37 Gabon | 30,972 | 25,347 | 5,625 | 14,393 | - | 14,393 | 20,018 |
| 38 Gambia | 3,099 | 3,099 | - | 1,599 | - | 1,599 | 1,599 |
| 39 Georgia | 7,632 | - | 7,632 | 4,798 | - | 4,798 | 12,430 |
| 40 Germany | 27,532,250 | 27,532,250 | - | 13,852,792 | 6,847,997 | 7,004,795 | 7,004,795 |
| 41 Ghana | 13,010 | 13,010 | - | 6,397 | 10,123 | - | - |
| 42 Greece | 1,648,219 | 1,648,219 | - | 847,608 | - | 847,608 | 847,608 |
| 43 Guinea | 8,589 | - | 8,589 | 4,798 | - | 4,798 | 13,387 |
| 44 Guyana | 1,474 | 1,474 | - | 1,599 | - | 1,599 | 1,599 |
| 45 Honduras | 15,333 | 812 | 14,521 | 7,996 | - | 7,996 | 22,517 |
| 46 Hungary | 386,819 | 386,819 | - | 201,507 | 201,507 | - | - |
| 47 Iceland | 104,719 | 104,719 | - | 54,375 | 54,375 | - | - |
| 48 Ireland | 1,050,232 | 1,050,232 | - | 559,741 | 559,741 | - | - |
| 49 Italy | 15,251,782 | 10,890,331 | 4,361,451 | 7,812,386 | - | 7,812,386 | 12,173,837 |
| 50 Jordan | 32,227 | 32,227 | - | 17,592 | - | 17,592 | 17,592 |
| 51 Kenya | 7,259 | 7,259 | - | 14,393 | 14,393 | - | - |
| 52 Latvia | 43,383 | 43,383 | - | 23,989 | 23,989 | - | - |
| 53 Lesotho | 3,099 | 3,099 | - | 1,599 | 3,108 | - | - |
| 54 Liberia | 1,474 | - | 1,474 | 1,599 | - | 1,599 | 3,073 |
| 55 Liechtenstein | 16,109 | 16,109 | - | 7,996 | 7,996 | - | - |

*As at 27 April 2006.

| States Parties | Prior Year Assessed Contributions | Prior Year Receipts Contributions | Prior Year Outstanding Contributions | 2006 Assessed Contributions | 2006 Contributions Receipt | 2006 Outstanding Contributions | Total Outstanding Contributions |
|--|-----------------------------------|-----------------------------------|--------------------------------------|-----------------------------|----------------------------|--------------------------------|---------------------------------|
| 56 Lithuania | 62,781 | 49,881 | 12,900 | 38,382 | - | 38,382 | 51,282 |
| 57 Luxembourg | 240,412 | 240,412 | - | 123,143 | - | 123,143 | 123,143 |
| 58 Malawi | 3,479 | - | 3,479 | 1,599 | - | 1,599 | 5,078 |
| 59 Mali | 6,196 | 6,196 | - | 3,199 | - | 3,199 | 3,199 |
| 60 Malta | 41,041 | 41,041 | - | 22,390 | - | 22,390 | 22,390 |
| 61 Marshall Islands | 3,099 | 1,416 | 1,683 | 1,599 | - | 1,599 | 3,282 |
| 62 Mauritius | 34,080 | 34,080 | - | 17,592 | - | 17,592 | 17,592 |
| 63 Mexico | - | - | - | 3,011,407 | - | 3,011,407 | 3,011,407 |
| 64 Mongolia | 3,099 | 3,099 | - | 1,599 | - | 1,599 | 1,599 |
| 65 Namibia | 19,207 | 19,207 | - | 9,596 | - | 9,596 | 9,596 |
| 66 Nauru | 3,099 | 1,716 | 1,383 | 1,599 | - | 1,599 | 2,982 |
| 67 Netherlands | 5,267,605 | 5,267,605 | - | 2,702,751 | 2,702,750 | - | - |
| 68 New Zealand | 697,366 | 697,366 | - | 353,437 | 353,437 | - | - |
| 69 Niger | 3,099 | - | 3,099 | 1,599 | - | 1,599 | 4,698 |
| 70 Nigeria | 144,285 | 86,388 | 57,897 | 67,169 | - | 67,169 | 125,066 |
| 71 Norway | 2,084,212 | 2,084,212 | - | 1,085,898 | 1,085,898 | - | - |
| 72 Panama | 58,247 | 40,469 | 17,778 | 30,386 | - | 30,386 | 48,164 |
| 73 Paraguay | 39,650 | - | 39,650 | 19,191 | - | 19,191 | 58,841 |
| 74 Peru | 301,253 | 73,065 | 228,188 | 147,132 | - | 147,132 | 375,320 |
| 75 Poland | 1,367,620 | 1,367,620 | - | 737,259 | 737,259 | - | - |
| 76 Portugal | 1,451,826 | 1,451,826 | - | 751,652 | 751,652 | - | - |
| 77 Republic of Korea | 5,234,106 | 5,234,106 | - | 2,872,271 | - | 2,872,271 | 2,872,271 |
| 78 Romania | 184,813 | 184,813 | - | 95,956 | 95,956 | - | - |
| 79 Saint Vincent and the Grenadines | 2,902 | 1,220 | 1,682 | 1,599 | - | 1,599 | 3,281 |
| 80 Samoa | 2,980 | 2,980 | - | 1,599 | - | 1,599 | 1,599 |
| 81 San Marino | 8,677 | 8,677 | - | 4,798 | - | 4,798 | 4,798 |
| 82 Senegal | 15,491 | 13,893 | 1,598 | 7,996 | - | 7,996 | 9,594 |
| 83 Serbia and Montenegro | 59,483 | 59,483 | - | 30,386 | - | 30,386 | 30,386 |
| 84 Sierra Leone | 3,099 | 1,925 | 1,174 | 1,599 | - | 1,599 | 2,773 |
| 85 Slovakia | 153,063 | 153,063 | - | 81,562 | 81,562 | - | - |
| 86 Slovenia | 253,431 | 253,431 | - | 131,139 | - | 131,139 | 131,139 |
| 87 South Africa | 976,808 | 976,808 | - | 466,984 | 466,984 | - | - |
| 88 Spain | 7,809,797 | 7,809,797 | - | 4,030,136 | - | 4,030,136 | 4,030,136 |
| 89 Sweden | 3,111,033 | 3,111,033 | - | 1,596,062 | 1,596,062 | - | - |
| 90 Switzerland | 3,756,070 | 3,756,070 | - | 1,914,314 | 1,784,783 | 129,531 | 129,531 |
| 91 Tajikistan | 3,099 | 594 | 2,505 | 1,599 | - | 1,599 | 4,104 |
| 92 The Former Yugoslav Rep. of Macedonia | 18,589 | 18,589 | - | 9,596 | - | 9,596 | 9,596 |
| 93 Timor-Leste | 2,980 | 2,980 | - | 1,599 | - | 1,599 | 1,599 |
| 94 Trinidad and Tobago | 64,453 | 51,240 | 13,213 | 35,184 | - | 35,184 | 48,397 |
| 95 Uganda | 17,971 | 3,701 | 14,270 | 9,596 | - | 9,596 | 23,866 |
| 96 United Kingdom | 18,624,084 | 18,624,084 | - | 9,798,667 | 9,798,667 | - | - |
| 97 United Republic of Tanzania | 17,036 | 17,036 | - | 9,596 | - | 9,596 | 9,596 |
| 98 Uruguay | 168,641 | 9,778 | 158,863 | 76,764 | - | 76,764 | 235,627 |
| 99 Venezuela | 552,962 | 320,404 | 232,558 | 273,473 | - | 273,473 | 506,031 |
| 100 Zambia | 5,802 | 2,620 | 3,182 | 3,199 | - | 3,199 | 6,381 |
| Total | 150,856,549 | 140,418,208 | 10,438,341 | 80,417,200 | 36,886,228 | 43,536,219 | 53,974,560 |

Annex II

Total number of persons working at the Court

| | <i>Actual per 1 April 2006</i> | <i>Budget 2006</i> |
|---|--------------------------------|--------------------|
| Elected Officials / Judges | 22 | 22 |
| Staff on established posts | 390 | 621 |
| Positions under recruitment* | 120 | 0 |
| Temporary Assistance | 114 | 100 |
| Contractors / Consultants | 45 | 40 |
| Interns / Visiting Professionals | 37 | 60 |
| Total | 728 | 843 |

* 21 April 2006

Annex III

List of documents

Committee on Budget and Finance

| | |
|---------------------------|---|
| ICC-ASP/5/CBF.1/L.1 | Provisional agenda |
| ICC-ASP/5/CBF.1/L.2/Rev.1 | Annotated list of items included in the provisional agenda |
| ICC-ASP/5/CBF.1/1 | Report on the Future Permanent Premises of the International Criminal Court - Update of Financial Comparison of Housing Options |
| ICC-ASP/5/CBF.1/2 | Report on the conditions of service and compensation of the Prosecutor and Deputy Prosecutors |
| ICC-ASP/5/CBF.1/3 | Report on the costs and benefits of outsourcing certain security personnel services |
| ICC-ASP/5/CBF.1/4 | Report on programme performance of the International Criminal Court for the year 2005 |
| ICC-ASP/5/CBF.1/5 | Report on the Strategic Plan of the Court |
| ICC-ASP/5/CBF.1/6 | Report on the Court Capacity Model |
| ICC-ASP/5/CBF.1/7 | Report on changing the Court's financial year |
| ICC-ASP/5/CBF.1/8 | Report on the pension scheme for judges |
| ICC-ASP/5/CBF.1/9 | Report on Investments of surplus funds |
| ICC-ASP/5/CBF.1/10 | Report on budget performance of the International Criminal Court as at 31 March 2006 |
| 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/4/14 | Report of the Bureau on the arrears of States Parties |
| ICC-ASP/4/22 | Report on the future permanent premises of the International Criminal Court: Project Presentation |
| ICC-ASP/4/23 | Report on the Future Permanent Premises of the International Criminal Court: Financial Comparison of Housing Options |
| ICC-ASP/4/INF.2 | Report on interim premises |
| ICC-ASP/3/12 annex II | Draft conditions of service and compensation of the Prosecutor and Deputy Prosecutors of the International Criminal Court |