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

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Introduction

A. Opening of the session, election of officers and adoption of the agenda

1. The ninth session of the Committee on Budget and Finance (the “Committee”) was convened in accordance with the decision of the Assembly of States Parties (the “Assembly”) taken at the 7th plenary meeting of its fifth session, on 1 December 2006. The session, comprising 13 meetings, was held from 10 to 18 September 2007. The President of the International Criminal Court (the “Court”), Mr. Philippe Kirsch, delivered welcoming remarks at the opening of the session.

2. The Committee appointed Mr. Peter Lovell (United Kingdom of Great Britain and Northern Ireland) 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. Renan Villacis, acted as Secretary of the Committee.

4. At its 1st meeting, the Committee adopted the following agenda (ICC-ASP/6/CBF.2/L.1):

1. Opening of the session.
2. Adoption of the agenda.
3. Participation of observers.
4. Organization of work.
5. States in arrears.
6. Financial performance data of the 2007 budget.
7. Consideration of the proposed programme budget for 2008.
8. Audit reports:
 - (a) Financial statements of the International Criminal Court for the period 1 January to 31 December 2006;
 - (b) Financial statements of the Trust Fund for Victims for the period 1 January to 31 December 2006;
 - (c) Report of the Office of Internal Audit.
9. Future budget improvements.
10. Pension scheme for judges.
11. Classifications/Reclassifications.
12. Premises of the Court.
13. Detention costs.
14. Review of the 2008 budget format.
15. Other matters.

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

1. David Dutton (Australia)
2. Eduardo Gallardo Aparicio (Bolivia)
3. Fawzi A. Gharaibeh (Jordan)
4. Myung-jae Hahn (Republic of Korea)
5. Rossette Nyirinkindi Katungye (Uganda)

6. Juhani Lemmik (Estonia)
7. Peter Lovell (United Kingdom of Great Britain and Northern Ireland)
8. Karl Paschke (Germany)
9. Elena Sopková (Slovakia)
10. Michel-Etienne Tilemans (Belgium)
11. Santiago Wins (Uruguay)

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. The Committee expressed its appreciation for the presentation.

C. Statement by a representative of the host State

8. At the 7th meeting on 13 September, Ambassador Paul Wilke, Permanent Representative to the International Criminal Court, Ministry of Foreign Affairs of the Netherlands, made a statement on behalf of the host State addressing the issues of permanent premises, interim premises and detention costs.

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

A. Review of financial issues

1. Status of contributions

9. The Committee reviewed the status of contributions as at 17 September 2007 (annex II). It noted that a total of €73.7 million had been received for the 2007 financial period while €4.9 million was outstanding from previous financial periods, with €15.2 million outstanding for the 2007 financial period. The Committee noted that this represented 82.9 per cent of contributions due. This was an improvement over the same period for 2006, when 77.2 per cent of contributions had been received. Nevertheless the Committee remained concerned that, should the Court's expenditure rate move closer to the appropriation level, the Court could experience a cash shortage that would seriously impact on its operations.

2. States in arrears

Applications for exemption at the sixth session of the Assembly

10. The Committee noted that paragraph 44 of resolution ICC-ASP/4/Res.4 stipulated that the Committee should advise the Assembly before the Assembly decided on any requests for exemption under article 112, paragraph 8, of the Rome Statute.

11. The Committee noted that on 23 July 2007 the Secretariat had communicated with States in arrears, informing them of their outstanding contributions and advising them of the minimum payment required to avoid the application of article 112, paragraph 8, of the Rome Statute. The Secretariat advised the Committee that seven States were ineligible to vote as at 18 September 2007: Bolivia, Congo, the Democratic Republic of the Congo, Guinea, Liberia,

Malawi and Niger. A diplomatic note requesting an exemption had been received from the Democratic Republic of the Congo but without additional supporting documentation.

12. The Committee recalled that at its last session the Assembly had adopted recommendations setting out a specific procedure for requesting exemptions from the loss of voting rights.¹ Bearing in mind that the Committee was thus commencing its application of the novel procedure, it **recommended that the request of the Democratic Republic of the Congo should be approved on an exceptional basis which should not constitute a precedent for future requests not accompanied by adequate supporting documentation. The Committee also urged the other States with outstanding contributions to take the necessary steps to pay their contributions prior to the sixth session of the Assembly.**

13. **The Committee requested the Secretariat to again advise States in arrears of the minimum payment required before the sixth session of the Assembly.² It recommended that countries which request exemptions should also indicate the likely timeline for payment and submit multi-year payment plans for the full amount of arrears where appropriate.**

14. A further 11 States would become ineligible to vote on 1 January 2008 should they not make additional payments to avoid the application of article 112, paragraph 8, of the Statute.³

3. Surpluses

15. In accordance with regulation 4.6 of the Financial Regulations and Rules of the Court, the estimated cash surplus that is to be returned to States Parties on 1 January 2008 amounts to €18,158,199, and comprises the provisional cash surplus for 2006 and assessed contributions in respect of prior periods that were received from States Parties in 2007.

B. Audit reports

1. **Financial statements of the Court for the period 1 January to 31 December 2006**

2. **Financial statements of the Trust Fund for Victims for the period 1 January to 31 December 2006**

16. Introducing his reports on the financial statements of the Court (ICC-ASP/6/5) and of the Trust Fund for Victims (ICC-ASP/6/6), the External Auditor informed the Committee that the statements were free of material misstatement and presented fairly the financial position of the Court and of the Trust Fund and that he was able to offer an unqualified audit opinion. The Committee noted that total expenditure in 2006 amounted to €64,678,810 compared to the approved budget of €80,417,200 - representing a budget implementation rate of 80.4 per cent.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November – 1 December 2006* (International Criminal Court publication, ICC-ASP/5/32) part III, resolution ICC-ASP/5/Res.3, annex III, recommendations 5 to 7.

See also *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 III, resolution ICC-ASP/4/Res.4, para. 42.

² In accordance with recommendation 8 of resolution ICC-ASP/5/Res.3, annex III, the Secretariat notifies twice a year (in mid-January and mid-June) States Parties which may face losing their voting rights so that they are able to take timely action to pay their arrears.

³ In addition to the two notes verbales sent by the Secretariat to States in arrears and the note verbale sent to those States which may become ineligible to vote on 1 January of the following year, the Registry provides States Parties, on a quarterly basis, with an updated information note on the contributions received from States Parties.

17. The Committee also welcomed the comments and recommendations made by the external auditor on the accounting modules of the new Systems, Applications and Products (SAP) system, implementation of the pension scheme for judges and procurement in field offices. The Committee appreciated the opportunity to discuss these recommendations with the External Auditor and senior Court officials. **In response to the External Auditor's comments on low-level purchases in the field, the Committee recommended that field offices should be provided with an increase in their delegated procurement authority and petty cash threshold.** The Committee noted the Auditor's opinion that, in respect of procurement activity at headquarters, the system of delegated financial authority and separation of functions was operating effectively.

18. The Committee expressed appreciation for the quality of the reports and welcomed a further unqualified audit opinion. This had been achieved during the migration of the Court's accounts to the new SAP system and reflected well on the staff involved. **The Committee recommended that the Assembly should approve the recommendations contained in the external audit reports and that the Court should ensure their full implementation.**

3. Report of the Office of Internal Audit

19. The Committee considered the report on the activities of the Office of Internal Audit.⁴ It discussed the specific findings and recommendations with the Acting Head of Audit and the Court officials.

4. Other audit matters

20. The Committee considered the Court's report setting out the progress it had made in implementing the recommendations contained in the External Auditor's reports for the first three financial periods of the Court.⁵ While welcoming the information provided, the Committee felt that in many areas the report lacked detail and did not sufficiently specify the actions undertaken to give effect to the recommendations. It was not clear what action the Court intended to take in some instances.

21. The Committee expressed concern that the Court had not taken enough action to advance some audit recommendations and improve internal governance arrangements. In particular, the Committee was concerned at the pace of progress in appointing non-executive members to the Audit Committee, developing a risk management framework, and implementing a statement of internal control. The Committee was also concerned that, although the Director of Internal Audit had advised that he would not renew his contract in February 2007, no steps had been taken to recruit his replacement. Given the likely recruitment period this would result in the post being vacant for a minimum of six months and the office being staffed by only one person (because two other posts were also vacant).

22. The Committee considered the report on internal audit monitoring⁶ and concluded that the existing arrangements whereby the Internal Auditor undertook a hybrid of internal and external audit roles had diminished the effectiveness of the internal audit function. It therefore agreed that the internal audit function should be adjusted in the light of experience to strengthen the contribution that the Internal Auditor could make to the efficient running of the Court. **The Committee recommended that the role of the Internal Auditor should be focused on providing independent assurance and advice to the Registrar, as accounting officer, on the effectiveness of the Court's control and management systems. The External Auditor should provide assurance to the Assembly regarding the financial management of the Court overall. The Committee further recommended that the annual**

⁴ ICC-ASP/6/7.

⁵ ICC-ASP/6/14.

⁶ ICC-ASP/6/CBF.2/2.

programme of work for the Office of Internal Audit should be approved by the Audit Committee, retaining some capacity for urgent ad hoc reviews and investigations. Finally, the Committee recommended that the Internal Auditor should report annually, and on an ad hoc basis where appropriate, to the Committee on Budget and Finance, through the Chair of the Audit Committee. The Committee on Budget and Finance will refer any matters to the Assembly that require its attention.

23. To ensure that the role of Internal Audit maintains an appropriate level of independence, the Committee emphasizes the need to ensure that the Audit Committee includes non-executives at the earliest opportunity, and that it meets regularly. The Committee **recommended that the Audit Committee should report annually to the Committee on Budget and Finance in order to strengthen the connection between the two bodies.**

24. **The Committee decided to revert to this issue at its next session and requested the Court to prepare a report looking holistically at the progress in developing audit and governance arrangements across the Court. This should include specific plans relating to:**

- (a) **The introduction of risk management linked to supporting the successful implementation of the strategic plan, objectives and performance indicators;**
- (b) **The scope of internal and external audit;**
- (c) **The status of the Audit Committee, including progress in appointing non-executives; and**
- (d) **Introduction of a statement of internal control, and other financial system controls identified by the External Auditor.**

C. Budgetary matters

1. Financial performance data of the 2007 budget as at 31 July 2007

25. The Committee considered the report on the budget performance of the Court as at 31 July 2007.⁷ It noted that the implementation rate for 2007 to 31 July was only 42.3 per cent (45.2 per cent for basic resources and 38.7 per cent for situation-related resources). This was a comparable implementation rate to the situation in 2006. This pattern of monthly spending would result in an implementation rate for the full year of approximately 72 per cent, although the Court projected a rate of 85.9 per cent after factoring in an increase in expenses over the remainder of the year. The Court forecast an underspend for the year of approximately €12.5 million (based on expenditure of €76.3 million against a budget of €88.8 million).

26. With regard to staffing, 472 of the 647 approved posts were occupied as at 31 July, a difference of 175 posts, representing a vacancy rate of 27 per cent. Of the vacant posts, 75 were under recruitment as at 31 July (meaning that the deadline for applications had passed), while a further 58 had been advertised, and 42 posts had not been advertised. The Court forecast that a total of 555 posts would be filled as at 31 December.

27. The Committee observed that the Court had increased the total number of staff occupying approved posts by about 30 over the past year (there were 441 staff appointed to

⁷ ICC-ASP/6/10.

approved posts as at 31 August 2006). According to information supplied by the Court, the number of staff as at 1 January 2007 was 448 and this had increased to 473 by 1 September. A total of 105 staff had been recruited during this period, offset by 46 departures and 34 appointments of internal candidates (which therefore opened up new vacancies), representing an overall net increase of 25 additional staff over eight months.

28. The Committee noted that the continuing high level of vacancies for approved posts was a major cause of underspending in the budget: the Court forecast spending only 77 per cent of staff costs in 2007 (and this was based on a substantial increase in the number of approved posts filled). The Court continued to use additional general temporary service (GTA) staff and consultants to offset the lack of staff on approved posts. The Court advised the Committee that, as at 1 September, there were also 72 individuals on GTA contracts temporarily occupying approved posts.

29. The Committee was surprised that this increased reliance on GTA to cover approved posts had not led to an even greater anticipated overspending of GTA. Although the forecast underspend on approved posts was €10.8 million, the forecast increase in GTA was only €1.1 million (€9.9 million instead of €8.8 million) and for consultants €49,000 (€288,000 instead of €239,000). This raised the possibility that the salary budgets for GTA posts had been overestimated or that approved GTA resources were also being underutilized.

30. The Committee expressed its concern that the implementation rate in 2007 again appeared to be comparable with the rates of 80.4 per cent in 2006, 83.4 per cent in 2005 and 82 per cent in 2004. While underspending in each year had been partly the result of not realizing the stated assumptions, this did not appear to be the primary cause in 2007, since the delay in commencement of the first trial had led to savings on the costs of nine posts and approximately €1.5 million in non-staff costs (all in the Registry). **The Committee concluded that the budget continued to contain a substantial level of capacity that had not been utilized. This could undermine budget discipline within the Court and diminished the ability of the Committee and the Assembly to assess budgetary needs.**

2. Consideration of the proposed programme budget for 2008

(a) Presentation

31. The Committee congratulated the Court on its efforts to improve the presentation of the budget consistent with the agreements contained in paragraph 26 of the Committee's last report.⁸ The Committee agreed that the budget document had improved significantly from previous years, especially through the inclusion of a more substantial overview and analysis of the budget, the consolidation of many small subprogrammes, and better justification for new resources. **The Committee recommended to the Assembly that the format of the proposed 2008 budget should be used again in 2009 with adjustments reflecting the comments below. The Committee also noted that the budget format would continue to evolve over time to reflect developments within the Court.**

32. Nonetheless, the Committee concluded that continuing work to improve the quality of the budget document should be undertaken. In particular, the Committee observed that the link between the Strategic Plan and the budget should be better developed, and noted that the oral presentation made to the Committee was stronger in this regard than the budget document itself. The Committee also encouraged the Court to continue to improve the justification of non-recurrent resources and to ensure a clear delineation between proposed new resources and current resources.

⁸ Report of the Committee on Budget and Finance on the work of its eighth session (ICC-ASP/6/2).

33. The Committee was again concerned at the quality of the performance indicators in the budget and the lack of high-level indicators. **Given continuing difficulties in implementing results-based budgeting in the Court, the Committee strongly recommended that the Court should develop an implementation plan to address these issues, and inculcate them in the culture of the Court. This should include the provision of training for all relevant managers and officers of the Court. The Committee agreed to return to this issue at its next session to review progress in respect of the 2009 budget and requested the Court to provide a report on its progress.**

(b) Assumptions and activities for 2008

34. The Committee noted that the stated assumptions for the 2008 budget were comparable to those for 2007, with the expectation of a single trial taking place throughout the year. The Committee recognized that the possibility of additional trials was dependent on the arrest and surrender of individuals subject to arrest warrants, and that these arrests required the effective cooperation of States. The Committee was informed that the Court had sufficient resources to advance its cooperation with States and that some relevant posts were in the process of being filled.

35. The Committee recognized that it was not possible to predict the length of the trial of the current detainee, especially in light of the many complexities and uncertainties entailed in the conduct of the Court's first trial. Nonetheless, **the Committee urged the Court to maximize the efficiency of proceedings, consistent with the Statute and the interests of justice, since the precedents created during the first trial would have enduring effects on the reputation and costs of the Court.** While the Committee did not object to the assumption contained in the budget that the first trial would run throughout 2008, it hoped that proceedings would be concluded more rapidly. **It also urged the Court to schedule any second trial to avoid additional costs wherever possible and to ensure maximum use of existing resources, especially in the Division of Court Services.**

36. The Committee welcomed the Court's intention to make human resources a priority for 2008. The Committee agreed that the human resources policies of the Court should be accorded high priority and attention, especially with a view to developing policies that would help attract and retain high-performing staff.

(c) Macro-analysis

37. The Court informed the Committee that it proposed a budget of €97.57 million for 2008, representing an increase of €8.7 million or 9.8 per cent over the approved budget level for 2007. The Court identified some €5.26 million or 5.9 per cent of additional costs as arising from inbuilt factors, including increased staff costs, changes in the vacancy rate, the reclassification of posts during 2007, higher costs for interim premises, and the pension scheme for judges. New requirements totalling €3.43 million or 3.9 per cent were also proposed, including €2.09 million for victims and witnesses, infrastructure in the field, security and legal aid.

38. The Committee noted that the proposed level of the budget for 2008 was 51 per cent higher than actual expenditure in 2006 and 28 per cent higher than projected expenditure in 2007. As it had last year, the Committee agreed that a more appropriate baseline for considering additional resource needs in the coming year would be the actual implementation rate rather than the approved budget. The continuing high level of underspending undermined the ability of the Committee and the Assembly to assess adequately the budget as a whole. While most proposed new resources related to clearly identified new needs and priorities, the quantum of unutilized capacity in the budget was of concern.

39. The Committee agreed that the use of the term “inbuilt costs” and the definition of “zero growth” could be confusing since attempting to differentiate between costs within and beyond the Court’s control was often subjective. The Committee also felt the Court was responsible for managing the budget as a whole and should seek to subsume increases wherever possible. While it understood that the Court was seeking to differentiate costs over which it had no direct control, the Committee felt that the current application of these terms did not assist its examination of the budget. Instead the Committee agreed that the term “zero growth” should be defined as where the numerical value of the item or budget remained constant. The term “zero growth in real terms” should reflect the fact that the budget had increased only due to inflation or other price increases, the underlying factors having remained constant. Where the full impact of a decision with financial implications was not realized until the second or subsequent year it should be reflected as a “previous commitment” or a “forward commitment”. Where budgetary growth was due to new activities or an increase in existing activities then it should be referred to as “new requirements”.

(d) Common staff costs / inflation

40. In the proposed programme budget for 2007, the Court proposed an increase of €1.49 million to cover “inflation”. At its seventh session the Committee considered that the information provided had been insufficient to judge whether that increase was justified and recommended that it should be accommodated within the existing levels for staff costs given the high level of underspending on staff.⁹ At its fifth session the Assembly agreed that “the recommendation of the Committee should be endorsed as an overall cut in the budget, made advisable under specific circumstances, and should not be regarded as a general policy for dealing with inflation costs”.¹⁰

41. In the proposed programme budget for 2008, the Court described these costs more accurately as “common system costs”, amounting to €2.74 million, and provided the Committee with additional information. The Committee and the Court had a thorough discussion of this issue, after which the Committee made the observations set out below.

42. “Common system costs” in the proposed programme budget for 2008 are constituted from standard salary rates¹¹ calculated by the International Civil Service Commission (ICSC) for the United Nations and other common system organizations. The standard salary costs are derived from the average base salary for each grade in the Professional and General Service categories of staff, plus a post adjustment multiplier, a common staff costs multiplier, and a representation allowance. Since common system salaries are calculated in United States (US) dollars, the post adjustment system is designed to achieve an equal level of purchasing power between salaries denominated in US dollars in New York and salaries paid in other currencies at other duties stations (in this case, The Hague). As such, the system incorporates forecast changes in the cost-of-living differential between The Hague and New York and variations in the exchange rate of the US dollar against the euro.

43. **Accordingly, the Committee agreed that, since the Court is part of the common system and its staff contribute to the United Nations pension fund (which calculates pensions in US dollars), the Court’s calculation of staff costs in the proposed budget for 2008 was justified.** However, the Committee also noted that this system was less than ideal for an organization with a budget denominated in euros and in which staff (with the exception of some local field staff) are paid in euros. Further, the forecasts relating to estimated staff

⁹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November – 1 December 2006* (International Criminal Court publication, ICC-ASP/5/32) part II. D. 6 (b), para. 51.

¹⁰ *Ibid.*, part II.D.1(b), para. 19.

¹¹ Proposed programme budget for 2008 of the International Criminal Court (ICC-ASP/6/8), annex V (d).

costs are by nature imprecise, and, unlike the United Nations and some other common system organizations, the Court does not report the actual level of common system costs at the end of the financial period. There was as yet insufficient experience to assess whether the actual staff costs incurred by the Court matched the multiplier for common staff costs. The Committee also noted that the system was expensive to administer since it required monthly amendment of post adjustment and salaries for all staff.

44. Finally, **the Committee requested the Court, in consultation with the International Civil Service Commission, to consider whether organ-specific adjustments to this system are possible and to examine the best practices of other international organizations within the common system. The Committee requested the Court to report on this subject at its next session.**

45. The Committee noted that the adjustment of staff costs (as described above) reflected price and exchange rate changes, among other components. It noted that adjustments for other price or exchange rate changes had not been applied systematically in the budget, with the exception of travel, which had been estimated on the basis of expected increases in 2008 travel prices. **The Committee requested the Court to explain changes in staff costs in the annexes of the proposed programme budget in future years and agreed that no need had yet arisen for systematic adjustments for any other inflationary or exchange rate movements between budgetary periods.**

(e) Recruitment delays and vacancy rates

46. The Committee closely examined the rate of recruitment over the past year. It concluded that the capacity of the Court to recruit staff did not appear to be sufficient to reach even its projected level of 555 occupied posts by the end of 2007. The rate of net recruitment in 2007 to the beginning of September had been an average of about three additional staff per month. To reach a level of 555 by 31 December would require an increase in recruitment to a rate of about 20 additional staff per month – a sevenfold increase in productivity. Yet, even if the Court were to achieve a level of 555 by year end, it would remain 92 posts below its approved staffing level for 2007. The Court would then be faced with recruiting 92 extant posts plus any new posts for 2008 approved by the Assembly.

47. The Committee asked the Court to explain the delays in the recruitment process and the reasons for the lack of progress in filling vacancies. The Court advised that delays occurred at several stages of the recruitment process, including:

- (a) Preparation of job descriptions;
- (b) A lack of time for recruitment by managers (many of whom are under time pressure, not least due to staffing vacancies);
- (c) Evaluation and short-listing of applications in the Human Resources Section (and the high volume of applications in some cases);
- (d) Composing and scheduling interview panels; and
- (e) Composing and scheduling selection panels.

48. Some efforts had been made to reduce administrative delays earlier in 2007, but the Committee could not discern any increase in the net recruitment rate as a result of these changes. In addition, the Court advised that an increase in staff departures and in internal applicants being recruited to vacant posts had reduced the net recruitment level.

49. Given the serious and ongoing difficulties in filling vacant posts, **the Committee recommended that the Court should take urgent and strong action to increase its overall recruitment capacity. The Committee recommended that this action should include streamlining the interview and selection process, reducing administrative workload in the Human Resources Section, devoting additional resources to recruitment, and ensuring that managers give higher priority to filling vacancies. The Committee further recommended that heads of organs should continue to be responsible for the selection of staff and for ensuring that the highest standards of efficiency, competency and integrity apply in the employment of staff while taking account of the principal legal systems of the world, equitable geographical distribution and fair representation of women and men.** The Committee decided to consider further the recruitment process of the Court at its next session, in the context of its consideration of human resources and career management policies, **and requested the Court to provide a report detailing all aspects of the recruitment process and its efforts to increase the rate of recruitment.**

50. **The Committee strongly recommended that the vacancy rates for approved posts in the budget should be adjusted to a level commensurate with the likely rate of appointment of additional staff.** This would reduce the appropriated funds for 2008 to a more realistic level, thereby eliminating the primary cause of continuing underspending. However, it would not affect the approved staffing table and would allow the Court to progressively realize the capacity already present in the budget up to the end of 2008. The impact of this would be to reduce the budgetary requirement for 2008 to a more realistic level, although States Parties should expect a corresponding increase in 2009 if the Court successfully fills the approved posts available to it.

51. **Assuming that the Court takes immediate and urgent measures to increase the rate of recruitment, the Committee recommended that the vacancy rate should be adjusted to 18 per cent for all existing posts and 50 per cent for all new posts which the Assembly may approve for 2008. The rate of 18 per cent would provide for all current approved posts to be filled progressively at an average rate of 10.8 per month from September 2007 to December 2008. This recommendation assumes that the Court will be able to treble or quadruple the rate of new recruitment achieved so far in 2007, which the Committee agreed was ambitious but plausible if urgent measures were taken. The Committee recommended that the value of this adjustment for staff costs in each major programme to the vacancy rate should be distributed within each major programme according to its particular distribution of vacancies and its recruitment plans.**

52. **The Committee further recommended that the Court should identify any posts that are no longer required and propose such posts for abolition in the proposed programme budget for 2009.**

(f) Major new requirements

53. The Committee welcomed the inclusion of victims and witnesses, field infrastructure, security and legal aid in the overview of the budget as new requirements in the proposed programme budget and generally supported the proposed additional resources for these areas. **However, the Committee recommended that the Court should also provide cross-references to the relevant programmes in the next budget proposal to allow easy reference between the overview and the specifics in the budget.**

(g) Contingency fund

54. The Committee reiterated its understanding of and support for the contingency fund as a mechanism to ensure that the Court was able to meet unexpected needs and avoid seeking funds for assumptions that may not materialize. The Committee welcomed the Court's

proposal to utilize the fund in the event of additional arrests provided that the Court first sought to maximize use of its existing capacities.

(h) Major programme I: Judiciary

55. **The Committee agreed that the resources proposed for programmes 1100 and 1200 were reasonable and recommended that they should be approved.**

56. The Committee recalled that at its eighth session it had agreed that, before any further proposals were made to increase the provision of legal support in Chambers, the Court should submit a revised staffing structure.¹² The Committee noted that the revised structure for Chambers' legal support would maintain support for individual judges and Chambers, while providing additional staff for each Chamber as a whole rather than assigning staff to individual judges. Any further expansion of staffing would be based on workload experience and need.

57. The Committee welcomed the inclusion of workload indicators in programme 1200. The Committee reiterated the comments made in the report on the work of its seventh session¹³ and welcomed the identification of "improved efficiency of proceedings" as an objective for Chambers in 2008. It noted that Chambers would develop performance indicators during the course of 2008 and reiterated its view that suitable and measurable performance indicators should be formulated for Chambers.

58. In reviewing major programme I, the Committee noted a tendency to treat consultancy resources as recurrent funds not requiring full justification, and noted that this was typical of other sections of the budget. **The Committee reiterated its view that consultancy funds should not be automatically rolled forward each year and that a reduction in proposed resources should not be regarded as "savings".**

(i) Major programme II: Office of the Prosecutor

59. The Committee commended the Court for the clear presentation of the proposed budget for the Office of the Prosecutor, the adjustment of resources to changing priorities and circumstances, and the efficiencies identified. It also welcomed the overview contained in paragraphs 88 to 95, which provided a good summary of overall change in the budget of major programme II. **The Committee agreed that resources proposed for the Office of the Prosecutor were reasonable and recommended that they should be approved.**

60. The Committee was informed that the Prosecutor had advised the Bureau that he would not propose the appointment of a new Deputy Prosecutor at the sixth session of the Assembly. **Since an appointment will therefore not be possible during 2008, the Committee recommended that the post should be budgeted at zero cost for 2008.** The funds should be included again in the proposed programme budget for 2009 should a decision be taken to appoint a new Deputy Prosecutor.

(j) Major programme III: Registry

61. **In programme 3100 (Office of the Registrar) the Committee recommended the approval of the proposed P-3 Writer/Editor (para. 203).** The Committee agreed that this post would increase the ability of the Court to service the increased workload generated by

¹² Report of the Committee on Budget and Finance on the work of its eighth session (ICC-ASP/6/2), para. 73.

¹³ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November – 1 December 2006* (International Criminal Court publication, ICC-ASP/5/32) part II.D.6 (b), para. 54.

the Assembly, The Hague Working Group and the Committee, including by producing good quality reports. For the same reason, the Committee urged the Court to fill the vacant P-5 external relations post.

62. **In subprogramme 3140 (Security and Safety Section) the Committee supported the provision of additional capacity for security in the field and recommended that most staff and non-staff resources should be approved by the Assembly.** However, the Committee felt that there was insufficient justification to establish a P-2 post for security analysis as a permanent post in basic resources, since there were already 40 existing permanent posts in basic resources. **Accordingly, the Committee recommended that the post of analyst at the P-2 level should continue to be funded by GTA and that the Court should revert to this issue in its next proposed programme budget with clear workload indicators for the Security and Safety Section.**

63. The Committee observed that the Court continued to require screening of every person who entered the Arc building and that this required considerable resources for security guards. The Committee also noted the view of the Court that the same standard of security should be provided at each of its interim premises as applied at the Arc. While the Committee remained strongly supportive of robust security measures for the Court, based on expert assessments of threat and risk, it queried whether a more selective approach to screening people entering the Arc might be possible. If the Court were to screen only visitors, and not screen all its own staff (often several times a day) then significant savings would be realized. The Committee recognized that higher security standards might be required when detainees were in the building or a trial was taking place, and noted this might be achieved through additional security screening at the perimeter of the courtrooms. **The Committee requested the Court to continue to review and determine security requirements on the basis of expert assessments of the threats and risks facing the Court, bearing in mind the need to use resources efficiently.**

64. **In programme 3200 (Common Administrative Services Division) the Committee recommended the approval of the proposed P-2 Associate Human Resources Officer (para. 236).** Moreover, the Committee reiterated that the performance of the Human Resources Section was of major strategic importance to the Court given the need to lift recruitment rates and the challenges of developing human resources policies that better fitted the Court's circumstances and work.

65. The Committee agreed that provisions for travel of Committee members for informal meetings at the Court should be included in the budget of the Secretariat of the Assembly and therefore recommended that the amount of €2,581 should be transferred accordingly.¹⁴

66. In programme 3300 (Division of Court Services) the Committee observed that the Court was requesting a total of 116 posts and €1,154,000 for GTA and temporary assistance for the conduct of one trial. The proposed 2006 budget for the Division had sought 119 posts and €501,000 for the conduct of two simultaneous trials. The Committee expressed concern that the Division claimed to have less capacity to service trials despite an increase in resources (notwithstanding the fact that the workload of the Victims and Witnesses Unit had increased in that period).

67. In subprogramme 3330 (Detention Section) the Committee was informed that provision had been made for travel of the family of the detainee to The Hague. The Court advised that, in response to a recommendation by the International Committee of the Red

¹⁴ The Committee recommended that the funds should be transferred from subprogramme 3210: Office of the Director (Proposed programme budget for 2008 of the International Criminal Court, (ICC-ASP/6/8), para. 232).

Cross, the Registrar had decided that the Court would meet travel costs for the families of indigent detainees to visit them in The Hague. The decision represented a policy decision and had no precedent in the other international criminal tribunals. **The Committee noted that this could become costly as the number of detainees increased in future and recommended that the Assembly should consider the policy question involved and the frequency with which such travel should be funded from the budget of the Court.**

68. In subprogramme 3340 (Court Interpretation and Translation Section) the Committee was concerned at the increasing expense of interpretation and translation work despite the absence of a trial. The Committee was informed that the Section undertook work for several other areas of the Court. The Committee agreed that it was appropriate for interpretation and translation functions to be as centralized as possible, but felt that managers responsible for generating work should be responsible for managing the associated costs. **Accordingly, the Committee recommended that the Court should consider distributing costs for such work to relevant areas in the proposed programme budget for 2009, and ensure that managers are accountable for the expenditure of such funds.**

69. **Further, the Committee was not convinced of the need to increase GTA by €59,300 in these circumstances and recommended that the increase should not be approved. The Committee believed that this reduction could be managed by efforts to discipline the translations requested by other areas of the Court.**

70. Further, the Committee expressed concern at the low translation rates applied by the Court and the increasing burden of translation costs on the budget of the Court. **The Committee recommended that options for outsourcing translation work should be explored with the aim of finding lower cost providers, particularly for less sensitive work, and requested the Court to provide a report to the Committee on outsourcing options at its next session.** The Committee noted that the International Criminal Tribunal for the former Yugoslavia and some other international organizations had achieved significant savings from outsourcing translation functions.

71. In programme 3400 (Public Information and Documentation Section) the Committee appreciated the substantial efforts that had been made to implement the requests of the Committee and the Assembly by developing tools for evaluating the results of outreach activities and improving the quality of the performance indicators. While recognizing the difficulty of evaluating outreach activities the Committee encouraged the Court to continue its work on effective evaluation tools and meaningful performance indicators. At the current stage, the Committee welcomed the decision to undertake surveys and interviews to measure the impact of outreach activities and noted that many of the proposed indicators still described outputs. The Committee indicated its interest in discussing this issue in greater depth in future, including when the Strategic Plan for outreach is next updated.

72. In programme 3500 (Division of Victims and Counsel) the Committee was informed of the possible volume of work for legal support for the defence and for the participation of victims. Notwithstanding the Committee's recommendation in favour of an increase in legal aid rates,¹⁵ the Committee expressed concern at the rapidly escalating estimates of the cost of legal assistance. The Committee noted that the Court had chosen to create a scheme of funding for the defence of indigent accused as well as a public defender's office. The provision of both private and public defence resources combined with the complexity of judicial proceedings in the Court could lead to an unprecedented level of expense. While the Committee remained strongly supportive of the principle that indigent accused were entitled to an effective defence, it was concerned that the Court should apply firm and reasonable

¹⁵ Report of the Committee on Budget and Finance on the work of its eighth session (ICC-ASP/6/2), paras. 79-82.

limits to the provision of resources for defence. The Committee believed that legal aid continued to represent an area in which there were considerable financial and reputational risks for the Court.

73. **The Committee emphasized the need to thoroughly and rigorously examine the claims of indigence made by accused persons. In this regard it was essential for the Court to ensure that it utilized the resources available to it to search for assets.** The Committee was therefore disappointed to be informed that a financial investigator had not yet been appointed to the approved post, although an individual was employed on a GTA contract. **The Committee noted that a financial provision to engage experts as consultants might be a suitable supplementary means of obtaining expertise for this function in future. The Committee noted that any additional services required in 2008 could be sourced from the budget approved for contractual funds. Further, the Committee invited the Court to consider how this function could best be performed and funded in the long run and requested it to report to the Committee on this subject at its next session.**

74. The Committee observed that the Division of Victims and Counsel had spent only 29 per cent of the situation-related resources available to it up to 31 July. It was informed that €459,028 related to the delay in the commencement of a first trial. The Committee noted that the Division remained underspent after taking into account this delay, and was seeking a 16.6 per cent increase in its budget. **In these circumstances the Committee was not convinced that all the proposed resources would be required in 2008 and recommended that the increase in contractual services for legal aid (of €321,500) and the GTA P-4 Counsel should not be approved. The Committee agreed that there should be sufficient resources in the existing budget level for the Court to meet these requirements in 2008.**

(k) Major programme IV: Secretariat of the Assembly of States Parties

75. The Committee noted that major programme IV consisted of two subprogrammes: the conference budget (programme 4100) and the Secretariat budget (programme 4200), which would vary on a yearly basis depending on the venue and length of the sessions of the Assembly. The rental of premises, security services, travel of Secretariat staff, and other costs would vary from year to year.

76. The Committee observed that the growth in discussion of budgetary and administrative matters in the Assembly and its subsidiary bodies had created considerable new demands and workload for the Secretariat. The Committee agreed that it would be desirable to establish an additional post at the P-4 level for a Finance and Administration Officer to provide specialist support to the Assembly, The Hague Working Group and the Committee on budgetary, administrative, and premises questions. This would also alleviate the excessive workload and unreasonably long hours currently being undertaken by staff in the Secretariat. **The Committee recommended that the Assembly should approve a new post for this task, to be budgeted at the P-4 level. Should the Assembly agree to this recommendation, the Committee also recommended that the cost should be offset by eliminating the vacant post of GS-PL Finance Assistant at the G-6 level.**

(l) Major programme V: Investment in the Court's premises

77. In programme 5100 (Interim Premises) the Committee observed that very little use had been made of the available resources up to 31 July, with only €126,000 or 7.1 per cent of the budget implemented. The Committee recalled that the budget had been prepared on the expectation of prefabricated interim premises being available and that this had not been the case. The minimal utilization of the programme suggested that other assumptions for costs associated with the Hoftoren building had also not been realized. The Committee welcomed

advice from the host State and the Court that the host State had met additional costs associated with interim premises at the Hoftoren and indications that the host State would also meet significant new costs for the Haagse Veste building.

78. **The Committee agreed that the Court was unlikely to require a large proportion of the nearly €2.5 million proposed for interim premises.** In particular, the Committee noted that the provision of €750,000 for security investments in the Haagse Veste should not be required since the host State had provided similar security in the Arc and the Hoftoren and should do so for the Haagse Veste as part of its commitment to provide rent-free accommodation. Similarly, the Committee felt there was no need to make additional provisions for €70,000 for security equipment at the Hoftoren since the host State was already meeting security requirements at the site. The Committee also agreed that the proposed resources for a third interim location were not justified since no arrangements for a third site had yet been determined and the Committee expected that the great majority of any additional costs would be met by the host State. Finally, the Committee noted that additional ICT helpdesk staff should not be budgeted for the Haagse Veste building since the workload could be accommodated within the restructured and augmented Customer Competency Centre. The Committee noted the Court's comments on loss of synergy but felt that the close proximity of the Haagse Veste to the Arc building should minimize any inefficiencies. The Committee also agreed that it would be preferable to incorporate provisions for interim premises in the appropriate sections of the Registry.

79. **Accordingly, the Committee recommended that the programme should be terminated, that the items addressed above should not be approved, and that the remaining provisions should be integrated into the appropriate areas of the Registry budget.**

80. In programme 5200 (Permanent Premises) the Committee observed that – should the Assembly decide to create a new office with overall responsibility for the permanent premises – the role of the Project Office would be devoted to issues relating to user requirements. The Committee observed that, in that scenario, most of the functions listed (para. 431) would not be performed within the Project Office.

81. The Committee agreed that the proposed additional posts for a P-4 Construction Economist and a P-3 Project Auditor were not appropriate for the functions envisaged in the draft governance arrangements for the permanent premises. The Court presented an alternative proposal to the Committee for a P-3 Project Manager (Engineering) and a P-3 Project Auditor. However, the Committee felt that the revised proposal remained equally inappropriate for the functions envisaged in the draft governance arrangements. The Committee noted that the Court's consultant had been paid from the provision for contractual services in the programme. **The Committee therefore recommended that the proposed new posts should not be approved, but that a continuation of the provision for contractual services should be allowed in order to give the Project Office capacity to source specialist assistance where needed. The Committee further recommended that the programme should be integrated in the budget for major programme III.**

(m) Major programme VI: Secretariat of the Trust Fund for Victims

82. The Committee welcomed the progress made by the Secretariat in establishing the Trust Fund's activities. **The Committee recommended that the Assembly should approve the funds proposed for 2008, including the P-3 Field Programme Officer, which would be based in Kampala in order to support activities in the field. Should the Assembly agree to this recommendation, the Committee also recommended that the cost should be offset by eliminating the post of P-2 Associate Officer as proposed in the budget.**

83. The Committee also noted its intention to continue to review the cost of the Secretariat relative to the volume of funds and activities successfully generated once the Trust Fund is in full operation.

(n) Estimated income for 2008

84. The Committee noted that the Court projected income in 2008 of €162,338 in depreciation from the Special Court for Sierra Leone and €1,677,881 from interest.

D. Future budget improvements

85. The Committee noted the Assembly's comments on adopting a multi-year approach to the budget and flexibility between major programmes.¹⁶ On the issue of multi-year budgets, the Committee felt that it would be premature to change the annual basis of the budget, given that the Court had yet to experience a full operational cycle and the related financial expenditure. The Committee noted that although the latest budget had suggested that increases were beginning to level off, the unpredictable nature of many of the Court's operational activities was likely to make it difficult to move to multi-year budgeting for the foreseeable future.

86. Nevertheless the Committee believed that for some aspects of the budget, particularly investment projects, it would be desirable to have a clear view at the outset of the project of what the overall financial commitment would be in future years. **The Committee recommended that for investment programmes where the financial commitment will exceed one financial year the level of future year commitments should be indicated in the budget. To achieve this, the Committee proposed that a copy of the project business case with an investment appraisal setting out the projected costs and benefits should be annexed to the budget.**

87. The Committee also considered the issue of flexibility within major programmes and recalled the decision of the Assembly at its fourth session that the possibility of flexibility between major programmes should be maintained providing that mechanisms guaranteeing transparency and accountability were developed. The Committee noted that, given the continued level of underspending in the Court's budget, it remained difficult to establish an appropriate balance between providing the Court with adequate flexibility while maintaining budgetary discipline and adhering to the Assembly's decisions.

88. The Committee discussed this issue with the Court and decided it would be useful to agree on the precise circumstances in which the Court should report "significant level of transfers" within a major programme to the Committee and the Assembly (as decided by the Assembly).¹⁷ **It recommended that transfers of €200,000 or more between subprogrammes should be reported to the Chair of the Committee at the time they take place, and then reported in the annual performance report. It further recommended that for the time being transfers of €200,000 or more should not take place between staff and non-staff costs, except as a result of a decision to outsource a function.**

¹⁶ *Official Records Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November – 1 December 2006* (International Criminal Court publication, ICC-ASP/5/32) part II.C, paras. 7 and 8.

¹⁷ *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.1(b), para. 6.

E. Premises of the Court

1. Permanent premises

89. The Committee welcomed the presentation by the facilitator of The Hague Working Group, Mr. Masud Husain (Canada), wherein he informed the Committee of outcome of the series of experts meetings held in The Hague of which the most recent had been from 5 to 7 September 2007. The Committee noted that considerable progress had been made since its eighth session in April 2007, in particular on the issues of the architectural design competition, governance arrangements, area requirements and cost estimates. The Committee had a useful discussion with the facilitator, the Registrar and the representative of the host State.

(a) Area requirements and costs of the project

90. The Committee noted that, through a rigorous validation process of the second functional brief, the experts had reached consensus on the area requirements of 46,000 square metres including the provision of three courtrooms, and in this connection had also determined a preliminary financial envelope of €165 million for the construction costs of the permanent premises.

91. **The Committee recommended that, since at this stage the main objective of all parties involved was to proceed with the first phase of the architectural design competition, the Assembly should proceed on the basis suggested by the experts, as it took into account the importance of flexibility and scalability.**

92. **Additionally, the Committee recommended that additional project costs not directly related to the construction of the premises, such as financing and relocation costs, ICT infrastructure, furniture costs, as well as the rent for the interim premises beyond 2012, should be identified as soon as possible in order to provide States Parties with an estimate of the total cost of the project.¹⁸ The Committee recommended that responsibility for these other aspects should be identified and formally recorded to avoid any uncertainty at a later date.**

(b) Governance

93. On the issue of governance, the Committee noted that the facilitator of The Hague Working Group and the experts had proposed a governance structure that recognized the critical role of the Court in identifying the operational requirements and subsequently providing assurance on the viability of specific proposals, while also allowing effective oversight by the Assembly of States Parties.

94. The Committee emphasized that the role of the proposed steering committee should not extend to close management of the project and that consideration should be given to its composition to prevent delays in decision-making. The Committee suggested that the title "Oversight Committee" might be more fitting since the notion of "steering" suggested a strong role in determining the direction of the project. In order to benefit from continuity of approach, the Committee also noted it was desirable to maximize the stability of the steering or oversight committee by selecting members who could serve for sustained periods of time. The Committee also noted the importance of selecting individuals with appropriate expertise.

¹⁸ It remains to be determined which major programme would administer the costs for, inter alia, the relocation of the Court and renting of interim premises beyond 2012.

95. The Committee further agreed that the Project Director should be independent of the Court and the host State. Nonetheless, in order to be entitled to the privileges and immunities of the Court, including the exemption from paying value added tax, it was also recognized that the Project Office should be part of the Court for administrative purposes. An amendment to the Financial Regulations and Rules of the Court would most likely be required. The Project Director would then be able to enter directly into legally binding commitments related to the project, while under the existing Financial Regulations and Rules only the Registrar was allowed to do so. **The Committee recommended that the draft amendments should be provided to the Chair of the Committee in order to allow the Committee an opportunity to review them prior to consideration by the Assembly at its sixth session.**

96. **In this connection, the Committee also recommended that a major programme VII be established to cover the Office of the Project Director.** The Committee noted that the experts had recommended that the recruitment of the Project Director should be undertaken in early 2008, in order to allow sufficient time for setting up a Project Office and to allow the Director to take part in the architectural design competition process. **In this connection, the Committee recommended that a careful evaluation of the budgetary implications of setting up the office should be undertaken and the draft proposals should also be forwarded to the Chair of the Committee to allow it to provide comments prior to the sixth session of the Assembly.**

(c) Financing of the project

97. The host State provided additional information on the host State bid and, in this connection, addressed the following questions that were raised by the Committee at its eighth session:

(i) *What variability is available in the start date for repayments?*

The host State noted that, according to Dutch practice, repayments start once construction work has been finalized.

(ii) *Can the loan be for any period up to 30 years?*

The host State confirmed that it would be possible for the Court to repay the loan in a shorter period of time.

(iii) *How would the arrangement handle late payments due to arrears of States Parties?*

The fact that States Parties are in arrears would not release the Court from its obligation to repay the loan. The host State indicated that this issue would have to be addressed in a loan agreement between the host State and the Court.

(iv) *Could the value of the loan be taken as a direct subsidy to the project?*

The host State indicated that the value of the loan being taken as a direct subsidy for the project could be considered.

98. The Committee noted that it was not the intention of The Hague Working Group to address the issue of financing of the project prior to the sixth session of the Assembly, and that discussions on this issue would be resumed in 2008. **The Committee therefore decided to revert to the various aspects of financing at its future sessions.**

99. The Committee also recalled that at its eighth session it had recommended that the Court and The Hague Working Group should continue to give consideration to means by which specific parts of the permanent premises (for example, courtrooms, meeting rooms, library, art) could be financed by donations. It noted that fund-raising capacities in the project team may be necessary to attract donations.¹⁹

F. Pension scheme for judges

100. The Committee recalled its recommendation²⁰ at its eighth session that the pension scheme for future judges should be amended, and its request²¹ that the Court should submit draft amendments to give effect to these proposals and the financial implications of their adoption. The Committee thanked the Court for its report on the pension scheme for judges, **noted that the draft amendments to the pension scheme regulations for judges²² would result in considerable future savings²³ and recommended that the Assembly should approve the draft amendments to the pension scheme regulations for judges of the International Criminal Court.**

101. The Committee noted further that the Court was still in the process of negotiating a formal contract with the selected insurance provider, Allianz/NL, expressed concern that the contract had not yet been formalized, and urged the Court to conclude the negotiations as soon as possible.

G. Classifications/Reclassifications

102. The Committee recalled that, pursuant to the authorization given by the Assembly, it had approved the classification or reclassification of a total of 20 positions, covering 39 individual posts, at its eighth session. The Court submitted three additional cases to the Committee, covering two posts of Senior Investigator (for reclassification from P-3 to P-4) and one case of Protective Security Officer (for reclassification from G-7 to P-3), which had, due to an administrative oversight, been omitted from the list of posts submitted by the Court. **The Committee recalled the comments it had made in the report on the work of its eighth session on this exercise²⁴ and, taking account of the explanations by the Court, approved the reclassification of the three posts reflected in annex IV.²⁵**

H. Detention costs

103. The Committee recalled that at its eighth session it had advised the Court to resolve with the host State the matter of the outstanding debt for detention facilities from 2006.²⁶ The Committee noted that this issue had now been resolved between the Court and the host State and that the outstanding figure had been agreed at €391,056.²⁷ **The Committee**

¹⁹ Report of the Committee on Budget and Finance on the work of its eighth session (ICC-ASP/6/2), para. 46.

²⁰ Ibid., para. 77.

²¹ Ibid., para. 78.

²² Annex III.

²³ If the draft amendments to the pension scheme regulations were approved by the Assembly, the savings to the Assembly for the 2008 budget would be €197,088 and would rise to €2,175,208 when fully implemented (annex III, appendix).

²⁴ Report of the Committee on Budget and Finance on the work of its eighth session (ICC-ASP/6/2), paras. 64-73.

²⁵ The Court indicated that the proposals contained therein had been recommended by the respective Head of Organ following the review of the consultant's findings.

²⁶ Report of the Committee on Budget and Finance on the work of its eighth session (ICC-ASP/6/2), para. 83.

²⁷ ICC-ASP/6/13, para. 5.

recommended that the Assembly should approve the payment of this amount from the 2007 budget.

104. The Committee noted that the Court and the host State had now reached agreement on further detention costs on the basis of the Court renting six cells but was concerned that this agreement had not yet been formalized. **The Committee therefore recommended that the agreement should be formalized at the earliest opportunity and certainly before the commencement of the next financial period.**

I. Other matters

1. Future meetings

105. The Committee decided, tentatively, to hold its tenth session in The Hague, from 21 to 25 April 2008, and its eleventh session from 15 to 23 September 2008 in The Hague.

2. Timeliness of documentation

106. The Committee welcomed the improvements by the Court in submitting documentation before the beginning of the session, but noted that further efforts were still required by the Court so as to comply with prior requests by the Committee²⁸ to have all reports and papers submitted in a timely and orderly manner so that Committee members have at least three weeks to examine the documentation before the beginning of the sessions.

²⁸Ibid., paras. 9-11.

Annex I

List of documents

Committee on Budget and Finance

ICC-ASP/6/INF.1	Report on the principles and criteria for the determination of indigence for the purposes of legal aid (pursuant to paragraph 116 of the Report of the Committee on Budget and Finance of 13 August 2004)
ICC-ASP/6/1	Provisional agenda
ICC-ASP/6/2	Report of the Committee on Budget and Finance on the work of its eighth session
ICC-ASP/6/3	Report on programme performance of the International Criminal Court for the year 2006
ICC-ASP/6/4	Report on the operation of the Court's legal aid system and proposals for its amendment
ICC-ASP/6/5	Financial statements for the period 1 January to 31 December 2006
ICC-ASP/6/6	Trust Fund for Victims financial statements for the period 1 January to 31 December 2006
ICC-ASP/6/7	Report of the Office of Internal Audit
ICC-ASP/6/8	Proposed Programme Budget for 2008 of the International Criminal Court
ICC-ASP/6/8/Corr.1	Proposed Programme Budget for 2008 of the International Criminal Court - Corrigendum
ICC-ASP/6/10	Report on budget performance of the International Criminal Court as at 31 July 2007
ICC-ASP/6/CBF.2/L.1	Provisional agenda
ICC-ASP/6/CBF.2/L.2/Rev.1	Annotated list of items included in the provisional agenda
ICC-ASP/6/CBF.2/1	Report on detention costs
ICC-ASP/6/CBF.2/2	Report on internal audit monitoring
ICC-ASP/6/CBF.2/3	Report on monitoring the Court's implementation of external audit recommendations

ICC-ASP/6/CBF.2/4	Reclassification of posts - Three additional cases as an amendment to the approval of reclassifications by the Committee on Budget and Finance
ICC-ASP/6/CBF.2/5	Report on the pension scheme for judges
ICC-ASP/6/CBF.2/6	Report on the future permanent premises of the International Criminal Court - Report on certain financing options
ICC-ASP/6/CBF.2/7	Report on budget performance of the International Criminal Court as at 31 July 2007

Annex II
Status of contributions as at 17 September 2007

States Parties	Prior Year	Prior Year	Prior Year	2007	2007	2007	Total
	Assessed Contributions	Receipts	Outstanding Contributions	Assessed Contributions	Contributions Receipt	Outstanding Contributions	Outstanding Contributions
1 Afghanistan	8,465	6,033	2,432	1,696	-	1,696	4,128
2 Albania	21,432	21,432	-	10,178	10,178	-	-
3 Andorra	22,870	22,870	-	13,570	13,570	-	-
4 Antigua and Barbuda	13,474	13,474	-	3,393	3,393	-	-
5 Argentina	4,528,844	2,552,687	1,976,157	551,293	-	551,293	2,527,450
6 Australia	7,501,930	7,501,930	-	3,031,263	3,031,263	-	-
7 Austria	4,090,537	4,090,537	-	1,504,605	1,504,605	-	-
8 Barbados	44,240	44,240	-	15,267	3,449	11,818	11,818
9 Belgium	5,060,006	5,060,006	-	1,869,307	1,869,307	-	-
10 Belize	4,697	4,697	-	1,696	1,696	-	-
11 Benin	9,395	9,395	-	1,696	1,696	-	-
12 Bolivia	41,658	5,958	35,700	10,178	-	10,178	45,878
13 Bosnia & Herzegovina	14,710	14,710	-	10,178	10,178	-	-
14 Botswana	55,134	55,134	-	23,748	23,748	-	-
15 Brazil	7,642,736	5,207,107	2,435,629	1,485,946	-	1,485,946	3,921,575
16 Bulgaria	77,383	77,383	-	33,926	33,926	-	-
17 Burkina Faso	7,061	7,061	-	3,393	3,393	-	-
18 Burundi	3,074	217	2,857	1,696	-	1,696	4,553
19 Cambodia	9,395	9,395	-	1,696	204	1,492	1,492
20 Canada	13,059,533	13,059,533	-	5,049,843	5,049,843	-	-
21 Central African Republic	4,697	1,841	2,856	1,696	-	1,696	4,552
22 Chad	-	-	-	1,696	-	1,696	1,696
23 Colombia	738,214	738,214	-	178,110	178,110	-	-
24 Comoros	267	-	267	1,696	-	1,696	1,963
25 Congo	3,440	126	3,314	1,696	-	1,696	5,010
26 Costa Rica	134,743	134,743	-	54,281	29,393	24,888	24,888
27 Croatia	175,039	175,039	-	84,814	84,814	-	-
28 Cyprus	182,579	182,579	-	74,637	74,637	-	-
29 Democratic Republic of the Congo	14,710	2,917	11,793	5,089	-	5,089	16,882
30 Denmark	3,392,830	3,392,830	-	1,253,555	1,253,555	-	-
31 Djibouti	4,501	3,222	1,279	1,696	-	1,696	2,975
32 Dominica	4,697	3,304	1,393	1,696	-	1,696	3,089
33 Dominican Republic	76,138	-	76,138	40,711	-	40,711	116,849
34 Ecuador	92,958	92,958	-	35,622	35,622	-	-
35 Estonia	55,134	55,134	-	27,141	27,141	-	-
36 Fiji	18,790	18,790	-	5,089	603	4,486	4,486
37 Finland	2,497,545	2,497,545	-	956,705	956,705	-	-
38 France	28,602,566	28,602,566	-	10,688,296	10,688,296	-	-
39 Gabon	45,364	28,458	16,906	13,570	-	13,570	30,476
40 Gambia	4,697	3,418	1,279	1,696	-	1,696	2,975
41 Georgia	12,429	12,429	-	5,089	2,954	2,135	2,135
42 Germany	41,384,792	41,384,792	-	14,549,042	14,549,042	-	-
43 Ghana	19,407	19,407	-	6,785	6,785	-	-

States Parties	Prior Year	Prior Year	Prior Year	2007	2007	2007	Total	
	Assessed Contributions	Receipts	Outstanding Contributions	Assessed Contributions	Contributions Receipt	Outstanding Contributions	Outstanding Contributions	
44	Greece	2,495,811	2,495,811	-	1,010,986	165,931	845,055	845,055
45	Guinea	13,386	1,147	12,239	1,696	-	1,696	13,935
46	Guyana	3,074	1,744	1,330	1,696	-	1,696	3,026
47	Honduras	23,329	10,355	12,974	8,481	-	8,481	21,455
48	Hungary	588,324	588,324	-	413,894	413,894	-	-
49	Iceland	159,093	159,093	-	62,763	62,763	-	-
50	Ireland	1,609,962	1,609,962	-	754,847	754,847	-	-
51	Italy	23,064,027	23,064,027	-	8,615,435	4,189,541	4,425,894	4,425,894
52	Jordan	49,818	49,818	-	20,355	20,355	-	-
53	Kenya	21,652	21,652	-	16,963	16,963	-	-
54	Latvia	67,372	67,372	-	30,533	30,533	-	-
55	Lesotho	4,697	4,697	-	1,696	1,696	-	-
56	Liberia	3,074	57	3,017	1,696	-	1,696	4,713
57	Liechtenstein	24,105	24,105	-	16,963	16,963	-	-
58	Lithuania	101,163	101,163	-	52,585	1,954	50,631	50,631
59	Luxembourg	363,553	363,553	-	144,184	144,184	-	-
60	Malawi	5,078	264	4,814	1,696	-	1,696	6,510
61	Mali	9,395	6,963	2,432	1,696	-	1,696	4,128
62	Malta	63,431	63,431	-	28,837	28,837	-	-
63	Marshall Islands	4,697	1,730	2,967	1,696	-	1,696	4,663
64	Mauritius	51,671	51,671	-	18,659	18,659	-	-
65	Mexico	3,011,352	3,011,352	-	3,828,517	1,814,326	2,014,191	2,014,191
66	Mongolia	4,697	4,697	-	1,696	1,696	-	-
67	Montenegro	933	933	-	1,696	1,696	-	-
68	Namibia	28,802	28,802	-	10,178	738	9,440	9,440
69	Nauru	4,697	2,030	2,667	1,696	-	1,696	4,363
70	Netherlands	7,970,305	7,970,305	-	3,177,143	2,527,091	650,052	650,052
71	New Zealand	1,050,797	1,050,797	-	434,249	434,249	-	-
72	Niger	4,697	300	4,397	1,696	-	1,696	6,093
73	Nigeria	211,453	188,838	22,615	81,422	-	81,422	104,037
74	Norway	3,170,089	3,170,089	-	1,326,495	1,326,495	-	-
75	Panama	88,633	84,377	4,256	39,015	-	39,015	43,271
76	Paraguay	58,840	58,840	-	8,481	5,758	2,723	2,723
77	Peru	448,382	301,418	146,964	132,310	-	132,310	279,274
78	Poland	2,104,866	2,104,866	-	849,839	849,839	-	-
79	Portugal	2,203,464	2,203,464	-	893,943	893,943	-	-
80	Republic of Korea	8,106,325	8,106,325	-	3,686,029	3,686,029	-	-
81	Romania	280,767	280,767	-	118,740	118,740	-	-
82	Saint Kitts and Nevis	267	267	-	1,696	1,696	-	-
83	Saint Vincent and the Grenadines	4,501	1,535	2,966	1,696	-	1,696	4,662
84	Samoa	4,579	4,579	-	1,696	1,696	-	-
85	San Marino	13,473	13,473	-	5,089	5,089	-	-
86	Senegal	23,487	23,487	-	6,785	194	6,591	6,591
87	Serbia	89,869	89,869	-	35,622	35,622	-	-
88	Sierra Leone	4,697	2,262	2,435	1,696	-	1,696	4,131
89	Slovakia	234,623	234,623	-	106,866	106,866	-	-

States Parties	Prior Year	Prior Year	Prior Year	2007	2007	2007	Total
	Assessed Contributions	Receipts	Outstanding Contributions	Assessed Contributions	Contributions Receipt	Outstanding Contributions	Outstanding Contributions
90 Slovenia	384,568	384,568	-	162,843	8,081	154,762	154,762
91 South Africa	1,443,784	1,443,784	-	491,923	491,923	-	-
92 Spain	11,839,860	11,839,860	-	5,034,576	770,105	4,264,471	4,264,471
93 Sweden	4,707,065	4,707,065	-	1,816,722	1,816,722	-	-
94 Switzerland	5,670,350	5,670,350	-	2,062,683	2,062,683	-	-
95 Tajikistan	4,697	3,770	927	1,696	-	1,696	2,623
96 The Former Yugoslav Rep. of Macedonia	28,184	27,034	1,150	8,481	-	8,481	9,631
97 Timor-Leste	4,579	4,579	-	1,696	1,696	-	-
98 Trinidad and Tobago	99,635	99,635	-	45,800	45,800	-	-
99 Uganda	27,566	27,566	-	5,089	1,161	3,928	3,928
100 United Kingdom	28,422,573	28,422,573	-	11,266,730	11,266,730	-	-
101 United Republic of Tanzania	26,632	26,632	-	10,178	10,179	-	-
102 Uruguay	245,404	186,611	58,793	45,800	-	45,800	104,593
103 Venezuela	826,431	826,431	-	339,257	104,388	234,869	234,869
104 Zambia	9,001	6,991	2,010	1,696	-	1,696	3,706
	231,273,746	226,416,792	4,856,954	88,871,800	73,706,457	15,165,343	20,022,297

Annex III

Draft amendments to the pension scheme regulations for judges of the International Criminal Court

Article I

Retirement pension

1. A judge who has ceased to hold office and who has reached the age of **sixty-two (62)** shall be entitled during the remainder of his or her life, subject to paragraph 6 below, to a retirement pension payable monthly, provided that he or she has not been required to relinquish his or her appointment for reasons other than the state of his or her health.

2. The amount of the retirement pension shall be determined as follows:

For each year of service, the amount of the annual pension shall be **1/72nd (one seventy-second)** of the annual salary.

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

4. A judge who ceases to hold office before attaining the age of **sixty-two (62)** and who would be entitled to a retirement pension when he or she reaches that age may elect to receive a pension from any date after the date on which he or she ceases to hold office. Should he or she so elect, the amount of such pension shall be that amount which has the same actuarial value as the retirement pension that would have been paid to him or her at the age of **sixty-two (62)**.

5. No retirement pension shall be payable to a former judge who has been re-elected to office until he or she again ceases to hold office. At that time, the amount of his or her pension shall be calculated on the basis of his or her total period of service and shall be subject to a reduction equal in actuarial value to the amount of any retirement pension paid to him or her before he or she reached the age of **sixty-two (62)**.

Article II

Disability pension

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

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

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

Article III **Surviving spouse's pension**

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

- (a) If the judge had not begun, at the date of his or her death, to receive his or her retirement pension, the surviving spouse's pension shall amount to one half of the pension that would have been payable to the judge under article I, paragraph 5, above, had the judge commenced receiving such pension on the date of his or her death, provided that the surviving spouse's pension shall not be less than one twelfth of the annual salary;
- (b) If the judge had begun to receive his or her retirement pension under article I, paragraph 5, above before he or she reached the age of **sixty-two (62)**, the surviving spouse's pension shall amount to one half of the amount of such pension, but shall not be less than one twelfth of the annual salary;
- (c) If the judge had reached the age of **sixty-two (62)** when he or she began to receive his or her retirement pension, the surviving spouse's pension shall amount to one half of the judge's pension, but shall not be less than one sixth of the annual salary.

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

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

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

Article IV **Child benefit**

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

- (a) Where there is a surviving spouse entitled to a pension under article III above, the annual amount of the child benefit shall be:
 - (i) The equivalent of ten (10) per cent of the retirement pension that the judge was receiving; or,

- (ii) If the judge had not begun, at the date of his or her death, to receive his or her retirement pension, ten (10) per cent of the pension that would have been payable to him or her under article I, paragraph 5, had he or she commenced to receive such pension at the date of his or her death; or,
- (iii) In the case of the death of a judge in office, ten (10) per cent of the pension that the judge would have received had he or she qualified for a disability pension at the date of his or her death;

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

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

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

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

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

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

Article V **Miscellaneous provisions**

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

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

Appendix

Financial implications of the adoption of the new pension scheme for judges

As requested by the Committee on Budget and Finance, a comparison of the financial terms of the current and proposed new pension schemes highlights the major differences in table 1 below:

Table 1: Comparison of pension schemes

	Current scheme	Proposed (“new”) scheme
Retirement age	60	62
Eligibility	After 3 years service	Immediate
Pension benefit calculation	$N * PS * 5.5556\%$ ¹	$(N * PS)/72$
Pension benefit after 9 years service	€ 90,000	€ 22,500
Estimated yearly costs (premiums) for 18 judges	€ 3,136,088	€ 900,000 ²

¹ “N” refers to number of years of service and “PS” to pensionable salary.

² Estimated yearly cost (premiums) after judges vested under the current scheme are replaced by new judges, who will accrue benefits under the proposed new scheme.

The cost savings reflected above would phase in over a number of years until all judges vested under the current scheme have retired, which is expected by 2015. The review of current vs. proposed schemes side by side in table 2 below indicates substantial savings for the Court in the long run.

Table 2: Estimated costs of current vs. proposed pension schemes

	Total costs ¹ Current scheme	Total costs ² Proposed scheme	Variance
2008	3,136,088	2,939,000	197,088
2009	3,136,208	2,226,000	910,208
2010	3,136,208	2,186,000	950,208
2011	3,136,208	2,161,000	975,208
2012	3,136,208	1,359,000	1,777,208
2013	3,136,208	995,000	2,141,208
2014	3,136,208	854,000	2,282,208
2015	3,136,208	931,000	2,205,208
2016	3,136,208	893,132	2,243,076
2017	3,136,208	844,000	2,292,208
2018	3,136,208	889,000	2,247,208
2019	3,136,208	961,000	2,175,208

¹ Extrapolated from August 2006 pension cost estimate by Allianz of costs of current judges only.

² Ernst & Young estimate dated 20 July, 2007 includes replacement judges.

In conclusion, estimated yearly savings after the proposed pension scheme is fully implemented are approximately €2.2 million.

Annex IV

Reclassification exercise

Summary of job evaluation findings Professional category

* = proposed change in grade

INVESTIGATION DIVISION

Planning & Operations Section

Position

Senior Investigator

Current Level

P-3

Recommended Level

P-4*

of positions

2*

Summary of job evaluation findings General Service category

* = proposed change in grade

SECURITY AND SAFETY SECTION

Position

Protective Security Officer

Current Level

G-7

Recommended Level

P-3*

of positions

1*

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