



Assembly of States Parties

Distr.: General
15 November 2024

Original: English

Twenty-third Session

The Hague, 2-7 December 2024

Report of the Bureau on the Budget sub-topics of Budget Management Oversight and Premises

1. This report is submitted by the facilitator for the budget, Ambassador Ana Cristina Rodríguez Pineda (Guatemala), pursuant to the mandate given by the Bureau to the focal points for the sub-topics of budget management oversight and premises (Ambassador Jaime Moscoso Valenzuela (Chile), and Mr. Julián Camilo Silva (Colombia), respectively) within The Hague Working Group facilitation for the budget.
2. The focal points have prepared reports on their activities during 2024. These reports appear as annex I and annex II to this report.

Annex I

Report of the focal point for the topic of Budget Management Oversight

A. Introduction

1. The mandate for the topic of Budget Management Oversight in 2024 is derived from the budget resolution adopted at the twenty-second session of the Assembly of States Parties.¹ On 28 December 2023 the Bureau approved the allocation of Budget Management Oversight to The Hague Working Group as a sub-topic of the budget facilitation. On 6 March 2024, the Bureau re-appointed Ambassador Jaime Moscoso Valenzuela (Chile) as focal point for the topic of Budget Management Oversight.

B. Meetings and discussions

2. Four meetings were held in 2024 on the topic of Budget Management Oversight: on 25 April, 5 September, 1 October and 16 October. The meetings were open to States Parties, the Court, and representatives of the oversight bodies. The meetings were held in person with virtual participation of representatives of the oversight bodies when they could not be present physically.

3. Participants in the meetings included representatives of various oversight bodies and relevant offices: the Vice-Chair of the Audit Committee, Mr. Werner Druml, a member of the Committee on Budget and Finance, Mr. Klaus Stein, the Director of the Office of Internal Audit (OIA), Ms. Florence Bôle, the Head of the Independent Oversight Mechanism (IOM), Mr. Saklaine Hedary, and the representative of the External Auditor, Mr. Yang Chan Cho.

4. The meetings provided an opportunity for States Parties to continue their consideration of various matters related to the topic of Budget Management Oversight.

1. International Criminal Court governance oversight

5. In accordance with resolution ICC-ASP/20/Res.1,² the working group continued its consideration of the 2021 report of the former External Auditor (the *Cour des comptes*) on International Criminal Court governance oversight.³ Most of the recommendations of the External Auditor contained in that report had been assessed by States Parties during 2022.⁴ However, there had been no conclusive view on the last part of recommendation 4, i.e. “to suppress the Executive Secretariat, in order to restore the principle of subsidiarity of the governance oversight organs towards the Assembly”.⁵ In 2023 it had been agreed that further discussion should await the outcomes of an IOM evaluation of the Secretariat of the Assembly which had been requested by the Bureau on 14 June 2023.⁶

6. The report of the IOM on the evaluation of the Secretariat of the Assembly of States Parties, dated 26 June 2024, was considered by the Bureau at its seventh meeting on 3 July 2024.⁷ The Bureau decided to refer the consideration of recommendation 3 of the IOM evaluation, which recommended redesigning the organizational structure of the Secretariat alongside a functional

¹ ICC-ASP/22/Res.4, Sections I and J.

² Section I, paragraph 2.

³ ICC-ASP/20/6 and Add.1.

⁴ See ICC-ASP/21/30, para. 8.

⁵ ICC-ASP/20/6, recommendation 4, page 5. During the discussions on the recommendation in 2022, clarifications were made regarding the “Executive Secretary” (as there is no Executive Secretariat, for example) (see ICC-ASP/21/30, annex I, para. 8).

⁶ See agenda and decisions of the sixth meeting of the Bureau, held on 14 June 2023, available at: https://asp.icc-cpi.int/sites/default/files/asp_docs/2023-Bureau6-Agenda-Decisions.pdf.

⁷ See agenda and decisions of the seventh meeting of the Bureau, held on 3 July 2024, available at: https://asp.icc-cpi.int/sites/default/files/asp_docs/2024-Bureau7-Agenda-Decisions.pdf.

team formation, for consideration within the Budget Management Oversight topic, given the overlap in substance between that recommendation and the recommendation from the former External Auditor.

7. In a joint discussion at the second meeting, on 5 September 2024, States Parties and representatives of the subsidiary bodies⁸ made comments and clarifications regarding the last part of recommendation 4 of the former External Auditor’s report, including in light of recommendation 3 of the IOM evaluation. Having evaluated the scope and content of recommendation 3 of the IOM evaluation, States Parties agreed to positively assess the last part of recommendation 4 from the former External Auditor, without prejudice to deliberations in the appropriate forum regarding the assessment and implementation of the overall IOM evaluation of the Secretariat of the Assembly of States Parties. It was agreed that the suppression of the “Executive Secretariat” was without prejudice to the need for the Committee on Budget and Finance and the Audit Committee to receive permanent technical support from the Secretariat of the Assembly of States Parties, taking into account the specificity of the mandate and the competencies of the respective committees. The focal point noted that the views of States Parties would be conveyed to the President and Vice-President of the Assembly, to inform the discussions that would take place in the appropriate forum concerning the overall assessment and implementation of the IOM evaluation. The focal point briefed the Bureau at its tenth meeting on 2 October 2024.

2. Consideration of the reports of the Audit Committee on the work of its nineteenth and twentieth sessions

8. At the third meeting, on 1 October 2024, the working group considered the reports of the Audit Committee on the work of its nineteenth and twentieth sessions.⁹ The Vice-Chair of the Audit Committee introduced some key elements of the reports. As regards oversight of internal audit matters, the Office of Internal Audit continued to experience difficulties relating to limited availability of auditees and conflicting engagements. In addition, there was a high incidence of unimplemented recommendations. The Audit Committee had underlined the need for the leadership of the Court to take these matters seriously. On the topic of ethics, the Audit Committee reiterated its position that the creation and adoption of a formal Ethics Charter were essential foundations for fostering an enabling work culture and an effective internal justice system. The Audit Committee had therefore requested that the Court submit an initial draft at its twenty-first session in February 2025.

3. Consideration of the Financial statements of the International Criminal Court and the Trust Fund for Victims for the year ended 31 December 2023

9. The working group considered the Financial statements of the International Criminal Court¹⁰ and the Trust Fund for Victims¹¹ for the year ended 31 December 2023 at the second meeting on 5 September 2024. The External Auditor delivered a presentation on the main findings and recommendations. States Parties expressed their appreciation to the External Auditor for the reports and the presentation, and in particular the focus on travel expenses and the OTP Trust Fund. The point was made that close scrutiny of all aspects of travel expenses would need to continue (including flights, hotels and per diems), particularly in light of the significant increase in the proposed travel budget for 2025.

⁸ Audit Committee, Committee on Budget and Finance, and Independent Oversight Mechanism.

⁹ AC/19/5 and AC/20/5, available at: https://asp.icc-cpi.int/en_menus/asp/AuditCommittee/Pages/default.aspx.

¹⁰ ICC-ASP/23/12.

¹¹ ICC-ASP/23/13.

4. External Auditor’s performance audit on cybersecurity

10. The working group considered the report of the External Auditor on the performance audit on cybersecurity¹² during the third meeting held on 1 October 2024. The External Auditor delivered a presentation on the performance audit, which had covered cybersecurity policies and governance. The External Auditor had made a series of findings and recommendations dealing with the principles of confidentiality, integrity, availability, governance, risk management, and internal control. The Registry noted that the threat environment for the Court had changed significantly since 2022, and the Court was investing significant effort and resources to introduce additional controls and measures in order to prevent the recurrence, and reduce the impact, of a successful cyberattack. The fundamentals were already in place and the External Auditor’s recommendations would enable the fine-tuning of those efforts.

5. Future performance audit

11. At the second meeting, on 5 September 2024, the working group was informed that the proposed topic for the next performance audit to be undertaken by the External Auditor in 2025 was “trust funds”, i.e., all regulations and policies related to trust funds, compliance with regulations, the appropriateness of execution management, and the adequacy of the evaluation system currently operated by the Court. At the third meeting on 1 October 2024, States Parties supported the proposed performance audit.

6. Extension of the term of the External Auditor

12. At the third meeting, on 1 October 2024, States Parties agreed with the recommendation of the Audit Committee,¹³ supported by the Committee on Budget and Finance,¹⁴ to extend the appointment of the Board of Audit and Inspection of the Republic of Korea as External Auditor for the financial years 2025-2028. The focal point noted that the costs of the extended contract, which had yet to be quantified, would need to be included in the proposed programme budget of the Court for 2026.

7. Strategic Plans of the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims

13. At the first meeting, on 25 April 2024, pursuant to resolution ICC-ASP/22/Res.4,¹⁵ the Court presented the “Report of the Court on Key Performance Indicators (KPIs) for 2023”.¹⁶ The Registry noted that the report was a significant project, closely linked to the implementation of the Strategic Plans for 2023-2025. The report covered 27 of the KPIs contained within the Strategic Plans, encompassing key business areas within Registry, the judiciary, the Office of the Prosecutor, and the Trust Fund for Victims. The focus was on judicial and prosecutorial performance, cooperation and complementarity, and organizational performance. While the report did not cover all KPIs, or all areas of the work of the Court, it sought to provide a snapshot of key areas that were closely linked to the Court-wide strategic goals, and therefore offered an overview of overall performance consistent with the one-Court principle. In line with efforts towards greater transparency, the report would be available on the Court’s website.¹⁷ Reporting would remain a dynamic process until the end of the current strategic planning cycle, after which

¹² Due to the subject matter of the performance audit, the report was confidential and shared with States Parties only.

¹³ AC/19/5, para. 89.

¹⁴ ICC-ASP/23/15, para. 96.

¹⁵ Resolution ICC-ASP/22/Res.4, section J, para. 4: “Invites the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims to report annually to the Assembly on the implementation of the Strategic Plans in writing, and invites the Court to hold annual consultations with the working groups of the Bureau in the first trimester on the implementation of its strategic plans during the previous calendar year”.

¹⁶ CBF/44/13.

¹⁷ <https://www.icc-cpi.int/sites/default/files/2024-07/2024-KPI-ENG.pdf>.

a new cycle would begin where there would be an opportunity to take on board lessons learnt, including in light of any feedback from States Parties. States Parties expressed their appreciation for the report, and commended the user-friendly way in which the information had been presented.

14. At the third meeting, on 1 October 2024, the working group considered the report of the IOM on the evaluation of the Office of the Prosecutor's Strategic Plan 2019-2021, dated 29 May 2024, which had been referred by the Bureau for consideration within the Budget Management Oversight topic.¹⁸ The IOM delivered a presentation on the evaluation, which had been requested by the Prosecutor in 2022. The evaluation had resulted in three over-arching recommendations: i) to strengthen strategic planning and monitoring in the Office of the Prosecutor; ii) to develop a more accountable performance monitoring and management system; and iii) to provide effective communication on OTP key results and performance. With the exception of one sub-recommendation, all recommendations had been accepted and were included in the Management Action Plan. Some improvements were already underway, and the Prosecutor had committed to a cyclical programme of evaluations of Strategic Plans in the future.

8. Amendments to the Charter of the Audit Committee

15. At its twenty-second session the Assembly had welcomed the initial consideration of proposed amendments to the Charter of the Audit Committee and requested the Bureau, through the Budget Management Oversight topic, to continue discussions on the amendments in the first quarter of 2024, taking into account both the positive assessment of the relevant recommendation of the Independent Expert Review report,¹⁹ the subsequent technical deliberations on the determination of the appropriate international audit standards, as well as the outcome of the evaluation of the Secretariat by the IOM.²⁰

16. The working group discussed the proposed amendments to the Charter of the Audit Committee at the meetings held on 5 September and 1 October 2024. The Vice-Chair of the Audit Committee participated in the discussions. Some additional proposals were made with a view to improving governance, efficiency and transparency. The main changes sought to clarify the relationship between the Committee on Budget and Finance and the Audit Committee, making it clear that they were institutionally separate, and equal and independent from each other. While coordination should be encouraged, having some members serve on both committees was not considered justified. Adjustments were also proposed to the process for the selection of members of the Audit Committee, in order to place it primarily in the hands of States Parties. Additional proposals sought to encourage engagement and knowledge-sharing between the two committees, including through an annual virtual meeting between the respective chairpersons.

17. The working group agreed to recommend that the Assembly adopt the amended Charter of the Audit Committee as reflected in appendix II to this report.

9. Audit Committee vacancy

18. At the second meeting, on 5 September 2024, the working group discussed the matter of a vacancy on the Audit Committee, noting that a call for expressions of interest had recently been posted on the website of the Court. In response to a query as to why that procedure differed from the usual Assembly procedures for elections to subsidiary bodies, the Vice-Chair of the Audit Committee noted that the same procedure had been followed for at least eight years and had produced very good candidates. The procedure being followed was as set out in the proposed amendments to the Charter.²¹ The objective was an independent procedure and independent

¹⁸ See agenda and decisions of the sixth meeting of the Bureau, held on 5 June 2024, available at: https://asp.icc-pi.int/sites/default/files/asp_docs/2024-Bureau6-Agenda-Decisions.pdf.

¹⁹ R367.

²⁰ Resolution ICC-ASP/22/Res.4, section I, para. 3.

²¹ Proposed amendments to the Charter of the Audit Committee dated 5 May 2023, section E, paragraphs 10, 11 and 12.

decision-making, in light of the specialized role of the Audit Committee. The point was made that it was important for States Parties to be duly informed about such procedures, that the timeline for submission of expressions of interest was too short, that not all States necessarily followed the webpage/platform used, and that the geographical representation and gender balance aspects also needed to be borne in mind. A request was made for a note verbale to be sent to States Parties informing them about the procedure. The call for expressions of interest was extended for two weeks and closed on 22 September 2024. States Parties subsequently received a note verbale, dated 27 September 2024, regarding the procedure being followed.

19. The outcome of the process was not known at the time of the conclusion of this report, and the proposed amendments to the Charter of the Audit Committee would modify the procedure in certain respects. There is therefore a need for a transitional phase, for the new selection process to be borne in mind.

10. Update on implementation of Independent Expert Review recommendations

20. Three of the recommendations from the Independent Expert Review²² which had been discussed in the context of the Budget Management Oversight topic had been assessed positively: recommendations R364, R367 and R368. As regards R364,²³ the recommendation had been discussed in 2022 in the context of the facilitation on the review of the work and operational mandate of the IOM, and had then been referred to the Budget Management Oversight topic for discussion in 2023. As a result of the fruitful discussions in 2023, the recommendation had been assessed positively and was being implemented. As regards R367,²⁴ the recommendation could be considered implemented; the change in reporting line would be formalized through the proposed amendments to the Charter of the Audit Committee.²⁵ Finally, regarding R368,²⁶ the recommendation could be considered implemented, as States Parties had concluded the assessment of the final recommendation from the report of the former External Auditor.²⁷

C. Recommendations

21. The focal point, through the Bureau, submits the proposed resolution language contained in appendix I to this report for consideration by the Assembly.

²² ICC-ASP/19/6.

²³ R364: "The IOM and the OIA should be given enhanced authority and resources to be able to better carry out their functions."

²⁴ R367: "As a work unit located in the Registry, the OIA would more properly report to the Principals rather than to the Audit Committee, a subsidiary of the ASP. This would not prevent the OIA from appearing before the new budgetary control and audit body as required, and responding to its requests. The new body's role towards the OIA would be overseeing the adequacy of the framework set up for the Court's internal audit function, rather than oversight of the substance of the OIA's work."

²⁵ See paragraphs 15 to 17 above.

²⁶ R368: "The ASP is recommended to make use of the upcoming recommendations of the External Auditor, tasked with assessing the Court's oversight bodies, to find ways to streamline and render more efficient its oversight structures."

²⁷ See paragraphs 5 to 7 above.

Appendix I

Proposed resolution language

To be inserted into the budget resolution

Audit

The Assembly of States Parties,

Having regard to the Charter of the Audit Committee, adopted at its fourteenth session,¹ as amended,

Noting the recommendations of the Committee on Budget and Finance concerning audit matters,²

Recalling the findings and recommendations in the final report of the Independent Expert Review of the International Criminal Court and the Rome Statute system related to Internal and External Oversight Mechanisms,³ including the positive assessment given to recommendation R367⁴ and the subsequent technical deliberations on the determination of the appropriate international audit standards,

Recalling also the External Auditor's final report on International Criminal Court governance oversight,⁵

1. *Welcomes* the reports of the Audit Committee on the work of its nineteenth and twentieth sessions;
2. *Decides* to extend the term of the External Auditor, the Board of Audit and Inspection of the Republic of Korea, so as to include the financial statements of the Court and the Trust Fund for Victims for the financial years 2025 to 2028;
3. *Welcomes* the confidential performance audit report on cybersecurity submitted by the External Auditor;
4. *Decides* to adopt the amended Charter of the Audit Committee as reflected in [the annex to this resolution];
5. *Requests* the Secretariat of the Assembly of States Parties to circulate, through the diplomatic channel, any future vacancy announcements for members of the Audit Committee, pursuant to paragraph 12 of the amended Charter of the Audit Committee;
6. [Placeholder for transitional procedure concerning forthcoming vacancy]; and
7. *Decides* that the amendments to the provisions of the Charter of the Audit Committee concerning the composition of the Audit Committee shall not affect the terms of the current members.

¹ *Official Records ... Fourteenth session ... 2015 (ICC-ASP/14/20)*, vol. II, part B.3, annex IV.

² *Official Records ... Twenty-third session ... 2024 (ICC-ASP/23/20)*, vol. II, part B.2, paras. ... to .. and *Official Records ... Twenty-third session ... 2024 (ICC-ASP/22/20)*, vol. II, part B.3, paras. ... to ...

³ ICC-ASP/19/16.

⁴ R367. As a work unit located in the Registry, the OIA would more properly report to the Principals rather than to the Audit Committee, a subsidiary of the ASP. This would not prevent the OIA from appearing before the new budgetary control and audit body as required, and responding to its requests. The new body's role towards the OIA would be overseeing the adequacy of the framework set up for the Court's internal audit function, rather than oversight of the substance of the OIA's work.

⁵ ICC-ASP/20/6.

Budget Management Oversight

The Assembly of States Parties,

1. *Notes* that the Strategic Plans of the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims are dynamic and updated on a regular basis;
2. *Recalls* the Strategic Plans (2023-2025) for the Court, the Registry, the Office of the Prosecutor, and the Trust Fund for Victims and *also recalls* that the Strategic Plans benefit from the views and comments States Parties make in the dialogue with the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims;
3. *Reiterates* the importance of strengthening the relationship and coherence between the strategic planning process and the budgetary process, which is crucial for the credibility and sustainability of the longer-term strategic approach;
4. *Invites* the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims to report annually to the Assembly on the implementation of the Strategic Plans in writing, and *invites* the Court to hold annual consultations with the working groups of the Bureau in the first trimester on the implementation of its strategic plans during the previous calendar year;
5. *Welcomes* in this regard the report of the Court on Key Performance Indicators (KPIs) for 2023,⁶ which presented the annual results of the KPIs as outlined in the International Criminal Court's Strategic Plan 2023-2025;
5. *Recalls* the management oversight responsibility entrusted to the Assembly of States Parties and the mandates of the Audit Committee, the Committee on Budget and Finance, the External Auditor and the Independent Oversight Mechanism as well as the Office of Internal Audit, and *encourages* these bodies to further intensify their coordination in order to optimize oversight capacity and reporting, ensure an effective division of labour and avoid duplication of competence and work;
6. *Welcomes* the continuous efforts of the oversight bodies to streamline their activities and *invites* them to continue their efforts in that regard;
7. *Welcomes* the increased interaction between these bodies and States Parties, and the initiatives to continue to improve such interactions including via informal meetings;
8. *Recalls* relevant decisions of the Assembly of States Parties concerning the Secretariat of the Assembly of States Parties,⁷ as well as the respective recommendations of the former External Auditor,⁸ *notes* the positive assessment by States Parties of the last part of recommendation 4 of the report of the former External Auditor on International Criminal Court governance oversight,⁹ therefore *decides* to suppress the Executive Secretariat/Executive Secretary to the Committee on Budget and Finance and the Audit Committee, and *welcomes* efforts to further improve synergies and flexibility as regards the human resources of the Secretariat of the Assembly; and
9. *Notes* that the Secretariat of the Assembly of States Parties shall continue to provide the Committee on Budget and Finance and the Audit Committee with substantive servicing as well as administrative and technical assistance in the discharge of their responsibilities,¹⁰ taking into account the specificity of the mandate and competencies of the respective committees.

⁶ <https://www.icc-cpi.int/sites/default/files/2024-07/2024-KPI-ENG.pdf>.

⁷ ICC-ASP/2/Res.3; *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. I, part 2, footnote 9; and ICC-ASP/18/Res.1, annex, rule 16, para. 1. See also ICC-ASP/18/INF.7, Amendments to the Rules of Procedure of the Committee on Budget and Finance, rule 16, para. 1.

⁸ External Auditor: Final report on the International Criminal Court governance oversight (ICC-ASP/20/6).

⁹ Report of the focal point for the topic of Budget Management Oversight (ICC-ASP/23/..., annex I), para. 7.

¹⁰ Resolution ICC-ASP/2/Res.3, annex, para. 4.

Appendix II

Amended Charter of the Audit Committee

A. Introduction

1. The Audit Committee plays an important role in providing oversight of the governance, risk management, and internal control practices of the International Criminal Court (“the Court”). This oversight mechanism also serves to provide confidence in the integrity of these practices. The Audit Committee performs its role by providing independent advisory and assurance services to the Assembly of States Parties (“the Assembly”). The mandate of the Audit Committee derives from the Assembly’s approval of the recommendations of the Committee on Budget and Finance (“CBF”).¹

B. Mandate and purpose

2. The Audit Committee assists the Assembly by reviewing and providing advice and guidance on the adequacy of the Court’s practices in relation to:

- (a) Governance structure;
- (b) Risk management;
- (c) Ethics;
- (d) Internal control framework;
- (e) Oversight of internal audit;
- (f) Oversight of external audit; and
- (g) Financial statements and public accountability reporting.

3. The list of mandates is non-exhaustive. The Audit Committee is empowered to address issues as needed to achieve its mandate and purpose.

4. The detailed responsibilities of the Audit Committee under this mandate and purpose are set out in Section L.

C. Authority

5. The authority of the Audit Committee to perform its work is established within the scope of its Charter. In discharging its responsibilities, the Audit Committee shall have unrestricted access to members of Court management and staff, as well as all relevant information it considers necessary to discharge its duties. The Audit Committee also shall have unrestricted access to records, data, and reports.

6. The Audit Committee is entitled to receive all such explanations from the Court’s management and staff that it deems necessary to discharge its responsibilities.

7. The Audit Committee may engage independent counsel and/or other advisers and consult the Committee on Budget and Finance as it deems necessary to carry out its duties on a cost-neutral basis.

¹ *Official Records ... Thirteenth session ... 2014* (ICC-ASP/13/20), vol. II, part B.2, para. 134.

D. Composition of the Audit Committee

8. The Audit Committee shall consist of five external members from States Parties to the Rome Statute. All members of the Audit Committee shall act in accordance with their professional judgement and be independent of States Parties and of the Court.

9. The members should collectively possess sufficient knowledge of audit, finance, IT, law, risk and control. As the responsibilities of the Audit Committee evolve in response to regulatory, economic and reporting developments, it is important that members' competencies and the overall balance of skills on the Committee be periodically evaluated to correspond to emerging needs.

E. Selection of the Audit Committee members through a competitive process

10. Candidates are selected based on merit with careful consideration being given to geographical representation and gender balance.

11. A Selection Panel will be established comprising of:

- The President of the Assembly or the Vice-President of the Assembly in The Hague/Coordinator of The Hague Working Group;
- The Registrar (or his/her representative)
- The facilitator for the budget (or his/her representative).

12. The Selection Panel shall: approve a vacancy announcement to be circulated to States Parties and posted on the website of the Court and on a professional network such as LinkedIn for a period of two months; review the applications received against the published criteria; approve a short list for closer evaluation, including a possible interview; and recommend candidate(s) for approval by the Assembly.

F. The Chair and the Vice-Chair of the Audit Committee

13. Each year, at its first meeting, the Committee shall elect a Chairperson and a Vice-Chairperson from among its members.

14. The Chairperson and the Vice-Chairperson shall be elected for a term of one year. They shall be eligible for re-election twice.

15. In the absence of the Chairperson, the Vice-Chairperson shall take his/her place.

16. If the Chairperson or the Vice-Chairperson ceases to be able to carry out his/her functions or ceases to be a member of the Audit Committee, he/she shall cease to hold such office and a new Chairperson or Vice-Chairperson shall be elected for the unexpired term.

17. A Vice-Chairperson acting as Chairperson shall have the same powers and duties as the Chairperson.

18. The Chairperson, in the exercise of his/her functions, remains under the authority of the Audit Committee.

19. In addition to exercising the powers conferred upon him/her elsewhere in these rules, the Chairperson shall declare the opening and closing of each meeting of the Audit Committee, direct the discussions, ensure the observance of these rules, accord the right to speak, put questions to the vote and announce decisions. He/she shall rule on points of order and, subject to these rules, shall have complete control of the proceedings of the Audit Committee and over the maintenance of order at its meetings. The Chairperson may, in the course of the discussion of an item, propose to the Audit Committee the limitation of time to be allowed to speakers, the limitation of the number of times each member may speak on any question, the closure of the list of speakers or the closure of the debate. He/she may also propose the suspension or the adjournment of the meeting or of the debate on the question under discussion.

20. The Chairperson shall represent the Audit Committee at a virtual annual meeting with the Chairperson of the Committee on Budget and Finance, to discuss their respective programmes of work and identify areas for knowledge-exchange, cooperation and synergies. The Chairperson will include a brief report of this meeting in the annual report to the Assembly.

21. The Chairperson shall represent the Audit Committee at relevant meetings.

G. Terms of Office

22. The term of office for an Audit Committee member shall be three years. Members of the Audit Committee may not serve more than two terms.

H. Secretariat services to the Audit Committee

23. The Committee is assisted by the ASP Secretariat.

I. Operational principles of the Audit Committee

1. Audit Committee code of ethics

24. The Audit Committee shall conduct itself in accordance with the code of ethics of the Court, and with international standards.

2. Communications

25. The Audit Committee expects that all communication with management and staff of the Court, as well as with any external assurance providers, will be direct, open, and complete.

3. Information requirements

26. The Audit Committee shall establish and communicate its information requirements. These shall include the nature, extent, and timing of such information requirements. Information shall be provided to the Audit Committee at least six weeks prior to each meeting.

4. Access to officials

27. The Audit Committee shall have such unrestricted access to officials of the Court as may be required to discharge their duties.

5. Incompatible activities

28. Members of the Audit Committee shall have no financial interest in any activity relating to matters upon which the Audit Committee has the responsibility to make recommendations. Members of the Audit Committee shall not be eligible to assume any other functions at the Court.

6. Conflict(s) of interest

29. It is the responsibility of the Audit Committee member to disclose a conflict of interest or the appearance of a conflict of interest to the Audit Committee. If there is any question as to whether Audit Committee member(s) should recuse themselves from a vote, the Audit Committee shall vote to determine whether the member should recuse himself or herself.

7. Confidentiality

30. Members of the Audit Committee shall not disclose, even after termination of their functions, any confidential information coming to their knowledge by reason of their duties for the Audit Committee.

J. Operational Procedures**1. Meetings**

31. The Audit Committee shall meet when required and at least two times annually at the seat of the Court.

2. Convening of sessions

32. Sessions of the Audit Committee shall be convened at the request of the majority of the members of the Audit Committee, the Chairperson of the Audit Committee, or at the request of the Assembly.

33. Before the Chairperson makes a request to convene a session of the Audit Committee, he/she shall consult the members of the Audit Committee, including on the date and duration of the session.

34. Any session of the Audit Committee called pursuant to a request of the Assembly shall be convened as soon as possible but no later than 60 days from the date of the request.

3. Quorum and decision-making

35. The quorum for the Audit Committee shall be a majority of the members.

36. As a general rule, decision-making in the Audit Committee should be by consensus. If all efforts to reach a decision by consensus have been exhausted, decisions shall be taken by a majority of members present and voting.

37. Each member of the Audit Committee, including the Chairperson, shall have one vote.

38. If a vote is equally divided, the proposal or motion shall be regarded as rejected.

4. Agenda

39. The provisional agenda for each session of the Audit Committee shall be drawn up by the ASP Secretariat, in consultation with the Chairperson, and shall include:

- (a) All items proposed by the Audit Committee; and
- (b) All items proposed by the CBF and by the Assembly.

40. The provisional agenda for each session of the Audit Committee shall be communicated to its members and the Court as early as possible in advance of the session, but at least 21 days before the opening of the session. Any subsequent change in or addition to the provisional agenda shall be brought to the notice of the members of the Audit Committee sufficiently in advance of the session.

41. At the beginning of each session the Audit Committee shall adopt its agenda for the session, on the basis of the provisional agenda. The Audit Committee may, if necessary, amend the agenda.

K. Compensation of the Audit Committee members

42. Members of the Audit Committee shall work on a *pro bono* basis, with the Court being responsible for travel, accommodation and related costs. Travel costs must comply with the Court's travel policy.

L. Responsibilities of the Audit Committee

43. It is the responsibility of the Audit Committee to provide the Assembly with independent, objective advice on the adequacy of Court management's arrangements with respect to the following aspects:

1. Governance of the Court

44. To obtain reasonable assurance with respect to the Court's governance arrangements, the Audit Committee shall review and provide advice on the governance arrangements established and maintained within the Court and the procedures in place to ensure that they are operating as intended.

2. Risk management

45. To obtain reasonable assurance with respect to the Court's risk management arrangements, the Audit Committee shall:

- (a) Review and provide advice on the risk management arrangements established and maintained by management and the procedures in place to ensure that they are operating as intended;
- (b) Provide oversight on significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by senior management;
- (c) Review the Court's corporate risk profile as it is updated; and
- (d) Obtain from the Internal Auditor an annual report on management's implementation and maintenance of an appropriate integrated risk management process.

3. Ethics

46. To obtain reasonable assurance with respect to the Court's ethics practices, the Audit Committee shall:

- (a) Review and assess the policies, procedures, and practices established by the governing body to monitor conformance with its code of conduct and ethical policies by all Court's managers and staff;
- (b) Provide oversight of the mechanisms put in place by management to establish and maintain high ethical standards for all Court's managers and staff; and
- (c) Review and provide advice on the systems and practices established by management to monitor compliance with laws, regulations, policies, and standards of ethical conduct and identify and deal with any legal or ethical violations.

4. Internal control framework

47. To obtain reasonable assurance with respect to the Court's management control framework, the Audit Committee shall:

- (a) Review and provide advice on the Court's overall and management units' internal control arrangements; and
- (b) Receive reports on all matters of significance arising from work performed by others who provide financial and internal control assurance to senior management.

5. Oversight of internal audit

48. The Office of Internal Audit shall report to the Principals of the Court.

49. The Audit Committee shall remain responsible for overseeing the adequacy of the Court's internal audit function and its independence in order to obtain reasonable assurance with respect to its internal audit activity:

(a) Review the internal audit charter when amended for its approval by the Principals. The charter should be reviewed to ensure that it is consistent with changes in the Court's financial, risk management, and governance arrangements and reflects developments in internal audit professional practices;

(b) Review and provide input on internal audit's strategic plan, programme goals, performance measures, and outcomes;

(c) Is consulted/Review the annual plan submitted by the Director of the Office of Internal Audit before its approval by the Principals;

(d) Advise the Court regarding the qualifications and recruitment, retention and release of the Director of the Office of Internal Audit;

(e) Provide input to the Registrar on the performance appraisal of the Director of the Office of Internal Audit;

(f) Review internal audit reports and other communications to management;

(g) Review and track management's action plans to address internal audit recommendations in a timely and substantive manner;

(h) Enquire from the Director of the Office of Internal Audit whether any internal audit engagements or tasks have been carried out that did not result in a report to the Audit Committee. If such activity has taken place, enquire as to the matters of significance, if any, arising therefrom;

(i) Enquire from the Director of the Office of Internal Audit about steps taken to ensure that the audit activity is consistent with the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing Standards; and

(j) Is consulted during the selection of the external assessor every five years to assess the performance of the Office of Internal Audit and receives the external assessor's report for its information.

6. Oversight of external audit

50. To obtain reasonable assurance with respect to the work of the External Auditor, the Audit Committee shall meet with the External Auditor during planning of the audit, the presentation of the audited financial statements, and the discussion of the letter to management on recommendations as required under international standards.

51. The Audit Committee shall review regular reports on the progress of implementing approved management action plans and audit recommendations resulting from completed external audits.

52. The Audit Committee shall examine and monitor of the independence of the External Auditor and of his recommendations, as well as of any other questions raised by the External Auditor.

53. The Audit Committee shall make recommendations to the Assembly concerning the nomination of the External Auditor.

7. Financial statements and public accountability reporting

54. The Audit Committee is responsible for oversight of the independent audit of the Court's financial statements, including but not limited to overseeing the resolution of audit findings in areas such as internal control, legal and statutory compliance, and ethics.

8. Other responsibilities

55. In addition, the Audit Committee shall:

- (a) Perform other activities related to this charter as requested by the Assembly including providing input into the terms of reference, selection, performance of work, review of recommendations and monitoring of implementation of recommendations of external assurance providers; and
- (b) Regularly evaluate its own performance and that of individual members.

9. Reporting the work of the Audit Committee to the Assembly

56. The Chairperson on behalf of the Audit Committee shall:

- (a) Make an annual report to the Assembly summarizing its activities and recommendations;
- (b) The report should include:
 - (i) A summary of the work performed by the Audit Committee to fully discharge its responsibilities during the preceding year;
 - (ii) A summary of the Court's progress in addressing corrective actions on the findings and recommendations made in internal and external audit reports;
 - (iii) An overall assessment of the Court's risk, control, and compliance framework, including details of any significant emerging risks or legislative changes impacting the Court; and
 - (iv) Details of meetings, including the number of meetings held during the relevant period and the virtual meeting between the Chairperson and the Chairperson of the Committee on Budget and Finance.

57. The Audit Committee may, at any time, report to the Assembly any other matter it deems of sufficient importance.

M. Languages

58. The working languages of the Committee shall be the official working languages of the Court.

59. All recommendations and other documents of the Audit Committee shall be published in the official languages of the Court, unless otherwise decided by the Chairperson of the Audit Committee.

Annex II

Report of the focal point for the topic of Premises

A. Introduction

1. The mandate for the topic of Premises in 2024 was derived from the budget resolution adopted by the Assembly of States Parties at its twenty-second session.¹ In section G, paragraph 9 of that resolution, the Assembly reaffirmed that “the Bureau is entrusted with the mandate concerning the governance structure and total cost of ownership [of the Court’s premises], via its Hague Working Group which has a facilitation on the budget, and request[ed] that a report on the topic be submitted for consideration by the twenty-third session of the Assembly”.

2. On 28 December 2023 the Bureau approved the allocation of Premises to The Hague Working Group as a sub-topic of the budget facilitation. On 6 March 2024, the Bureau re-appointed Mr. Julián Camilo Silva (Colombia) as focal point for the topic of Premises.

B. Meetings and discussions

3. Two meetings were held in 2024 on the topic of Premises: on 13 June and 22 October 2024. The Court participated in the meetings.

4. The meetings provided an opportunity for the working group to consider and discuss updates from the Court on matters related to the premises. In addition, the working group benefitted from the recommendations of the Committee on Budget and Finance (“the Committee”), as set out in the reports on the work of its forty-fourth² and forty-fifth sessions.³

Capital replacement planning and funding

5. At the first meeting, on 13 June, discussions focused on the topic of capital replacement planning and funding. The focal point noted that States Parties had been considering the approach to be taken to capital replacement as well as the appropriate funding mechanism since the Court had moved to its newly-built permanent premises in 2015. In recent years, the Assembly had approved specific amounts for capital replacement each year and, via the budget resolution, had continued to emphasize the need for capital replacement to be fully justified and limited only to those elements which were absolutely necessary.⁴ The Assembly had also requested the Court to continue to ensure that all measures were taken to achieve savings and efficiencies, including alternatives to capital replacement whenever possible,⁵ and had noted that any capital replacement needs arising “in the foreseeable future” should be financed within the scope of the regular budget process, taking into account the possible need for a multi-year approach, as appropriate.⁶

6. The Court briefed States Parties on recent developments in this regard, noting that in 2023, pursuant to a recommendation from a pro bono expert which was endorsed by both the Committee and the Assembly, the Court had engaged a consulting firm to make an independent assessment of the premises. Based on their review of the premises and its condition, the consultants had recommended a capital replacement plan with three different timeframes: short-term (actions to address the immediate “red flags” that had been identified in the review of the premises); medium-term (2-5 years ahead, actions to preserve and prolong the lifespan of some components); and long-term (6-20 years ahead). In addition, the consultants had recommended that the Court move towards a single contract for both maintenance and capital replacement in the future. The Court had reviewed the independent assessment and agreed with the recommendations.

¹ ICC-ASP/22/Res.4.

² ICC-ASP/23/15.

³ ICC-ASP/23/25.

⁴ See, for the most recent example, resolution ICC-ASP/22/Res.4, section G, paras. 1 and 2.

⁵ Ibid, para. 2.

⁶ Ibid, para. 3.

7. The proposed programme budget of the Court for 2025 was submitted on 31 July 2024.⁷ The proposed budget for Major Programme V: Premises amounted to €4.0 million, an increase of €1.4 million (or 55.5 per cent) when compared to the approved budget for 2024. This increase was largely due to the implementation of the recommendations of the independent experts, including capital replacements of critical building components that have reached the end of their useful lives.⁸ At the second meeting, on 22 October 2024, States Parties noted that the Committee had reviewed the proposed budget and recommended that the Assembly approve the requested amount.⁹ States Parties expressed support for the proposed budget.

Access to the premises by delegates of States Parties

8. In the budget resolution adopted at the twenty-second session, the Assembly “[e]mphasize[d] the importance of availability of adequate space and unimpeded/facilitated/priority access of States Parties to the premises and within the public areas of the Court, including the conference rooms, staff cafeteria and library”.¹⁰ The Assembly also welcomed the efforts undertaken by the Court to seek and provide appropriate solutions, and encouraged the continuation of discussions in this regard and in that spirit. In terms of access to the staff cafeteria, the Assembly specifically requested the Court to prepare a detailed budget report on the security changes needed to grant access to delegates, and the ways States Parties might fund those modifications.¹¹ The Assembly also encouraged further steps to facilitate the use of the bicycle shed located at the staff parking lot, and the permits to enter the premises using the north-east gate.¹²

9. At the second meeting, on 22 October 2024, States Parties discussed various issues associated with access to the premises by delegates of States Parties. States Parties considered the “Report of the Court on granting delegates of States Parties access to the staff cafeteria”,¹³ which had also been submitted to the Committee on Budget and Finance at its forty-fifth session. The Court presented the report, noting that it had undertaken a careful analysis of the different requests and the relevant budgetary and security considerations. The Court had determined that granting delegates access to the staff cafeteria would require a minimum cost in the region of €500 thousand. The Court had also benchmarked against other international organizations. Ultimately the Court had decided that the current arrangements for access to the premises would be maintained, including access to the conference cluster for delegates through the issuance of permanent badges (with limits on the number of delegates per State Party or Observer State).

10. Although current arrangements at the staff cafeteria will remain in place, a working space would be made available in the conference cluster (in a conference room or in the semi-public open space in the same area) between meetings, as necessary, and the range of food and beverages sold in the public area would be expanded. Access had been granted to delegates through the north-east gate of the Court, to enable use of staff parking facilities for both motor vehicles and bicycles.

11. Some concerns were expressed by States Parties regarding difficulties obtaining badges for access to the premises, both permanent and temporary, and the lack of clarity regarding the relevant policies of the Court. The Court indicated that a communication on the relevant policies would be prepared for dissemination to States Parties, and the Court would continue to engage with the Secretariat to identify appropriate solutions.

C. Recommendations

12. The focal point, through the Bureau, submits the proposed resolution language contained in the appendix to this report for the consideration of the Assembly.

⁷ ICC-ASP/23/10.

⁸ ICC-ASP/23/10, para. 915.

⁹ ICC-ASP/23/25, para. 191.

¹⁰ ICC-ASP/22/Res.4, section G, para. 6.

¹¹ *Ibid.*, para. 7.

¹² *Ibid.*, para. 8.

¹³ CBF/45/9.

Appendix

Proposed resolution language

To be inserted into the budget resolution

Premises of the Court

The Assembly of States Parties,

Noting the recommendations of the Committee on Budget and Finance regarding maintenance and capital replacement for the premises of the Court,¹

1. *Approves* capital replacement for the premises of the Court at the level of €1.6 million in 2025, while underlining the need to see maintenance and capital replacement in conjunction;
2. *Reiterates* the need for the capital replacement to be fully justified and limited only to those elements which are absolutely necessary and *requests* the Court to continue to ensure that all measures are taken to achieve savings and efficiencies, including using alternatives to capital replacement whenever possible;
3. *Notes* that any capital replacement needs arising in the foreseeable future should be financed within the scope of the regular budget process, taking into account the possible need for a multi-year approach, as appropriate;
4. *Invites* the Committee to continue to undertake a detailed analysis and evaluation of the proposed budget for capital replacement each year, taking into account the need for prioritization;
5. *Emphasizes* the importance of availability of adequate space and unimpeded/facilitated/priority access of States Parties to the premises and within the public areas of the Court, including the conference rooms,² staff cafeteria and library, *welcomes* the efforts undertaken by the Court to seek and provide appropriate solutions and *encourages* the continuation of discussions in this regard and in that spirit; and
6. *Reaffirms* that the Bureau is entrusted with the mandate concerning the governance structure and total cost of ownership, via its Hague Working Group which has a facilitation on the budget.

¹ *Official Records ... Twenty-third session ... 2024* (ICC-ASP/23/20), vol. II, part B.2, paras 117 to 125, and part B.3, paras. 181 to 191.

² Cluster 1.