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Report on the activities of the Oversight Committee*Executive summary*

The present report provides a summary of the activities of the Oversight Committee (“the Committee”) and other developments in the permanent premises project during 2014.

The project is within its timelines, and the premises are expected to be completed and ready for occupation by the Court as from September 2015. Costs virtually remain within the overall financial envelope of a maximum of €195.7 million, including both the reduced construction budget of €184.4 million and the transition budget of €1.3 million.

To increase clarity in expenditures the Committee and the Project Director agreed on a new procedure on how to manage the project reserve. The Project Director remains responsible for the management of the reserve, while the Committee conducts a meaningful oversight of strategic, political, and other issues having a significant economic impact on the use of the reserve. Notwithstanding this procedure, the Committee has remained concerned with the worsening of the financial security of the project with an accelerated use of the reserve which, at the end of October 2014, has reduced its available level to only €300.000 out of the original €12.9 million.

The current financial forecast highlights the risk of a deficit, in the worst-case scenario, which would require mitigation measures or additional resources. Measures are needed to give financial security to the project in case of a cost overrun, which might otherwise result in the inability to enter into contractual commitment and, hence, hinder the transition of the Court into the new premises.

Therefore, the Committee submits to the approval of the Assembly a decision whereby the Committee is delegated authority to decide, as a measure of last resort and as necessary and appropriate, on any project budget increase of up to €4.3 million in 2015, up to a total of €200 million (from €195.7 million).

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I. Introduction

1. At its sixth session, held in November/December 2007, the Assembly of States Parties established an Oversight Committee (hereinafter “the Committee”) as a subsidiary body of the Assembly to provide strategic oversight for the permanent premises project.¹

2. The present report is submitted in accordance with resolution ICC-ASP/6/Res.1, annex II, paragraph 15, which states that the Committee shall provide regular status reports to the Bureau and shall submit any draft resolutions or information to the Assembly through the Bureau.

3. Since the twelfth session of the Assembly, the Oversight Committee held 21 meetings, on 5 December 2013, 30 January, 10 March, 3 and 17 April, 15 and 28 May, 5 and 18 June, 2 July, 21 August, 11, 25 and 30 September, 9 and 23 October, 6 and 13, 24 and 27 November, and 4 December 2014.

4. Mr. Roberto Bellelli briefed The Hague Working Group on new developments related to the project on three occasions, at its first, third and eleventh meeting, on 31 January, 3 April and 17 November 2014. The Committee on Budget and Finance also received interim reports on 8 April and 3 October 2014, and a briefing by the Chair of the Committee on 29 April and 10 October 2014.

II. Overview of the status and cost of the unified project

A. Unification of the construction and transition projects

5. The construction and transition projects had been unified since 5 July 2013 into a single permanent premises project, by decision of the Oversight Committee in full agreement with the Court. The Project Director - as the manager of all aspects related to the unified project and previously separately governed under the respective authorities of the Committee and of the Registrar - reports to both the Committee and to the Registrar, on the operations and the finances of both the construction and the transition projects. These changes are reflected in the governance structure of the project.²

B. Status and cost of the construction project

1. Status of the project

6. The construction plan is within its timelines, and the premises are expected to be completed and ready for occupation by the Court as from September 2015. Consequently, the period between September and December 2015 would still be fully available for the Court to prepare for the move from the interim to the permanent premises. The actual move of the Court will take place between 30 November and 11 December 2015.

7. The project costs virtually remain within the overall financial envelope of a maximum of €195.7 million.³ However, the current financial forecast highlights the risk of a deficit, which requires appropriate mitigation measures or additional resources.⁴

2. Capacity of the premises to accommodate potential growth of personnel

8. At the Committee’s seventh meeting on 2 July 2014, the Project Manager made a presentation on the absorption of the Court’s potential growth in light of the new existing floor plans approved and signed by the top management representatives of the three organs of the Court. These floor plans will not be changed anymore until the end of the construction and include sufficient flexibility to cope with the projected additional growth

¹ *Official Records ... Sixth session...2007* (ICC-ASP/6/20), vol. I, part III, ICC-ASP/6/Res.1, para. 5 and annex II.

² Report on the activities of the Oversight committee, ICC-ASP/12/43, paragraphs 43, 60-62, annexes I, II, and XI (resolution ICC-ASP/12/Res.2, paragraphs 14 to 24).

³ Report on the activities of the Oversight Committee, ICC-ASP/12/43, paragraph 67 and resolution ICC-ASP/12/Res.2, paragraph 15.

⁴ *Infra*, Section III D, paragraphs 67-75.

of the Office of the Prosecutor until the end of 2016. The current floor plans add up to a total of 1,182 dedicated workstations, 98 available extra flexible workstations⁵ and 102 flexible office workstations for external defence teams,⁶ making up for a total of 1,382 work stations against the approved 1,200 in resolution ICC-ASP/6/Res.1, annex I. An additional option for a flexibility to accommodate 1,519 workstations was also presented, as the maximum theoretical capacity of the premises under the current design, should all individual offices be converted into shared offices, and meeting room space reduced drastically to accommodate extra office space. It was understood that this theoretical option might not be a sustainable solution.

9. On the other hand, the Court also indicated, that in the next two years it would look into other ways to utilize the space more efficiently such as introducing a flexibility factor, working from home, sharing workstations, etc., which were not needed at the moment. The Court stressed that it could fit 200 additional staff, on top of the Office of the Prosecutor's growth, within a few weeks, in the permanent premises, if needed in the future.

3. Risks (Project reserve)

10. Foreseeable risks are included and financially addressed through a risk register, regularly updated by the Project Director and monitored by the Committee.

11. A restructured project budget was adopted by the Committee before the tendering of the construction project, in 2012, upon the recommendation of the Project Director. This budget structure provided the basis for the monthly progress reports by the Project Director ("Financial status" part of the reports) since the beginning of the construction, with a €12.9 million project risk budget.

12. Following the sharp growth in the use of the resources available in the risk register at the end of March 2014,⁷ the Committee has extensively discussed how to enhance the implementation of a prudent financial strategy which would ensure that a sufficient financial security remains available to cater for unforeseen risks until the project end. To increase clarity in expenditures against the reserve the Committee and the Project Director agreed on a new procedure on how to manage the risk register, which was adopted by the Committee on 24 June 2014.

13. The risk register was renamed Project Reserve since it includes elements that can be considered properly risks (Changes by users, Works Information Inconsistencies, Works information omissions, legislation-driven changes, and transition risks), and others that are not properly "risks", such as investments to reduce the future cost of ownership ("TCO investments", representational features of States Parties, permit-driven expenditures and other allocated budgets).

14. The content of the Project Reserve was reorganized according to the following categories of items: Allocated budgets (including representational features, fee allocation, archaeology, gas pipe and utility connections, permit requirements, entrance booths requirements, security requirements, entrance road East side and heath and cold storage), total cost of ownership (TCO) investment, Changes by users, Works Information⁸ inconsistencies,⁹ Works Information omissions,¹⁰ Legislation-driven changes,¹¹ and Transition risks.

⁵ Workstations that can be used for temporary needs, such as interns and consultants, or durably assigned to specific sections in case of growth in staff resources.

⁶ Workstations made available to external defence teams used on an ad-hoc basis subject to judicial activity.

⁷ In the period February to March 2014, €3.3 million in the reserve had been committed, representing an implementation from 23 per cent to 49 per cent of the risk register on a list of items which included: a) *Technical adaptations* of existing requirements at construction stage (e.g., insulation for the parking lots drainage system - €80,000 and buffering rainwater, €74,000); b) *Investments* in long-term operational costs reductions (i.e., LED lighting system -€1.1 million); and c) New users' requirements or enhanced quality of the premises (e.g., "expansion of the Gym" - €10,000.).

⁸ The Works Information describes what is required for the project in terms of what the General Contractor is to provide. These divergences have become clearer to the Committee during the ongoing technical design phase, and their financial impact will only be fully estimated once the Construction Design is completed (expected in November 2014). See *infra*, Section III B.2.

⁹ *Works Information inconsistencies*: Any functional requirements that were badly (quality) or insufficiently (quantity) integrated in the Final Design and therefore in the works information, or where the different designs within the Works Information conflict with each other. In the latter case, the contract allows in favour of the

15. Under the procedure adopted, the Project Director remains responsible for the management of the Project Reserve, while the Committee conducts a meaningful oversight of strategic, political, and other issues having a significant economic impact on the use of the reserve. Monthly reports of the project including a Project Reserve look ahead are provided to the Committee by the Project Director where the new items are included as soon as they are identified, together with the best-case and worst-case assessment.

16. The Committee authorizes expenditures pertaining to representational features and TCO investments, as well as any expenditure above €150,000. The Committee can also reject expenditures proposed by the Project Director under any other category, based on strategic or political considerations.¹²

17. The risk of a project deficit has suggested the Committee to take a particularly cautious approach to authorizing expenditures against the representational features budget, at a time when a substantial amount of the reserve was being used against other cost categories. Therefore, on 2 July 2014, the Committee decided to repeal the decision it had taken at its sixth meeting, on 5 June 2014, to finance with €200,000 the engraving of the Rome Statute Preamble in the public Plaza. However, the Committee considered that the representational features' budget line (€1.2 million) should not be understood by the stakeholders as the only means to ensure the financial security of the project. Furthermore, the Committee noted that the decision to have representational features in the premises was one of a political nature, adopted by the Assembly, and consequently the Committee will need to ensure that a meaningful amount of representational features is included in the premises. This matter was further addressed in the context of the proposal of the Project Director for a budget cap increase (infra, paragraphs 26-27) and, on 9 October 2014 the Committee decided to reduce the budget line for representational features from €1.2 million to €400,000.

(a) Compensation events

18. In the monthly report issued by the Project Director's Office and the Project Manager at the end of October 2014, under the best-case scenario, the positive saldo of the project budget would be €16,206 taking into account an estimated share of €2,910,473 under the NEC3 contract that, if realized, would only be capitalized at project end.

19. Under the worst-case scenario, the project budget saldo would be negative in the amount of €2,836,131.

20. In the case of any change to the Works Information, or omissions or inconsistencies, the General Contractor is entitled to claim a compensation event, which, if accepted by the Project Manager, results in an increase of the Guaranteed Maximum Price, and therefore of the cost of the project against the Project Reserve. Nearly 60 compensation events have been accepted by the Project Manager. Several matters need to be further discussed with Courtys, and in the Committee, in order to ascertain the final costs.

21. One particular compensation event claim by Courtys has been particularly important in terms of potential costs for the project (potentially €4.4 million) regarding the prefabricated concrete engineering, which was considerably more complex than it had initially been estimated. As this Compensation event claim was rejected by the Project Manager, Courtys took the dispute to the procedure of Adjudication as provided for in the contract. The matter was settled by the Project Director, with the approval of the Committee, with a negotiated agreement whose value ranges between €1 million and €1.9 million.

contractor to select the most economical solution to the contractor but the Project might require that the most expensive solution is adopted in order to comply correctly with the functional brief, resulting in a need to change the works information at the construction design stage. This would mostly continue to be a risk until all the design is finished.

¹⁰ *Works Information omissions*: anything that is not defined sufficiently in the original works information. It is quality that was not priced at the time of the tender by the contractor and therefore it is not strictly an over cost since that quality should or would have been part of the tender anyway if we had known about it at the time. For example the discovery of oil tanks in the ground and the associated pollution were not in the works information as they were unknown at the time.

¹¹ *Legislation driven changes*: changes required by amended regulations or directives of the competent Dutch authorities, such as the additional demands for the parking lots drainage system.

¹² Procedure for the management of the Project Reserve, dated 19 June 2014.

22. Further compensation events can still be claimed by Courtys at the current stage, upon completion of the Construction Design at the end of September 2014, and until the end of November 2014. Such potentially negative situations have been factored in the assessment of the worst case financial scenario. While compensation events might also be claimed at a later stage and until the completion of the project, their impact will be potentially less important as the project progresses and will appear clearer around mid-February 2015.

23. In summary, under the worst-case scenario presented by the Project Manager at the end of October 2014, the risks to the project would exceed the project budget in €2.8 million.

(b) Projected cost

24. The total estimated costs, following the 2013 decision of the Committee to unify the construction and transition projects, amount to €203.7 million. This cost figure is composed of €195.72 million for the unified revised project budget which includes all construction and transition activities and an estimated figure of €8 million from the regular annual budgets of the Court.¹³

(c) Cost reduction process

25. The Oversight Committee considered the possible savings in the register look ahead, which could still be achieved with minimal impact upon the Court's key operations, while also preserving the quality of the items and services procured. The Committee also acknowledged that at the current stage of the project changing requirements upon which the Design had been approved could potentially result in disruption for the project that, instead of savings, would trigger additional costs.

(d) Budget cap increase

26. The €184.4 million construction budget is under pressure, since the Assembly had approved to use €5.6 million of projected construction savings to fund part of the transition budget. The remaining €5.7 million, up to the €11.3 approved budget for the transition project, would be financed from the Court's budget surpluses from the 2012 to 2014.¹⁴

27. On 24 September 2014, the Project Director presented to the Committee a proposal for an increase of the budget cap up to €200 million, i.e. additional €4.3 million to be allocated in the reserve.

28. The request for increase of the budget of €4.3 million was recommended by the Project Director in light of both the technical accountancy rules and increased pressures on both the construction and transition project budgets. This request is formulated on the basis of the worst-case scenario and reflects the need to ensure that appropriate budgetary authorization exists for the Project Director to commit resources, if needed, in order to ensure procurement actions so that the project be not halted during 2015. The Project Director also highlighted that this matter does not require any additional funding, since the potential increase would be ensured either through the use of the host State loan in combination with the one-time payments and/or the annual surpluses of the Court. The Project Director also stressed that even with an increased budget authorization above the level of €195.7, he would continue to manage the risks in the construction and the transition to try and finish both projects within €195.7 million.

29. The Committee submitted to the Committee of Budget and Finance, for consideration at its 23rd session, the following options:

- (a) Not to approve any budget increase, with the risk that if the approved budget was insufficient, the transition to the new premises might be affected, resulting in the extension of the lease of the interim premises into 2016;

¹³ See paragraphs 68-70, *infra*.

¹⁴ Resolution ICC-ASP/12/Res.2, paragraphs 7 and 16.

- (b) Approve a budget increase, without conditions attached, with the risk that the additional resources might be spent before the project end;
- (c) Not to approve a budget increase but delegation of authority to the Committee would be provided by the Assembly in order to increase as a measure of last resort, if necessary and as appropriate, the budget level of a maximum of €4.3 million. Building on a recommendation by the External Auditor,¹⁵ the Committee also considered that any such additional resources would be managed through a separate strategic reserve, under the direct and exclusive responsibility and control of the Committee, who would also approve a procedure for expenditures against such strategic reserve.¹⁶

30. The Committee on Budget and Finance recommended considering an intermediate option, according to which the Assembly be requested to “raise the budget cap from its current €195.7 million to €200 million”, with ‘the additional €4.3 million [as] a resource of last resort.’ The Committee on Budget and Finance also recommended that “the parties involved should look into ways” to achieving “an enhancement of strategic oversight”.

31. At the twelfth meeting of the Committee, held on 6 November 2014, both the Court and the Project Director expressed their view that the Committee should follow the CBF recommendation and request the Assembly of States Parties to raise the budget cap, while enhancing the control of the strategic reserve by the Committee.

32. The Committee considered that the financial risk of a potential deficit and the possible consequences for the project require that security be built around the budget with a measure that would ensure that, if needed, expenditures can be authorized above the current budget level and for a maximum of additional €4.3 million. At the same time, also based on the recommendation of the External Auditor,¹⁷ the Committee considered that financial security should be combined with enhanced control and oversight at the authorization stage, i.e. at the time of deciding whether a budget increase is strictly necessary and appropriate.

33. As a consequence, the Committee submits to the approval of the Assembly a decision whereby the Committee is delegated authority to decide, as a measure of last resort and as necessary and appropriate, on any project budget increase of up to €4.3 million in 2015, or bringing the budget authorization up to a total of €200 million (from €195.7 million). In its next meetings, the Committee will revise, as appropriate, the procedure for keeping the management of such expenditures under review.

34. The financing instruments of the project, as approved by the Assembly, include: that the host State loan in combination with the one-time payments shall be used up to an amount of €190 million, and the surpluses of the Court’s budget for the years 2012-2014, up to an amount of €5.7 million, which together add up to the approved €195.7 million unified project budget. However, the combination of the financial instruments available provide more than enough financial strength to finance a possible overrun of the unified project, as they include: the loan (€200 million), the one-time payments received (€54.5 million) and the surplus received to date (€4.4 million), plus the amount of surplus that will become available for the years 2013 and 2014. Subject to the Assembly delegating authority to the Committee to decide on any project budget increase up to a total of €200 million, the funding of up to €4.3 million could be provided, if actually needed, from any of these sources.

C. Status and cost of the transition project

35. The Assembly had requested the Court, in conjunction with the Project Director, “to take all preparatory measures needed to ensure its readiness to take occupation of the permanent premises by not later than December 2015 in order to avoid any additional

¹⁵ ICC-ASP/13/12, *Financial statements for the period 1 January to 31 December 2013*, Recommendation No. 2 and paragraphs 32-40.

¹⁶ Report of the Committee on Budget and Finance on the work of its twenty-third session, ICC-ASP/13/15, paragraph 156.

¹⁷ ICC-ASP/13/12, *Financial statements for the period 1 January to 31 December 2013*, Recommendation No. 2 and paragraphs 27-40.

expenditures for the States Parties, and to report thereon in detail to the Bureau and to the twentieth session of the Committee on Budget and Finance”.¹⁸

36. The transition project includes such costs as non-integrated user equipment, residual costs relating to the handing over of the interim premises, and moving costs. This project aims at ensuring that the Court be ready to take full occupation of the permanent premises by no later than December 2015, and will run until the end of the guarantee period foreseen by the construction contract, on 17 July 2016, i.e., one year after the handing over of the premises by the constructor to the Court, which is contracted to take place on 17 July 2015.

1. Budget

37. The Assembly of States Parties, at its twelfth session approved the unified financial target for the overall project, at the level of €195.7 million, subject to a review of such target every six months throughout the life-span of the project, and also subject to a cost review process of the transition elements of the project, aimed at reducing the target at least at the level of €193.7 million by June 2014.¹⁹

38. Based on the parameters for a meaningful review of the transition elements approved by the Assembly,²⁰ the Committee has received periodic information on the inventories, procurement plans, and extension of the useful life of assets.²¹ However, the Committee did not receive a review of the transition costs in advance of the June 2014 deadline because the costs were still being discussed between the PDO and the Court.²² The Project Director explained that the cost for the transition project could not go down based on the present requirements, as they had to ensure the move of the Court. Based on the practice in normal procurement processes, it was also indicated that, should there be savings at the end of the procurement process for the transition elements, such savings should not be expected to achieve the targeted €2 million reduction.

2. Review of transition costs

39. At the time of the unification of the projects, transition cost had been reviewed downwards from the estimated original €20.1 million (as identified in 2011) down to an agreed budget of €1.3 million in 2013, although an estimated €1.9 for ICC staff costs – both for the transition and construction activities - remained to be covered through the regular budget of the Court (MP VII-1). Savings in the transition budget were realized, for example, by providing that all the existing workstations will be moved, so that no new office furniture (or the minimum necessary) will need to be purchased. Further possibilities for savings might arise out of the procurement process but, if they happen, are expected to be less than the €2 million figure. Should the analysis of the construction project procurement savings be taken as a comparator, market savings achieved by Courtys (who have significantly greater commercial procurement market skills than the Court) have averaged between two per cent to three per cent on a value of approximately €34 million. If that level of procurement performance was repeated on the transition project on a €1.3 million, budget the savings expected would be between €226,000 and €39,000.

40. The Registrar convened a meeting on 2 September 2014, with the Registry’s Chiefs of Sections in order to address issues relating to the transition project, including pressures on the budget beyond the €1.3 figure approved by the Assembly.

41. The meeting of 2 September 2014 had as an objective to ensure that costs related to the transition project remain as low as possible in order to stay within, and, if possible, below the approved €1.3 budget, and help the managers of the Registry understand their roles in the implementation of the transition project. After the review conducted at the meeting, the Project Director and the Court informed the Committee that they could not find room for additional savings in the transition budget, although they had managed to keep the costs within the €1.3 million budget.

¹⁸ ICC-ASP/11/Res.3, para.10.

¹⁹ Resolution ICC-ASP/12/Res.2, paragraph 15.

²⁰ ICC-ASP/12/Res.2, paragraph 13.

²¹ Interim report on the activities of the Oversight Committee, CBF/22/15, paragraphs 11-14.

²² *Ibidem*, paragraph 15.

42. The budget for the transition project does not include an amount for any risks or unforeseen costs, which according to the decision to unify the construction and the transition projects, would need to be funded through the construction project reserve if they materialize.

III. Other matters

A. Representational Features

43. A budget of €1.2 million was originally allocated the issue of “representational features”. Based on a proposal of the Project Director, the Committee has revised the elements for a policy on representational features, integrated art, monuments and memorials. The Committee has decided to maintain the existing budget of €1.2 million, while trying to produce savings through possible sponsorships. To advance this process within the available timeframe, especially for donations concerning elements that need to be integrated in the design, a presentation informing States Parties on the issue and encouraging contributions was made to The Hague Working Group on 3 April 2014.

44. The Chair of the Committee established in December 2013 a Sub-Group on representational features and appointed a Rapporteur,²³ whose final report was presented to the Oversight Committee in October 2014. The Oversight Committee is discussing this report.

45. In this connection, a discussion took place on the potential donations from five States.²⁴ The Committee decided that, pending the adoption of an overall strategy of the Committee and of a policy of the Court for dealing with donations - and in order to avoid missing existing opportunities - , every offer for a donation would be dealt with on case-by-case basis, based on the following procedure:

- (a) Proposals for donations would be conveyed to the Committee, as point of entry, who would transmit them to the Project Director’s Office;
- (b) The Project Director’s Office, together with the architects, would make the technical assessment, and submit its results to Committee and to the Court;
- (c) The Court would then decide on a case-by-case basis whether to accept the donation or not, taking into account any comments, as appropriate, made by the Committee.

B. Working group on the total cost of ownership (WGTCO)

46. In 2015, the ICC will become the owner of the Permanent Premises and will have to deal with owner-related costs, known as the Total Cost of Ownership (TCO):

- (a) Financial costs: costs based on having a loan (interest and amortisation);
- (b) Maintenance costs: costs for both preventive and corrective maintenance and capital replacements; and
- (c) Building facility costs: costs that relate directly to operating the building (not the organization) like insurance and energy costs.

47. In addition to these, the Court will have to face costs for using the premises, comparable to the current costs for the interim premises.

48. In accordance with paragraph 8 of resolution ICC-ASP/11/Res.3, the Oversight Committee established in March 2013,²⁵ a working group²⁶ tasked with a technical evaluation of possible options to fund facility and maintenance costs, including any options

²³ Establishment of Sub-Groups on Independent Expert and Representational Features, 3 December 2013.

²⁴ The Netherlands, Denmark, Finland, Guatemala and Slovenia.

²⁵ *Terms of Reference – Working Group Total Cost of Ownership (TCO)* dated 19th March 2013.

²⁶ The working group is chaired by the Project Director, and its voting members are the Project Director and representatives of the Court and of the Committee. Non-voting members include the Deputy Project Director, the Project Manager (Brink Groep) and the Independent Expert of the Committee (Ernst&Young). Also entitled to attend are any interested State Party, representatives of the Committee on Budget and Finance and of the External Auditor, as well as the former Expert of the Committee (Mr. Pierre Gilliot).

for future States Parties to contribute to the project costs. The Working Group is chaired by the Project Director and composed of representatives of the Oversight Committee and of the Court, as well as by the Project Manager and the independent Expert of the Oversight Committee.

49. The Working Group on TCO has completed the first phase of its mandate and, presented its preliminary advice to the Oversight Committee on 3 April 2014, and a progress report on 29 October 2014.

50. At its thirteenth meeting, on 13 November, on the basis of the latest progress report of the Working Group, the Committee considered that the technical options based on a multiannual approach for the management and funding of the Total Cost of Ownership appeared to present political challenges and, thus, that it was appropriate that the Working Group considers also an annual approach, which would better address political challenges, while further refining the technical options. The Project Director and the Court noted that the Oversight Committee had not discussed the progress report of the Working Group, and that the latter should rather finalize its technical work and submit its conclusions in its final report, and first reviewed by the Committee on Budget and Finance. The Oversight Committee decided that the Working Group should complete its work early in 2015, by exploring two alternative solutions which take into account, respectively, a multiannual approach which would foster a technical perspective, an annual approach that could address political challenges that might arise under the first scenario.

C. Leases of the Interim Premises and related risks

51. The completion date for the construction project continues to be 17 July 2015, which provides a sufficient buffer in advance of the planned move by the staff of the Court to the new premises in the first two weeks of December 2015. Even if there was a postponement from 17 July to 1 September for the hand over the premises, there would still be sufficient time to prepare the premises for the timely actual occupation by the Court.

52. At the present stage, the relocation to the permanent premises, in connection with the termination of the lease of the interim premises, does not appear to be a risk for the project. Therefore, the Court has expressed to its landlords its intention to terminate the leases of its current interim premises as of the end of December 2015. If agreed, this would save costs for rent and maintenance payments, up to €2.5 million, should the leases have to run until their original termination dates in 2016.

53. This risk for the Court, in an amount of €2.5 million in 2016 including rent, operation and maintenance, would be the impossibility of terminating all the leases of the interim premises as at 31 December 2015, thus incurring, at the same time, both the costs of the interim premises until 30 June 2016, and the functioning of the permanent premises from 1 January 2016 onwards.

54. On the risk that the permanent premises would not be ready on time, the Project Director informed the Committee that, in his view, even in the case of an unexpected worst case scenario, the Court would not be without premises, because there are specific requirements and other factors that make it very difficult that others will rent the Arc and Haagse Veste buildings, also considering the excess of available space in the real estate at the moment.

D. Ownership of the Permanent Premises

55. Throughout the year, the Oversight Committee had considered that the interests of States Parties in areas related to the Permanent Premises should in future be adequately addressed, including on matters such as donations to the Court, the Total Cost of Ownership, and access to the premises.

56. Upon consultations held in the The Hague Working Group of the Bureau, on 17 November, a desire was expressed by some delegations that the Permanent Premises adequately reflect the role of the Assembly in the governance of the Rome Statute system and, hence, that delegations' interests are fully taken into account in relevant areas.

57. At the 14th meeting of the Committee, held on 24 November, the Court noted that this matter had not been discussed as a substantive agenda item in earlier OC meetings. The Court proposed that it will address the recently raised States Parties concerns as part of the Transition Project before the Court moves to its permanent premises.

58. The Oversight Committee intends to submit to the Assembly at its fourteenth session a proposal for States Parties representation of the ownership interests of the Assembly in the permanent premises.

IV. Financial reporting

A. Project expenditure

1. Appropriation unified project budget (€195.72 million)

59. The construction costs were initially set by the Assembly at no more than €90 million at 2014 prices.²⁷ Projected savings on the construction cost were identified in the amount of €6.3 million, in 2013, of which €0.7 million were used for a change of the design to increase the flexible use of the permanent premises. As a consequence the savings amounted to €5.6 million, thus bringing down the construction budget to €84.4 million.

60. The unification of the construction and transition project enabled to better manage transition costs, including the cost of non-integrated user equipment (and excluding the Court's staff costs), set them at €1.3 million (down from the €8.5 million estimate at the time), and partly fund them through the savings identified in the construction budget (€5.6 million).²⁸ The remaining €5.7 would be financed from the Court's surpluses from the 2012 to 2014 budgets.²⁹ An amount of €4.47 million pertaining to the 2012 surplus³⁰ was transferred to the project in April 2014.

61. The construction budget of €84.4 million together with the transition budget of €1.3 million would be financed under the overall unified project budget of €195.7 million.

62. The total appropriation as at 15 November 2014 is €195.72 million at 2015 price level, which is broken down as follows: €55.48 million for construction costs, €4.24 million for the Project Reserve, €2.55 million for permits and dues, €20.58 million for fees, €1.50 million for other costs and €1.37 million for the transition project. The budget appropriations stated above are further detailed in annex I to this report.

63. The unified project budget (€195.72 million) continues to be the basis for the presentation of the financial reporting of the project subject to the information provided in section B. (iii) d)) of this report.

2. Expenditures against the unified project budget

64. The 2014 expenditures for the project as at 15 November 2014 amount to €68,133,059. This figure consists of expenditures for construction costs in an amount of €66,700,000, permits and dues expenditures totalling to €641. The costs related to fees total €1,432,418.

65. The total expenditures for the project (from 2008 until 15 November 2014) amount to €125,834,260, of which: zero in 2008; €1,279,471 in 2009; €5,133,346 in 2010; €6,873,388 in 2011; €7,066,600 in 2012; €37,348,399 in 2013 and €68,133,059 in 2014, as at 15 November 2014. Further details are presented in Annex I.

²⁸ Report on the activities of the Oversight Committee, Addendum, ICC-ASP/12/43/Add.1.

²⁹ Resolution ICC-ASP/12/Res.2, annex II, Amendment to the Financial Regulations and Rules – Use of surplus, Regulation 4.7.

³⁰ Resolution ICC-ASP/12/Res.2, paragraph 20. As a first implementation of the amendment of Regulation 4.7 approved, the Assembly also approved that an amount equal to the 2012 surplus was appropriated to funding the overall project budget; CBF/22/15, paragraph 17 and annex 4.

3. Expenditures against the Court's annual budget

66. The expenditures on Major Programme VII-1 Project Director's Office (permanent premises), for the period 2008 until 15 November 2014 (expressed in thousands of euro) amounts to €3,554.1, broken down as follows: €3.8 in 2008, €317.4 in 2009, €395.4 in 2010, €386.4 in 2011, and €386.7³¹ in 2012, €715 for 2013, and €1,069.4 for 2014 as at 15 November 2014. Further details are presented in annex II.

67. Following the decision of the Committee to adopt the revised governance structure in agreement with the Registrar, the budget for sub-programme 3770 ceased to exist at the end of 2013 and the staff and activities of sub-programme 3770 are now fully incorporated into Major Programme VII-1. The two existing staff posts in sub-programme 3770 have been transferred to the Project Director's Office and, as from 1 August 2013, report directly to the Project Director.

4. Total projected cost of the project: unified construction and transition budget, plus the Court's budget (permanent premises)

68. The revision of the financial framework has resulted in creating clarification on the full cost impact of the project, through identifying the costs related to the project that are funded via the annual budget of the Court and those that are funded through the unified project budget. It has also resulted in substantial savings on the Court's staff costs, which in April 2013 had been estimated at €3.2 million and were then reduced down to the overall level of €1.5 million, spread out over 2014, 2015 and 2016.

69. Annex III provides an estimate of the full costs related to the project for the period 2008 until 2016. The total estimated costs, following the decision of the Committee to unify the construction and transition projects, amount to €203.7 million. This cost figure is composed of €95.72 million for the unified revised project budget which includes all construction and transition activities and an estimated figure of €3 million from the regular annual budgets of the Court. Before the unification of the construction and the transition project, the same aggregated figure was at €214.9 million, or €11.2 million higher.³²

70. The €3 million in the Court's annual budgets includes Major Programme VII-1 and former sub-programme 3770.

5. Utilization of the host State loan and interest accrued

71. In 2010, the host State accepted the proposal that, in light of the incoming one-time payments at the time, funds that had been drawn from the host State loan be returned to the host State so as to avoid the accrual of additional interest in the years 2010, 2011 and 2012. These arrangements were implemented on 28 June 2010.

72. Due to the continued progress of the planned construction activities in line with the schedule and the available amount of one-time payments, a first draw down of the host State loan was only required in early August 2013. The estimated total quarterly loan draws for the remainder of the project are reflected in annex IV. In accordance with resolution ICC-ASP/6/Res.1, annex VI, the cash-flow overview including its provenance is provided in annex IV to this report. In this same annex, the received interest on the one-time payments is also reflected.

73. The interest accrued in 2013 on the host State loan amounted to €11,904. This amount was paid to the host State in early 2014, in accordance with the provisions of the loan agreement.

74. The forecast interest accrued for 2014 is estimated to be €1,068,740, to be paid by States Parties before 25 January 2015.

75. The Oversight Committee notes that the subsidised interest accrued in 2013 and paid in 2014 by the Host State – based on the amounts mentioned in para 73- was Euro

³¹ Increase due to the merger of the Project Director's Office and the POPP.

³² Interim report on the activities of the Oversight Committee, CBF/20/18, paragraph 14.

159,351.- The forecasted interest over 2014 – based on the amount in paragraph 74- to be paid by the Host State will be Euro 1,521,885.

6. Trust fund

76. A trust fund was established by the Registrar, in accordance with resolution ICC-ASP/6/Res.1, annex VI, for the purpose of holding funds dedicated to the construction of the permanent premises of the Court. So far no voluntary contributions from governments, international organizations, individuals, corporations or other entities have been received.

B. One-time payments

77. As at 15 November 2014, 59 States Parties had selected the one-time payment option and pledged to make payments to a value of €69,702,494. At 15 November 2014, the one-time payments actually received amount to €4,447,251. This amount consists of one-time payments, partial or in full, received from 54 different States Parties. Further details are provided in annex V to this report.

78. In 2013, the scale of assessment for States Parties contributions to the permanent premises was adjusted in order to match that of the United Nations, adopted for the period 2013-2015. Following the transparent recalculation of the adjusted assessed contributions, 44 States Parties that had opted for one-time payments under the previous scale, were negatively affected. The deadline for States Parties to opt for one-time payments is 31 December 2014, based on the 2013-2015 scale of assessment, with actual payment to be made by 30 June 2015.

79. The Committee on Budget and Finance, at its twenty third session, also following a recommendation of the External Auditor,³³ recommended that the date for the assessment of contributions for the permanent premises project be fixed as the date on which the Court takes possession of the premises, in September 2015, when the final cost of the project and amount of the host State subsidy were known, in order to avoid any ambiguity.³⁴

³³ ICC-ASP/13/12, *Financial statements for the period 1 January to 31 December 2013*, Recommendation No. 1 and paragraphs 20-26.

³⁴ Report of the Committee on Budget and Finance on the work of its twenty-third session, ICC-ASP/13/15, paragraph 164.

Annex I

Expenditures for the permanent premises unified project budget for the period 2008 to 15 November 2014 (in euros)

	2008 ^a	2009 ^a	2010 ^a	2011 ^a	2012 ^a	2013 ^b	First quarter 2014 ^b	Second quarter 2014 ^b	Third quarter 2014 ^b	Fourth quarter 2014 ^b (as at 15 Nov 2014)	Total expensed 2014 ^b	Total expensed (2008 until 2014) ^b	Budget
1. Construction costs	0	0	0	0	2,850,000	35,400,000	5,500,000	27,700,000	25,000,000	8,500,000	66,700,000	104,950,000	155,476,559
1a. Direct costs	0	0	0	0	0	0	0	0	0	0	0	0	
1b. Indirect costs	0	0	0	0	0	0	0	0	0	0	0	0	
1c. Fees design team (after tendering)	0	0	0	0	0	0	0	0	0	0	0	0	
2. Risks	0	0	0	0	-1,500,000	-1,147,053	0	0	0	0	0	-2,647,053	4,244,372
2a. Project risk	0	0	0	0	0	-1,147,053	0	0	0	0	0	-1,147,053	
2b. Client risk	0	0	0	0	-1,500,000	0	0	0	0	0	0	-1,500,000	
3. Permits and dues	0	0	0	0	2,501,720	676	341	0	300	0	641	2,503,037	2,549,526
3a. Permits and dues	0	0	0	0	2,501,720	676	341	0	300	0	641	2,503,037	
4. Fees	0	1,279,471	3,633,346	6,873,388	3,214,880	3,094,776	158,838	470,992	512,541	290,047	1,432,418	19,528,279	20,577,188
4a. Design related	0	0	2,652,553	5,147,159	2,446,836	36,748	22,069		12,380	106,508	140,957	10,424,253	
4b. Project management	0	906,514	735,933	1,346,646	446,228	2,091,418	91,100	276,178	287,830	192,043	847,151	6,084,647	
4c. Other consultants (e.g. legal, experts, security)	0	369,715	242,111	378,635	320,581	965,403	44,970	194,814	250,831		490,615	2,758,909	
4d. Operational fees (e.g. bank fees)	0	3,242	2,748	948	1,235	1,206	699				699	10,777	
5. Other costs	0	0	1,500,000	0	0	0	0	0	0	0	0	1,500,000	1,500,000
5a. Other design related expenses	0	0	1,500,000	0	0	0	0	0	0	0	0	1,500,000	
6. Equipment													
<i>Residue</i>													0
Actual expenditures	0	1,279,471	5,133,346	6,873,388	7,066,600	37,348,399	5,659,179	28,170,992	25,512,841	8,790,047	68,133,059	125,834,260	
Forecasted expenditures	0	1,300,000	5,200,000	7,000,000	7,300,000	41,846,899					99,900,000	162,546,899	195,715,000
Variance	0	-20,529	-66,654	-126,612	-233,400	-4,498,500					-31,766,941	-36,712,639	

Expenditures = disbursed expenditures + unliquidated obligations; the expenditures for 2013 contain an amount of €57,535 of unliquidated obligations.

^a Actual expenditures.

^b Projected expenditures.

^(*) Reimbursement insurance tax.

^(**) Host State reimbursements of soil pollution costs.

Annex II

Expenditures and future projected budgets for Major Programme VII-1 (Project Director's Office) per 15 November 2014 (in thousands of euro)

7110 and 7120 Project Director's Office (permanent premises)	<i>Actual expenditure 2008</i>	<i>Actual expenditure 2009</i>	<i>Actual expenditure 2010</i>	<i>Actual expenditure 2011</i>	<i>Anticipated expenditure 2012</i>	<i>Anticipated expenditure 2013</i>	<i>Approved budget 2014 (**)</i>	<i>Actual expenditure per 15.11.2014</i>	<i>Actual Impl. Rate %</i>	<i>Anticipated expenditure 2014</i>	<i>Proposed budget 2015 (*) (**)</i>	<i>Proposed budget 2016 (*) (**)</i>	<i>Total (estimated) 2008 - 2016</i>
Professional staff	No breakdown available												
General Service staff	No breakdown available												
<i>Subtotal staff</i>	48.3	266.6	315.6	321.5	352.4	376.4	591.0	519	83%	591.0	596.9	298.5	3,167.2
General temporary assistance		16.8	26.4	9.7	37.2	74.7	0.0	290.2		0.0	-	-	
Consultants								0.0			-	-	
<i>Subtotal other staff</i>		16.8	26.4	9.7	37.2	74.7	0.0	290.2			-	-	405.5
Travel	0.5	4.4	14.9	19.3	6.4	9.4	18.0	18		18.0	18.0	9.0	99.9
Hospitality		5.7	8.6	2.8	4.2	1.5	2.5	0.4		2.5	2.5	1.3	29.1
Contractual services	35.0	2.1	9.4	28.2	148.1	249.7	661.0	229		625.6	861.0	430.5	2,387.8
Training				3.2	36.5	0.0	3.2	12.6			3.2	1.6	57.1
General operating expenses		9.9	20.0	0.0	0.0	0.0	4.0	0.0		4.0	4.0	2.0	39.9
Supplies and materials				1.1	0.0	0.0	1.5	0.2		1.5	1.5	0.8	4.9
Furniture and equipment		11.9	0.5	0.6	1.8	3.3	2.0			2.0	2.0	1.0	23.1
<i>Subtotal non-staff</i>	35.5	34.0	53.4	55.2	197.1	148.6	692.2	260.2		656.8	892.2	446.1	2,528.4
Total	83.8	317.4	395.4	386.4	586.7	715	1283.2	1,069.4		1283.2	1,489.1	744.6	6,216.4

(*) Proposed budgets and subject to change.

(**) As of 2014 programme 7110 incorporates the former sub-programme 3770.

(***) As of 2014 programme 7130, previously known as "2gv" costs is incorporated in the increased multi-annual construction budget.

Annex III

Total projected cost of the permanent premises project per 15 November 2014 (in thousands of euro) - Expenditures and future budgets permanent premises project

	<i>Actual expenditure 2008</i>	<i>Actual expenditure 2009</i>	<i>Actual expenditure 2010</i>	<i>Actual expenditures 2011</i>	<i>Actual expenditure 2012</i>	<i>Approved budget 2013</i>	<i>Actual expenditure per 15.03.2013</i>	<i>Anticipated expenditure 2013</i>	<i>Approved budget 2014</i>	<i>Actual expenditure per 15.11.2014</i>	<i>Anticipated expenditure 2014</i>	<i>Proposed budget 2015 (*)</i>	<i>Proposed budget 2016 (*)</i>	<i>Total (estimated) 2008 - 2016</i>
Unified project budget (multi-annual budget)														
Revised total unified project budget, including 3gv and 2gv costs (195,715 k€)	-	1,279.5	5,133.3	6,873.4	7,066.6	49,874.6	37,348.4	37,348.4	99,900.0	68,133,059	99,900.0	37,000.0	1,113.80	195,715.0
Total unified project budget														195,715.0
Annual budget														
<i>Major Programme VII-1</i>	83.8	317.4	395.4	386.4	586.6	996.7	599.4	715.0	1282.1			1489.1	744.6	6,000.4
Programme 7110 - Project Director's Office	83.8	317.4	395.4	386.4	421.8	460.4	413.9	459.2	686.6	552.7	686.6	693.6	346.8	3,791.0
Programme 7120 - ICC Staff Resources and management support (**)	0.0	0.0	0.0	0.0	113.9	386.3	97.3	153.5	595.5	516.6	595.5	795.5	397.8	2,056.2
Programme 7130 - 2gv elements (non-integrated user equipment) (***)	0.0	0.0	0.0	0.0	50.9	150.0	88.2	102.3	0.0		0.0	0.0	0.0	153.2
Sub-programme 3770 - Registry Permanent Premises Office	268.2	260.9	381.4	379.8	407.4	334.5	131.1	323.4	0.0		0.0	0.0	0.0	2,021.1
Total annual budget														8,021.5
Estimated Grand Total 2008 - 2016														203,736.5

(*) Proposed budgets and subject to change.

(**) As of 2014 programme 7110 incorporates the former sub-programme 3770.

(***) As of 2014 programme 7130, previously known as "2gv"costs is incorporated in the increased multi-annual construction budget.

Annex IV

Overview costs, one-time payments and host State loan per 15 November 2014 (in euros)

2013	Actuals				Estimated	Estimated		Total	Total
	Quarter I	Quarter II	Quarter III	Quarter IV	2013	2014 (*)	2015 (*)	2016 (*)	
<i>Cost overview</i>									
Cash in:									
Incoming One-time payments	1,901,652	241,758	76,423	11,919,098	14,138,931	1,321,495	1,289,426	0	
Received Interest (**)	33,420	28,760	2,061	2,203	66,444				
Loan draw			6,700,000	13,800,000	20,500,000				
Cash surplus						2,500,000	1,600,000	1,615,000	5,715,000
Cash out:	5,192,184	10,340,046	8,324,458	12,747,535	36,604,223	99,957,535	37,000,000	1,113,795	195,715,000

(*) The figures are estimates only and are subject to change.

(**) Quarter I interest figure includes €54 interest received in 2009.

2014	Actuals		Estimated 2014		Estimated	Estimated		Total
	Quarter I	Quarter II	Quarter III	Quarter IV	2014 (*)	2015 (*)	2016 (*)	
<i>Cost overview</i>								
Cash in:								
Incoming One-time payments	110,059	1,605,629	19,413	8,507,323	10,242,424	13,661,780	0	
Received Interest	896				896			
Loan draw 2014	0	3,100,000	39,600,000	22,000,000	64,700,000	28,105,725		
Cash surplus		4,400,000			4,400,000	1,315,000		5,715,000
Cash out:	5,659,179	28,199,139	26,377,373	28,416,547	86,652,239	50,819,656	0	195,715,000

(*) The figures are estimates only and are subject to change.

Annex V

Status of one-time payments per 15 November 2014 (in euros)

	<i>Pledged Amounts</i>			<i>Amount received</i>					
	<i>States</i>	<i>Total</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014-2015</i>	<i>Total</i>
1	Albania	13,729	-	-	6,865	-	-	17,780	24,645
2	Andorra	18,305	-	18,305	-	-	-	-	18,305
3	Antigua and Barbuda	1,741	-	-	-	-	1,741	-	1,741
4	Argentina	743,641	-	-	743,641	-	-	-	743,641
5	Australia	5,108,955	-	2,725,921	1,362,960	-	-	1,020,074	5,108,955
6	Barbados	20,531	-	-	-	-	-	19,685	19,685
7	Benin	2,288	-	-	-	-	-	-	-
8	Bolivia	13,729	-	13,729	-	-	-	-	13,729
9	Bosnia & Herzegovina	-	-	-	-	-	-	13,688	13,688
10	Burkina Faso	4,576	-	-	-	4,576	-	-	4,576
11	Cambodia	2,288	-	2,288	-	-	-	-	2,288
12	Canada	7,350,410	-	6,811,751	-	-	-	538,659	7,350,410
13	Chad	2,281	-	-	-	-	-	2,281	2,281
14	Chile	367,498	-	-	-	367,498	-	-	367,498
15	Columbia	239,532	-	-	-	-	239,532	-	239,532
16	Costa Rica	73,989	-	-	-	49,477	24,512	-	73,989
17	Czech Republic	642,963	-	-	321,482	321,481	-	-	642,963
18	Dem. Rep. of the Congo	6,864	-	-	6,864	-	-	-	6,864
19	Denmark	1,685,852	-	-	-	-	-	858,139	858,139
20	Djibouti	2,288	-	-	-	-	-	-	-
21	Ecuador	47,857	-	-	-	-	47,857	-	47,857
22	Estonia	36,500	-	-	-	-	-	36,500	36,500
23	Finland	1,290,503	-	1,290,503	-	-	-	-	1,290,503
24	Gabon	18,220	-	-	-	-	-	18,220	18,220
25	Georgia	17,205	-	-	-	6,864	-	10,341	17,205
26	Hungary	558,303	-	-	186,101	372,202	-	-	558,303
27	Iceland	84,661	-	-	-	84,661	-	-	84,661
28	Ireland	1,029,665	-	-	-	-	-	-	-
2929	Italy	11,621,392	2,092,090	1,781,707	3,873,797	3,873,798	-	-	11,621,392
3030	Jordan	27,458	-	9,152	9,153	9,153	-	-	27,458
3131	Latvia	41,483	-	-	-	-	41,483	-	41,483
3232	Liechtenstein	22,881	-	22,881	-	-	-	-	22,881
3333	Lithuania	70,932	-	-	47,288	-	23,644	-	70,932
3434	Luxembourg	199,485	-	-	194,491	-	-	4,994	199,485
3535	Malta	39,370	-	-	-	-	-	39,370	39,370
3636	Mauritius	32,085	-	25,169	-	-	-	6,916	32,085
3737	Mexico	5,164,300	-	1,721,434	1,721,433	-	1,721,433	-	5,164,300
3838	Moldova	-	-	-	-	-	-	7,440	7,440
3939	Mongolia	1,633	-	-	-	-	-	7,440	7,440
4040	Montenegro	2,288	-	2,288	-	-	-	9,957	12,245
4141	Namibia	24,645	-	-	-	-	-	24,645	24,645
4242	Netherlands	4,272,802	-	-	-	-	4,272,802	-	4,272,802
4343	Panama	51,038	-	-	-	-	51,038	-	51,038
4444	Philippines	177,938	-	-	-	-	177,938	-	177,938
4545	Portugal	1,205,842	-	401,948	401,947	401,947	-	-	1,205,842
4646	Republic of Korea	1,056,687	-	-	-	234,406	208,546	-	442,952
4747	Samoa	2,288	-	2,288	-	-	-	-	2,288
4848	San Marino	6,864	-	6,864	-	-	-	-	6,864
4949	Serbia	48,051	-	48,051	-	-	-	-	48,051
5050	Slovakia	143,804	-	-	-	143,804	-	-	143,804
5151	South Africa	663,557	-	663,557	-	-	-	-	663,557
5252	Spain	7,323,898	-	-	-	-	7,323,898	-	7,323,898
5353	Suriname	2,281	-	-	-	-	2,281	-	2,281
5454	Sweden	2,450,583	-	-	2,450,583	-	-	-	2,450,583
5555	Switzerland	2,774,014	-	-	-	2,774,014	-	-	2,774,014
5656	Timor-Leste	2,226	-	-	-	-	2,226	-	2,226
5757	Trinidad and Tobago	61,779	-	-	-	61,779	-	-	61,779
5858	Tunisia	70,719	-	-	-	-	-	-	-
5959	United Kingdom	12,757,430	-	-	-	-	-	-	-
	Total	69,702,494,494	2,092,090	15,547,836	11,326,605	8,705,660	14,138,931	2,636,129	54,447,251

Annex VI

Draft resolution on permanent premises

The Assembly of States Parties,

Recalling its resolutions adopted with regard to the permanent premises, including ICC-ASP/6/Res.1,¹ ICC-ASP/7/Res.1,² ICC-ASP/8/Res.5,³ ICC-ASP/8/Res.8,⁴ ICC-ASP/9/Res.1,⁵ ICC-ASP/10/Res.6,⁶ ICC-ASP/11/Res.3,⁷ and ICC-ASP/12/Res.2⁸ and *reiterating* the importance of the permanent premises to the future of the Court,

Noting the report of the Oversight Committee on the permanent premises,

Noting the recommendations of the External Auditor, as well as the reports of the Committee on Budget and Finance on the work of its twenty-second and twenty-third sessions and the recommendations contained therein,

Stressing its firm intention that the unified construction and transition projects for the permanent premises should be delivered within the €195.7 million budget (at 2014 price levels) as per resolution ICC-ASP/12/Res.2, and the role of the Oversight Committee in implementing under its delegated authority any actions that might be needed to ensure that the project proceeds safely within budget, as well as that the ownership costs of the permanent premises be as low as possible,

Noting the existing pressure on the strategic reserve of the project, as a result of reductions on other reserves made before 2013,

Also noting that financial security needs to be built into the approved budget envelope to prevent a potential overrun in the budget during 2015, which could have a detrimental effect on the timely completion of the project and result in additional costs if the Court is unable to move into the new premises,

Recalling, that the Oversight Committee and the Registrar have decided to cooperate in a spirit of mutual trust and collaboration to ensure the unified project's success,

Recalling its objective that the permanent premises project be completed by September 2015 and the Court be able to progressively move into and take full occupation of the new premises by December 2015,

Also recalling-that the permanent premises shall be delivered within the approved budget at a good quality standard, while avoiding elements that might not be essential to the proper performance of the core functions of the Court or that would otherwise negatively affect the total cost of ownership,

Noting the desire of States Parties that the permanent premises adequately reflect the role of the Assembly in the governance of the Rome Statute system and, hence, that delegations' interests are taken into account,

Financial target 2014-2016

Noting that, while to date costs remain within the unified project budget set by the Assembly at €195.7 million, current pressures on budget exist, and that measures are needed to give financial security to the project in case of a cost overrun that would otherwise put at risk the timely completion of the construction and transition of the Court into its new premises,

¹ *Official Records ... Sixth session ... 2007* (ICC-ASP/6/20), vol. I, part III.

² *Official Records ... Seventh session ... 2008* (ICC-ASP/7/20), vol. I, part III.

³ *Official Records ... Eighth session ... 2009* (ICC-ASP/8/20), vol. I, part II.

⁴ *Official Records ... Eighth session (resumption) ... 2010* (ICC-ASP/8/20/Add.1), part II.

⁵ *Official Records ... Ninth session ... 2010* (ICC-ASP/9/20), vol. I, part II.

⁶ *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. I, part II.

⁷ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. I, part II.

⁸ *Official records ... Twelfth session ... 2013* (ICC-ASP/12/20), vol. I, part II.

Total Cost of Ownership

Recalling that the total cost of ownership, as currently estimated, would amount to €5.7 million in 2016 and includes: financial costs for those States not having opted for one-time payments, operating and maintenance costs of the premises,

Considering that the Oversight Committee has indicated that its Working Group on Total Cost of Ownership, headed by the Project Director, should develop two alternative solutions: the first reflecting a consolidated option of a multiannual approach, which appears most advantageous from a technical perspective, and, the second, a mostly annual approach where political challenges would be addressed,

Noting that the Oversight Committee intends to finalize its work on the Total Cost of Ownership early in 2015 so that, upon advice from the twenty-fourth meeting of the Committee on Budget and Finance, a recommendation can be submitted to the fourteenth session of the Assembly for a decision,

One time payments

Recalling that States Parties had been requested to inform the Registrar of their final decision to select the option of a one-time payment of their assessed share in the project by 15 October 2009, and that this deadline was first extended to 15 October 2012,⁹ and further extended to 31 December 2014,¹⁰

Welcoming the fact that since the twelfth session of the Assembly, 13 additional States Parties have committed to making a one-time payment, for a total of additional €9.1 million, bringing the total number of States Parties having so committed to 59, as at 15 November 2014, in a total amount of €69.7 million, of which €54.4 million have already been received,

Recalling the criteria applicable to the agreement on the host State loan, and the principles for one-time payments of the assessed share, contained in annexes II and III to resolution ICC-ASP/7/Res.1, respectively, and as further explained in resolution ICC-ASP/11/Res. 3, annex II and appendixes I and II,

Noting that the conditions of the host State loan provide that payment of interest begins as of the time of the first utilization of the loan,¹¹ and that repayment of capital and interest will commence after expiration of the existing or future leases of the interim premises,¹²

Also noting the that necessary liquidity for the payment of interest and capital for the whole of the repayment period needs to be ensured, and that States Parties failing to make their contributions in a timely manner will be liable for any costs incurred to meet the reimbursement obligation of the loan, and that an appropriate financial solution has to be established to address this risk;

Recalling that the trust fund for voluntary contributions dedicated to the construction of the permanent premises has been established and that voluntary contributions can also be provided through earmarked funds for special features, or in kind contributions, upon consultation with the Oversight Committee,

I. Governance and Management of the Project

A. Construction Project

1. *Welcomes* the report of the Oversight Committee and *expresses* its appreciation to the Oversight Committee, the Project Director, the Court and the host State for the progress made on the permanent premises project since the twelfth session of the Assembly;

⁹ Resolution ICC-ASP/8/Res.8.

¹⁰ Resolution ICC-ASP/11/Res.3, para. 14.

¹¹ Resolution ICC-ASP/7/Res.1, annex II, (e).

¹² *Ibid.*, (f).

2. *Approves* the revised cash-flow scheme contained in annex I;
3. *Welcomes*:
 - (a) That the project is within its timelines, and that the premises are expected to be completed and ready for occupation by the Court as from September 2015, with costs currently within the overall financial envelope of a maximum of €195.7 million, including both the construction budget of €184.4 million and the transition budget of €11.3 million;
 - (b) That the period between September and December 2015 would still be fully available for the Court to complete its transition from the interim to the permanent premises, and that the actual move of the Court will take place in December 2015; and
 - (c) The absorption of the Court's potential growth in the capacity of the permanent premises, based on the new existing floor plans approved by the three organs of the Court, as well as that the Court consider other possible ways to utilize the space more efficiently,(iv) The ongoing implementation of the cost-review strategy put in place by the Oversight Committee as well as the cost reduction process enacted by the Project Director through identifying possible savings in the look ahead register ensures that the project continues to allow for good quality premises while avoiding elements that might not meet the necessary standard of coherence with the core functions of the Court or that would otherwise negatively affect the total cost of ownership;
4. *Invites* the Oversight Committee to submit to the twenty-fourth session of the Committee on Budget and Finance the outcome of the analysis conducted in the Working Group on the Total Cost of Ownership, with the view to submitting to the fourteenth session of the Assembly any recommendations of the Oversight Committee;¹³
5. *Emphasizes* the importance of strict control of design, scope and requirements changes during the project's construction phase in order to ensure that the project is delivered to cost, quality and on time, and *reiterates* its request that the Oversight Committee ensure that any changes during the construction stage and until completion of the project be only approved on a cost neutral basis and, to this end, *requests* the Project Director to make every effort so that any new change to the project that might be needed is offset by a corresponding capital or operational saving and can be implemented, wherever possible, with due regard to the minimisation of additional costs related to delays and other factors;
6. *Underscores* that a continuous prudent financial strategy requires a sufficient financial security to remain available to cater for unforeseen risks until the project end, due to the growth in the use of the resources available in the strategic reserve since March 2014;¹⁴

B. Transition Project

7. *Requests* the Oversight Committee and the Court to ensure through the Project Director that all preparatory measures are adopted for the Court to be ready to take occupation of the permanent premises by no later than December 2015 in order to avoid any additional expenditure for States Parties, and to report thereon in detail to the Bureau and to the Committee on Budget and Finance;
8. *Takes note* that all budget elements have been further reviewed in 2014 and that, where further savings were identified, these have been taken up by pressures in other budget lines, and *also takes note* that the Project Director and the Court have indicated that they could not find room for additional savings in the transition budget;
9. *Encourages* the Oversight Committee and the Court to ensure through the Project Director that a meaningful review process of the transition elements is continued effectively

¹³ ICC-ASP/13/5, paras. 91 to 101.

and implemented taking into account any new options for achieving savings, including but not limited to a review of the user requirements and consideration of the Court's assets;

10. *Recalls* its objective that costs related to the transition project remain as low as possible in order to stay within, and, if possible, below the approved €1.3 million budget;

11. *Also recalls* that the €1.3 million budget for the transition project does not include an amount for any risks or unforeseen costs, which according to the decision to unify the construction and the transition projects, would need to be funded through the unified project reserve, if they materialize;

12. *Further recalls* its decision to fund transition costs up to €5.7 million with the appropriation of the surplus pertaining to the financial years 2012 to 2014, to be accounted for as one-time payments, and that an amount of €4.4 million has been funded in 2014 with the surplus pertaining to 2012;

13. *Authorizes* the Court, in consultation with the Project Director, to extend the application of the guidelines on contracts and expenditures for the construction project, approved by Resolution ICC-ASP/11/Res.3, paragraph 12, to the procurement processes to be conducted in the course of the Transition Project, in order to avoid any undue delays in the execution of the project and in the completion and occupation of the permanent premises;

14. *Authorizes* the Court to extend the maintenance contracts provided by the General Contractor during the first year after the delivery of the permanent premises, to a period ending on 31 December 2017, in order to allow the Court sufficient time to prepare its future long term maintenance strategy and contracts;

C. Unified Project

15. *Recalls* that the total estimated costs, following the 2013 decision of the Committee to unify the construction and transition projects, amount to €203.7 million, composed of €95.72 million for the unified revised project budget which includes all construction and transition activities and an estimated figure of €8 million from the regular annual budgets of the Court;¹⁵

16. *Requests* the Oversight Committee and the Project Director to ensure that every effort is made to mitigate risks, seek opportunities for additional savings, and deliver the project within its current envelope of 195,7 million;

17. *Approves* that, in addition to the mandate established under resolution ICC-ASP/6/Res.1, the Oversight Committee shall have the authority delegated by the Assembly to make decisions, as a measure of last resort and as necessary and appropriate, for any increases of the project budget up to €4.3 million in 2015, thus bringing the budget authorisation from €195.7 million up to a maximum of €200 million, to ensure the financial security of the project;

18. *Invites* the Oversight Committee to continue implementing a strict control on expenditures by means of the appropriate procedure for the management and control, within the strategic reserve of the project, of any budget increases it might approve;

19. *Reiterates* that the surplus pertaining to the financial period 2013 shall be allocated to funding the remaining transition costs up to €1.3 million, to be accounted for as one-time payments;

20. *Takes note* of the recommendation of the external Auditor and the Committee on Budget and Finance, according to which the liquidation of States Parties' contributions for the permanent premises project be based on the scale of assessments applicable for 2013-2015;¹⁶

¹⁵ *Idem*, para 22.

¹⁶ ICC-ASP/12/15, paragraph 164.

II. One-time payments

21. *Requests* States Parties electing by 31 December 2014 the option of a full or partial one-time payment of their assessed share in the project, to consult with the Project Director so as to determine the scheduling thereof, taking into account that said one-time payments:¹⁷

- (a) May be made in one or more instalments;
- (b) Are to be received in full by no later than 15 June 2015 or on any earlier date dependant on the expected cash-flow; and
- (c) Shall be subject to an adjustment once the final cost of the project and the full amount of the host State subsidy are known in order to ensure that all States Parties receive a fair and equal treatment;

22. *Requests* the Registrar, in coordination with the Project Director's Office, to continue to submit to the Oversight Committee, as requested, updated information on the agreed schedules for one-time payments;

III. Financial reporting

23. *Requests* the Project Director to submit at the project end, through the Oversight Committee, and for consideration by the Assembly at its fourteenth session, a detailed and separate report on expenditures for the construction and transition activities¹⁸, together with the financial statements for the project;

IV. Audit strategy

24. *Welcomes* that the External Auditor of the Court (*Cour des comptes*) has adopted a comprehensive approach to auditing the accounts and performances of the Court, which includes the full scope of the permanent premises project,¹⁹ and *also welcomes* the recommendations contained in the Financial statements for the period 1 January to 31 December 2013;²⁰

V. Voluntary contributions

25. *Welcomes with appreciation* that four States Parties have initiated discussions with the Project Director and the Oversight Committee regarding proposals for donations for integration into the permanent premises, and *calls on* States Parties to approach the Oversight Committee at the earliest opportunity if they wish to contribute in that regard to ensure integration into the new building as it is completed;

26. *Requests* the Oversight Committee to finalize, with the assistance of the Project Director and in consultation with the Court, a strategy for donations and to report thereon to the fourteenth session of the Assembly of States Parties;*Reiterates* the invitation to States Parties and members of civil society with a proven track record of commitment to the mandate of the Court to raise funds for the permanent premises project;

VI. Ownership of the Permanent Premises

27. *Requests* the Oversight Committee and the Court to ensure that the interests of States Parties are addressed in matters related to the access to the premises;

¹⁷ See resolution ICC-ASP/11/Res.3, annex II, Explanatory note on one-time payments, that clarifies the principles for to one-time payments in connexion with the criteria applicable to the agreement on the loan, including as regards those States Parties that would select the one-time payment option, or make their payments, after the host State loan has been accessed and payment of interest has commenced.

¹⁸ ICC ASP/12/15, par. 148.

¹⁹ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, para. 82.

²⁰ ICC-ASP/13/12.

28. *Also requests* the Oversight Committee to submit to the Assembly to its fourteenth session a proposal for States Parties representation of the ownership interests of the Assembly in the permanent premises;

VII. Future reporting by the Oversight Committee

29. *Requests* the Oversight Committee to continue to provide regular progress reports to the Bureau and to report back to the Assembly at its next session.
