

**ASSEMBLY OF STATES PARTIES TO
THE ROME STATUTE OF THE
INTERNATIONAL CRIMINAL COURT**

**THIRTEENTH SESSION
NEW YORK, 8 - 17 DECEMBER 2014**

**OFFICIAL RECORDS
VOLUME I**

Note

Symbols of documents of the Assembly of States Parties to the Rome Statute of the International Criminal Court are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a document of the Assembly of States Parties to the Rome Statute of the International Criminal Court. Resolutions of the Assembly bear the letters “Res.”, while its decisions bear the letters “Decision”.

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Part I Proceedings

A. Introduction

1. In accordance with the decision of the Assembly of States Parties to the Rome Statute of the International Criminal Court (hereinafter “the Assembly”), taken at the twelfth meeting of its twelfth session, on 27 November 2013, the Assembly held its thirteenth session from 8 to 17 December 2014.

2. In accordance with the Rules of Procedure of the Assembly,¹ the President of the Assembly invited all States Parties to the Rome Statute to participate in the session. Other States that had signed the Statute or the Final Act were also invited to participate in the session as observers.

3. In accordance with rule 92 of the Rules of Procedure of the Assembly (hereinafter “the Rules of Procedure”), invitations to participate in the session as observers were also extended to representatives of intergovernmental organizations and other entities that had received a standing invitation from the General Assembly of the United Nations pursuant to its relevant resolutions,² as well as to representatives of regional intergovernmental organizations and other international bodies invited to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, June/July 1998), accredited to the Preparatory Commission for the International Criminal Court or invited by the Assembly.

4. Furthermore, in accordance with rule 93 of the Rules of Procedure, non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court, or in consultative status with the Economic and Social Council of the United Nations, whose activities were relevant to the activities of the Court or that had been invited by the Assembly, attended and participated in the work of the Assembly.

5. Regarding procedural decisions, the President recalled that the Assembly takes such decisions in accordance with the Rules of Procedure of the Assembly, independently of and without prejudice to decisions taken for any other purpose, including decisions of any other organization or organs of the Court regarding any legal issues that may come before them.

6. In accordance with rule 94 of the Rules of Procedure, the following States were invited to be present during the work of the Assembly: Bhutan, Democratic People’s Republic of Korea, Equatorial Guinea, Lao People’s Democratic Republic, Lebanon, Mauritania, Micronesia (Federated States of), Myanmar, Niue, Palau, Papua New Guinea, Rwanda, Somalia, South Sudan, the State of Palestine, Swaziland, Tonga, Turkmenistan and Tuvalu.

7. The list of delegations to the session is contained in document ICC-ASP/13/INF.1.

8. The session was opened by the President of the Assembly of States Parties, Ms. Tiina Intelmann (Estonia), who had been elected for the tenth to twelfth session.

1. Election of the President of the Assembly of States Parties for the thirteenth to sixteenth sessions

9. At its eighth meeting on 18 September 2014, the Bureau decided to recommend that H.E. Mr. Sidiki Kaba, Minister of Justice of Senegal, be elected President of the Assembly at the beginning of its thirteenth session. In accordance with rule 29 of the Rules of Procedure of the Assembly of States Parties, as amended pursuant to resolution ICC-

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part II.C.

² General Assembly resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3237 (XXIX), 3369 (XXX), 31/3, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6, 51/204, 52/6, 53/5, 53/6, 53/216, 54/5, 54/10, 54/195, 55/160, 55/161, 56/90, 56/91, 56/92, 57/29, 57/30, 57/31, 57/32, 58/83, 58/84, 58/85, 58/86, 59/48, 59/49, 59/50, 59/51, 59/52, 59/53, 61/43, 61/259, 63/131, 63/132, 64/3, 64/121, 64/122, 64/123, 64/124, and decision 56/475.

ASP/12/Res. 8, annex III, the Assembly, at its first plenary meeting on 8 December 2014, elected Mr. Sidiki Kaba as President by acclamation for the thirteenth to sixteenth sessions.

2. Election of two Vice-Presidents and eighteen members of the Bureau for the thirteenth to sixteenth sessions

10. At its first plenary meeting, on 8 December 2014, the Assembly, pursuant to rule 29 of its Rules of Procedure, as amended by resolution ICC-ASP/3/Res.2, also elected a Vice-President and 18 members of the Bureau for the thirteenth to sixteenth sessions, as follows:

President:

Mr. Sidiki Kaba (Senegal)

Vice-President:

Mr. Álvaro Moerzinger (Uruguay)

Other members of the Bureau:

Chile, Colombia, Costa Rica, Czech Republic, Germany, Ghana, Hungary, Italy, Japan, Netherlands, Nigeria, Republic of Korea, Romania, Samoa, Slovenia, South Africa, Sweden, Uganda and the United Kingdom.

11. The Assembly took note that the Group of Latin American and Caribbean States (GRULAC) intends to seek, during the 2014-2017 period, an increase of Bureau seats to ensure equitable geographical representation for the next composition of the Bureau, from the seventeenth session onward, in accordance with the number of States Parties to the Rome Statute from each region.

12. At its thirteenth plenary meeting, on 17 December 2014, the Assembly elected a second Vice-President, Mr. Sebastiano Cardì (Italy). At that same meeting, the Assembly also elected as Rapporteur Ms. Barbara Kremzar (Slovenia).

13. At the Assembly's first plenary meeting, on 8 December 2014, in accordance with rule 25 of its Rules of Procedure, the following States were appointed to serve on the Credentials Committee:

Bosnia and Herzegovina, Chile, Côte d'Ivoire, Denmark, Estonia, Liechtenstein, Mali, Paraguay and Timor-Leste.

14. The Director of the Secretariat of the Assembly, Mr. Renan Villacis, acted as Secretary of the Assembly. The Assembly was serviced by the Secretariat.

15. At its first plenary meeting, on 8 December 2014, the Assembly observed one minute of silence dedicated to prayer or meditation, in accordance with rule 43 of the Rules of Procedure of the Assembly

16. At the same meeting, the Assembly adopted the following agenda (ICC-ASP/13/1/Rev. 1):

1. Opening of the session by the President.
2. Silent prayer or meditation.
3. Election of the President of the Assembly of States Parties for the thirteenth to sixteenth sessions.
4. Election of two Vice-Presidents and eighteen members of the Bureau for the thirteenth to sixteenth sessions.
5. Adoption of the agenda.
6. States in arrears.
7. Credentials of representatives of States at the thirteenth session:
 - (a) Appointment of the Credentials Committee; and
 - (b) Report of the Credentials Committee.
8. Organization of work.
9. General debate.
10. Report on the activities of the Bureau.

11. Report on the activities of the Court.
12. Report of the Board of Directors of the Trust Fund for Victims.
13. Advisory Committee on the nominations of judges.
14. Election of six judges.
15. Election of six members of the Committee on Budget and Finance.
16. Election to fill a vacancy of the Committee on Budget and Finance.
17. Consideration and adoption of the budget for the thirteenth financial year.
18. Consideration of the audit reports.
19. Premises of the Court.
20. Amendments to the Rome Statute and the Rules of Procedure and Evidence.
21. Cooperation.
22. Decision concerning the date of the next session of the Assembly of States Parties.
23. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance.
24. Applicability of the former Court's pension regimes to former Judges Cotte and Nsereko.
25. Other matters.

17. The annotated list of items included in the provisional agenda was contained in a note by the Secretariat (ICC-ASP/13/1/Add.1/Rev.1). At its first meeting, the Assembly, on the recommendation of the Bureau, decided, pursuant to rule 12 of the Rules of Procedure of the Assembly, to include a supplementary item on the agenda of the thirteenth session. Relevant documentation for this supplementary agenda item, titled "Applicability of the former Court's pension regimes to former Judges Cotte and Nsereko" include documents ICC-ASP/13/34/Rev.2 (paragraph 1(b)), ICC-ASP/13/34/Add.1 and Corr.1, ICC-ASP/13/35/Rev.1 as well as the note verbale, dated 28 November 2014, addressed from France to the Secretariat of the Assembly.

18. Also at its first plenary meeting, the Assembly agreed on a programme of work and decided to meet in plenary session as well as in the working group format. The Assembly established a Working Group on the Programme Budget for 2015.

19. Mr. Werner Druml (Austria) was appointed Coordinator of the Working Group on the Programme Budget for 2015. Ms. Anniken Krutnes (Norway) was appointed Coordinator for the consultations on cooperation. Mr. Fode Seck (Senegal) and Ms. May-Elin Stener (Norway) were appointed co-Coordiators of the Working Group on Amendments for the duration of the thirteenth session, while Ms. Stener would continue in 2015 as chair of the Working Group on Amendments. Ms. Ana Cristina Rodríguez Pineda (Guatemala) was appointed Coordinator for the consultations on the omnibus resolution.

B. Consideration of issues on the agenda of the Assembly at its thirteenth session

1. States in arrears

20. At the first plenary meeting, on 8 December 2014, the Assembly was informed that article 112, paragraph 8, first sentence, of the Rome Statute was applicable to eight States Parties.

21. The President of the Assembly renewed the appeal to States Parties in arrears to settle their accounts with the Court as soon as possible. The President also appealed to all States Parties to pay their assessed contributions for 2015 in a timely manner.

22. Pursuant to article 112, paragraph 8, of the Rome Statute, six States Parties in arrears submitted a request to the Assembly for exemption of the loss of their voting rights, with the Assembly approving their requests at its second plenary meeting.

2. Credentials of representatives of States Parties at the thirteenth session

23. At its thirteenth plenary meeting, on 17 December 2014, the Assembly adopted the report of the Credentials Committee (see annex I to this report).

3. General debate

24. At the first plenary meeting, H.E. Ms. Catherine Samba-Panza, President of the Central African Republic, H.E. Mr. Mankeur Ndiaye, Minister of Foreign Affairs of Senegal, and Mr. Miguel de Serpa Soares, Legal Counsel of the United Nations on behalf of the United Nations Secretary-General, addressed the Assembly. At the third, fifth, sixth, seventh, eighth and ninth plenary meetings, on 10, 11, 12 and 15 December 2014, statements were made by the representatives of Albania; Argentina; Australia; Austria; Bangladesh; Belgium; Brazil; Burkina Faso; Canada; Chile; Colombia; Costa Rica; Côte d'Ivoire; Cyprus; Democratic Republic of the Congo; Denmark; Ecuador; Estonia; Finland; France; Gambia; Georgia; Germany; Ghana; Guatemala; Hungary; Iceland; Ireland; Italy; (on behalf of the European Union); Japan; Jordan (Hashemite Kingdom of); Kenya; Latvia; Lesotho; Lesotho (on behalf of African States Parties); Liechtenstein; Lithuania; Luxembourg; Malawi; Mexico; Montenegro; Namibia; The Netherlands; New Zealand; Nigeria; Norway; Peru; Philippines; Poland; Portugal; Republic of Korea; Romania; Samoa; Serbia; Sierra Leone; Slovakia; Slovenia; South Africa; Spain; Sweden; Switzerland; Tanzania (United Republic of); Trinidad and Tobago (on behalf of CARICOM); Tunisia; Uganda; United Kingdom of Great Britain and Northern Ireland, Uruguay and Zambia. Statements were also made by: China, Israel, the Russian Federation, the State of Palestine, and the United States of America. The following regional organizations made statements: the Council of Europe and the Organisation internationale de la Francophonie. The following civil society organizations also made statements: Chinese Initiative on International Criminal Justice; Coalition for the International Criminal Court; Coalition centrafricaine pour la Cour Pénale Internationale; Fédération Internationale des Ligues des Droits de l'Homme; Forum ASIA; Human Rights Watch; International Renaissance Foundation; Kenyans for Peace with Truth and Justice; Mexican Coalition for the International Criminal Court; No Peace Without Justice; and Open Society Justice Initiative.

4. Report on the activities of the Bureau

25. At its second plenary meeting, on 8 December 2014, the Assembly took note of the oral report on the activities of the Bureau, delivered by the President, Ms. Tiina Intelmann (Estonia). The President noted that, since the twelfth session, the Bureau had held 16 meetings in order to assist the Assembly in the discharge of its responsibilities under the Rome Statute. Pursuant to the Bureau's 2013 report on Working Methods,³ three Bureau meetings took place in The Hague in 2013 and one in 2014. In the same vein, the President visited The Hague numerous times during her tenure.

26. The President recalled that, pursuant to the mandates given to the Bureau by the twelfth session of the Assembly in November 2014, the Bureau assigned the mandates to its Working Groups and appointed, on the basis of recommendations of the Working Groups, facilitators and focal points.

27. The Bureau decided to extend the mandate of the Study Group on Governance, within The Hague Working Group, for another year, pursuant to the Assembly's request contained in annex I of resolution ICC-ASP/12/Res.8, and stressed that the Study Group had proved useful as the initial forum for States Parties to consider amendment proposals from the Court. The Study Group, as well as the Working Group on Amendments, have both discussed proposals by the Court, aimed at expediting the criminal process, to amend rules 76(3), 101(3) and 144(2)(b), identified under the "Language Issues" cluster, as well as the Court's recommendation to adopt a new rule 140 *bis*, identified under the "Organizational Matters" cluster.

³ ICC-ASP/12/59.

28. The Bureau also focused the implementation of the recommendations contained in the 2013 Bureau report on the evaluation and rationalization of the working methods of the subsidiary bodies. In this connection, the President expressed the hope that the next Bureau would continue this important work.

29. The President further regretted to inform that the Bureau was unable to finalize the recruitment of the permanent head of the Independent Oversight Mechanism and suggested that the next Bureau might wish to revise the way this and other positions are filled.

30. With regard to the election of six judges of the Court, the President recalled that the Advisory Committee on Nominations met in New York from 8 to 12 September 2014 to assess the judicial candidates and submitted its report to the Assembly on 29 September 2014⁴, and expressed the hope that States Parties would be assisted by the report's conclusions in casting their vote.

31. The Bureau also considered the different options for filling the judicial vacancy, which arose after Senator Miriam Defensor Santiago stepped down in June 2014. The Bureau concluded that it was not possible to set the date of the election for the period 8-17 December 2014 in a way that would allow the election to take place within the existing legal framework and therefore decided to refer the matter to the Assembly with the recommendation to consider scheduling the election to fill the judicial vacancy in 2015.

32. The Bureau also engaged on the question of non-cooperation and presented a report to the Assembly, which includes several recommendations.⁵

33. During her term, the President focused especially on the issue of complementarity by engaging with regional organizations and several other stakeholders, particularly States Parties and not Parties. These efforts also included awareness raising, the publication of articles in the media and the use of social media.

34. The President finally informed that throughout the year the Secretariat of the Assembly of States Parties has continued to carry out its mandate in assisting the Assembly and its subsidiary bodies, in accordance with resolution ICC-ASP/2/Res.3 and expressed gratitude to the staff of the Secretariat.

35. The full text of the statement is included as annex II to this report.

5. Report on the activities of the Court

36. At its first plenary meeting, on 8 December 2014, the Assembly heard statements by Judge Sang-Hyun Song, President of the Court, and by Ms. Fatou Bensouda, Prosecutor of the Court. At the same meeting, the Assembly took note of the report on the activities of the Court.⁶

6. Report of the Board of Directors of the Trust Fund for Victims

37. At its first meeting, on 8 December 2014, the Assembly heard a statement by Mr. Motoo Noguchi, Chairperson of the Board of Directors of the Trust Fund for Victims. The Assembly considered and took note of the report on the projects and the activities of the Board of Directors of the Trust Fund for Victims for the period 1 July 2013 to 30 June 2014.⁷

7. Advisory Committee on the nominations of judges

38. At its thirteenth plenary meeting, on 17 December 2014, the Assembly took note of the report of the Advisory Committee on Nominations containing the assessment of the nominations submitted to elect six judges at the thirteenth session of the Assembly.⁸ It further noted that the Advisory Committee would also carry out its mandate in relation to

⁴ ICC-ASP/13/22.

⁵ ICC-ASP/13/40.

⁶ ICC-ASP/13/37.

⁷ ICC-ASP/13/14.

⁸ ICC-ASP/13/22.

the election to fill a judicial vacancy and requested the Committee to report on the progress of its work well in advance of the session concerned.

39. The Assembly further decided to adopt the amendment to the procedure for the nomination and election of judges⁹ contained in annex II to the resolution ICC-ASP/13/Res.5, in order to allow sufficient time for the Advisory Committee to carry out its work in relation to the judicial vacancy.

40. At the same meeting, the Assembly adopted the amendments to the terms of reference of the Advisory Committee on Nominations¹⁰ contained in annex III to resolution ICC-ASP/13/Res.5.

8. Election of six judges

41. At its second plenary meeting, on 8 December 2014, the Assembly, on the recommendation of the Bureau, decided that for the purposes of electing judges of the International Criminal Court, any meeting of the Assembly should continue until as many candidates as were required for all seats to be filled had obtained, in one or more ballots, the highest number of votes and a two-thirds majority of the States Parties present and voting. Consequently, all candidates elected as judges should be considered as having been elected at the same meeting irrespective of whether or not the ballot continued for one or more days.

42. At the same meeting, the Assembly recommended that the candidates should not be present in the conference room when the Assembly was engaged in the process of voting.

43. At its second plenary meeting, held from 8 to 16 December 2014, the Assembly proceeded to elect six judges of the International Criminal Court in accordance with the relevant provisions of the Rome Statute, as well as of resolution ICC-ASP/3/Res.6.

44. The following candidates were elected judges of the International Criminal Court:

- (a) Chang-ho Chung (Republic of Korea) (ASIA, list A, M);
- (b) Piotr Hofmański (Poland) (EE, list A, M);
- (c) Péter Kovács (Hungary) (EE, list B, M);
- (d) Antoine Kesiya-Mbe Mindua (Democratic Republic of the Congo) (AFR, list B, M);
- (e) Marc Pierre Perrin de Brichambaut (France) (WEO, list B, M); and
- (f) Bertram Schmitt (Germany) (WEO, list A, M).¹¹

45. The Assembly conducted twenty-two ballots. In the first round, 119 ballots were cast, of which 15 were invalid and 104 were valid; the number of States Parties voting was 104 and the required two-thirds majority was 70. The following candidate obtained the highest number of votes (73) and a two-thirds majority of the States Parties present and voting: Chang-ho Chung.

46. In the fourth round, 119 ballots were cast, of which three were invalid and 116 were valid; the number of States Parties voting was 116 and the required two-thirds majority was 78. Piotr Hofmański obtained the highest number of votes (87) and a two-thirds majority of the States Parties present and voting.

47. In the sixth round, 118 ballots were cast, of which one was invalid and 117 were valid; the number of States Parties voting was 117 and the required two-thirds majority was 78. The following candidates obtained the highest number of votes and a two-thirds

⁹ *Official Records ... Third session ... 2004* (ICC-ASP/3/25), part III, ICC-ASP/3/Res.6.

¹⁰ ICC-ASP/10/36, annex.

¹¹ WEO = Western European and other States;

AFR = African States;

ASIA = Asia-Pacific States;

EE = Eastern European States;

GRULAC = Group of Latin American and Caribbean States;

M = male; and

F = female.

majority of the States Parties present and voting: Marc Pierre Perrin de Brichambaut (87) and Bertram Schmitt (79).

48. In the tenth round, 118 ballots were cast, of which none was invalid and 118 were valid; the number of States Parties voting was 118 and the required two-thirds majority was 79. Antoine Kesia-Mbe Mindua obtained the highest number of votes (84) and a two-thirds majority of the States Parties present and voting.

49. In the twenty-second round, 116 ballots were cast, of which none was invalid and 116 were valid; the number of States Parties voting was 116 and the required two-thirds majority was 78. Péter Kovács obtained the highest number of votes (79) and a two-thirds majority of the States Parties present and voting.

Commencement of terms of office of judges

50. At the second plenary meeting, on 8 December 2014, the Assembly, on the recommendation of the Bureau, decided that the terms of office of judges of the International Criminal Court elected by the Assembly shall begin to run as from 11 March following the date of their election.

9. Election of six members of the Committee on Budget and Finance

51. In a note dated 14 November 2014, the Secretariat informed that it had received seven candidatures and submitted to the Assembly a list of six candidates nominated by States Parties for election to the Committee on Budget and Finance.¹² On 17 November 2014, the Republic of Korea announced the withdrawal of its candidature.¹³

52. At its second meeting, on 8 December 2014, the Assembly elected the following six members of the Committee on Budget and Finance, in accordance with resolution ICC-ASP/1/Res.5¹⁴ of 12 September 2003:

- (a) Adsett, Hugh (Canada)
- (b) Gharaibeh, Fawzi A. (Jordan)
- (c) Kozaki, Hitoshi (Japan)
- (d) Robimanana, Rivomanantsoa Orlando (Madagascar)
- (e) Sánchez Izquierdo, Mónica Soledad (Ecuador)
- (f) Sopková, Elena (Slovakia)

53. In accordance with paragraph 11 of resolution ICC-ASP/1/Res.5, the Assembly dispensed with a secret ballot and elected the six members of the Committee on Budget and Finance by consensus. The term of office of the six members shall begin to run on 21 April 2015.

10. Election to fill a vacancy of the Committee on Budget and Finance

54. Pursuant to paragraph 2 of the annex to resolution ICC-ASP/1/Res.4, the Bureau decided on 15 August 2014 that the election to fill the vacancy which arose from the resignation of Mr. Gilles Finkelstein (France) would take place during the thirteenth session of the Assembly and the nomination period to fill the vacancy would run from 14 September to 26 October 2014.

55. By the closing date of the nomination period, 26 October 2014, one nomination by France had been received. In a note dated 24 November 2014, the Secretariat submitted to the Assembly the name of the candidate.¹⁵

56. At its second meeting, on 8 December 2014, in accordance with resolution ICC-ASP/1/Res.5¹⁶, including its paragraph 11, the Assembly dispensed with a secret ballot and elected the following member of the Committee on Budget and Finance:

¹² ICC-ASP/13/4.

¹³ ICC-ASP/13/4/Add.1.

¹⁴ As amended by resolution ICC-ASP/2/Res.4.

¹⁵ ICC-ASP/13/38.

Mr. Richard Veneau (France)

57. Mr. Veneau was elected for the remainder of the term of Mr. Finkelstein, namely until 20 April 2017, and would be eligible for re-election.

11. Consideration and adoption of the budget for the thirteenth financial year

58. At its eighth meeting, on 15 December 2014, the Assembly heard statements by Mr. Herman von Hebel, Registrar of the Court, and Ms. Carolina María Fernández Opazo, Chair of the Committee on Budget and Finance.

59. The Assembly, through its Working Group, considered the 2015 proposed programme budget, the reports of the Committee on Budget and Finance and the reports of the External Auditor.

60. At its twelfth meeting, on 17 December 2014, the Assembly adopted the report of the Working Group on the programme budget (ICC-ASP/13/WGPB/CRP.1), wherein it, inter alia, conveyed the recommendation of the Working Group that the Assembly endorse the recommendations of the Committee on Budget and Finance at its twenty-third session.¹⁷

61. At the same meeting, the Assembly also considered and approved, by consensus, the programme budget for 2015.

62. At the same meeting, the Assembly adopted, by consensus, resolution ICC-ASP/13/Res.1, concerning the programme budget in relation to the following:

- (a) Programme budget for 2015, including appropriations totalling €130,665,600 for the major programmes and staffing tables for each of the major programmes. This amount is reduced by the contribution of the host State to the costs for the interim premises; the payments corresponding to Major Programme VII-2 Permanent Premises Project – Interest; and the funds arising from the reimbursed defence costs from Mr. Bemba to €124,596,900.
- (b) Working Capital Fund for 2015;
- (c) Interim premises of the Court;
- (d) Reimbursed defence cost of Mr. Jean Pierre Bemba Gombo;
- (e) Scale of assessments for the apportionment of expenses of the Court;
- (f) Financing of appropriations for 2015;
- (g) Contingency Fund;
- (h) Transfer of funds between major programmes under the 2014 approved programme budget;
- (i) A strategic approach to an improved budgetary process;
- (j) Human Resources; and
- (k) Referrals by the Security Council.

12. Consideration of the audit reports

63. At its sixth meeting, on 12 December 2014, the Assembly heard a statement by Mr. Herve-Adrien Metzger, representative of the External Auditor. The Assembly took note with appreciation of the reports of the External Auditor on the audit of the financial statements of the Court for the period 1 January to 31 December 2013¹⁸ and of the Trust Fund for Victims for the same period.¹⁹

13. Premises of the Court

64. At its 1st meeting, on 8 December 2014, the Assembly took note of the oral report of the Chairperson of the Oversight Committee on permanent premises, Mr. Roberto Bellelli

¹⁶ As amended by resolution ICC-ASP/2/Res.4.

¹⁷ *Official Records ... Thirteenth session ... 2014* (ICC-ASP/13/20), vol. II, part B.2.

¹⁸ *Official Records ... Thirteenth session ... 2014* (ICC-ASP/13/20), vol. II, part C.1.

¹⁹ *Official Records ... Thirteenth session ... 2014* (ICC-ASP/13/20), vol. II, part C.2.

(Italy), and of the report on the activities of the Oversight Committee,²⁰ which informed that the permanent premises were expected to be completed by September 2015 and the Court would thus be enabled to move into its new premises in December 2015. The report highlighted that the project remained virtually within the approved budget of €195.7 million, as approved by the Assembly in 2013, upon the unification of the construction with the transition project. However, due to pressure on the project reserve, and in order to ensure prudent oversight, a possible risk of a deficit in 2015 had to be addressed preventively. The report ensured the commitment of the Project Director to deliver the unified project within budget; however, the Project Director has proposed that the budget cap be increased at the level of €200 million, or €4.3 million above the current level of €195.7 million, which was approved last year for the unified project. For that purpose, the report indicated that the Committee proposed that the Assembly, instead of directly increasing the current budget level, provides the Committee with delegated authority to raise the budget level in 2015 – as a measure of last resort and as necessary and appropriate – within the maximum figure of €200 million.

65. At its twelfth meeting, on 17 December 2014, the Assembly adopted, by consensus, resolution ICC-ASP/13/Res.2 whereby, *inter alia*, it stressed 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, at a good quality standard, while also noting the existing pressure on the strategic reserve of the project, as a result of reductions on other reserves made before 2013. The Assembly welcomed that the project was within its timelines, and that the premises were 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. The Assembly further recalled 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 €11.3 million budget. The Assembly approved 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 authorization from €195.7 million up to a maximum of €200 million, to ensure the financial security of the project.

14. Amendments to the Rome Statute and the Rules of Procedure and Evidence

66. The Working Group on Amendments held two meetings during the thirteenth session. The Assembly invited the Working Group to continue its consideration of all amendment proposals, in accordance with the Terms of Reference of the Working Group²¹, in 2015 and report thereon to the fourteenth session of the Assembly.

15. Cooperation

67. At its 5th meeting, on 11 December 2014, the Assembly considered the topic of cooperation. Five panelists were invited to discuss the specific issue of cooperation in the field of sexual and gender-based crimes, and a number of States Parties made general interventions with regard to cooperation. The session was resumed on 15 December 2014, at which time the delegation of Kenya exercised its right of reply on matters that arose in the session. Kenya also followed through on its request for the inclusion of a supplementary agenda item entitled “Special Session to Discuss the Conduct of the Court and the Office of the Prosecutor” contained in document ICC-ASP/13/34/Rev.2, and spoke to items on the supplementary agenda request, including cooperation, prosecutorial conduct, and complementarity, among others.

68. At its twelfth meeting, on 17 December 2014, the Assembly adopted, by consensus, resolution ICC-ASP/13/Res.3 on cooperation, whereby the Assembly, *inter alia*, stressed the importance of effective and comprehensive cooperation and assistance by States Parties,

²⁰ ICC-ASP/13/39.

²¹ ICC-ASP/11/Res.8, annex II.

other States and international and regional organizations, to enable the Court to fulfil its mandate; took note of the report on arrest strategies by the Rapporteur; urged States Parties to avoid contact with persons subject to a warrant of arrest issued by the Court, unless such contact is deemed essential; and welcomed the Court's briefing paper on defence and cooperation issues. Further, the Assembly invited the Bureau to continue discussions on the topic of arrest strategies, with a view to submitting a consolidated draft Action Plan on Arrest Strategies for the consideration of the Assembly and to discuss the feasibility of establishing a coordinating mechanism of national authorities and to report to the Assembly well in advance of the fourteenth session. The Assembly also asked the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its fourteenth session and furthermore, to review the 66 recommendations on cooperation adopted by States Parties in 2007²², in close cooperation with the Court.

16. Decision concerning the date of the next session of the Assembly of States Parties

69. At its thirteenth meeting, on 17 December 2014, the Assembly decided to mandate the Bureau to consider the practicalities of holding a resumed session to fill the remaining judicial vacancy and, if appropriate, proceed with convening such a resumed session in the second quarter of 2015.

70. At the same meeting, the Assembly also decided to hold its fourteenth session in The Hague from 18 to 26 November 2015 and its fifteenth session in The Hague.

17. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance

71. At its thirteenth meeting, on 17 December 2014, the Assembly decided that the Committee on Budget and Finance would hold its twenty-fourth session from 20 to 24 April 2015 and its twenty-fifth session from 21 September to 2 October 2015, respectively.

18. Applicability of the former Court's pension regimes to former Judges Cotte and Nsereko

72. At its thirteenth meeting on 17 December 2014 the Assembly approved by consensus the decision on the "Applicability of the former Court's pension regimes to former Judges Cotte and Nsereko". The Assembly decided to reaffirm its decision reached at its sixth session that judges elected at that session would hold office subject to the amended Pension Scheme Regulations for Judges, adopted by resolution ICC-ASP/6/Res.6.

19. Other matters

Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly

73. The Assembly expressed its appreciation to Ireland for its contribution to the Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly.

74. The Assembly noted with satisfaction that 23 delegations had made use of the Trust Fund to attend the thirteenth session of the Assembly.

²² Resolution ICC-ASP/6/Res.2, annex II.

Part II

External audit, programme budget for 2015 and related documents

External audit, programme budget for 2015 and related documents

A. Introduction

1. The Assembly of States Parties (the Assembly) had before it the 2015 proposed programme budget submitted by the Registrar of the International Criminal Court (the Court) on 22 August 2014,¹ the proposed supplementary budget of the International Criminal Court for 2015,² the reports of the twenty-second³ and twenty-third sessions⁴ of the Committee on Budget and Finance (the Committee), the financial statements for the period 1 January to 31 December 2013,⁵ and the Trust Fund for Victims financial statements for the period 1 January to 31 December 2013.⁶ The Assembly also had before it annex V of the report of the Committee on the work of its twenty-third session, in which the Court outlined the budgetary implications of the Committee's recommendations on the budgets of major programmes.

2. At the eighth plenary meeting, the Assembly heard the statements made by the Registrar of the Court, Mr. Herman von Hebel, and the Chair of the Committee, Ms. Carolina María Fernández Opazo. At the sixth plenary meeting, the Assembly heard the statement by the representative of the External Auditor (la Cour des comptes (France)), Mr. Hervé-Adrien Metzger.

3. The Working Group on the Programme Budget met on 15 December 2014. During the meeting the draft resolution and the report of the Working Group were considered and finalized. The Working Group was assisted in its work by the Chair and two members of the Committee.

B. External audit

4. The Assembly noted with appreciation the reports of the External Auditor and related comments of the Committee contained in the report on the work of its twenty-third session. The Assembly noted that the Committee had endorsed the External Auditor's recommendations.

C. Amount of appropriation

5. The Court's 2015 proposed programme budget amounted to €139,021,500, including the supplementary budget submitted by the Court in the amount of €3,629,800.

6. The Committee's first examination of the Court's 2015 proposed programme budget, at its twenty-third session, found a number of areas where, based on actual and forecast expenditure, as well as accumulated experience, a number of savings could be made. Accordingly, the Committee had recommended that the budget allocation be reduced to a total of €132,641,500.

7. The Assembly noted that based on the developments, which occurred after the conclusion of the twenty-third session of the Committee, the 2015 programme budget was further reduced by €1,421,300 consisting of €37,800 for the cost of judges in the major programme I and €1,383,500 for the cost of the case *The Prosecutor v. Abdallah Banda Abakaer Nourain*.

8. The Assembly endorsed the recommendations contained in the report of the Committee and approved a budget appropriation for 2015 of € 130,665,600.

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

² *Official Records ... Thirteenth session ... 2014*, (ICC-ASP/13/20), vol. II, part A, annex XII.

³ *Ibid.*, part B.1.

⁴ *Ibid.*, part B.2.

⁵ *Ibid.*, part C.1.

⁶ *Ibid.*, part C.2.

9. The Assembly noted that the reduction of the Major Programme VII-2 - Permanent Premises Project – Interest amounting to €1,068,700 and the contribution to the rent of the interim premises by the host State amounting to €3,000,000 brought down the total level of assessed contributions for the 2015 programme budget to €126,596,900.

10. Furthermore, the Assembly decided that the funds from Mr. Bemba for the reimbursement of defence costs amounting to €2,068,000 be treated as miscellaneous income and be returned to States Parties. The Assembly noted that these funds would further reduce the level of the 2015 programme budget appropriations that need to be assessed for contributions by States Parties from €126,596,900 to €124,528,900.

D. Contingency Fund

11. The Assembly decided to keep the minimum level of the Contingency Fund at €7 million.

12. The Assembly approved to exceptionally allow the Court to resort to the Contingency Fund for the additional resources required in relation to judicial developments that occurred between the twenty-third session of the Committee on Budget and Finance and the date of the approval of the 2015 budget. The Assembly noted that all efforts should be taken by the Court to absorb any such additional costs within its approved budget for 2015.

13. Following established practice, the Assembly authorized the Court to transfer funds between major programmes at year end if the costs of unforeseen activities could not be absorbed within one major programme while a surplus existed in other major programmes, to ensure that all appropriations for 2014 were exhausted before accessing the Contingency Fund.

E. Financing of appropriations for 2015

14. The Assembly resolved that, for 2015, the total assessed contributions amounted to €124,528,900.

Part III

Resolutions and decisions adopted by the Assembly of States Parties

A. Resolutions

Resolution ICC-ASP/13/Res.1

Adopted at the 12th plenary meeting, on 17 December 2014, by consensus

ICC-ASP/13/Res.1

Resolution on the Programme budget for 2015, the Working Capital Fund for 2015, scale of assessments for the apportionment of expenses of the International Criminal Court, financing appropriations for 2015 and the Contingency Fund

The Assembly of States Parties,

Having considered the 2015 proposed programme budget of the International Criminal Court (“the Court”) and the related conclusions and recommendations contained in the report of the Committee on Budget and Finance (“the Committee”) on the work of its twenty-second and twenty-third sessions,

A. Programme budget for 2015

1. *Approves* appropriations totalling €130,665,600 in the appropriation sections described in the following table:

<i>Appropriation section</i>	<i>Thousands of euros</i>
Major Programme I - Judiciary	12,034.1
Major Programme II - Office of the Prosecutor	39,612.6
Major Programme III - Registry	65,025.9
Major Programme IV - Secretariat of the Assembly of States Parties	3,012.8
Major Programme V - Interim Premises	6,000.0
Major Programme VI - Secretariat of the Trust Fund for Victims	1,815.7
Major Programme VII-1 - Project Director’s Office (permanent premises)	1,140.6
Major Programme VII-2 - Permanent Premises Project – Interest	1,068.7
Major Programme VII-5 - Independent Oversight Mechanism	339.9
Major Programme VII-6 - Office of Internal Audit	615.3
Total	130,665.6

2. *Notes* that the host State will continue to contribute to the costs for the Court in relation to Major Programme V – Interim Premises and that these contributions amount to €3,000,000, as referred to in section C of this resolution;

3. *Further notes* that those States Parties that have opted for the one-time payment in respect of the permanent premises, and have made such payments in full, will not be assessed for the contributions corresponding to Major Programme VII-2 Permanent Premises Project – Interest on the host State loan amounting to €1,068,700;

4. *Further notes* that these contributions will bring down the level of the 2015 programme budget appropriations that need to be assessed for contributions by States Parties from €130,665,600 to €126,596,900;

5. *Further notes* that the level of assessed contributions have been further adjusted by the funds arising from the reimbursed defence costs from Mr. Bemba amounting to €2,068,000, as referred to in section D; and *notes* that these funds will further reduce the level of the 2015 programme budget appropriations that need to be assessed for contributions by States Parties from €126,596,900 to €124,528,900 and that this amount will be assessed following the principles described in section E;

6. *Further approves* the following staffing tables for each of the above appropriation sections:

Judiciary	Office of the Prosecutor	Registry	Secretariat Assembly of States Parties	Secretariat Trust Fund for Victims	Project Director's Office	Independent Oversight Mechanism	Office of Internal Audit	Total
USG	1							1
ASG	1	1						2
D-2								
D-1	3	3	1	1	1		1	10
P-5	3	12	17	1	1		1	35
P-4	3	29	39	1		1	1	75
P-3	21	44	64	1	3		1	134
P-2	5	47	61	1	1	1		116
P-1		17	6					23
<i>Subtotal</i>	<i>32</i>	<i>154</i>	<i>191</i>	<i>5</i>	<i>5</i>	<i>3</i>	<i>3</i>	<i>396</i>
GS-PL	1	1	16	2				20
GS-OL	15	63	289	2	2	1	1	374
<i>Subtotal</i>	<i>16</i>	<i>64</i>	<i>305</i>	<i>4</i>	<i>2</i>	<i>1</i>	<i>1</i>	<i>394</i>
Total	48	218	496	9	7	4	4	790

B. Working Capital Fund for 2015

The Assembly of States Parties,

Resolves that the Working Capital Fund for 2015 shall be established in the amount of €7,405,983, and *authorizes* the Registrar to make advances from the Fund in accordance with the relevant provisions of the Financial Regulations and Rules of the Court.

C. Interim premises of the Court

The Assembly of States Parties,

Welcomes the continuous contribution of the host State to the rent of the interim premises of the Court in the amount of 50 per cent, up to a maximum of €3,000,000 per year for the period of 2013, 2014 and 2015, according to the agreed terms and conditions, with the 2015 contribution amounting to €3,000,000.

D. Reimbursed defence cost of Mr. Jean Pierre Bemba Gombo

The Assembly of States Parties,

1. *Decides* that the funds from Mr. Bemba for the reimbursement of defence costs amounting to €2,068,000 be treated as miscellaneous income to be returned to States Parties;

2. *Approves* that the assessments of States Parties be adjusted for 2015 based on the funds arising from this miscellaneous income, instead of following the procedure established by the Financial Regulations and Rules.

E. Scale of assessment for the apportionment of expenses of the Court

The Assembly of States Parties,

1. *Decides* that for 2015, the contributions of States Parties shall be assessed in accordance with an agreed scale of assessment, based on the scale adopted by the United Nations for its regular budget applied for 2013-2015, and adjusted in accordance with the principles on which the scale is based;¹
2. *Notes* that, in addition, any maximum assessment rate for the largest contributors and for the least developed countries applicable for the United Nations regular budget, will apply to the Court's scale of assessment.

F. Financing of appropriations for 2015

The Assembly of States Parties,

1. *Notes* that the contributions to the interim premises by the host State, the payments corresponding to Major Programme VII-2 Permanent Premises Project – Interest, and the seized funds from Mr. Bemba will reduce the level of the budget appropriations to be assessed for contributions by States Parties to €124,528,900;
2. *Resolves* that for 2015, assessed contributions for the budget amounting to €124,528,900 and the amount for the Working Capital Fund of €7,405,983, approved by the Assembly under section A, paragraph 1, and section B, respectively, of the present resolution, will be financed in accordance with regulations 5.1, 5.2 and 6.6 of the Financial Regulations and Rules of the Court.

G. Contingency Fund

The Assembly of States Parties,

Recalling its resolutions ICC-ASP/3/Res.4 establishing the Contingency Fund in the amount of €10,000,000 and ICC-ASP/7/Res.4 requesting the Bureau to consider options for replenishing both the Contingency Fund and the Working Capital Fund,

Taking note of the advice of the Committee in the reports on the work of its eleventh, thirteenth, nineteenth and twenty-first sessions,

1. *Notes* that the current level of the Fund is €7.5 million;
2. *Decides* to maintain the Contingency Fund at a level consistent with the €7 million threshold for 2015;
3. *Decides* that, should the Fund fall below €7 million by year-end, the Assembly shall decide on its replenishment up to an amount considered appropriate, but to no less than €7 million;
4. *Decides* to exceptionally allow the Court to resort to the Contingency Fund for the additional resources required in relation to judicial developments that occurred after the twenty-third session of the Committee on Budget and Finance until the date of the approval of the 2015 budget; bearing in mind that all efforts should be taken by the Court to absorb any such additional costs within its approved budget for 2015;
5. *Requests* the Bureau to keep the €7 million threshold under review in light of further experience on the functioning of the Contingency Fund.

¹ Rome Statute of the International Criminal Court, article 117.

H. Transfer of funds between major programmes under the 2014 approved programme budget

The Assembly of States Parties,

Recognizing that under Financial Regulation 4.8 no transfer between appropriation sections may be made without authorization by the Assembly,

Decides that, in line with established practice, the Court may transfer funds between major programmes at the conclusion of 2014 should costs for activities which were unforeseen or could not be accurately estimated be unable to be absorbed within one major programme, whilst a surplus exists in other major programmes, in order to ensure that appropriations for each major programme are exhausted prior to accessing the Contingency Fund.

I. A strategic approach to an improved budgetary process

The Assembly of States Parties,

1. *Emphasizes* the central role that the report of the Committee on Budget and Finance has on budget discussions in preparation for the Assembly sessions, *requests* the Committee on Budget and Finance to ensure that its meeting is held as early as possible before the Assembly session and *stresses* the importance of continuing the inclusive and constructive interaction between the Court and the Committee;

2. *Acknowledges* the continued efforts of the Registry to reorganize and streamline the Registry's organizational structure and *authorizes* the Registrar to continue with this process within the envelope of the approved programme budget for 2015 and the maximum number of established posts and approved positions;

3. *Requests* the Office of the Prosecutor to consider carefully the financial implications of its Strategic Plan for 2016-2018, taking into account the cost implications not only for the Office of the Prosecutor but also the other organs, and the relevant sections of the report of the Committee on Budget and Finance on the work of its twenty-third session, and to *report* on the progress of this consideration to the twenty-fourth and twenty-fifth sessions of the Committee on Budget and Finance as well as to the Assembly;

4. *Welcomes* the Court's enhanced commitment to continue to engage in an inter-organ strategic dialogue with a view to increasing effectiveness and efficiency and *notes with appreciation* the commitment of all the major programmes of the Court to engage with each other to identify areas where resources are committed against the same or similar activities, and to further identify areas of joint optimization, and to *report* annually on the results including savings found to the Committee on Budget and Finance, starting at its twenty-fifth session;

5. *Taking note* of the recommendation in paragraph 44 of the report of the Committee on Budget and Finance on the work of its twenty-third session, *invites* the Bureau in consultation with the Court to consider the recommendation, in the context of the review of the budgetary process, taking into account the draft OTP Strategic Plan 2016-2018.

J. Human Resources

The Assembly of States Parties,

Endorses the Committee's recommendations on the mandatory age of separation for current staff members that, pending a decision by the Assembly at its fourteenth session, the Court continues to grant extensions up to the end of 2015 to any staff who reached the age of 62 in 2014 and would reach the age of 62 in 2015, should they wish to continue service with the Court and unless the staff member was subject to separation due to reasons other than age, in compliance with the Staff Regulations and Rules.

K. Referrals by the Security Council

The Assembly of States Parties,

Noting the financial implications of the situations referred to the Court by Security Council resolutions 1593 and 1970,

Recalling that, pursuant to article 115 of the Rome Statute, expenses of the Court and the Assembly shall be provided, inter alia, by funds of the United Nations, subject to the approval of the General Assembly, in particular in relation to the expenses incurred due to referrals by the Security Council,

Mindful that, pursuant to article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations, the conditions under which any funds may be provided to the Court by a decision of the General Assembly of the United Nations shall be subject to separate arrangements,

Invites the Court to continue including this matter in its institutional dialogue with the United Nations and to report thereon to the fourteenth session of the Assembly.

Resolution ICC-ASP/13/Res.2

Adopted at the 12th plenary meeting, on 17 December 2014, by consensus

ICC-ASP/13/Res.2

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

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.

otherwise put at risk the timely completion of the construction and transition of the Court into its new premises,

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 session 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

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 unified 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).

encourages members and observers to continue working efficiently together in the Committee with maximum mutual transparency, as much as possible in open meetings, to achieve the successful completion of the unified project;

A. Construction Project

2. *Approves* the revised cash-flow scheme contained in the annex;
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;
 - (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; and
 - (d) 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;

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

¹³ *Official Records ... Thirteenth session ... 2014* (ICC-ASP/13/20), vol. II, part B.1, paras. 91 to 101.

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 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 €11.3 million budget;

11. *Also recalls* that the €11.3 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 €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;¹⁴

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

¹⁴ *Idem*, para. 22.

the permanent premises project be based on the scale of assessments applicable for 2013-2015;¹⁵

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:¹⁶

- (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 activities¹⁷, 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,¹⁸ and *also welcomes* the recommendations contained in the Financial statements for the period 1 January to 31 December 2013;¹⁹

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;

27. *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;

¹⁵ ICC-ASP/12/15, para. 164.

¹⁶ 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.

¹⁷ ICC-ASP/12/15, para. 148.

¹⁸ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, para. 82.

¹⁹ ICC-ASP/13/12.

VI. Ownership of the Permanent Premises

28. *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;

29. *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

30. *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.

Annex

Cash-flow scheme

Items	Total costs	Overall total	2009-2012	2013	2014	2015	2016	Total
			Construction and transition					
1. Construction Costs		172.0	4.4	36.5	87.3	42.2	1.6	172.0
2. Risks/Reserve		-7.5	-1.5	-1.1	-2.6	-2.3	-	-7.5
3. Permit and dues	2.6		2.5	-	-	0.1	-	2.6
4. Fees		23.8	14.9	3.1	1.1	4.2	0.5	23.8
5. Other costs		1.5	1.5	-	-	-	-	1.5
6. Equipment		3.3				3.2	0.1	3.3
Total	195.7	195.7	21.8	38.5	85.8	47.4	2.2	195.7
Cumulative			21.8	60.3	146.1	193.5	195.7	

Note: The above figures are estimates only and subject to change.

Resolution ICC-ASP/13/Res.3

Adopted at the 12th plenary meeting, on 17 December 2014, by consensus

ICC-ASP/13/Res.3 Resolution on cooperation

The Assembly of States Parties,

Recalling the provisions of the Rome Statute, the Declaration on Cooperation (RC/Dec.2) agreed by States Parties at the Review Conference in Kampala and previous resolutions and declarations of the Assembly of States Parties with regard to cooperation, including ICC-ASP/8/Res.2, ICC-ASP/9/Res.3, ICC-ASP/10/Res.2, ICC-ASP/11/Res.5, ICC-ASP/12/Res.3 and the sixty-six recommendations annexed to ICC-ASP/6/Res.2,

Determined to put an end to impunity by holding to account the perpetrators of the most serious crimes of concern to the international community as a whole, and *reaffirming* that the effective and expeditious prosecution of such crimes must be strengthened, inter alia, by enhancing international cooperation,

Stressing the importance of effective and comprehensive cooperation and assistance by States Parties, other States, and international and regional organizations, to enable the Court to fulfil its mandate as set out in the Rome Statute and that States Parties have a general obligation to cooperate with the Court in its investigation and prosecution of crimes within its jurisdiction, and are obliged to cooperate fully with the execution of arrest warrants and surrender requests, as well as provide other forms of cooperation set out in article 93 of the Rome Statute,

Welcoming the report of the Court on cooperation, submitted pursuant to paragraph 28 of resolution ICC-ASP/12/Res.3,

Noting that contacts with persons in respect of whom an arrest warrant issued by the Court is outstanding should be avoided when such contacts undermine the objectives of the Rome Statute,

Further noting the arrest guidelines issued by the Office of the Prosecutor for the consideration of States, including inter alia, the elimination of non-essential contacts with individuals subject to an arrest warrant issued by the Court and that, when contacts are necessary, an attempt is first made to interact with individuals not subject to an arrest warrant,

Noting the redrafted and redistributed guidelines setting out the policy of the United Nations Secretariat on contacts between United Nations officials and persons who are the subject of arrest warrants or summonses issued by the Court, as annexed to a letter dated 3 April 2013 by the Secretary General of the United Nations to the President of the General Assembly and the President of the Security Council,

Recognizing that requests for cooperation and the implementation thereof should take into account the rights of the accused,

Welcoming the memorandum of understanding between the Court and UNODC on strengthening the capacity of States to enforce sentences, and *commending* international organizations' support for strengthening cooperation in the area of voluntary agreements,

Recalling the pledges relating to cooperation made by States Parties at the Review Conference in Kampala and *noting* the importance of ensuring adequate follow-up with regard to the implementation of pledges,

1. *Expresses* serious concerns that arrest warrants or surrender requests against 13 persons remain outstanding,¹ and *urges* States to cooperate fully in accordance with their obligation to arrest and surrender to the Court;

¹ As at 16 October 2014.

2. *Emphasizes* the importance of timely and effective cooperation and assistance from States Parties and other States under an obligation or encouraged to cooperate with the Court pursuant to Part 9 of the Rome Statute or a United Nations Security Council resolution, as the failure to provide such cooperation in the context of judicial proceedings affects the efficiency of the Court and *stresses* that protracted non-execution of Court requests has a negative impact on the ability to execute its mandate, in particular when it concerns the arrest and surrender of individuals subject to arrest warrants;
3. *Acknowledges* that concrete steps and measures to securing arrests need to be considered in a structured and systematic manner, based on the experience developed in national systems, the international ad hoc and mixed tribunals, as well as by the Court;
4. *Takes note* of the report on arrest strategies by the Rapporteur, and *invites* the Bureau to continue discussions on the topic, with a view to submitting a consolidated draft Action Plan on Arrest Strategies for consideration of the Assembly of States Parties;
5. *Emphasizes* also the on-going efforts made by the Court in providing focused requests for cooperation and assistance which contribute to enhancing the capacity of States Parties and other States to respond expeditiously to requests from the Court, and *invites* the Court to continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance;
6. *Urges* States Parties to avoid contact with persons subject to a warrant of arrest issued by the Court, unless such contact is deemed essential by the State Party, *welcomes* the efforts of States and international and regional organizations in this regard, and *acknowledges* that States Parties may, on a voluntary basis, advise the ICC of their own contacts with persons subject to a warrant of arrest made as a result of such an assessment;
7. *Welcomes* the continued efforts of the President of the Assembly in implementing the non-cooperation procedures adopted by the Assembly in resolution ICC-ASP/10/Res.5, and *encourages* the Assembly to keep said procedures and their implementation under review in order to secure their effectiveness, including with regard to ensuring early notification to States Parties of opportunities to work together to avoid non-cooperation;
8. *Calls upon* States Parties as well as non-States Parties that have not yet done so to become parties to the Agreement on Privileges and Immunities of the International Criminal Court as a matter of priority, and to incorporate it in their national legislation, as appropriate;
9. *Welcomes* the increased cooperation between the Court and the United Nations, and other international and regional organizations, and other inter-governmental institutions;
10. *Emphasizes* the importance of States Parties enhancing and mainstreaming diplomatic, political and other forms of support for, as well as promoting greater awareness and understanding of the activities of the Court at the international level, and *encourages* States Parties to use their capacity as members of international and regional organizations to that end;
11. *Urges* States Parties to explore possibilities for facilitating further cooperation and communication between the Court and international and regional organizations, including by securing adequate and clear mandates when the United Nations Security Council refers situations to the Court, ensuring diplomatic and financial support; cooperation by all United Nations Member States and follow-up of such referrals, as well as taking into account the Court's mandate in the context of other areas of work of the Security Council, including the drafting of Security Council resolutions on sanctions and relevant thematic debates and resolutions;
12. *Urges* States Parties to cooperate with requests of the Court made in the interest of Defence teams, in order to ensure the fairness of proceedings before the Court and *welcomes* the Court's briefing paper on defence and cooperation issues;
13. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, in particular through implementing legislation and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such legislative and other measures so as to ensure that they can fully meet their obligations under the Rome Statute;

14. *Acknowledges* efforts by States and by the Court, including through the Legal Tools Project, to facilitate exchange of information and experiences, with a view to raising awareness and facilitating the drafting of national implementing legislation;
15. *Encourages* States to establish a national focal point and/or a national central authority or working group tasked with the coordination and mainstreaming of Court related issues, including requests for assistance, within and across government institutions;
16. *Welcomes* the report to the thirteenth session of the Assembly on the feasibility study of establishing a coordinating mechanism of national authorities and *invites* the Bureau to discuss the feasibility of establishing a coordinating mechanism of national authorities, taking into consideration the study in annex II of the report of the Bureau on cooperation² and to report to the Assembly well in advance of the fourteenth session;
17. *Acknowledges* the importance of protective measures for victims and witnesses for the execution of the Court's mandate, *welcomes* the relocation agreements concluded with the Court in 2014, and *stresses* the need for more such agreements or arrangements with the Court for the expeditious relocation of witnesses;
18. *Calls upon* all States Parties and other States, to consider strengthening their cooperation with the Court by entering into agreements or arrangements with the Court, or any other means concerning, inter alia, protective measures for victims and witnesses, their families and others who are at risk on account of testimony given by witnesses;
19. *Acknowledges* that, when relocation of witnesses and their families proves necessary, due account should be given to finding solutions that, while fulfilling the strict safety requirements, also minimize the humanitarian costs of geographical distance and change of linguistic and cultural environment and *urges* all States Parties to consider making voluntary contributions to the Special Fund for Relocations;
20. *Commends* and *further encourages* the work of the Court on framework agreements or arrangements, or any other means in areas such as interim release, final release - also in cases of acquittal - and sentence enforcement which may be essential to ensuring the rights of suspects and accused persons, in accordance with Rome Statute and guaranteeing the rights of convicted persons and *urges* all States Parties to consider strengthening cooperation in these areas;
21. *Welcomes* the conclusion of the first voluntary agreement between the Court and a State Party on interim release and *requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its fourteenth session;
22. *Recognizes* that effective and expeditious cooperation with regard to the Court's requests for the identification, tracing and freezing or seizure of proceeds, property and assets, can be of value to provide for reparation to victims and address the costs of legal aid;
23. *Underlines* the importance of effective procedures and mechanisms that enable States Parties and other States to cooperate with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible; and *calls on* all States Parties to put in place and further improve effective procedures and mechanisms in this regard, with a view to facilitate cooperation between the Court, States Parties, other States and international organizations;
24. *Requests* the Bureau, through its Working Groups, to review the 66 recommendations on cooperation adopted by States Parties in 2007³, in close cooperation with the Court;
25. *Welcomes* the enhanced dialogue between States Parties, the Court and civil society offered by the plenary discussion on cooperation held during the thirteenth session of the Assembly, with a special focus on cooperation in the field of Sexual and Gender Based Crimes, and, *mindful* of the importance of full and effective cooperation with the Court in accordance with the Rome Statute, *notes with appreciation* the fruitful exchange of views

² ICC-ASP/13/29.

³ Resolution ICC-ASP/6/Res.2, annex II.

on, inter alia, the challenges faced by States and the Court in ensuring accountability for such egregious crimes;

26. *Requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court;

27. *Recognizing* the importance of the Court's contribution to the Assembly's efforts to enhance cooperation, *requests* the Court to submit an updated report on cooperation to the Assembly at its fourteenth session and annually thereafter.

Resolution ICC-ASP/13/Res.4

Adopted at the 12th plenary meeting, on 17 December 2014, by consensus

ICC-ASP/13/Res.4

Resolution on Victims and affected communities, reparations and Trust Fund for Victims

The Assembly of States Parties,

Recalling its resolutions ICC-ASP/1/Res.6, ICC-ASP/4/Res.3, RC/Res.2, ICC-ASP/10/Res.3, ICC-ASP/11/Res.7 and ICC-ASP/12/Res.5,

Determined to ensure the effective implementation of victims' rights, which constitute a cornerstone of the Rome Statute system,

Reaffirming the importance of the Rome Statute to the victims and affected communities in its determination to hold to account the perpetrators of the crime of genocide, crimes against humanity and war crimes, thus contributing to their prevention,

Reiterating that victims' equal rights to present their views and concerns in the proceedings where their personal interests are affected, under article 68 of the Rome Statute, and to expeditious and effective access to justice, protection and support, adequate and prompt reparation for harm suffered, and access to relevant information concerning violations and redress mechanisms are essential components of justice and, in this regard, *emphasizing* the importance of effective outreach to victims and affected communities in order to give effect to the unique mandate of the International Criminal Court towards victims,

Noting that the crimes within the jurisdiction *ratione materiae* of the Court may affect large numbers of victims, targeted either individually or collectively,

Noting that certain principles and procedures for reparations are set out by Trial Chamber I in its 'Decision establishing the principles and procedures to be applied to reparations' in the case against Thomas Lubanga Dyilo, dated 7 August 2012, and some are subject to an on-going appeal,

Aware that, pursuant to article 75, paragraph 2, of the Rome Statute, the Court may order, where appropriate, that the award for reparations be made through the Trust Fund for Victims, and *mindful* of the current financial situation of the Trust Fund,

Acknowledging that the Board of Directors of the Trust Fund for Victims, in accordance with its Regulation 56, shall determine whether to complement the resources collected through awards for reparations, and, noting the request of the Board to strengthen the Fund's reserve for reparations,

1. *Welcomes* the ongoing and continuous work of the Court in implementing and monitoring its Revised Strategy in relation to victims and welcomes the Court's intention to review such a strategy once the judicial cycle be finished, if necessary;

2. *Recalls* its concerns about the difficulty the Court has encountered, on some occasions, in processing applications from victims seeking to participate in proceedings, and *notes* the efforts of the Court to ensure that such a process impacts positively on the effective implementation and protection of the rights and interests of victims under the Rome Statute;

3. *Reaffirms* the need to review, in 2015, the system for victims to apply to participate in proceedings, in order to ensure the sustainability, effectiveness and efficiency of the system, including any necessary amendment to the legal framework, while preserving the rights of victims under the Rome Statute and, aiming at legal certainty and predictability for parties and participants and for the planning of the Court and the Trust Fund for Victims, *calls upon* the Court to explore ways to harmonize the application process for victims to participate in the proceedings before the Court, and in consultation with all relevant stakeholders;

4. *Takes note* with appreciation of all the efforts to enhance the efficiency and effectiveness of victim participation, and, *further noting* more collective approach, *invites* the Bureau to explore, through its Study Group on Governance and based on a report the Court is requested to submit in 2015, the need for possible amendments to the legal framework for the participation of victims in the proceedings;
5. *Notes the importance*, when recruiting officers in charge of victims and witnesses affairs, of ensuring that they have the necessary expertise to take into account cultural traditions and sensitivities and the physical, psychological and social needs of victims and witnesses, particularly when they are required to be in The Hague or outside their country of origin to participate in proceedings before the Court;
6. *Reiterates the need for* the Court to continue to ensure that principles relating to reparations be established in accordance with article 75, paragraph 1, of the Rome Statute, *takes note* of the Court report on this matter, and *further requests* the Court to continue to establish such principles as a priority and report back to the Assembly at its fourteenth session;
7. *Reiterates* its call to States Parties, where crimes under the Court's jurisdiction have been committed, to adopt and implement, as appropriate, victim-related provisions, according to their respective contexts and needs, consistent with the 1985 United Nations General Assembly resolution 40/34 "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power", the 2005 United Nations General Assembly resolution 60/147 "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law" and other relevant instruments;
8. *Recalls* its invitation to States Parties where crimes under the Court's jurisdiction have been committed to act in solidarity with victims by, inter alia, playing an active role in sensitizing communities on the rights of victims in accordance with the Rome Statute in general, and on victims of sexual and gender based violence as well as other vulnerable groups in particular; combating their marginalization and stigmatization; assisting them in their social reintegration process and in their participation in consultations; and promoting a culture of accountability for these crimes;
9. *Reiterates* that liability for reparations within the framework of the Rome Statute is exclusively based on the individual criminal responsibility of a convicted person, and that therefore under no circumstances shall States be ordered to utilize their properties and assets, including the assessed contributions of States Parties, to fund reparations awards, including in situations where an individual holds, or has held, any official position;
10. *Stresses* that, since the identification, tracing and freezing or seizure of any assets of the convicted person are indispensable for reparations, it is of paramount importance that all necessary measures are taken to that end, in order for relevant States and relevant entities to provide timely and effective assistance pursuant to articles 75, 93, paragraph 1(k), and 109 of the Rome Statute, and *calls upon* States Parties to enter into voluntary agreements, arrangements or any other means to this end with the Court;
11. *Reaffirms* that the declaration of indigence of the accused for the purpose of legal aid bears no relevance to the ability of the convicted person to provide reparations, *takes note* of the Court report on this matter, and *further recalls its* request to the Court to continue to develop a scheme in that regard and to report back to the Assembly on related substantial developments at its fourteenth session;
12. *Reasserts* that when deciding on the disposition or allocation of fines and forfeitures of property or assets of the convicted person, their use for the purpose of reparations shall be prioritized in accordance with the Rules of Procedure and Evidence;
13. *Renews* its appreciation to the Board of Directors and the Secretariat of the Trust Fund for Victims for their continuing commitment towards victims, and *encourages* the Board and the Secretariat to continue to strengthen its ongoing dialogue with the Court, States Parties and the wider international community, including donors as well as non-governmental organizations, who all contribute to the valuable work of the Trust Fund for Victims, so as to ensure increased strategic and operational visibility and to maximize its impact and ensure the continuity and sustainability of the Fund's interventions;

14. *Welcomes* the Strategic Plan of the Trust Fund for Victims for the period 2014-2017 and *encourages* States Parties, the Court and the Fund to coordinate their activities and roles to ensure the proper implementation of the Plan and the accomplishment of the objectives contained therein;
15. *Calls upon* States, international and inter-governmental organizations, individuals, corporations and other entities to contribute voluntarily to the Trust Fund for Victims also in view of possible reparations, in order to substantively increase the volume of the Trust Fund for Victims, broaden the resource base and improve the predictability of funding; and *renews its appreciation* to those that have done so;
16. *Recalls* the responsibility, under the Regulations of the Trust Fund for Victims, of the Board of Directors to endeavour to manage its resources originating from voluntary contributions in such a way as to ensure an adequate reserve to complement any Court-ordered reparations awards, without prejudice to its activities under the Trust Fund's assistance mandate including those funded by earmarked contributions;
17. *Invites* States Parties to consider making earmarked voluntary contributions to the Trust Fund, in accordance with their financial ability, for the purpose of strengthening its reparations reserve, in addition to any regular voluntary contributions to the Fund, and *expresses its appreciation* to those that have already done so;
18. *Requests* the Court and the Trust Fund for Victims to continue developing a strong collaborative partnership, mindful of each other's roles and responsibilities, to implement Court-ordered reparations;
19. *Decides* to continue to monitor the implementation of the rights of victims under the Rome Statute, with a view to ensuring that the exercise of these rights is fully realized and that the continued positive impact of the Rome Statute system on victims and affected communities is sustainable;
20. *Mandates* the Bureau to continue considering victims-related issues as necessary or as they arise, having recourse to any appropriate process or mechanism.

Resolution ICC-ASP/13/Res.5

Adopted at the 13th plenary meeting, on 17 December 2014, by consensus

ICC-ASP/13/Res.5

Strengthening the International Criminal Court and the Assembly of States Parties

The Assembly of States Parties,

Mindful that each individual State has the responsibility to protect its population from the crime of genocide, war crimes, and crimes against humanity, that the conscience of humanity continues to be deeply shocked by unimaginable atrocities in various parts of the world, and that the need to prevent the most serious crimes of concern to the international community and to put an end to the impunity of the perpetrators of such crimes is now widely acknowledged,

Convinced that the International Criminal Court (“the Court”) is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law, as well as to the prevention of armed conflicts, the preservation of peace and the strengthening of international security and the advancement of post-conflict peacebuilding and reconciliation with a view to achieving sustainable peace, in accordance with the purposes and principles of the Charter of the United Nations,

Convinced also that there can be no lasting peace without justice and that peace and justice are thus complementary requirements,

Convinced further that justice and the fight against impunity and holding to account the perpetrators of the most serious crimes of concern to the international community and persons criminally responsible under the Statute are, and must remain, indivisible and that in this regard universal adherence to the Rome Statute of the International Criminal Court is essential,

Welcoming the Court's central role as the only permanent international criminal court within an evolving system of international criminal justice and the contribution of the Court to guarantee lasting respect for and the enforcement of international justice,

Noting the primary responsibility of national jurisdictions to prosecute the most serious crimes of international concern and the increased need for cooperation in ensuring that national legal systems are capable of prosecuting such crimes,

Reaffirming its commitment to the Rome Statute of the International Criminal Court and its determination that the most serious crimes of concern to the international community as a whole must not go unpunished, and *underlining* the importance of the willingness and ability of States to genuinely investigate and prosecute such crimes,

Welcoming the efforts and achievements of the Court in bringing the most responsible for the crimes under the Rome Statute to justice and *noting* the jurisprudence of the Court on the issue of complementarity,

Recalling the primary responsibility of States to investigate and prosecute the most serious crimes of international concern and that, to this end, appropriate measures need to be adopted at the national level, and international cooperation and judicial assistance need to be strengthened, in order to ensure that national legal systems are capable of genuinely prosecuting such crimes,

Recalling further that the application of articles 17 and 19 of the Rome Statute concerning the admissibility of cases before the Court is a judicial matter to be determined by the judges of the Court,

Recalling further that greater consideration should be given to how the Court will complete its activities in a situation country and that possible completion strategies could provide guidance on how a situation country can be assisted in carrying on national proceedings when the Court completes its activities in a given situation,

Underscoring its respect for the judicial independence of the Court and its commitment to ensuring respect for and the implementation of the Court's judicial decisions,

Taking note with appreciation of the annual United Nations General Assembly resolutions concerning the Court,

Welcoming the statement by the President of the Security Council of 12 February 2013 in which the Council stated its intention to continue fighting impunity, reiterated its previous call regarding the importance of State cooperation with the Court in accordance with the respective obligations of States and expressed its commitment to effective follow-up of Council decisions in this regard,

Recalling the success of the first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010,

Recalling also the decision by the Assembly of States Parties ("the Assembly") to establish a representation of the Court at the African Union Headquarters in Addis Ababa, and *reiterating* that such presence would promote dialogue with the Court and the understanding of its mission within the African Union and among African States, individually and collectively,

Appreciating the invaluable assistance that has been provided by civil society to the Court,

Conscious of the importance of equitable geographical representation and gender balance in the organs of the Court, and, as appropriate, in the work of the Assembly and its subsidiary bodies,

Mindful of the need to encourage the full participation of States Parties, Observers and States not having observer status in the sessions of the Assembly and to ensure the broadest visibility of the Court and the Assembly,

Recognizing that victims' rights to equal and effective access to justice, protection and support; adequate and prompt reparation for harm suffered; and access to relevant information concerning violations and redress mechanisms are essential components of justice, and *emphasizing* the importance of effective outreach to victims and affected communities in order to give effect to the unique mandate of the Court towards victims,

Conscious of the vital role of field operations in the Court's work in situation countries and the importance of stakeholders working together to create suitable conditions for field operations,

Conscious also of the risks faced by personnel of the Court in the field,

Recalling that the Court acts within the constraints of an annual programme budget approved by the Assembly,

Universality of the Rome Statute

1. *Invites* States not yet parties to the Rome Statute of the International Criminal Court, to become parties to the Rome Statute, as amended, as soon as possible, and *calls upon* all States Parties to intensify their efforts to promote universality;
2. *Calls upon* all international and regional organizations as well as civil society to intensify their efforts to promote universality;
3. *Decides* to keep the status of ratifications under review and to monitor developments in the field of implementing legislation, inter alia with a view to facilitating the provision of technical assistance that States Parties to the Rome Statute, or States wishing to become parties thereto, may wish to request from other States Parties or institutions in relevant areas;
4. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, notably through implementing legislation, in particular in the areas of criminal law, criminal procedural law and international cooperation and judicial assistance with the Court and, in this regard, *urges*

States Parties to the Rome Statute that have not yet done so to adopt such implementing legislation as a priority and *encourages* the adoption of victims-related provisions, as appropriate;

5. *Welcomes* the report of the Bureau regarding the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute,¹ *notes with appreciation* the efforts of the Court's President, the Office of the Prosecutor, the President of the Assembly of States Parties, the Assembly of States Parties, States Parties, and of civil society to enhance the effectiveness of universality-related efforts and to encourage States to become parties to the Rome Statute, as amended, and to the Agreement on Privileges and Immunities, as well as relevant efforts undertaken in the framework of the Universal Periodic Review of the Human Rights Council;

Agreement on Privileges and Immunities

6. *Welcomes* the States Parties that have become a Party to the Agreement on the Privileges and Immunities of the International Criminal Court and *recalls* that the Agreement and international practice exempt salaries, emoluments and allowances paid by the Court to its officials and staff from national taxation, and in this regard *calls upon* States Parties, as well as non-States Parties, that have not yet done so to become parties to this Agreement as a matter of priority and to take the necessary legislative or other action, pending their ratification or accession, to exempt their nationals employed by the Court from national income taxation with respect to salaries, emoluments and allowances paid to them by the Court, or to grant relief in any other manner from income taxation in respect of such payments to their nationals;

7. *Reiterates* the obligations of States Parties to respect on their territories such privileges and immunities of the Court as are necessary for the fulfilment of its purposes and *appeals* to all States which are not party to the Agreement on the Privileges and Immunities of the International Criminal Court in which the Court's property and assets are located or through which such property and assets are transported, to protect the property and assets of the Court from search, seizure, requisition and any other form of interference;

Cooperation

8. *Refers* to its resolution ICC-ASP/13/Res.3 on cooperation;

9. *Calls upon* States Parties to comply with their obligations under the Rome Statute, in particular the obligation to cooperate in accordance with Part 9, and *calls upon* States Parties to ensure full and effective cooperation with the Court in accordance with the Rome Statute, in particular in the areas of implementing legislation, enforcement of Court decisions and execution of arrest warrants;

10. *Also calls upon* States Parties to continue to express their political and diplomatic support to the Court, *recalls* the sixty-six recommendations annexed to resolution ICC-ASP/6/Res.2 and *encourages* States Parties and the Court to consider further measures to enhance their implementation and to strengthen their efforts to ensure full and effective cooperation with the Court;

11. *Takes note* of the report on arrest strategies by the Rapporteur;²

12. *Welcomes* the conclusion of the first voluntary agreement between the Court and a State Party on interim release;

13. *Further welcomes* the memorandum of understanding between the Court and the United Nations Office on Drugs and Crime on strengthening the capacity of States to enforce sentences;

14. *Recalls* the non-cooperation procedures adopted by the Assembly in ICC-ASP/10/Res.5, *recognizes with concern* the negative impact that the non-execution of Court requests has had on the ability of the Court to execute its mandate, *takes note* of the

¹ ICC-ASP/13/34.

² ICC-ASP/13/29/Add.1.

decisions of the Court conveyed to the Assembly to date and of the report of the Bureau on non-cooperation;³ *welcomes* the efforts of the President of the Assembly of States Parties in implementing the procedures on non-cooperation during her tenure and *recalls* that the President serves *ex officio* as focal point for his or her region;⁴ *calls upon* all stakeholders, at all levels, to continue assisting the President of the Assembly of States Parties, including when accomplishing his task with the support of the regional focal points for non-cooperation;

15. *Also recalls* the role of the Assembly of States Parties and the Security Council with respect to non-cooperation as provided for by articles 87, paragraph 5, and 87, paragraph 7, of the Rome Statute, *welcomes* the efforts of States Parties to strengthen the relationship between the Court and the Council, *calls on* States Parties to continue their efforts to ensure that the Security Council addresses the communications received from the Court on non-cooperation pursuant to the Rome Statute, *welcomes* the efforts of the President of the Assembly to consult with the Security Council and *encourages* both the Assembly and the Security Council to strengthen their mutual engagement on this matter;

Host State

16. *Recognizes* the importance of the relationship between the Court and the host State in accordance with the terms of the Headquarters agreement and *notes with appreciation* the ongoing commitment of the host State to the Court with a view to its more efficient functioning;

Relationship with the United Nations

17. *Recognizes* the need for enhancing the institutional dialogue with the United Nations, including on Security Council referrals;

18. *Also recognizes* the Security Council's call regarding the importance of State cooperation with the Court and *encourages* further strengthening of the Security Council's relationship with the Court by:

- a) providing effective follow up of situations referred by the Council to the Court,
- b) continued support for the work of the Court through cooperation and assistance by peacekeeping and special political missions mandated by the Council and increased cooperation between Sanctions Committees and the Court;
- c) enhanced engagement by the Council with Court representatives and on matters related to the International Criminal Court in various formats, and
- d) institutionalizing Council cooperation with and support for the Court in this regard;

19. *Welcomes* the constructive discussion between the Security Council and the Court on their relationship and interaction during the visit by the Security Council to The Hague in August 2014;

20. *Also welcomes* the open debate held by the Security Council on 23 October 2014 on working methods of the Council, which included a focus on follow up of the referrals to the International Criminal Court;

21. *Recalls* the report of the Court on the status of ongoing cooperation with the United Nations, including in the field,⁵ and *invites* the Court to continue its institutional dialogue with the United Nations, based on the Relationship Agreement between the United Nations and the International Criminal Court;

22. *Encourages* all United Nations Offices, funds and programmes to strengthen their cooperation with the Court and to collaborate effectively with the Office of Legal Affairs as Focal Point for cooperation between the United Nations system and the Court;

³ ICC-ASP/13/36.

⁴ ICC-ASP/11/29, para. 12.

⁵ ICC-ASP/12/42.

23. *Commends* the important work of the New York Liaison Office of the Court, *reiterates* its full support for the Office and *stresses* the importance of the continued and further strengthening of the implementation of its functions in accordance with ICC-ASP/4/6, paragraphs 2, 3 and 4;

24. *Welcomes* that the Bureau has been informed throughout 2014 on Court-related developments at the United Nations and in particular at the Security Council and *calls on* Bureau members and other States Parties to continue providing the Bureau with information about their efforts at the United Nations and in any other international or regional fora to promote the fight against impunity;

25. *Also welcomes* the presentation of the tenth report of the Court to the General Assembly of the United Nations;⁶

26. *Notes with concern* that, to date, expenses incurred by the Court due to referrals by the United Nations Security Council have been borne exclusively by States Parties, and in that regard *urges* States Parties to begin discussions on the proper implementation of article 115, paragraph (b), of the Rome Statute, also taking into account that Article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations states that the conditions under which any funds may be provided to the Court by a decision of the General Assembly of the United Nations shall be subject to separate arrangements;

27. *Notes* that all cooperation received by the Court from the United Nations is provided strictly on a reimbursable basis;

Relationships with other international organizations and bodies

28. *Welcomes* the efforts undertaken by various regional organizations to support the Court in the fulfilment of its mandate;

29. *Emphasizes* the need to pursue efforts aimed at intensifying dialogue with the African Union and to strengthen the relationship between the Court and the African Union and *commits* to the Court's further regular engagement in Addis Ababa with the African Union and diplomatic missions in anticipation of establishing its liaison office; *recognizes* the engagement of the President of the Assembly with officials of the African Union in Addis Ababa and *calls upon* all relevant stakeholders to support strengthening the relationship between the Court and the African Union;

30. *Welcomes* the conclusion of an Exchange of Letters on 5 August 2014 establishing a Framework Cooperation Arrangement between the Court and the Parliament of MERCOSUR, Common Market of the South, in accordance with article 87, paragraph 6, of the Rome Statute and *invites* the Court to continue with the efforts to strengthen the relationships with other international organizations and bodies, including by concluding bilateral arrangements/agreements;

31. *Recalls* the contribution that the International Humanitarian Fact-finding Commission, established by article 90 of the Additional Protocol I to the 1949 Geneva Convention, could make in ascertaining facts related to alleged violations of international humanitarian law, and facilitating, where appropriate, the prosecution of war crimes, both at the national level and before the Court;

Activities of the Court

32. *Takes note* of the latest report on the activities of the Court to the Assembly of States Parties;⁷

33. *Notes with satisfaction* the fact that owing, not least, to the dedication of its staff, considerable progress continues to be made in the Court's activities including its preliminary examinations, investigations and judicial proceedings in various situations

⁶ United Nations document A/69/321.

⁷ ICC-ASP/13/37.

which either States Parties or the United Nations Security Council⁸ referred to the Court or which the Prosecutor initiated *proprio motu*;

34. *Recalls* its invitation to the Court to continue to take note of best practices of other relevant international and national organizations and tribunals, including those gained by national institutions that have investigated and prosecuted crimes that fall within the Court's jurisdiction, in solving operational challenges similar to those encountered by the Court, while reiterating its respect for the independence of the Court, and in this regard welcomes the fact that the Court hosted a two-day International Tribunals' Developed Practices Workshop at its premises;

35. *Notes with appreciation* the efforts undertaken by the Office of the Prosecutor to achieve the efficiency and transparency of its preliminary examinations, investigations and prosecutions;

36. *Welcomes* the Policy Paper on Sexual and Gender-Based Crimes released by the Office of the Prosecutor in June 2014 and stresses the importance of the effective investigation and prosecution of sexual and gender-based crimes by the Court and by national courts, in order to end impunity for perpetrators of sexual violence crimes and *calls upon* States Parties to consider the Policy Paper to strengthen the investigation and prosecution of sexual and gender-based crimes domestically;

37. *Also welcomes* the efforts undertaken by the Court to implement the One-Court principle, and to coordinate its activities among its organs at all levels, including through the implementation of measures to increase clarity on the responsibility of different organs, while respecting the independence of the judges and the Prosecutor and the neutrality of the Registry, and *encourages* the Court to undertake all necessary efforts to fully implement the One-Court principle, inter alia with a view to ensuring full transparency, good governance and sound management;

38. *Notes with appreciation* the efforts undertaken by the Registrar, including in the context of the Registry ReVision project, to mitigate the risks faced by the Court in relation to its field offices and to enhance the Court's field operations with a view to increasing their efficiency and visibility and *encourages* the Court to continue to optimize its field offices in order to ensure the Court's continued relevance and impact in States in which it carries out its work;

39. *Recognizes* the important work done by the field-based staff of the Court in difficult and complex environments and *expresses its appreciation* for their dedication to the mission of the Court;

Elections

40. *Emphasizes* the importance of nominating and electing the most highly qualified judges in accordance with article 36 of the Rome Statute, and for this purpose *encourages* States Parties to conduct thorough and transparent processes to identify the best candidates;

41. *Stresses* the importance of elected judges who have made their solemn undertaking being available to take up their full-time service when the Court's workload so requires;

42. *Decides* to adopt the amendment to the procedure for the nomination and election of judges⁹ contained in annex II to the present resolution;

43. *Also decides* to review the procedure for the election of judges as set forth in sections B and C of resolution ICC-ASP/3/Res.6 as amended, including by the present resolution, on the occasion of future elections with a view to making any improvements as may be necessary;

44. *Takes note* of the report of the Advisory Committee on Nominations,¹⁰ containing the assessment of the nominations submitted to elect six judges at the thirteenth session of

⁸ United Nations Security Council resolution 1593 (2005) and 1970 (2011).

⁹ *Official Records ... Third session ... 2004* (ICC-ASP/3/25), part III, ICC-ASP/3/Res.6.

¹⁰ ICC-ASP/13/22.

the Assembly and *notes* that the Advisory Committee will also carry out its mandate in relation to the election to fill a judicial vacancy;

45. *Decides* to adopt the amendments to the terms of reference of the Advisory Committee on Nominations¹¹ contained in annex III to the present resolution;

Secretariat of the Assembly of States Parties

46. *Recognizes* the important work done by the Secretariat of the Assembly of States Parties (“the Secretariat”), *reiterates* that the relations between the Secretariat and the different organs of the Court shall be governed by principles of cooperation and of sharing and pooling of resources and services, as set out in the annex to resolution ICC-ASP/2/Res.3, and *welcomes* the fact that the Director of the Secretariat participates in the meetings of the Coordination Council when matters of mutual concern are considered;

Counsel

47. *Notes* the important work of independent representative bodies of counsel or legal associations, including any international legal association relevant to rule 20, sub-rule 3, of the Rules of Procedure and Evidence;

48. *Also notes* the need to improve gender balance and equitable geographical representation on the list of counsel, and thus *continues to encourage* applications to the list of counsel established as required under rule 21(2) of the Rules of Procedure and Evidence with a particular view to ensuring equitable geographical representation and gender balance, as well as legal expertise on specific issues such as violence against women or children, as appropriate;

Legal aid

49. *Acknowledges* the Court’s efforts to continue implementing the revised legal aid remuneration policy as adopted by the Bureau on 23 March 2012, *takes note* of the fulfilled reporting obligation in this regard, and *stresses* the need for continuous monitoring of the efficiency of the legal aid system to uphold and strengthen the principles of the legal aid system, namely fair trial, objectivity, transparency, economy, continuity and flexibility;¹²

50. *Welcomes* the initiative of the Registrar, in the context of the legal aid related aspects of the Registry ReVision project, to reorganize, streamline and strengthen the Registry’s support to the defence and victim participation and representation, and *underlines* the need for measures to achieve greater synergy and efficiency in the legal aid system, in line with the mandates laid down in resolution ICC-ASP/12/Res.8 with regard to legal aid,

Study Group on Governance

51. *Welcomes* the continued structured dialogue between States Parties and the Court with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence and *invites* the organs of the Court to further engage in a such a dialogue with States Parties;

52. *Takes note* of the Bureau’s report on the Study Group of Governance¹³ and the recommendations contained therein;

53. *Extends* for another year the mandate of the Study Group, provided in resolution ICC-ASP/9/Res.2 and extended in resolutions ICC-ASP/10/Res.5 and ICC-ASP/11/Res.8;

¹¹ ICC-ASP/10/36, annex.

¹² ICC-ASP/3/16, para. 16.

¹³ ICC-ASP/13/28.

54. *Welcomes* the report of the judges' Working Group on Lessons Learned on the "Pre-Trial and Trial Relationship and Common Issues" and *encourages* the judges to continue their work on this issue into 2015;

55. *Looks forward to* receiving the judges' Working Group on Lessons Learned report on "Victims participation and reparations" in 2015;

56. *Calls upon* States Parties to continue considering amendment proposals by the Working Group on Lessons Learned;

Proceedings of the Court

57. *Emphasizes* that the effectiveness of proceedings of the Court is essential to the rights of victims and those of the accused, the credibility and authority of the institution as well as the best possible use of its resources;

58. *Welcomes* the Court's efforts to enhance the efficiency and effectiveness of proceedings;

Working methods review

59. *Recognizes* the benefits of rationalizing the working methods of the subsidiary bodies of the Bureau and the Assembly in order to cope with an increasing workload;

60. *Welcomes* the steps already undertaken by the Bureau in this regard, including the organization of a retreat on governance by the President of the Assembly, as well as the Bureau's express determination to remain seized of the matter as set out in its report entitled "Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau";¹⁴

61. *Decides* to further improve the working methods of the Bureau and the governance of the Assembly of States Parties, and to that effect

- a) *adopts* the roadmap for the implementation of mandates of the Working Groups of the Bureau contained in annex IV;¹⁵
- b) *decides* to have future invitations and documentation for meetings of the Bureau and its subsidiary bodies posted on the Extranet in combination with an alert by e-mail;¹⁶ and
- c) *reconfirms* the Bureau support for a paper-light approach to documentation, with a view to moving in the direction of a paper-less approach;

62. *Recalling* the representative geographical character of the Bureau, *encourages* Bureau members to strengthen their communication with States Parties of their respective regional group to inform the discussion of the Bureau, *welcomes* the efforts of the Bureau to ensure communication and cooperation between its subsidiary bodies and *invites* the Bureau to continue such efforts;

Strategic planning

63. *Emphasizes* the need for the Court to continue to improve and adapt outreach activities with a view to further developing and implementing effectively and efficiently the Strategic Plan for Outreach¹⁷ in affected countries, including, where appropriate, by early outreach from the outset of the Court's involvement, including during the preliminary examination stage;

64. *Recalls* that the issues of public information and communication about the Court and its activities constitute a shared responsibility of the Court and States Parties, while acknowledging the significant contribution of other stakeholders;

¹⁴ ICC-ASP/12/59.

¹⁵ See *ibid.*, para. 27(a).

¹⁶ See *ibid.*, para. 23(d).

¹⁷ ICC-ASP/5/12.

65. *Notes with appreciation* the initiatives undertaken to celebrate, in the context of its information and communication strategy,¹⁸ 17 July as Day of International Criminal Justice¹⁹ and *recommends* that, on the basis of lessons learned, all relevant stakeholders, together with the Court, continue to engage in preparation of the annual celebrations with a view to reinforcing the international fight against impunity;

66. *Takes note* of the revised Court's Strategic Plan for 2013-2017, and *welcomes* the Court's intention to adapt its Plan, as appropriate, on an annual basis, including for the purpose of the formulation of the budget assumptions and to inform the Bureau thereon with a view to further strengthening the budgetary process;

67. *Also takes note* of the implementation of the new Strategic Plan of the Office of the Prosecutor, *welcomes* advice that the Strategic Plan is having a positive impact on the work of the Office of the Prosecutor, and *notes* that in 2015 the Office plans to produce a new strategic plan for the period 2016-2018;

68. *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;

69. *Welcomes* the Registrar's strategic approach, in the context of the ReVision project, to analyze the Registry functions where overlap, fragmentation or gaps exists; *recognizes* the need to address those areas and *notes*, in particular, that the Court has established as a priority the strengthening of its presence in the field, with the strategic goal of increasing the Court's impact and effectiveness and efficiency of its operations; and *acknowledges* that the impact of the ReVision project also needs to be considered from the perspective of its budgetary implications;

Victims and affected communities, reparations and Trust Fund for Victims

70. *Refers* to its resolution ICC-ASP/13/Res.4 on victims and affected communities, reparations and Trust Fund for Victims;

71. *Stresses* the central importance that the Rome Statute accords to the rights and needs of victims, in particular their right to participate in judicial proceedings and to claim reparations, and *emphasizes* the importance of informing and involving victims and affected communities in order to give effect to the unique mandate of the Court towards victims;

Recruitment of staff

72. *Welcomes* the Court's continued efforts, in the recruitment of staff, to seek equitable geographical representation and gender balance and the highest standards of efficiency, competency and integrity, as well as to seek expertise on specific issues, including, but not limited to, trauma-related psycho-social needs and violence against women or children and *encourages* further progress in this regard;

73. *Stresses* the importance of the dialogue between the Court and the Bureau with regard to ensuring equitable geographical representation and gender balance in the recruitment of staff members;

Complementarity

74. *Recalls* the primary responsibility of States to investigate and prosecute the most serious crimes of international concern and that, to this end, appropriate measures need to be adopted at the national level, and international cooperation and judicial assistance need to be strengthened, in order to ensure that national legal systems are willing and able genuinely to carry out investigations and prosecutions of such crimes;

¹⁸ ICC-ASP/9/29.

¹⁹ *Official Records ... Review Conference ... 2010* (RC/11), part II.B, Kampala Declaration (RC/Decl.1), para. 12.

75. *Resolves* to continue and strengthen, within the appropriate fora, effective domestic implementation of the Rome Statute, to enhance the capacity of national jurisdictions to prosecute the perpetrators of the most serious crimes of international concern in accordance with internationally recognized fair trial standards, pursuant to the principle of complementarity;

76. *Welcomes* the international community's engagement in strengthening the capacity of domestic jurisdictions and inter-State cooperation to enable States to genuinely prosecute Rome Statute crimes;

77. *Also welcomes* efforts by the United Nations, international and regional organizations, States and civil society in mainstreaming capacity building activities aimed at strengthening national jurisdictions with regard to investigating and prosecuting Rome Statute crimes into existing and new technical assistance programmes and instruments, *strongly encourages* additional efforts in this regard by other international and regional organizations, States and civil society, and in that context *takes note* of the important work being undertaken in the United Nations on the post-2015 development agenda, including the promotion of rule of law at the national and international levels and ensuring equal access to justice for all;²⁰

78. *Stresses* that the proper functioning of the principle of complementarity entails that States incorporate the crimes set out in articles 6, 7 and 8 of the Rome Statute as punishable offences under their national laws, to establish jurisdiction for these crimes and to ensure effective enforcement of those laws, and *urges* States to do so;

79. *Welcomes* the report of the Bureau on complementarity;²¹

80. *Also welcomes* the report by the Secretariat of the Assembly of States Parties on the progress in giving effect to its mandate to facilitate the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions;²² and *welcomes further* the work that has already been undertaken by the Secretariat and the President of the Assembly;

81. *Encourages* the Court to continue its efforts in the field of complementarity, including through exchange of information between the Court and other relevant actors, while recalling the Court's limited role in strengthening national jurisdictions and also *encourages* inter-State cooperation in that regard;

Independent Oversight Mechanism

82. *Refers* to its resolution ICC-ASP/12/Res.6 on the Independent Oversight Mechanism;

83. *Recognizes* the importance of a fully operational Independent Oversight Mechanism, in accordance with ICC-ASP/8/Res.1 and ICC-ASP/9/Res.5, to the efficient and effective operation of the Court;

Programme budget

84. *Takes note* of the important work done by the Committee on Budget and Finance, and *reaffirms* the independence of the members of the Committee;

85. *Recalls* that, according to its Rules of Procedure,²³ the Committee on Budget and Finance shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications and *emphasizes* the importance of ensuring that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

²⁰ See United Nations General Assembly resolution 68/309.

²¹ ICC-ASP/13/30.

²² *Ibid.*, annex II.

²³ *Official Records ... Second session ... 2003* (ICC-ASP/2/10), annex III.

86. *Emphasizes* the importance of endowing the Court with the necessary financial resources, and *urges* all States Parties to the Rome Statute to transfer their assessed contributions in full and by the deadline for contributions or, in the event of pre-existing arrears, immediately, in accordance with article 115 of the Rome Statute, rule 105.1 of the Financial Regulations and Rules, and other relevant decisions taken by the Assembly;

87. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily to the Court, and *expresses its appreciation* to those that have done so;

Review Conference

88. *Recalls* that at the successful first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010, States Parties adopted amendments to the Rome Statute, in accordance with article 5, paragraph 2, of the Rome Statute to define the crime of aggression and to establish conditions under which the Court could exercise jurisdiction with respect to that crime;²⁴ and adopted amendments to the Rome Statute to expand the jurisdiction of the Court to three additional war crimes when committed in armed conflicts not of an international character,²⁵ and decided to retain, for the time being, article 124 of the Rome Statute;²⁶

89. *Notes* that those amendments are subject to ratification or acceptance and shall enter into force in accordance with article 121, paragraph 5, of the Rome Statute and *notes with appreciation* the recent ratifications of the amendments;

90. *Calls upon* all States Parties to consider ratifying or accepting these amendments and *resolves* to activate the Court's jurisdiction over the crime of aggression as early as possible, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Rome Statute;

91. *Recalls* with appreciation pledges of increased assistance to the Court made by thirty-five States Parties, one observer State, and one regional organization, *calls on* these States and the regional organization to ensure the swift implementation of these pledges, and further *calls on* States and regional organizations to submit additional pledges and to inform, as appropriate, on the implementation thereof at future sessions of the Assembly;

Consideration of amendments

92. *Welcomes* the report of the Bureau on the Working Group on Amendments;²⁷

Participation in the Assembly of States Parties

93. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute in a timely manner and voluntarily to the Trust Fund to allow the participation of least developed countries and other developing States in the annual session of the Assembly and *expresses its appreciation* to those that have done so;

94. *Encourages* the continuation of efforts undertaken by the President of the Assembly of States Parties to hold an ongoing dialogue with all stakeholders, including regional organizations and *calls upon* all States Parties to support the President in his undertakings aimed at strengthening the Court, the independence of proceedings and the Rome Statute system as a whole;

95. *Decides* to entrust the Court, the Bureau, the President of the Assembly and the Secretariat, as appropriate, with the mandates contained in annex I to the present resolution.

²⁴ *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.6.

²⁵ *Ibid.*, RC/Res.5.

²⁶ *Ibid.*, RC/Res.4.

²⁷ ICC-ASP/13/31.

Annex I

Mandates of the Assembly of States Parties for the intersessional period

1. With regard to **universality of the Rome Statute**,
 - (a) *endorses* the recommendations of the report of the Bureau regarding the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute,¹ and
 - (b) *requests* the Bureau continue to monitor the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute and to report thereon to the Assembly at its fourteenth session;
2. With regard to **cooperation**,
 - (a) *requests* the President of the Assembly, to continue to engage actively and constructively with all relevant stakeholders, in accordance with the Bureau procedures on non-cooperation, both to prevent instances of non-cooperation and to follow up on a matter of non-cooperation referred by the Court to the Assembly;
 - (b) *invites* the Bureau to continue discussions on arrest strategies, with a view to submitting a consolidated draft Action Plan on Arrest Strategies for consideration of the Assembly;
 - (c) *also invites* the Bureau to discuss the feasibility of establishing a coordinating mechanism of national authorities, taking into consideration the study in annex II of the report of the Bureau on cooperation² and to report to the Assembly well in advance of the fourteenth session;
 - (d) *requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its fourteenth session;
 - (e) *also requests* the Bureau, through its Working Groups, to review the 66 recommendations on cooperation adopted by States Parties in 2007,³ in close cooperation with the Court;
 - (f) *further requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court; and
 - (g) *further requests* the Bureau to actively engage throughout the inter-sessional period with all relevant stakeholders to continue to ensure the effective implementation of the non-cooperation procedures and to submit a report on its activities to the Assembly at its fourteenth session with recommendations in light of lessons learned;
3. With regard to **relationships with other international organizations and bodies**, *invites* the Court to include in its annual report to the United Nations General Assembly a section on the status and implementation of specific agreements on cooperation with other international organizations;
4. With regard to **elections**,
 - (a) *requests* the Bureau to report to the Assembly at its fourteenth session on the review of the procedure for the election of judges as set forth in sections B and C of resolution ICC-ASP/3/Res.6 as amended, including by the present resolution, on the occasion of future elections with a view to making any improvements as may be necessary;

¹ ICC-ASP/13/34.

² ICC-ASP/13/29.

³ Resolution ICC-ASP/6/Res.2, annex II.

(b) *also requests* the Bureau to undertake, in consultation with the Advisory Committee on Nominations and at the end of its mandate, a review of the experience of the Advisory Committee and to report to the Assembly at its fifteenth session on that experience, including suggestions, as appropriate, on how to improve the terms of reference contained in the annex of the report of the Bureau on the establishment of an Advisory Committee on nominations of Judges of the International Criminal Court (ICC-ASP/10/36);⁴ and

(c) *further requests* the Advisory Committee on Nominations to report on the progress of its work well in advance of the session at which the judicial vacancy is to be filled;

5. With regard to **Legal Aid**,

(a) *requests* the Court and the Bureau to keep the legal aid system under review; and *recalling* the mandates laid down in paragraph 6 of annex I of resolution ICC-ASP/12/Res.8 with regard to legal aid, *calls on* the Court to ensure their full and timely implementation, as appropriate;

(b) *calls on* the Court to continue monitoring the implementation performance of legal aid;

(c) *requests* the Court, in the context of the ongoing reorganization and streamlining of the Registry and in line with paragraph 6 of annex I of resolution ICC-ASP/12/Res.8, to continue reassessing the functioning of the legal aid system and to report on its findings to the Bureau; as well as to present, as appropriate, a proposal to the Bureau for adjustments of the existing legal aid system upon the completion of the first full judicial cycles⁵ and within the timeframe as indicated in the above mentioned resolution; and

(d) *mandates* the Bureau, as appropriate, to further consider the matter having recourse to any appropriate process or mechanism, and to elaborate and propose any structural changes to the legal aid system, to be, if necessary, adopted by the Assembly, including proposing measures to further enhance the efficiency of the legal aid system;

6. With regard to the **Study Group on Governance**,

(a) *requests* the Study Group to report back to its fourteenth session;

(b) *invites* the Court to monitor the use of intermediaries through its Working Group on Intermediaries with a view to safeguarding the integrity of the judicial process and the rights of the accused; and

(c) *requests* the Court to inform States Parties, when appropriate, about important developments pertaining to the use of intermediaries, which might require the Court to amend the Guidelines;

7. With regard to **proceedings of the Court**,

(a) *invites* the Court to intensify its efforts to enhance the efficiency and effectiveness of proceedings including by adopting further changes of practice; and

(b) *requests* the Court to intensify its efforts to develop qualitative and quantitative indicators that would allow the Court to demonstrate better its achievements and needs, as well as allowing States Parties to assess the Court's performance in a more strategic manner, bearing in mind existing recommendations and discussions, in particular in the context of the Study Group on Governance and the Committee on Budget and Finance;

(c) *decides* to include a specific item on the efficiency and effectiveness of Court proceedings on the agenda of the fourteenth session of the Assembly with a view to strengthening the Rome Statute system;

⁴ Such as the question of conflict of interest.

⁵ The end of the full judicial cycles refers to the issuance of a final appeal decisions in the case of *The Prosecutor v. Thomas Lubanga Dyilo* and the case of *The Prosecutor v. Mathieu Ngudjolo Chui* respectively, including, as appropriate, a final decision on reparations.

8. With regard to the **working methods review**,

(a) *invites* the Bureau to implement the recommendations of the 2013 working methods report,⁶

(b) *requests* the Bureau to establish facilitations only if the mandate requires open-ended consultations, and the matter cannot be addressed by a less resource-intensive mechanism, such as a rapporteur or a focal point;⁷

(c) *mandates* the two Coordinators of the Working Groups of the Bureau to monitor the implementation of the Report on the Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau⁸ and, in that regard, also to conduct an evaluation of the mechanisms established for carrying out the mandates received, including through a survey conducted among the members of the Working Groups and the biennialization or triennialization of reporting to the Assembly;⁹ and

(d) *calls upon* the Secretariat to continue its efforts in regard to a paper-light approach to documentation, with a view to moving in the direction of a paper-less approach, and *recalls* in this connection that reports of the Court and Assembly bodies should be limited to sixteen pages;¹⁰

9. With regard to **strategic planning**,

(a) *requests* the Bureau to continue to engage with all relevant stakeholders, on the basis of lessons learned, in dialogue with a view to developing a coordinated and comprehensive approach vis-à-vis the communication strategy of the Court;

(b) *invites* the Court to continue to hold annual consultations with the Bureau in the first trimester of each year, on the implementation of its strategic plans during the previous calendar year, with a view to improving performance indicators updated on the basis of lessons learned;

(c) *also invites* the Office of the Prosecutor to adjust its new Strategic Plan in accordance with its implementation experience and to inform the Bureau on a regular basis thereon;

(d) *requests* that the Court, in consultation with States Parties, continues to work towards setting a hierarchy of its priorities in order to facilitate strategic and budgetary choices;

(e) *requests* the Bureau to continue to engage in a dialogue with the Court on the development of a comprehensive risk-management strategy and to report thereon to the fourteenth session of the Assembly; and

(f) *also requests* the Bureau to continue to engage in dialogue with the Court on the implementation of the strategic approach to the Court's presence in the field with a view to the development of the Court strategy on field operations and to report thereon on a regular basis;

10. With regard to **Victims and affected communities, reparations and Trust Fund for Victims**,

(a) *invites* the Bureau to explore, through its Study Group on Governance and based on a report the Court is requested to submit in 2015, the need for possible amendments to the legal framework for the participation of victims in the proceedings;

(b) *requests* the Court to continue to establish principles relating to reparations in accordance with article 75, paragraph 1, of the Rome Statute as a priority and report back to the Assembly at its fourteenth session;

⁶ ICC-ASP/12/59.

⁷ As outlined, e.g., in paras. 21(a) and 23(b) of the Report on the Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau (ICC-ASP/12/59).

⁸ ICC-ASP/12/59.

⁹ *Ibid.*

¹⁰ *Ibid.*

(c) *recalls* its request to the Court to continue to develop a scheme in regard to the declaration of indigence of the accused for the purpose of legal aid and to report back to the Assembly on related substantial developments at its fourteenth session;

(d) *encourages* the Board of Directors and the Secretariat of the Trust Fund for Victims to continue to strengthen its ongoing dialogue with the Court, States Parties and the wider international community, including donors as well as non-governmental organizations, who all contribute to the valuable work of the Trust Fund for Victims, so as to ensure increased strategic and operational visibility and to maximize its impact and ensure the continuity and sustainability of the Fund's interventions;

(e) *requests* the Court and the Trust Fund for Victims to continue developing a strong collaborative partnership, mindful of each other's roles and responsibilities, to implement Court-ordered reparations;

(f) *decides* to continue to monitor the implementation of the rights of victims under the Rome Statute, with a view to ensuring that the exercise of these rights is fully realized and that the continued positive impact of the Rome Statute system on victims and affected communities is sustainable; and

(g) *mandates* the Bureau to continue considering victims-related issues as necessary or as they arise, having recourse to any appropriate process or mechanism;

11. With regard to **recruitment of staff**,

(a) *recommends* that the Bureau continue to engage with the Court to identify ways to improve equitable geographical representation and increase the recruitment and retention of women in higher level professional posts, without prejudice to any future discussions on the suitability, or otherwise, of the current model, as well as to remain seized of the issue of geographical representation and gender balance, and to report thereon to the fourteenth session of the Assembly;

(b) *requests* the Court to submit a comprehensive report on Human Resources to the Assembly at its fourteenth session, which would include an update on the implementation of the recommendations on the topic which would be made by the Committee on Budget and Finance in 2015;

12. With regard to **complementarity**,

(a) *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, including on complementarity related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court and the role of partnerships with national authorities and other actors in this regard; and also including to assist on issues such as witness protection and sexual and gender-based crimes;

(b) *also requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions, and to report to the fourteenth session of the Assembly on further progress in this regard;

13. With regard to the **programme budget**,

(a) *requests* the Secretariat, together with the Committee on Budget and Finance, to continue to make the necessary arrangements to ensure that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

(b) *decides* that, with the understanding that the facilitation in the New York Working Group and its report to the Assembly on arrears is biennialized, the Bureau should continue to monitor the status of payments received throughout the financial year of the Court and consider additional measures to promote payments by States Parties, as appropriate, continue to engage in dialogue with States Parties in arrears and report thereon to the Assembly at its fourteenth session; and

(c) *requests* the Secretariat to inform States Parties periodically of States that have recovered their voting rights following payment of their arrears;

14. With regard to the **Review Conference**,

(a) *requests* the Secretariat to make publicly available on the Court's website information provided by States and regional organizations on the pledges of increased assistance to the Court made in Kampala;

(b) *also requests* the Bureau to report further at the fourteenth session of the Assembly on the implementation by States and by the regional organizations of the pledges undertaken in Kampala;

15. With regard to **consideration of amendments**,

(a) *invites* the Working Group to continue its consideration of all amendment proposals, in accordance with the Terms of Reference of the Working Group, and *requests* the Bureau to submit a report for the consideration of the Assembly at its fourteenth session; and

(b) *decides* to review the provisions of article 124 of the Rome Statute in the context of the Working Group on Amendments during the fourteenth session of the Assembly;

16. With regard to **participation in the Assembly of States Parties**,

(a) *decides* to hold a pledge ceremony during the fifteenth session of the Assembly on the ratification of the Agreement on Privileges and Immunities to invite States Parties to ratify it before the 20th anniversary of the Rome Statute (July 2018);

(b) *also decides* that the Committee on Budget and Finance shall hold its twenty-fourth session from 20 to 24 April 2015 and its twenty-fifth session from 21 September to 2 October 2015;

(c) *Concerned* by the need for the Court to have a full bench of judges in 2015, as provided by the Rome Statute, *further decides* to mandate the Bureau to consider the practicalities of holding a resumed session to fill the remaining judicial vacancy, including the location, timing and financial implications, and if appropriate to proceed with the convening of such a resumed session in the second quarter of 2015; and

(d) *further decides* that the Assembly shall hold its fourteenth session in The Hague from 18 to 26 November 2015 and its fifteenth session in The Hague.

Annex II

Amendments to resolution ICC-ASP/3/Res.6, regarding the procedure for the nomination and election of judges

Replace paragraph 27 (b) with the following text:

“27 (b). The nomination period shall open 18 weeks before the elections and shall last six weeks.

Annex III

Amendments to the terms of reference of the Advisory Committee on Nominations, contained in the annex to document ICC-ASP/10/36

Add the following text to the end of paragraph 6:

“In the event of a vacancy, an election shall be held in accordance with the procedure for the nomination and election of members of the Advisory Committee on Nominations. The procedure shall apply *mutatis mutandis*, subject to the following provisions:

- (a) The Bureau of the Assembly of States Parties may fix a nomination period which is shorter than the one used for other elections;
- (b) The Bureau of the Assembly of States Parties may elect the member; and
- (c) A member elected to fill a vacancy shall serve for the remainder of the predecessor’s term and may be re-elected.”

Insert the following as a new paragraph 6 bis:

“6 bis. For a period of three years after the end of the mandate or after the resignation of a member of the Committee, that person shall not be nominated as a candidate for election to the Court.”

Annex IV

General Roadmap for facilitations¹

<i>Date</i>	<i>Body</i>	<i>Agenda</i>
Towards the end of an Assembly session	Bureau	Allocate items entrusted to the Bureau for the coming year between The Hague and New York Working Groups
By end of February	Bureau	Consideration of renewal of mandates and decision on appropriate process or mechanism (facilitation, rapporteur or other), based on evaluation previously conducted by the Coordinators of the Working Groups Appointment of facilitators, focal points, rapporteurs and/or others, if necessary
By end of March	HWG, NYWG	Submission by each facilitator and/or focal point of a program of work to the Coordinator of their Working Group, containing a timeline including a set of goals to be achieved until the commencement of the Assembly session, as well as, if possible, scheduled meetings
Seven weeks ahead of the ASP	HWG, NYWG	Submission of draft reports and resolutions by facilitators and focal points
Six weeks ahead of the ASP	HWG, NYWG	Adoption of draft reports and resolutions
Five weeks ahead of the ASP	Bureau	Adoption of draft reports and resolution
Four weeks ahead of the ASP	ASP Secretariat	Dissemination of official documentation for the ASP
Xx - xx November/December	ASP	Consideration of draft reports and resolutions

¹ The above indicative roadmap applies equally to the Study Group on Governance (SGG), whereas within that framework, a special timeline applies for Cluster I of the Study Group. In accordance with past practice and specific circumstances governing the omnibus and the budget facilitations, as well as the Working Group on Amendments (WGA), those topics shall be discussed in accordance with a separate roadmap, which would be established by the respective facilitator on a yearly basis.

B. Decisions

Decision ICC-ASP/13/Dec.1

Adopted at the 13th plenary meeting, on 17 December 2014, by consensus

ICC-ASP/13/Dec.1

Decision: Applicability of the former Court's pension regimes to former Judges Cotte and Nsereko

The Assembly of States Parties,

Mindful of the judgment of the Administrative Tribunal of the International Labour Organisation (ILOAT) no. 3359, dated 9 July 2014, in respect of the complaint of the former judges of the International Criminal Court, Judges Bruno Cotte and Daniel David Ntanda Nsereko, whereby the Tribunal decided that the complainants were entitled to have the Assembly complete the reconsideration of its December 2007 decision,¹

Noting the decision of the Assembly during its sixth session that the judges elected during this session of the Assembly would hold office subject to the terms and conditions of office to be adopted during the sixth session,²

Noting the decision by the Assembly at its ninth session that the decision reached by the Assembly at its sixth session and embodied in the amendments to the Pension Scheme Regulations for Judges, adopted by resolution ICC-ASP/6/Res.6, should not be reopened,³

Further noting the Presidency's memorandum, dated 5 October 2010, which was resubmitted to the Assembly at its thirteenth session,⁴ as well as the arguments put forward by the Parties in the ILOAT proceedings,

Following the thorough reconsideration of the matter at its thirteenth session,

Decides to reaffirm its decision from its sixth session that judges elected at that session would hold office subject to the Pension Scheme Regulations for Judges, adopted by resolution ICC-ASP/6/Res.6.

¹ ILOAT, 118th session, Judgment No. 3359, adopted on 15 May 2014 and delivered in public on 9 July 2014.

² *Official Records ... Sixth session ... 2007* (ICC-ASP/6/20), vol. I, part I, paras. 32 and 33, which read as follows: "32. At the 2nd meeting, on 30 November 2007, the Assembly, on the recommendation of the Bureau, decided that the term of office of the judges elected to fill judicial vacancies shall run from the date of the election for the remainder of the term of their predecessors. Pursuant to a drawing of lots, which took place on 3 December, the term of office of Ms. Fumiko Saiga shall end on 10 March 2009, while the terms of office of Mr. Bruno Cotte and Mr. Daniel Nsereko shall end on 10 March 2012.

33. At the same meeting, the Assembly decided, on the recommendation of the Bureau, that the judges elected during this session of the Assembly will hold office subject to the terms and conditions of office to be adopted during the sixth session."

³ *Official Records ... Ninth session ... 2010* (ICC-ASP/9/20), vol. I, part II, paras. 33-35.

⁴ ICC-ASP/13/34/Add.1, appendix I.

Annexes

Annex I

Report of the Credentials Committee

Chairperson: Ms. Minna-Liina Lind (Estonia)

1. At its first plenary meeting, on 8 December 2014, the Assembly of States Parties to the Rome Statute of the International Criminal Court, in accordance with rule 25 of the Rules of Procedure of the Assembly of States Parties, appointed a Credentials Committee for its thirteenth session, consisting of the following States Parties: Bosnia and Herzegovina, Chile, Côte d'Ivoire, Denmark, Estonia, Liechtenstein, Mali, Paraguay, and Timor-Leste.

2. The Credentials Committee held 3 meetings, on 8, 10 and 17 December 2014.

3. At its meeting on 17 December 2014, the Committee had before it a memorandum by the Secretariat, dated 17 December 2014, concerning the credentials of representatives of States Parties to the Rome Statute of the International Criminal Court to the thirteenth session of the Assembly of States Parties. The Chairperson of the Committee updated the information contained therein.

4. As noted in paragraph 1 of the memorandum and the statement relating thereto, formal credentials of representatives to the thirteenth session of the Assembly of States Parties, in the form required by rule 24 of the Rules of Procedure, had been received as at the time of the meeting of the Credentials Committee from the following 77 States Parties:

Andorra, Argentina, Australia, Austria, Barbados, Belgium, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Canada, Chad, Chile, Comoros, Cook Islands, Costa Rica, Côte D'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Estonia, Finland, France, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guyana, Hungary, Iceland, Ireland, Italy, Japan, Kenya, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Maldives, Mali, Malta, Mexico, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Vincent and the Grenadines, Samoa, San Marino, Serbia, Senegal, Sierra Leone, Slovakia, Slovenia, Spain, Suriname, Sweden, Switzerland, Trinidad and Tobago, Uganda, Uruguay, and Vanuatu.

5. As noted in paragraph 2 of the memorandum, information concerning the appointment of the representatives of States Parties to the thirteenth session of the Assembly of States Parties had been communicated to the Secretariat, as at the time of the meeting of the Credentials Committee, by means of a cable or a telefax from the Head of State or Government or the Minister for Foreign Affairs, by the following 41 States Parties:

Afghanistan, Albania, Antigua and Barbuda, Bangladesh, Belize, Bolivia (Plurinational State of), Cape Verde, Cambodia, Central African Republic, Colombia, Congo, Djibouti, Dominican Republic, Ecuador, Fiji, Gabon, Grenada, Honduras, Jordan, Latvia, Liberia, Malawi, Mauritius, Mongolia, Montenegro, Namibia, Nauru, Niger, Nigeria, Saint Kitts and Nevis, Saint Lucia, Seychelles, South-Africa, Tajikistan, The Former Yugoslav Republic of Macedonia, Timor-Leste, Tunisia, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Venezuela (Bolivarian Republic of), and Zambia.

6. The Chairperson recommended that the Committee accept the credentials of the representatives of all States Parties mentioned in the Secretariat's memorandum, on the understanding that formal credentials for representatives of the States Parties referred to in paragraph 5 of the present report would be communicated to the Secretariat as soon as possible.

7. On the proposal of the Chairperson, the Committee adopted the following draft resolution:

“The Credentials Committee,

Having examined the credentials of the representatives to the thirteenth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court, referred to in paragraphs 4 and 5 of the present report;

Accepts the credentials of the representatives of the States Parties concerned.”

8. The draft resolution proposed by the Chairperson was adopted without a vote.
9. The Chairperson then proposed that the Committee recommend to the Assembly of States Parties the adoption of a draft resolution (see paragraph 11 below). The proposal was adopted without a vote.
10. In the light of the foregoing, the present report is submitted to the Assembly of States Parties.

Recommendation of the Credentials Committee

11. The Credentials Committee recommends to the Assembly of States Parties to the Rome Statute of the International Criminal Court the adoption of the following draft resolution:

“Credentials of representatives to the thirteenth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court

The Assembly of States Parties to the Rome Statute of the International Criminal Court,

Having considered the report of the Credentials Committee on the credentials of representatives to the thirteenth session of the Assembly and the recommendation contained therein,

Approves the report of the Credentials Committee.”

Annex II

Oral report of the Bureau

1. I have the honour to report to the Assembly of States Parties on the activities carried out by its Bureau during this year, for the third time since my assumption of duties as the President of the Assembly. Since this will also be the last report of this Bureau to the Assembly it will also reflect on some of the major topics that the Bureau dealt with over the last three years.

2. Since the last Assembly session concluded, the Bureau held sixteen formal meetings to assist the Assembly in the discharge of its responsibilities under the Rome Statute. The Bureau, in its 2013 report on Working Methods¹ acknowledged the significant contribution that holding Bureau meetings in New York as well as in The Hague has on the relationship between the two Working Groups. Against this background three Bureau meetings took place in The Hague in 2013 and one in 2014. In the same vein I visited The Hague numerous times during my tenure.

3. Pursuant to the mandates given to the Bureau by the twelfth session of the Assembly in November 2014, the Bureau assigned the mandates to its Working Groups and appointed, on the basis of recommendations of the Working Groups, the following facilitators and focal points:

(a) New York Working Group

- (i) Arrears - Mr. Rikiya Takahashi (Japan). Following the departure of Mr. Rikiya Takahashi, the Bureau has not appointed a successor.
- (ii) Geographical representation and gender balance in the recruitment of staff of the Court - Ms. Gina Guillén-Grillo (Costa Rica)
- (iii) Omnibus resolution - Ms. Ana Cristina Rodríguez (Guatemala)

The Working Group on Amendments continued to meet in New York, under the chairmanship of Ambassador Paul Seger (Switzerland).

The Assembly at its twelfth session has biennialized the reporting of the arrears and geographical representation and gender balance facilitations. Therefore no reporting had been requested from these facilitations for the thirteenth session of the Assembly.

(b) The Hague Working Group

- (i) Budget - Ambassador Johannes Werner Druml (Austria)
- (ii) Cooperation - Ambassador Anniken Krutnes (Norway)
Rapporteur on arrest strategies – Mr. Roberto Bellelli (Italy)
- (iii) Legal aid - Ambassador Gyula Sümeghy (Hungary)
- (iv) Strategic planning process of the International Criminal Court - Ambassador Mrđen Korać (Croatia)
- (v) Victims and affected communities and Trust Fund for Victims, including reparations - Ambassador Eduardo Pizarro Leongómez (Colombia) and Ambassador Mohammed Karim Ben Becher (Tunisia)

(c) Ad country focal points

- (i) Complementarity (Botswana and Sweden)
- (ii) Plan of Action (Cyprus and Japan)
- (iii) Non-cooperation (Belgium, Japan, Uruguay) – The President of the Assembly (Estonia) served as focal point *ex officio* for her own region

4. I wish to express my appreciation for the work carried out by the two Vice-Presidents of the Assembly, Ambassador Markus Börlin (Switzerland) and Ambassador

¹ ICC-ASP/12/59.

Ken Kanda (Ghana). The Vice-Presidents have served as Coordinators of the Working Groups of the Bureau, and their support has been instrumental in advancing the consideration of the issues in these forums.

5. I would also like to thank Ambassador Paul Seger (Switzerland) for the work and time he invested in chairing the Working Group on Amendments.

6. The Bureau decided to extend the mandate of the Study Group on Governance, within The Hague Working Group, for another year, pursuant to the Assembly's request contained in annex I of resolution ICC-ASP/12/Res.8. The Bureau appointed Ambassador Håkan Emsgård (Sweden) as Chair of the Study Group. In addition, focal points for two clusters were appointed: Cluster I: Increasing the efficiency of the criminal process. Co-focal points: Mr. Thomas Henquet (Netherlands) and Mr. Shehzad Charania (United Kingdom). Following the departure of Mr. Thomas Henquet, Mr. Nobuyuki Murai assumed the role of second focal point for this Cluster. Cluster II: Intermediaries. Focal point: Mr. Klaus Keller (Germany).

7. The Study Group has proved useful as the initial forum for States Parties to consider amendment proposals from the Court. This year again, the Court proposed amendments to the Rules of Procedure and Evidence aimed at expediting the criminal process. The Study Group, as well as the Working Group on Amendments, have both discussed proposals by the Court to amend rules 76(3), 101(3) and 144(2)(b), identified under the "Language Issues" cluster, as well as the Court's recommendation to adopt a new rule 140*bis*, identified under the "Organizational Matters" cluster. The proposed amendments to rule 76(3) and 144(2) would allow the Court to authorize partial translations of prosecution witness statements, or decisions of the Court, respectively, where such partial translations would not infringe the rights of the accused. The proposed amendment to rule 101(3) would allow the Court to delay the commencement of time limits of certain decisions until their translations are notified. The proposed rule 140 *bis* on "temporary absence of a judge" provides that where a Trial Chamber judge is absent for illness or other unforeseen and urgent personal reasons, the remaining judges of the Chamber may continue hearing the case to complete a specific matter, provided that such continuation is in the interests of justice and the parties consent.

8. The Working Group on Amendments will reconvene during this Assembly session to continue and potentially conclude the discussion on amendment proposals identified under the "Language Issues" cluster. With regard to the proposed rule 140 *bis*, the Working Group did not recommend the adoption of the new rule, accepted, however, the approach the Court has taken so far and invited the Court to bring to its attention any information that could further inform the discussion of the working group on this issue, as it deems appropriate.

9. Additionally, the Working Group on Amendments is currently also considering proposals to the Rome Statute. The Working Group will therefore meet more regularly in 2015 to discuss the different proposals.

10. Today marks the end of this Bureau's term and my term as President of the Assembly of States Parties. Last year the Assembly amended Rule 29 of the Rules of Procedure of the Assembly to allow for the Bureau to assume its functions only at the conclusion of an Assembly session instead of at the beginning. This has been a very important change. However, as this change will only apply from the fourteenth session onwards, the incoming Bureau is in the difficult situation to have to preside over an Assembly session it has not prepared. In order to allow for a smooth handover endorsed incoming Bureau members were invited to attend Bureau meetings as observers.

11. In line with past practice to fill the position of the President of the Assembly through a consultative process, I had appointed the Vice-President of the Assembly, Ambassador Ken Kanda (Ghana), to conduct consultations to identify the President for the thirteenth to the sixteenth sessions. These consultations have led to the endorsement by the Bureau of H.E. Mr. Sidiki Kaba, Minister of Justice of Senegal, as President of the Assembly of States Parties for the thirteenth to sixteenth sessions. I thank Ambassador Kanda for the skillful discharge of his mandate on this very important matter and am very pleased to be succeeded by a dedicated human rights defender and a staunch long-standing supporter of the Court. I am confident that Minister Kaba, with the support of the incoming Bureau

members, will guide the Assembly wisely and ensure States Parties provide the support necessary for the Court to fulfill its mandate.

12. The Bureau also endorsed Ambassador Álvaro Moerzinger (Uruguay) as Vice-President of the Assembly and Coordinator of The Hague Working Group for the next triennium. The two Vice-Presidents in The Hague and New York will play a crucial role in supporting the President and managing the work of the respective Working Groups.

13. Over the years, the intersessional workload of the Assembly has increased dramatically and not all processes are handled with maximum efficiency. In 2013 the Bureau therefore evaluated the Working Group's working methods. The 2013 Bureau report on the evaluation and rationalization of the working methods of the subsidiary bodies contains concrete and practical recommendations and decisions to rationalize the work of the Bureau and its Working Groups. This year the Bureau has been focused on how to implement these recommendations. In this regard in early June I organized a mini-retreat, dedicated to the governance of the Assembly. The retreat was attended by more than 70 participants including permanent representatives and legal advisors from 50 States Parties from The Hague and New York, including Bureau members, facilitators/focal points and representatives of States interested in being part of the next Bureau (2014-2017), as well as Court officials and civil society. An informal summary of the retreat has been distributed to States Parties, observers and civil society. I hope the next Bureau will continue to focus on rationalizing its working methods.

14. After five years of difficult consultations the Assembly adopted last year the resolution operationalizing the Independent Oversight Mechanism with the comprehensive mandate set out in article 112, paragraph 4, of the Rome Statute. In this resolution the Assembly also invited the Bureau to commence the recruitment of the permanent head of the IOM at the earliest possible date. The Bureau appointed Ambassador Jorge Urbina Ortega (Costa Rica) as Chair of the recruitment panel for the Head of the Independent Oversight Mechanism; following Ambassador Urbina's departure from the Netherlands, Ambassador Jorge Lemcke (Guatemala) took over the chairmanship of the recruitment panel. The Bureau further appointed the following ambassadors as members of the panel: Ambassador Nikola Ivanov Kolev (Bulgaria), Ambassador James Lambert (Canada), Ambassador Rose Makena Muchiri (Kenya) and Ambassador Jaime Victor B. Ledda (Philippines). The panel submitted to the Bureau a report they had agreed to by consensus with a ranked shortlist of candidates. The Bureau thanks the panel members for their invaluable work and for the extensive time invested. Notwithstanding the commitment of Ambassador Bénédicte Frankinet (Belgium) in facilitating the Bureau's discussion on this issue in New York, the appointment of the Chair of the IOM remains outstanding. It may be opportune for the next Bureau to revise the way this and other positions are filled, to ensure application of ICC recruitment procedures and avoid delays in filling positions.

15. The thirteenth session of the Assembly will elect six judges. The efficiency and effectiveness of the Court depends on the experience and competence of its judges. It is therefore of utmost importance that States nominate and elect supremely qualified judges. The Rome Statute recommends the establishment of an Advisory Committee on Nominations (ACN) to evaluate the judicial candidates. Two years ago the Assembly established the Committee to facilitate the appointment of the highest-qualified judges to the ICC. Fully operational since the beginning of 2013 States Parties already benefitted from the Committee's assessment for the second time this year. The ACN met in New York from 8 to 12 September 2014 to assess the judicial candidates, including via face to face interviews, and submitted its report to the Assembly on 29 September 2014. I hope that States Parties are assisted by the conclusions of the report in casting their vote during judicial elections.

16. Under the leadership of Mr. João Madureira (Portugal) and with substantive assistance by the Secretariat, the Bureau considered over the course of two months the different options for filling the judicial vacancy, which arose after Senator Miriam Defensor Santiago stepped down in June 2014 as judge elect for medical reasons. In its considerations the Bureau had in mind the applicable provisions of the Rome Statute and the resolution on the nomination and election of judges, as well as possible implications for the election of six judges scheduled to be held during the thirteenth session of the Assembly. The Bureau concluded that it was not possible to set the date of the election for

the period 8-17 December 2014 in a way that would allow the election to take place within the existing legal framework and therefore decided to refer the matter to the Assembly with the recommendation to consider scheduling the election to fill the judicial vacancy in 2015.

17. In its consideration of the judicial vacancy, the Bureau agreed that it should be ensured that the Advisory Committee on Nominations has the opportunity to evaluate the candidates nominated to fill the judicial vacancy. While the Assembly at its last session amended resolution ICC-ASP/3/Res.6 so that the nomination period for judges starts and ends six weeks earlier to ensure that delegations will be able to take the findings of the ACN report into account, the same has not been done for judicial vacancies. Under the previous rules for the nomination period for judicial vacancies, the ACN may not have sufficient time to consider candidates. The Bureau therefore decided to propose to the Assembly a technical amendment seeking to align the nomination periods for regular judicial elections with that of elections to fill judicial vacancies to allow sufficient time for the work of the ACN. Ms. Fernanda Millicay (Argentina) was appointed to facilitate this amendment and after the facilitator had consulted all States Parties the Bureau decided to submit the amendment proposal for adoption to the Assembly.

18. For my own part, in my capacity as the President of the Assembly, I have been focusing especially on the issue of complementarity. The International Criminal Court is a court of last resort and accountability should be first and foremost be pursued at the national level; assisting States in strengthening their judiciary is a pivotal endeavour to which all stakeholders could contribute. Throughout my tenure I engaged with regional organizations, such as the League of Arab States, the African Union, the Commonwealth, the European Union, the Council of Europe, la Francophonie, the Organization of American States, and several others to explore ways of cooperating in the area of capacity-building.

19. Over the course of the past three years, I have undertaken numerous contacts with different stakeholders in addition to convening the Bureau of the Assembly in New York and in The Hague. I met with United Nations officials, officials of different regional organizations, Court officials, numerous members of the diplomatic community, academia and civil society, and held bilateral meetings with policymakers and government officials of many States. I further engaged with the members of the Security Council, particularly those that are States Parties to the Rome Statute, on a variety of topics. Every fall I took advantage of the presence of ministers and high-level officials in New York during the General Debate of the United Nations General Assembly to hold meetings with Ministers of United Nations Member States.

20. Over the past three years I have also focused on awareness-raising, publishing numerous articles in the media, through social media channels and delivering lectures in States Parties and non-States Parties alike.

21. On the issue of non-cooperation, it is the Assembly's responsibility under article 112, paragraph 2, of the Rome Statute to consider, pursuant to article 87 of the Statute, any question relating to non-cooperation. Operative paragraph 10 of resolution ICC-ASP/12/Res.8 requested "the President of the Assembly to continue to engage actively and constructively with all relevant stakeholders, in accordance with the Bureau procedures on non-cooperation, both to prevent instances of non-cooperation and to follow up on a matter of non-cooperation referred by the Court of the Assembly". Throughout the past year the Bureau and I have been actively engaged to prevent instances of non-cooperation, and to address instances where a Pre-Trial Chamber of the Court has taken decisions informing the Assembly and the Security Council of the presence of persons subject to arrest warrants on the territory of States Parties. The Assembly procedures on non-cooperation have been consistently implemented; instances of non-cooperation have been discussed at several Bureau meetings. The Bureau has presented a report to the Assembly, pursuant to procedures adopted at the tenth session of the Assembly, including several recommendations.

22. I would like to take this opportunity to express my appreciation to those States and international organizations which have been involved in trying to prevent future instances of non-cooperation. In this regard I also note the on-going cooperation of the United Nations with the Court and welcome the guidance issued by the Secretary-General last year on contacts with persons who are the subject of arrest warrants or summonses issued by the

International Criminal Court.² I also welcome the practice of informing the Prosecutor and me before any essential contacts are undertaken with persons who are the subject of arrest warrants issued by the Court. The guidance established by the Secretary-General is especially noteworthy since States Parties themselves have not been able to agree on their own policy of avoiding non-essential contacts.

23. In 2014, among other activities, I opened and addressed the first meeting of the Working Group on the Fight Against Impunity in Francophone Africa held at the National Assembly of Côte d'Ivoire in Abidjan. I spoke at a Seminar on the Kampala Amendments held in Brdo, Slovenia. In Geneva I addressed the "Group of Friends of the International Criminal Court" to discuss the work of States Parties mainstreaming the ICC at the Universal Periodic Review of the Human Rights Council and joined a technical seminar on a project of a Convention on Crimes Against Humanity. Together with then United Nations High Commissioner for Human Rights, Ms. Navi Pillay, I addressed the diplomatic community in Geneva at a panel discussion on national accountability for atrocity crimes. The event was organized by my office together with the Permanent Mission of Estonia to the United Nations in Geneva and co-sponsored by Botswana and Sweden, the Assembly's co-focal points on complementarity. I attended the Global Summit to End Sexual Violence in Conflict in London, addressed the United States House of Representatives at a Congressional Briefing and spoke at the International Humanitarian Law Dialogues Annual Meeting of Prosecutors in Chautauque, New York. During my visit to Brazil I met with high-level officials and addressed members of academia, civil society, Brazilian diplomats and officials from member States of the Organization of American States at its annual Course on International Law. In South Africa, I participated in the conference "Africa and the International Criminal Court: Lessons Learned and Synergies Ahead" organized by Africa Legal Aid (AFLA), which has been made possible through financial contributions by Estonia, Finland, The Netherlands, Norway and Switzerland. In October I visited Ukraine for high-level consultations on prospects of ratification of the Rome Statute with officials from the Office of the President, the Ministry of Foreign Affairs, Ministry of Justice, Constitutional Court and the Parliament of Ukraine. I further visited the Parliament of Jordan where I met with numerous parliamentarians from States Parties and non-Parties from the region. More detailed information on my activities with regard to complementarity and universality may be found in the reports of the Bureau on these topics.

24. I would like to express my gratitude to States Parties and organizations that have provided me with necessary logistical support to my visits in locations where Estonia does not have diplomatic representation.

25. Throughout the year the Secretariat of the Assembly of States Parties has continued to carry out its mandate in assisting the Assembly and its subsidiary bodies, in accordance with resolution ICC-ASP/2/Res.3. The Secretariat continued to service The Hague Working Group, the Study Group on Governance, the Committee on Budget and Finance, the Oversight Committee on permanent premises and the Advisory Committee on Nominations of judges in the discharge of their responsibilities. The Secretariat assisted in coordinating the work of the Bureau and of the New York Working Group, including the Study Group on Governance and the Working Group on Amendments, and facilitated the visits and meetings of the President of the Assembly and the dissemination of information and communications. I wish to express my gratitude to the staff of the Secretariat, and in particular to the Director, Mr. Renan Villacis, whose support has been instrumental for the workings of the Bureau and its Working Groups.

26. Looking back it is evident that the Assembly has become a place where political issues and concerns of States Parties can and should be discussed. The Assembly of States Parties can and is ready to play an important role in facilitating dialogue amongst States Parties, as evidenced at last year's Assembly session. Last year the Assembly considered an item entitled "Special Segment as requested by the African Union: 'Indictment of sitting Heads of State and Government and its consequences on peace and stability and reconciliation'". The discussion allowed for a frank exchange of views on sensitive issues and there was broad satisfaction that an open process of dialogue had been started in order to address the concerns of African States Parties.

² A/67/828-S/2013/210.

27. There are, however, limitations to what can be discussed at the Assembly. The discussion of matters that are *sub judice* before the Court does not fall within the competence of the Assembly. In order to protect the credibility and integrity of the Court, States must respect the independence of the Judiciary or of the Office of the Prosecutor, as enshrined in the Rome Statute.

28. We had many high-level speakers address this Assembly over the past years, expressing their commitment to the fight against impunity. This year I extended an invitation to H.E. Ms. Catherine Samba-Panza, President of the Central African Republic, to address the Assembly. I am pleased that the President accepted the invitation, considering the Central African Republic has been the latest country self-referring a situation, evidencing the trust it has in the Court. Other special-invitees this year are H.E. Mr. Mankeur Ndiaye, speaking on behalf of President H.E. Mr. Macky Sall, and H.E. Mr. Miguel de Serpa Soares, who will be representing and speaking on behalf of the United Nations Secretary-General Mr. Ban Ki-moon.

29. On behalf of the Bureau, I wish to express my appreciation to all States Parties, the Court, and civil society, for their valuable input, support and spirit of cooperation, which have contributed to the work of the Assembly.

Annex III

Statement by Belgium in explanation of position before the adoption of resolution ICC-ASP/13/Res.5

The delegation of Belgium regrets that new proposals have been tabled at the last session of the plenary on a subject that was dealt with by the facilitation on the omnibus resolution and did not capture any remark during those negotiations.

Belgium understands that the new paragraph 40 *bis* adopted during the plenary has no impact on the competence of the Presidency to decide when a judge has to exercise his/her mandate full time. This decision is therefore not within the hands of the Assembly.

Annex IV

Statement of the Chair of the Committee on Budget and Finance to the Assembly, Ms. Carolina María Fernández Opazo, at its thirteenth session, 15 December 2014

1. Your Excellency Mr. Sidiki Kaba, I congratulate you for being elected the President of the Assembly of State Parties; and I also congratulate Ambassador Álvaro Moerzinger (Uruguay) for being elected the Vice-President.
2. I would like to extend the Committee's gratitude and recognition to the former President of the Assembly, Ambassador Tiina Intelmann, for her outstanding work during the last three years.
3. I would also like to take this opportunity to thank my fellow colleagues from the Committee for their devotion and hard work in the course of the last two sessions, while thanking the outgoing members of the Committee: Mr. Gilles Finkelstein (France), Mr. Samuel Itam (Sierra Leone) and Mr. Masatoshi Sugiura (Japan), and welcoming the new members: Mr. Hitoshi Kozaki (Japan), Mr. Orlando Robimanana (Madagascar) and Mr. Richard Veneau (France), and last but not least, I would like to thank the Secretariat's staff for their constant support.
4. It is an honour to present the reports of the twenty-second and twenty-third sessions of the Committee on Budget and Finance.
5. The Committee has again had a very busy year with an increasing workload during its sessions in April and October. Thus at the beginning of our October session, we agreed to make changes in our working methods in order to be able to continue fulfilling our mandate efficiently, whereby Court participation in the room was kept to as need basis and all major programmes were invited to present their budgets.
6. This change meant that Committee members were able to have more in-depth discussions about the issues at hand and its recommendations. It is Committee's belief that this change has proven to be a positive one, serving the best interests of the Committee, States Parties and the Court as a whole.
7. In our April session, we devoted most of our time to human resources and administration issues, while our main session in October was devoted to the proposed programme budget. The Committee was mindful that the 2015 proposed programme budget would require extensive consideration, due to the budget pressures faced by States Parties and the significant budget increase of more than €17 million presented by the Court in comparison to 2014 approved budget.
8. I would like to acknowledge the Court for their cooperation and timely presentation of the reports, as well as answers to in-session queries.
9. I will begin by addressing human resources management, focusing briefly on General Temporary Assistance, classification of professional posts, and retirement age.

A. General Temporary Assistance (GTA)

10. The Committee noted Court's intention to carry out a thorough review of its contract modalities and related rules and procedures, including those of GTA and short-term staff, with a view to maximizing efficiency in the use of resources. The Committee recommended that the Court report to it on the development of rules and procedures as any change of contract modalities would potentially have a great impact on financial, budgetary and administrative matters under the purview of the Committee and the Assembly.
11. The Committee noted the Court's approach to possible multiple-year GTA and conversion of long-standing GTA-funded positions to established posts and recommended that the Court make concrete proposals for Committee's consideration, in conformity with the recruitment principles and conditions laid down by the Committee and the Assembly. The Committee had not yet received the previously requested Court "skeleton" and noting

that receiving the “skeleton” had been a condition *sine qua non* for ending the freeze on posts, but the Committee felt that an exception should nevertheless be made in the case of the security personnel. The Committee therefore suggested that the Court include provision in its 2015 proposed programme budget to convert GTA into the established security posts that would be needed for the Court’s operations, and so the recommendation was factored in the 2015 proposed budget.

B. Criteria for classification of professional posts

12. The Committee noted that the review of the Court’s policy outlining principles and procedures for classification and reclassification was under way, and looked forward to receiving an outcome. Undoubtedly it will be an important issue during our April session in 2015.

C. Retirement age

13. The Committee noted that the United Nations General Assembly (UNGA) had not made any decision on the mandatory age of separation for staff members who joined the organization before 1 January 2014 and that other international organizations with the UN common system took different approaches. The Committee recommended that the Court continue to apply the interim solution, pending the decision by UNGA as recommended by the Committee at its twenty-first session. This interim solution was to grant extensions up to the end of 2015 to any staff who reached the age of 62 in 2014 and would reach the age of 62 in 2015 if they wished to continue service with the Court, unless the member of staff was subject to separation for reasons other than age, in compliance with the Staff Regulations and Rules of the Court.

D. Legal aid

14. The Committee received the Registry’s sixth quarterly report on legal aid covering the period from 1 April to 30 June 2014. This report detailed the savings made during this period arising from the implementation of the new legal aid mechanism while meeting the needs of the various users, based on the principle of a balance between the resources and means of the accused and those of the OTP. The Committee viewed the progress as encouraging and urged the Registry to maintain the momentum for maximizing savings in the future, while maintaining the quality of legal aid provided.

Bemba case

15. The Committee was informed that the defendant Mr. Jean Pierre Bemba Gombo was found to be ineligible for legal aid as he was not indigent. However, since he was apparently facing temporary difficulties in accessing funds to pay his legal fees, Trial Chamber III ordered the Registrar to advance the required funds, subject to reimbursement by Mr. Bemba, who signed a document agreeing to reimburse his debt to the Court. By December 2014, the Court will have advanced a total of €2,799,380.94 to Mr. Bemba for his defence. At the current time, the Court has previously received a total amount of €164,120.74 and further €2,067,982.25 in May 2014.

16. The Committee recommended that the reimbursed funds from Mr. Bemba should be treated as miscellaneous income in accordance with FRR 6.5 and 7.1 and be returned to State Parties as a part of the eventual 2014 surplus. However, the Committee noted that the Assembly might consider the possibility of adjusting the assessments of States Parties against the appropriations for 2015, instead of following the usual established procedures. This would mean a reduction in assessed contributions for 2015 of €2.01 million.

E. Audit matters

17. With regard to the financial statements of the Court for the period 1 January to 31 December 2013, and financial statements of the Trust Fund for Victims for the same period,

the Committee welcomed the presentation by the External Auditor and expressed its appreciation for the quality of the work produced by him.

18. Introducing his reports on the financial statements of the Court¹ and of the TFV,² the External Auditor informed the Committee that the statements were free of material misstatement and presented fairly the financial position of the Court and of the TFV and that he was able to offer an unqualified audit opinion.

1. Office of Internal Audit

19. In line with the External Auditor's second recommendation regarding the Office of Internal Audit, the Committee recommended that the budget for the Office of Internal Audit be moved to Major Programme VII-6, in order to ensure the independence of the Office.

2. Audit Committee

20. The Committee recalled that its requests for a review of the terms of reference, composition and appointments to the Audit Committee had been outstanding for a long time. The Audit Committee has not met since June 2012.

21. In regards to the Audit Committee, the Committee concurred with the External Auditor's view that the present setup of the Audit Committee is not satisfactory, and agreed that the Audit Committee should be dissolved and re-established according to the best international practice. The Committee recommended that the existing Audit Committee be terminated immediately and that, as a transitional measure until the new Audit Committee was established, an ad hoc Audit Committee be set up for 2015 as detailed in the Committee's report of its twenty-third session.

F. Financial matters

1. Status of contributions

22. The Committee reviewed the status of contributions and noted with concern that the outstanding contributions for 2013 at €6,403,820 marked a sharp increase from previous years. The Committee also noted with concern that a total outstanding contributions of €14,653,744 as at 9 December 2014 reached the level approximately two times the amount of the Working Capital Fund at €7.4 million. The Committee noted that such a trend could significantly affect the cash flow of the Court, and encouraged States Parties in arrears to make every effort to fulfil their financial obligations to the Court.

2. Budget performance

23. The Committee noted that the mid-year implementation rate was 52.0 per cent, or €63.23 million, against the 2014 approved budget of €121.66 million. The Court forecasted an implementation rate of 99.2 per cent or €120.7 million at year-end for the 2014 approved budget, including full absorption of six Contingency Fund notifications amounting to €3.82 million.

3. ReVision project and savings

24. The Committee considered the report on the review of the organizational structure of the Registry and noted that the timeline for the completion of the project was the end of July 2015, and would be implemented in four phases.

25. The Committee noted that the full impact of the ReVision project on the number of posts and the related total budget envelope would therefore only be known at the end of the current phase of the project in March 2015. The Committee recommended that the full

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

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

impact of the ReVision project should be included in a report to be submitted to the Committee.

26. The Assembly had requested the Registrar as part of his reorganisation plan to achieve at least three per cent savings in the approved programme budget for the Registry during the course of 2014 and requested the Registrar to report to the Assembly on the progress of implementation, including on savings, efficiencies and synergies.

27. The Registrar's report on achievement of savings in the approved programme budget for 2014 had identified savings worth of €2.2 million, or 3.4 per cent against the Registry programme budget for 2014 of €66.3 million.

28. The Committee recommended that the Registrar keeps identifying savings throughout the 2014 and beyond, and reports to the Committee on the final results of the savings identified as of 31 December 2014, and of additional efficiencies and synergies identified after completion of the ReVision project at its twenty-fifth session.

4. OTP strategic plan

29. The Committee noted the significant financial implications that the Strategic Plan could have on budget planning. Although the Strategic Plan 2013-2015 does not provide the type of information that would allow States Parties to decide the actual level of resources required from year to year, it does, however, establish a policy direction, which has been accepted by the Assembly and which might be anticipated to have financial implications, including implications for the other organs of the Court, particularly the Registry.

30. In 2013, the Assembly approved an increase in the OTP budget for 2014 to allow the OTP to fulfill its objectives in the new strategic plan. In the OTP proposed budget for 2015, a considerable budget increase was submitted although the level of active investigation cases, support for trials and appeals, and number of article 70 cases were almost at the same level as indicated in the Strategic Plan. Based on macro analysis, the Committee recommended reductions in the 2015 OTP proposed budget, however, leaving an overall increase in comparison to the 2014 approved budget.

31. The presentation of the next Strategic Plan will come shortly before completion of the Court's permanent premises, and provides an important opportunity for States Parties to define the Court's workload. Although the potential for the Court's involvement in a number of situations continues to grow, the Court's capacity is not unlimited, and by necessity will be defined by several factors, including the size of the space available in the permanent premises; the number of judges and the pace at which trials proceed; the "scalability" of the Court's operations; and, importantly, the resources that States Parties are willing to make available to it.

32. Therefore, the Committee recommended that the proposal for 2016-2018 Strategic Plan be properly costed utilising the best available knowledge and experience (e.g. results of the Activity Based Costing exercise, work load indicators, etc.) available to the Court.

Policy on Employee Benefit Liability (EBL)

33. In view of the ongoing policy discussion, the Committee welcomed the fact that the Court had not proposed, in its 2015 proposed programme budget, to add further to the EBL accruals already established upfront. This relieved the budget by €1.2 million.

34. To better assess any long-term risk and the appropriate policy response, the Committee invited the Court to produce long-term scenarios, projecting budget size under different assumptions, together with the corresponding volume and maturity profile of EBL, broken down by category of EBL. Judges' benefit entitlements should be included in the projections.

35. The Committee considered the budget requests by each major programme. After careful consideration, the Committee recommended savings in each of the major programmes with total savings amounting to €6.4 million.

36. I again thank the Secretariat of the Assembly for its cooperation and the Court as a whole for its diligence in spending resources efficiently. We look forward to further improvements in order to assure the Assembly that their national resources are being utilized efficiently in the pursuit of the ideals enshrined in the Rome Statute.

Annex V

List of documents

ICC-ASP/13/1	Provisional agenda
ICC-ASP/13/1/Rev.1	Agenda
ICC-ASP/13/1/Add.1/Rev.1	Annotated list of items included in the provisional agenda
ICC-ASP/13/2	Registry's fourth quarterly report on legal aid
ICC-ASP/13/3	Fifth election of judges of the International Criminal Court
ICC-ASP/13/3/Add.1	Fifth election of judges of the International Criminal Court - Addendum - Alphabetical list of candidates (with statements of qualifications)
ICC-ASP/13/3/Add.2	Fifth election of judges of the International Criminal Court - Addendum - Note verbales from the Democratic Republic of the Congo, dated 12 November 2014
ICC-ASP/13/4	Election of members of the Committee on Budget and Finance
ICC-ASP/13/4/Add.1	Election of members of the Committee on Budget and Finance - Addendum - Withdrawal of candidature - Republic of Korea
ICC-ASP/13/5	Report of the Committee on Budget and Finance on the work of its twenty-second session
ICC-ASP/13/6	Registry report on ways to improve the legal aid procedures
ICC-ASP/13/7	Report of the Court and the Trust Fund for Victims on the rules to be observed for the payment of reparations
ICC-ASP/13/8	Report on Budget Performance of the ICC as at 30 June 2014
ICC-ASP/13/9	Report of the Court on policy issues (Accruals, anti-fraud and whistleblower, and multi-year project)
ICC-ASP/13/10	Proposed Programme Budget for 2015 of the International Criminal Court
ICC-ASP/13/10/Add.1	Proposed supplementary budget of the International Criminal Court for 2015
ICC-ASP/13/11	Proposed Programme Budget for 2015 of the International Criminal Court - Executive Summary - 17 July 2014
ICC-ASP/13/12	Financial statements for the period 1 January to 31 December 2013
ICC-ASP/13/12/Corr.1	Financial statements for the period 1 January to 31 December 2013 - Corrigendum
ICC-ASP/13/13	Trust Fund for Victims: Financial statements for the period 1 January to 31 December 2013
ICC-ASP/13/14	Report to the Assembly of States Parties on the projects and the activities of the Board of Directors of the Trust Fund for Victims for the period 1 July 2011 to 30 June 2014
ICC-ASP/13/15	Report of the Committee on Budget and Finance on the work of its twenty-third session
ICC-ASP/13/16	Report of the Court on the organizational structure (including the Court's position on the recommendations of the external consultants, the change in the investigation strategy of the Office of the Prosecutor and an update on measures implemented by the Registrar)
ICC-ASP/13/17	First quarterly report of the Registry on legal aid
ICC-ASP/13/18	Report of the Court on Human Resources Management
ICC-ASP/13/19	Report on activities and programme performance of the International Criminal Court for the year 2013
ICC-ASP/13/20	Official Records of the Assembly of States Parties, Thirteenth session, New York, 8-17 December 2014, vol. I and vol. II
ICC-ASP/13/21	Election of the judges for the International Criminal Court: guide for the fifth election
ICC-ASP/13/22	Report of the Advisory Committee on Nominations of Judges on the work of its third meeting
ICC-ASP/13/23	Report of the Court on cooperation

ICC-ASP/13/24*	Registry's sixth quarterly report on legal aid
ICC-ASP/13/25	Report on the anticipated financial impact of the new strategy of the Office of the Prosecutor
ICC-ASP/13/26	Report on the review of the organizational structure of the Registry
ICC-ASP/13/27	Report of the Bureau on the Strategic planning process of the International Criminal Court
ICC-ASP/13/28	Report of the Study Group on Governance
ICC-ASP/13/29	Report of the Bureau on cooperation
ICC-ASP/13/29/Add.1	Report of the Bureau on cooperation - Addendum - annex VII, Report on arrest strategies submitted by the Rapporteur
ICC-ASP/13/29/Add.2	Report of the Bureau on cooperation - Addendum - Summary on the seminar on fostering cooperation, held in Cotonou, Benin
ICC-ASP/13/30	Report of the Bureau on complementarity
ICC-ASP/13/31	Report of the Working Group on Amendments
ICC-ASP/13/32	Report of the Bureau on victims and affected communities, Trust Fund for Victims and reparations
ICC-ASP/13/33	Report of the Bureau on legal aid
ICC-ASP/13/34/Rev.2	List of supplementary items requested for inclusion in the agenda of the thirteenth session of the Assembly
ICC-ASP/13/34/Add.1	Appendixes of annex II of the List of supplementary items requested for inclusion in the agenda of the thirteenth session of the Assembly
ICC-ASP/13/34/Add.1/Corr.1	Appendixes of annex II of the List of supplementary items requested for inclusion in the agenda of the thirteenth session of the Assembly - Corrigendum
ICC-ASP/13/35/Rev.1	Request by Uganda for inclusion of an additional item in the agenda of the thirteenth session of the Assembly
ICC-ASP/13/36	Report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute of the International Criminal Court
ICC-ASP/13/37	Report on the Activities of the International Criminal Court
ICC-ASP/13/38	Election to fill a vacancy on the Committee on Budget and Finance
ICC-ASP/13/39	Report on the activities of the Oversight Committee
ICC-ASP/13/39/Corr.1	Report on the activities of the Oversight Committee - Corrigendum
ICC-ASP/13/40	Report of the Bureau on Non-cooperation
ICC-ASP/13/41	Seventh quarterly report of the Registry on legal aid
ICC-ASP/13/42	Updated forecast of the Court on its budget implementation for 2014
ICC-ASP/13/L.1	Draft Proceedings
ICC-ASP/13/L.2	Draft report of the Credential Committee
ICC-ASP/13/L.3	Draft resolution: Strengthening the International Criminal Court and the Assembly of States Parties
ICC-ASP/13/L.4	Draft resolution [...] on the Programme budget for 2015 [...]
ICC-ASP/13/L.5	Draft resolution on permanent premises
ICC-ASP/13/L.6	Draft resolution on Victims and affected communities, reparations and Trust Fund for Victims
ICC-ASP/13/L.7	Draft resolution on cooperation
ICC-ASP/13/L.8	Draft resolution on amendments to the Rules of Procedure and Evidence
ICC-ASP/13/L.9	Draft decision: Applicability of the former Court's pension regimes to former Judges Cotte and Nsereko
ICC-ASP/13/WGPB/CRP.1	Draft report of the Working Group on the Proposed Programme Budget