

Part III

Resolutions and recommendation adopted by the Assembly of States Parties

A. Resolutions

Resolution ICC-ASP/11/Res.1

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Res.1

Programme budget for 2013, the Working Capital Fund for 2013, scale of assessments for the apportionment of expenses of the International Criminal Court, financing appropriations for 2013 and the Contingency Fund

The Assembly of States Parties,

Having considered the 2013 proposed programme budget of the International Criminal Court (‘the Court’) and the related conclusions and recommendations on the 2013 proposed programme budget for the Court contained in the report of the Committee on Budget and Finance (‘the Committee’) on the work of its eighteenth and nineteenth sessions and the statement made by the Chair of the Committee at its 5th plenary meeting on 16 November 2012.

A. Programme budget for 2013

The Assembly of States Parties,

1. *Approves* appropriations totalling €115,120,300 in the appropriation sections described in the following table, and further approves €500,000 for the replenishment of the Contingency Fund, bringing the total level of contributions to €115,620,300:

<i>Appropriation section</i>	<i>Thousands of euros</i>
Major Programme I - Judiciary	10,697.9
Major Programme II - Office of the Prosecutor	28,265.7
Major Programme III - Registry	64,520.9
Major Programme IV - Secretariat of the Assembly of States Parties	2,951.7
Major Programme V - Interim Premises	5,901.5
Major Programme VI - Secretariat of the Trust Fund for Victims	1,580.0
Major Programme VII-1 - Project Director’s Office (permanent premises)	996.7
Major Programme VII-5 - Independent Oversight Mechanism	205.9
Total	115,120.3

2. *Notes* that the host State and Mexico will generously contribute to the costs for the Court in relation to Major Programme V – Interim Premises and that these contributions amount to €2,950,700 and €130,000 respectively, as referred to in section C of this resolution;

3. *Further notes* that these contributions will bring down the level of the 2013 programme budget appropriations that need to be assessed for contributions by States Parties from €115,120,300 to €112,039,600, this amount will be assessed following the principles described in section D;

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

	<i>Judiciary</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Secretariat Assembly of States Parties</i>	<i>Secretariat Trust Fund for Victims</i>	<i>Project Director's Office</i>	<i>Independent Oversight Mechanism</i>	<i>Total</i>
USG		1						1
ASG		2	1					3
D-2								0
D-1		2	4	1	1	1		9
P-5	3	12	17	1	1			34
P-4	3	29	39	1		1	1	74
P-3	21	44	66	1	3			135
P-2	5	46	63	1			1	116
P-1		17	6					23
<i>Subtotal</i>	<i>32</i>	<i>153</i>	<i>196</i>	<i>5</i>	<i>5</i>	<i>2</i>	<i>2</i>	<i>395</i>
GS-PL	1	1	16	2				20
GS-OL	15	63	268	2	2	1		351
<i>Subtotal</i>	<i>16</i>	<i>64</i>	<i>284</i>	<i>4</i>	<i>2</i>	<i>1</i>		<i>371</i>
Total	48	217	480	9	7	3	2	766

B. Working Capital Fund for 2013

The Assembly of States Parties,

Resolves that the Working Capital Fund for 2013 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,

1. *Welcomes* the offer of the host State to contribute to the rent of the interim premises of the Court in the amount of 50 per cent, up to a maximum of €3 million per year for the period of 2013, 2014 and 2015, as reflected in the letter by H.E. Frans Timmermans, Minister of Foreign Affairs of the host State, dated 12 November 2012, with the 2013 contribution amounting to €2,950,700;

2. *Further welcomes* the offer of Mexico to contribute to the rent of the interim premises of the Court in the amount of €130,000 for 2013, as reflected in the letter of the Embassy of Mexico in The Hague, dated 9 November 2012;

3. *Authorizes* the Court, through the Registrar, to enter into agreement with the host State and Mexico for the implementation of the offers on the basis of the terms outlined in the letters, taking into consideration the obligations by the Court included in the lease contract.

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

The Assembly of States Parties,

1. *Decides* that, for 2013 the contributions to be paid by States Parties should be provisionally assessed in accordance with an agreed scale of assessment, based on the scale

adopted by the United Nations for its regular budget applied for 2012, in absence of the approved scale for 2013, and adjusted with the principles on which the scale is based;¹

2. *Further decides* that the final assessments be based on the scale adopted by the United Nations General Assembly at its 67th session for its regular budget, applied for 2013, and adjusted in accordance with the principles on which that scale is based;

3. *Notes* that, in addition, any maximum assessment rate for the largest contributors applicable for the United Nations regular budget will apply to the Court's scale of assessments.

E. Financing of appropriations and Contingency Fund replenishment for 2013

The Assembly of States Parties,

Notes that the contributions to the interim premises by the host State and Mexico finance a portion of the budget appropriations. The remaining part of the budget appropriations to be assessed for contributions by States Parties amounts to €112,039,600,

Further notes that, in addition, an amount of €500,000 needs to be assessed for contributions by States Parties to replenish the Contingency Fund,

Resolves that, for 2013, assessed contributions for the budget and the Contingency Fund replenishment amounting to €112,539,600 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, be financed in accordance with regulations 5.1, 5.2 and 6.6 of the Financial Regulations and Rules of the Court.

F. 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 and nineteenth sessions,

Taking note that the Fund should be replenished up to an amount the Assembly deems appropriate, but no less than €7 million,

Taking note that the Fund will reach a level below €7 million by the end of 2012,

1. *Decides* to replenish the Fund in the amount of €500,000 in 2013, based on an estimation provided by the Court consistent with the €7 million threshold decided by the Assembly in resolution ICC-ASP/8/Res.7;

2. *Notes* that the level of the Contingency Fund may differ from the approved threshold after the closure of the accounts of the Court and the publication of its Financial Statements for 2012;

3. *Requests* the Bureau to keep the €7 million threshold under review in light of further experience on the functioning of the Contingency Fund.

G. Transfer of funds between major programmes under the 2012 approved programme budget

The Assembly of States Parties,

Noting that in 2012, the Court will have recourse to the Contingency Fund,

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

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 2012 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.

H. Legal aid

The Assembly of States Parties,

Recalling the fundamental importance of the legal aid system to ensure the fairness of proceedings and the rights of the defendants and victims to quality and professional legal representation,

Stressing the need for a revision of the legal aid system to uphold and strengthen the principles of the legal aid, namely fair trial, objectivity, transparency, continuity and economy,²

Considering that such revision of the legal aid system is intended to further strengthen the authority and standing of the Court as an effective and efficient international judicial criminal organ,

Recalling its resolution ICC-ASP/10/Res.4 requesting the Court and the Bureau to continue reviewing the legal aid system,

1. *Notes* the Supplementary Report by the Registry on four aspects of the Court's legal aid system;³
2. *Calls* on the Court to continue implementing the revised remuneration policy as adopted by the Bureau on 23 March 2012;⁴
3. *Decides* to adopt the proposals as contained in the Supplementary Report with regard to a) remuneration in the case of multiple mandates; b) legal aid travel (expense) policy; and c) remuneration during phases of reduced activity,⁵ and *requests* the Court to take all the necessary steps with a view to implementing these proposals as expediently as possible, and to report to the Committee on Budget and Finance in advance of its twentieth session;
4. *Invites* the Court to monitor and assess the implementation performance of the proposals mentioned in paragraph 2 and 3, and to report thereon to the Bureau on a quarterly basis;
5. *Requests* the Court to submit to the Bureau and the Committee on Budget and Finance by 1 March 2013 a single policy document on the legal aid system, and by 1 April 2013 a report on the comprehensive review of the legal aid system;⁶
6. *Mandates* the Bureau to - on the basis of such single policy document, report of the Court on the comprehensive review of the legal aid system and the recommendation of the Committee on Budget and Finance - elaborate and propose systemic (structural) changes to the legal aid system, to be, if necessary, adopted at the twelfth session of the Assembly, including proposing measures to further enhance the efficiency of the legal aid system, as appropriate;
7. *Requests* the Court and the Bureau to keep the legal aid system under review.

² *Official Records ... Third Session ... 2004* (ICC-ASP/3/18), para. 16.

³ ICC-ASP/11/43.

⁴ First report of the Bureau on legal aid (ICC-ASP/11/2/Add.1).

⁵ As defined in paragraph 40 of the Supplementary report of the Registry on four aspects of the legal aid system (ICC-ASP/11/43).

⁶ As outlined in paras. 20 to 22 of the report of the Bureau on legal aid (ICC-ASP/11/2).

I. A strategic approach to an improved budgetary process

The Assembly of States Parties,

1. *Welcomes* the recommendations of the Study Group on Governance contained in the report⁷ on the budget process designed to improve the transparency, predictability and efficient conduct of the entire budget process and each phase therein and, in this regard:

(a) *Endorses* that an enhanced dialogue between States Parties and the Court on the assumptions, objectives and priorities which underpin the proposed programme budget would be of benefit and that, in addition, the Court, in consultation with the Committee on Budget and Finance, should maintain a dialogue on the budget timeline and the timing of the submission of the proposed programme budget with a view to enhancing the accuracy of the assumptions and improving the process;

(b) *Welcomes* the efforts of the Court to ascertain its financial accuracy and *invites* the Court to continue its work in this regard, as well as *notes* the value in developing a forward looking judicial calendar, which would serve as a centre-piece for the dialogue between the Court and the States Parties on these matters;

(c) *Requests* the Court to develop, in 2013, guidelines relating to conditions to access to the Contingency Fund, in consultation with the Committee on Budget and Finance, to specify clearly what items can and cannot be accessed through utilization of the Fund and to report to the Assembly in this regard in advance of its twelfth session;

2. *Endorses* the recommendation of the Committee on Budget and Finance requesting the Court, within 60 calendar days following a notification to access the Contingency Fund, to send to the Committee a written report on the use of the resources requested in the notification;

3. *Welcomes* the initiative to conduct a review of the organizational structure of the Court, including a comprehensive structural review of the Court's staff profile and *looks forward* to the report of the Court on the progress of the review, and *requests* the Court to conduct a review of its policies with regard to replacement of ICT and other assets from a perspective of finding further efficiencies and effectiveness, taking into account, inter alia, periods of obsolescence, the status of assets and the adequacy for the users and to report thereon to the twentieth session of the Committee;

4. *Notes* the Court's paper "Impact of measures to bring the level of the International Criminal Court's budget for 2013 in line with the level of the approved budget for 2012",⁸ which details the Court's options where reductions would be made in order to bring the level of the approved budget for 2013 in line with the level of the approved budget for 2012 as a reference, as well as how those reductions would impact on the Court's activities;

5. *Invites* the Court to prepare such a report by incorporating its budgetary priorities, and to submit it in conjunction with its submission of the 2014 proposed budget programme.

J. 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

⁷ Report of the Bureau on the Study Group on Governance (ICC-ASP/11/31), section IV.

⁸ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, annex III.

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 include this matter in its institutional dialogue with the United Nations and to report thereon to the twelfth session of the Assembly.

K. Amendments to Financial Regulations and Rules

The Assembly of States Parties,

Having regard to the Financial Regulations and Rules adopted at its first session on 9 September 2002,

Bearing in mind the recommendation of the Committee on Budget and Finance at its nineteenth session,⁹

1. *Approves* the amendments to financial regulations 4.6, 7.1, 11.1 and 12.7 and financial rules 110.11, 110.20, 111.2, 111.3, 111.5, 111.6, 111.7, 111.9 and annex as well as the deletion of financial rule 111.8 as set forth in the annex to this resolution;
2. *Decides* that the amendments will come into effect on 1 January of the year in which International Public Sector Accounting Standards is implemented;
3. *Requests* the Court to submit, through the Committee on Budget and Finance at its twenty-first session, further amendments to the Financial Regulations and Rules which might be necessitated by the implementation of International Public Sector Accounting Standards, should these be identified.

Annex

Amendments to the Financial Regulations and Rules necessary to implement International Public Sector Accounting Standards

A. Amendment to regulation 4 - Appropriations

Amend regulation 4.6 as follows:

In first paragraph, first sentence, third line, after “unpaid” insert the following text:

“and changes in provisions and accruals established under applicable accounting standards as referred to in rule 111.3”

In second paragraph, first sentence, fourth line, after “disbursements”, delete the following text:

“against the appropriations, for that financial period and provisions for”

and insert “,”.

In second paragraph, first sentence, fifth line, after “obligations”, insert the following text:

“, and changes in the provisions and accruals established under applicable accounting standards as referred to in rule 111.3 against the appropriations”.

⁹ *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. II, part B.2, paras. 51-53.

B. Amendment to regulation 7 – Other income

Amend regulation 7.1 as follows:

In first paragraph, subparagraph (d), second line, after “income,”, insert the following text:

“for the purpose of regulation 4.6 and 6.1.”.

C. Amendment to rule 110.11 – Writing off losses of property

Amend rule 110.11 as follows:

In paragraph (a), second sentence, third line, after “losses of”, delete the following text:

“non-expandable”,

and insert the following text:

“inventories.”.

In paragraph (a), second sentence, third line, after “property”, insert the following text:

“, plant and equipment”.

D. Amendment to rule 110.20 – Authority and responsibility on property management

Amend rule 110.20 by deleting paragraph (b).

E. Amendment to regulation 11 – The accounts

Amend regulation 11.1 as follows:

In first paragraph, first sentence, first line, after “Auditor”, delete the following word:

“accounts”,

and insert the following text:

“financial statements and statement of appropriations”.

In paragraph 1, after first sentence add the following text:

“Copies of financial statements shall also be transmitted to the Committee on Budget and Finance.”

In first paragraph, replace subparagraph (a) with the following text:

“The financial statements for the financial period shall include;

- (i) Statement of financial position;
- (ii) Statement of financial performance;
- (iii) Statement of changes in net assets/equity;
- (iv) Cash-flow statement;
- (v) Statement of comparison of budget and actual amounts for the reporting period;
- (vi) Notes, including a summary of significant accounting policies;”.

In first paragraph, subparagraph (b), first line, after “The” delete the following text:

“status of appropriations, including”,

and insert the following text:

“statement of appropriations shall include”.

In first paragraph, insert after subparagraph b(ii) the following text:

“(iii) Any supplementary budget appropriations in accordance with regulation 3.6;”

and renumber the remaining subparagraphs as follows:

b(iii) and b(iv) into b(iv) and b(v) .

In first paragraph, insert after subparagraph b(v) the following text:

“(vi) Unencumbered balances of appropriations.”.

In first paragraph, delete subparagraph (c).

F. Amendment to rule 111.2 – Principal accounts

Amend rule 111.2 as follows:

In first paragraph, subparagraph (a), first line, after “accounts,” delete the following text:

“, showing

- (i) Original appropriations;
- (ii) Appropriations as modified by transfers;
- (iii) Credits (other than appropriations made available by the Assembly of States Parties);
- (iv) Expenditures, including payments and other disbursements and unliquidated obligations;
- (v) Unencumbered balances of allotments and appropriations;

and insert the following text:

“detailing the statement of appropriations in accordance with regulation 11.1 (b);”.

In first paragraph, subparagraph (b), first line, after “accounts” delete the following text:

“, showing: all cash at banks, investments, receivables and other assets, payables and other liabilities”

and insert the following text:

“detailing all revenues, expenses, assets, liabilities and net assets/equity”.

In first paragraph, subparagraph (c), replace the word “The” with the following text:

“Funds, including the”.

G. Amendment to rule 111.3 - Accrual basis accounting

Replace rule 111.3 with the following text:

“Accounting Standards

(a) Financial statements shall be prepared on an accrual basis in accordance with International Public Sector Accounting Standards (IPSAS).

(b) The budget shall be prepared on a modified cash basis of accounting. The notes to the financial statements shall explain the budgetary basis and classification basis adopted in the approved budget.”

H. Amendment to rule 111.5 – Accounting for exchange rate fluctuations

Amend rule 111.5 as follows:

In paragraph (c), third line, after “income”, insert the following text:

“for the purposes of budgetary accounting”.

I. Amendment to rule 111.6 - Accounting for proceeds from the sale of property

Amend rule 111.6 as follows:

In first paragraph, first line, after “income”, insert the following text:

“for the purposes of budgetary accounting”.

J. Amendment to rule 111.7 – Accounting for commitments against future financial periods

Amend rule 111.7 as follows:

In the title, before the word “Accounting”, insert the word “Budgetary”.

In first paragraph, first sentence, second line, after “against a”, insert the word “budgetary”.

K. Amendment to rule 111.8 – Financial statements

Delete rule 111.8.

L. Amendment to rule 111.9 – Archives

Renumber rule 111.9 as rule 111.8

M. Amendment to regulation 12 – Audit

Amend regulation 12.7 as follows:

In first paragraph, second line, after “schedules”, insert the following text:

“referred to in Regulation 11.1”.

N. Amendment to annex – Additional terms of reference governing the audit of International Criminal Court

Amend annex as follows:

In paragraph 6, subparagraph (b), item (v), second line, after ‘from the’, delete the following text:

“generally accepted accounting principles”,

and insert the following text:

“International Public Sector Accounting Standards”.