

Sixth session

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Report of the Bureau on the permanent premises of the Court

Note by the Secretariat

Pursuant to resolution ICC-ASP/5/Res.1, of 1 December 2006, the Bureau of the Assembly of States Parties hereby submits its report on the permanent premises of the Court for consideration by the Assembly. The report reflects the outcome of the informal consultations held by The Hague Working Group of the Bureau.

Report of the Bureau on the permanent premises of the Court

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Executive summary

In accordance with resolution ICC-ASP/5/Res.1, the present report provides an overview of the progress made and the way forward on the issue of the permanent premises of the International Criminal Court.

Through the adoption of the draft resolution contained in annex I, the Assembly would authorize the launching of the architectural design competition, which shall be organized and fully paid for by the host State. For the purpose of the competition, the construction costs of the permanent premises should not exceed €103 million, which reflects 90 per cent of the estimated construction costs of €115 million, at 2007 prices. While providing for three courtrooms and 1,200 workstations, the overall size of the premises should not exceed 46,000 square metres. The holding of the competition does not oblige the Assembly to approve or continue with the project.

Furthermore, a governance structure is proposed that would require the establishment of an Oversight Committee as a subsidiary body of the Assembly, which would, inter alia, be tasked with recruiting a Project Director, further considering the financing options for the project, as well as preparing more accurate cost estimates on the basis of the outcome of the architectural design competition.

The programme budget implications for a new major programme, which would include the establishment and staffing of the Office of the Project Director, are estimated at €208,500 for 2008. Additional financial commitments would not occur until 2009.

The draft resolution does not call for a decision on the future staffing levels of the Court, nor on the allocation of a specific budget for the project or the financing thereof.

I. Introduction

1. In December 2004, the Bureau of the Assembly of States Parties to the Rome Statute of the International Criminal Court (“the Bureau”) decided to establish, in accordance with resolution ICC-ASP/3/Res.8, two standing working groups, one in New York and the other in The Hague.

2. At its meeting on 30 November 2006, the Bureau adopted the terms of reference for its two Working Groups and decided, inter alia, to delegate the issue of the permanent premises to the Working Group in The Hague. Furthermore, at its meeting on 1 February 2007, the Bureau approved the reappointment of Mr. Masud Husain (Canada) as facilitator for the issue.

3. At the 7th plenary meeting of its fifth session, on 1 December 2006, the Assembly adopted resolution ICC-ASP/5/Res.1, wherein it requested the Court to “finish preparing in the shortest possible time a detailed functional brief that would include its user and security requirements reflecting scalability in terms of staffing levels”; “prepare, in consultation with the host State, cost estimates for the project”; and “prepare, in consultation with the host State, a provisional timetable with key decision points, a summary of planning and permit issues, and a planning strategy for the site showing possible modular approaches to scalability.”

4. Furthermore, the Assembly requested the host State, in order to allow a review by the Committee on Budget and Finance at its eighth session in 2007, “to provide further information on the financial and land offers contained in the further host State bid, including the possible options and methods for managing the proposed loan, any legal issues concerning the separation of ownership of the land and the proposed buildings and other issues that would be subject to a contract between the host State and the Court” and, “in consultation with the Bureau and the Court, to propose the framework, criteria, legal parameters and modalities for an international architectural concept design competition, including any pre-selection criteria and process.”

5. Resolution ICC-ASP/5/Res.1 also requested the Bureau to “review the information” prepared by the Court and the host State and “identify any gaps or other concerns to the Court and the host State so that the information is completed to the required level” and requested the Bureau, “in consultation with the Court and the host State, to prepare options for a governance structure for the project that would specify the respective roles and responsibilities of the Assembly, the Court and the host State” and to “prepare options for effective participation by the Assembly of States Parties in the project governance and oversight structures”.

II. Process

6. The Working Group held 11 meetings on the issue of permanent premises. Representatives of the host State and of the Court took part in the meetings. In order to properly address the technical aspects of the project, three meetings of experts were held. The Committee on Budget and Finance also reviewed the progress on permanent premises at its eighth and ninth sessions.

7. On 29 October 2007, the Coordinator of the Working Group, Ambassador Sandra Fuentes (Mexico), and the facilitator travelled to New York to brief delegations based in that city on the progress made and to seek their views on the issue of permanent premises in advance of the sixth session of the Assembly of States Parties.

Expert meetings on permanent premises

8. In March, June and September 2007, The Hague Working Group organized a meeting of technical experts that included experts from five States Parties, an expert from the Committee on Budget and Finance, and experts from the Court and host State on the issue of permanent premises. During these meetings, the experts reviewed a substantial number of documents and informal papers, and heard presentations by the Court and the host State.

9. In particular, over the course of the three meetings, the experts reviewed and engaged in a validation exercise of the user and area requirements in the functional brief, reviewed the cost estimates, considered the approach on the architectural design competition and provided technical advice on the best methods to ensure effective governance of the project. The informal summaries by the facilitator of the three experts meetings were circulated to all members of The Hague and New York Working Groups.

The Hague Working Group

10. On the basis of the advice and recommendations of the experts, the facilitator prepared a draft resolution for consideration by the Working Group.¹ In particular, the Working Group discussed the following items:

- (a) Functional brief and cost estimates;
- (b) Architectural design competition; and
- (c) Governance structure.

11. A revised version of the draft resolution, reflecting the observations of the Working Group, is contained in annex I to the report. The following is a brief summary of the major points covered during the meetings of the experts and The Hague Working Group and the considerations that underpin the draft resolution.

III. Principles

12. Over the course of the meetings of The Hague Working Group and the meetings of experts, certain principles emerged to help guide consideration of the user requirements and the housing options. These are the importance of functionality and security, cost-effectiveness, starting a project at the right size (neither too big nor too small) and representational aspects. It was noted by a number of interlocutors that, while having a building that is too large can have important cost implications over time in terms of maintenance and energy, more often than not new building projects are already too small by the time they are completed.

IV. Unique aspects

13. One of the key considerations for the project is that the offer of the host State to provide accommodations for the Court ends in July 2012, after which the responsibility for covering the costs of premises will shift to the Assembly. Hence, no matter what decision is made on where to house the Court, the Assembly will, in principle, have to pay either for rent or financing costs after 2012.

¹ Draft resolution on permanent premises, dated 19 September 2007.

V. Area and costs

A. Area

14. In March 2007, the Court presented its first version of the functional brief, cost estimates and feasibility study. The Court had made an original evaluation of its user requirements through a “bottom-up” approach of staff consultations and executive consideration. As requested by resolution ICC-ASP/5/Res.1, the Court demonstrated flexibility and scalability in the functional brief by providing for 15 per cent flexibility (as well as a “fit factor” of 7 per cent to allow for necessary space for internal movement within the premises) and by presenting two scenarios: a target scenario of 1,357 workstations and a gross area of 64,000 square metres and a growth scenario of 1,598 workstations and 72,823 square metres.

15. Following the March meeting of experts, the Court was asked to prepare a third scenario. At the June 2007 meeting, the Court presented a scenario on the basis of 1,057 workstations and 54,911 square metres (base scenario). During the June meeting, and following consultations with and comments from States Parties to the facilitator, the experts from States Parties suggested that further reductions to the base scenario could be made by reviewing the space requirements and looking into economies of scale. During the September 2007 meeting, a vigorous “top-down” validation was conducted by the experts with the Court. It was suggested that a distinction should be made between the courtrooms/public areas and the office areas. The experts agreed that the flexibility factor should not be applied to both areas but only to the office area and agreed that the 7 per cent “fit factor” would not be necessary. Furthermore, it was recommended that the flexibility factor be translated from a percentage into concrete workstations to provide clear advice to the architects. In applying the 15 per cent factor in this way, and eliminating the 7 per cent “fit factor”, it was recommended by the experts that 1,200 workstations would be a reasonable number (1,057 workstations + 15 per cent) and that 25 square metres gross per workstation would be reasonable (which would include all the related spaces such as meeting rooms, halls and technical facilities). Hence, the office portions of the premises would be approximately 30,000 square metres gross. The experts also considered, on the basis of international benchmarks, that 14,000 square metres gross would be adequate for the three courtrooms, public and warehouse areas, with 2,000 extra square metres to allow for design variations. As a result of those discussions, the experts recommended that 46,000 square metres gross, containing three courtrooms and 1,200 workstations, should be an adequate ceiling for the base scenario. The Court is revising the functional brief on the basis of this number, which would also form the upper limit for the architectural design competition. A summary of the spatial layout under the base scenario is contained in annex II.

B. Costs

16. The Court prepared an initial cost estimate of the project for the March 2007 meeting of experts, based on the target and growth scenarios. A key concern raised by all experts was that it was very difficult at this early stage of the project, without a design proposal and technical specifications, to generate accurate cost estimates. The host State undertook to evaluate current projects in The Hague to determine benchmarks for the square metre costs. It determined that the construction of the new Europol building would provide an adequate comparator. After discounting costs that would be specific to the Europol project (such as the increased security costs from its location directly on the street), the host State suggested that €3,500 per square metre would be a reasonable assumption. This generated a preliminary estimate of €165 million (at 2007 prices) for the construction costs of the permanent premises.

This figure was considered by the States Parties experts to be a reasonable estimate at this stage of the project.

17. As this figure included a number of costs that would not be necessary for the architectural design competition (such as a contingency fund, consultancy fees and permit costs), the cost estimates were further refined by clearly differentiating between 4 types of costs:

- (a) Pure construction costs;
- (b) Overall construction costs, which include the pure costs and the percentage increases from fees, contingency reserve, inflation, permits and dues and a fund for specialized, integrated representational features;
- (c) Costs for the Project Director's Office, which would come from the Court's budget; and
- (d) Costs related to the project, but not directly to the construction.

18. It was determined that the pure construction costs could reasonably be estimated, at this point, at €115 million, based on the original €3,500 per square metre projection minus the contingency reserve, permit costs, fees and moveable furniture (see annex III). For the purposes of the architectural design competition, the host State advised that it was standard practice to provide 90 per cent of the projected construction costs as the limit on which the designs would be judged. Hence, the resolution reflects this 90 per cent by advising the architects that the construction costs should not exceed €103 million (at 2007 prices).

19. In terms of the overall construction costs, when the percentage costs are applied to the pure construction costs, it is estimated that, by 2014, the cost of the construction, with the fees, would be €190 million.² This figure does not include the costs of the Project Director's Office and the costs related to the project, such as moveable furniture, ICT hardware, relocation costs and costs relating to the interim premises. These figures also do not include financing costs.

20. The Working Group stressed that the figures were estimates only and that, on the basis of the designs selected by the jury for the architectural design competition, the technical specifications that are under development and clear options for financing the project, a more accurate cost assessment would be developed. The Working Group also noted that the Assembly was not requested to make a decision on the eventual cost envelope at this juncture.

VI. Architectural design competition

21. The meeting of experts in March examined the relative merits of the different types of construction processes (classic "design, tender and build", "design-build", whereby the designer is also the building contractor, and "private-public partnerships"). There was consensus among the experts that this specific project was best suited to the classic "design, tender and build" process because of the specialized nature of the institution and the current uncertainties with respect to the ultimate size of the Court.

22. At the June meeting, on the basis of examples from other architectural design competitions, the experts from the States Parties recommended that the host State should run a one-stage competition with a pre-selection. This would allow for the process to be completed within one year. At the September meeting, the experts conducted a rigorous

² An estimated inflation rate of 16 per cent has been taken into account.

review of the proposed competition, with a particular focus on the pre-selection and award criteria.

23. Taking into account the recommendations of the experts, the host State prepared a competition brief for the architectural design competition, a summary of which is contained in appendix I to the draft resolution.

24. Furthermore, on behalf of the Working Group, States Parties were requested to convey to the host State or the facilitator the names of architects and representatives of States Parties interested in serving on the jury. On the basis of these submissions, the host State has prepared a list of possible members of the jury. The Assembly would be represented by five members, one per regional group, and three alternates. States Parties that have, to date, expressed an interest in serving on the jury are listed in annex I, appendix I, attachment 2. Consultations are ongoing to identify proposals for the remaining jury members.

25. It was noted that the holding of the competition does not oblige the Assembly to approve or continue with the project, if it chooses not to do so.

VII. Governance

26. Governance has been one of the most important issues dealt with by the Working Group and meetings of experts. Effective and efficient decision-making was noted by all experts as the key to ensuring that project costs are contained and the project is delivered on time, on cost and with the required quality. This requires clear lines of authority and the capacity to make decisions at the appropriate level.

27. In the March meeting, a number of possible models for project governance were considered, including the options of having the host State or the Court lead the project. The experts from States Parties proposed a governance model whereby the Assembly would retain ultimate control through a Project Director who would be directly responsible to the Assembly.

28. This model was further discussed and refined over the next two meetings of experts to specify the respective roles of the different major stakeholders and to ensure an effective voice for the Court, as the user organization, while maintaining the capacity for the Assembly to have control over the project scope and costs and minimize the risk of cost overruns owing to delays.

29. The model starts with the role of the Assembly for authorizing the project and the broad parameters including the cost envelope. The Assembly ultimately decides whether to proceed and on what parameters. In order to play its role effectively and to maintain oversight, the establishment of an oversight committee is proposed. As a subsidiary body of the Assembly, the Oversight Committee would be composed of a smaller group of States Parties that are willing to follow the project closely. A list of States Parties that have expressed an interest in serving on the Oversight Committee is included as annex V. Consultations are ongoing to identify proposals for the remaining members.

30. A project board would be created to provide a consultative and cooperative tripartite structure that includes the Court and the host State and that would be led by the Project Director, who has final responsibility for the overall management of the project. The Project Director would report and be directly accountable to the Assembly, through the Oversight Committee. For administrative purposes, the Project Director would be housed within the Court. The Project Board would include the host State and the Court. A graphic representation of the governance scheme is attached as annex IV.

31. At the 24th meeting of The Hague Working Group, on 14 November 2007, the host State confirmed orally that value added taxes would not be applicable to the project on the basis of this governance model.

VIII. Next steps 2008 and beyond

32. Should the Assembly so decide, the architectural design competition would start in early 2008, with a view to completion by November 2008. As noted in appendix I to the draft resolution, the holding of the competition and awarding prizes to the top three designs would not oblige the Assembly to proceed with the project, if it so chooses.

33. Over the course of the next year, if the Assembly so decides, the Oversight Committee must recruit the Project Director, consider financing options for the project, as well as identify and clarify the estimated overall construction costs on the basis of the results of the architectural design competition, with a view to providing information and recommendations to the Assembly at its seventh session.

Annex I

Draft resolution on permanent premises

The Assembly of States Parties,

Recalling its resolution ICC-ASP/4/Res.2, which emphasized that “the Court is a permanent judicial institution and as such requires functional permanent premises to enable the Court to discharge its duties effectively and to reflect the significance of the Court for the fight against impunity” and recommended, “bearing in mind the recommendation of the Committee contained in paragraph 86 of its report on the work of its fifth session (ICC-ASP/4/27), that the Bureau of the Assembly and the Committee remain seized of the matter and report to the fifth session of the Assembly of States Parties on the issue of permanent premises of the Court”,¹

Further recalling its resolution ICC-ASP/5/Res.1, which requested that “the International Criminal Court should now focus on option 3 only, purpose-built premises on the Alexanderkazerne site, with a view to allowing the Assembly to take an informed decision at its next session”,

Recalling that resolution ICC-ASP/5/Res.1 requested the Court to “finish preparing in the shortest possible time a detailed functional brief that would include its user and security requirements reflecting scalability in terms of staffing levels”; “prepare, in consultation with the host State, cost estimates for the project”; and “prepare, in consultation with the host State, a provisional timetable with key decision points, a summary of planning and permit issues, and a planning strategy for the site showing possible modular approaches to scalability”,

Further recalling that resolution ICC-ASP/5/Res.1 requested the host State, “in order to allow a review by the Committee on Budget and Finance at its eighth session in 2007, to provide further information on the financial and land offers contained in the further host State bid, including the possible options and methods for managing the proposed loan, any legal issues concerning the separation of ownership of the land and the proposed buildings and other issues that would be subject to a contract between the host State and the Court” and, “in consultation with the Bureau and the Court, to propose the framework, criteria, legal parameters and modalities for an international architectural concept design competition, including any pre-selection criteria and process”,

Recalling that resolution ICC-ASP/5/Res.1 requested the Bureau to “review the information” prepared by the Court and the host State and “identify any gaps or other concerns to the Court and the host State so that the information is completed to the required level” and requested the Bureau, “in consultation with the Court and the host State, to prepare options for a governance structure for the project that would specify the respective roles and responsibilities of the Assembly, the Court and the host State” and to “prepare options for effective participation by the Assembly of States Parties in the project governance and oversight structures”,

Noting that the aforementioned documentation has been prepared and reviewed by the Bureau,

Recognizing the important role of the Court throughout the process,

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November to 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part III.

Noting that the number of workstations that may be approved by the Assembly for the permanent premises does not imply that the Assembly has agreed to a specific staffing level for the Court, which will be decided annually by the Assembly,

Mindful of the reports of the Committee on Budget and Finance on the work of its eighth and ninth sessions, and particularly paragraph 92 of the report of the ninth session,

Noting that the construction costs of the project comprising the costs of the materials, labour, fixtures, landscaping and parking are estimated to be €115 million at the 2007 price level and that the overall construction costs, which include a contingency reserve, fees for the consultants and contractors, pre-tender and post-tender inflation, any fees for permits and dues and a fund for integrated, specialized representational features,² are currently estimated to be €190 million at the 2014 price level,

Further noting that these estimates are made on the basis of the permanent premises consisting of three courtrooms with a total gross floor area of 46,000 square metres and 1,200 workstations,

Noting that the preceding estimate is exclusive of the costs related to the Project Director's Office, costs of financing the project and costs that are related to the project but not related directly to construction, such as the costs of relocating the Court from the temporary premises to the permanent premises (which includes moving, storage, and cleaning of the new site to make it ready for use), moveable items such as furniture and ICT hardware, potted greenery and decorations, costs relating to communications and public relations for the project and costs relating to the interim premises,

Affirming that the Assembly will decide on the ultimate cost envelope to be authorized for the project on the basis of more detailed estimates following the architectural design competition,

Having the firm intention to house the Court in its permanent premises no later than 2014 and earlier if possible,

1. *Decides* that the permanent premises of the International Criminal Court should be constructed on the Alexanderkazerne site;

2. *Further decides* that, for the purposes of the architectural design competition, the construction cost³ of the permanent premises should not exceed €103 million at the 2007 price level;⁴

3. *Accepts* those elements of the offer of the host State contained in the letter dated 25 January 2006 from the Minister of Foreign Affairs of the host State to the President of the Assembly of States Parties relating to the provision of the land of the Alexanderkazerne site free of charge for the construction of purpose-built premises; relating to the covering of the costs of preparing the site for construction; and relating to the bearing of the costs associated with the selection of an architect;

² Such as large sculptures, mosaics or other large pieces integrated into the architecture, facades or landscaping.

³ Comprising the costs of the materials, labour, fixtures, landscaping and parking.

⁴ This figure represents 90 per cent of the estimated construction costs of €115 million. It is standard practice not to provide the total estimated amount when launching the competition.

4. *Authorizes* the host State to launch immediately an architectural design competition in accordance with appendix I to this resolution;
5. *Decides* to establish an Oversight Committee of States Parties as a subsidiary body of the Assembly to provide strategic oversight for the project in accordance with appendix II to this resolution;
6. *Requests* the Oversight Committee to:
 - (a) Continue consideration of options for financing the construction of the permanent premises and related costs, including the compatibility of these options with the Financial Regulations and Rules of the Court, with a particular focus on the offer contained in the letter dated 25 January 2006 from the Minister of Foreign Affairs of the host State to the President of the Assembly of States Parties in order to provide recommendations to the Assembly at its next session;
 - (b) Continue identifying and clarifying the estimated overall construction costs of the project with a view to providing recommendations on the cost envelope to the Assembly at its next session;
 - (c) Continue identifying and quantifying the other costs related to the project; and
 - (d) Continuously monitor the functioning and operations of the governance structure for the project and, if necessary, provide recommendations to the Assembly on any adjustments that may be required;
7. *Decides* to establish a Project Board to provide a consultative and cooperative tripartite structure with the Project Director having final responsibility for the overall management of the project in accordance with appendix III to this resolution;
8. *Requests* the Registrar of the International Criminal Court to establish a Project Director's Office in accordance with appendix IV to this resolution;
9. *Authorizes* the Oversight Committee to identify and hire a Project Director in accordance with appendix II to this resolution;
10. *Decides*, as an extraordinary measure, to increase the 2008 programme budget by creating major programme VII (Project Director's Office) with a budget of €208,500 in order to establish the Project Director's Office, hire a Project Director and staff and cover other costs associated with the premises project, identified in appendix V to this resolution;
11. *Requests* the Registrar to establish a permanent premises construction trust fund for the permanent premises construction project in accordance with appendix VI to this resolution;
12. *Adopts* the current resolution and appendices thereto.

Appendix I

Architectural design competition

1. The Assembly of States Parties hereby authorizes the Netherlands as host State to launch an architectural design competition for the permanent premises of the International Criminal Court as follows.

I. Parameters for the architectural design competition

(a) Costs

2. For the purpose of the architectural design competition the construction costs of the permanent premises should not exceed €103 million (2007 prices). Construction costs consist of the costs of materials and labour for the structure, services (technical installations and equipment), ICT cabling (CAT 6), landscaping and parking facilities. This above-mentioned sum does not include a contingency reserve, funds for integrated, specialized representational features, fees for all consultancies such as architects, landscape architects, interior architects, technical engineers, project management, and supervision, permits and dues, price increases to 2014, valued added taxes or financing costs.

(b) Overall area

3. The overall size of the premises should not exceed 46,000 square metres gross and should include three courtrooms and 1,200 workstations as described in the summary of user requirements. This overall figure does not include parking, which should allow for 600 parking spaces on the site.

II. Summary of user requirements

4. Five spatial clusters will be predominant at the permanent premises: Judiciary (Presidency and Chambers), Office of the Prosecutor, Registry (including the Secretariat of the Assembly of States Parties and other offices with minor space requirements, e.g. office for the Staff Representative Body), as well as the Entrance and Conference Cluster and the Courtroom Cluster.

5. The complexity of the spatial arrangements lies in the fact that the organization is a criminal court with the different organs having distinct responsibilities. In turn, matters concerning the entire organization, such as administration, require close cooperation.

6. The spatial arrangement of the clusters to each other is therefore defined by both the required spatial proximities as well as the required spatial separation. Furthermore, security requirements are fulfilled by establishing four zones with different levels of security.

7. Activities of the Court during hearings are mainly concentrated in the Courtroom and Entrance Clusters. In addition to those who work at the Court, defendants, counsel, witnesses, victims, States, journalists, non-governmental organizations, visitors and numerous other groups will use the premises.

8. The requirements defined in the functional brief for spatial arrangements, separation and qualities aim at ensuring that work processes are efficient and run smoothly for all participants while not compromising the statutory demands.

9. As regards the work done before and after hearings, including all other supporting activities, this will largely take place at the desk and in front of computers. For most of the

activities the double office represents the ideal office form, since it allows a combination of communication and work that requires concentration, and meets the requirement concerning the handling of confidential material. Team offices were selected for some areas which demand a high level of teamwork.

10. The size of the standard double office is defined as 19 square metres (net). In addition, four different standard sizes for single offices are defined, ranging from 10 to 30 square metres (net). The objective here is to ensure great flexibility in usage by having a limited number of office standards. Meeting rooms are generally assigned to the functional units because they are used as core working areas in the sense of a project room. Larger meeting rooms are pooled in the Conference Cluster and can be reserved.

11. A summary of the user requirements is contained in attachment 1.

12. For the purpose of the architectural design competition a detailed competition brief containing the user requirements and technical specifications will be prepared based on the parameters of this resolution and appendix.

III. Legal bases

13. The architectural design competition will be based on the World Trade Organization Agreement on Government Procurement, as approved by the European Union.

14. The procedure will be based on the general principle of fair, non-discriminatory, equal and transparent treatment, as laid down in the above mentioned World Trade Organization Agreement. The competition will be open to architects from all States.

IV. Structure

15. The competition will be organized with a pre-selection of qualified candidates, followed by a one-phase competition to determine the three best design concepts. Following the selection of the three best design concepts by the jury, the Project Board may invite the prize-winners to revise, if considered necessary, their design concepts and then, either simultaneously or in decreasing order starting with the winner of the first prize, commence negotiation of the terms and conditions of a contract to prepare detailed designs for the permanent premises.

V. Worldwide announcement

16. The architectural design competition will have a worldwide dissemination and will be announced by means of:

- (a) Official press releases via the leading press offices in the five geographical regions of the United Nations;
- (b) Advertisements in the leading architectural magazines around the world; and
- (c) A dedicated website of the host State with a link to the website of the International Criminal Court.

17. States Parties may also wish to generate publicity for the competition in their respective countries. The host State will provide a template for this purpose.

18. Architects from different regions and schools will be encouraged to apply.

VI. Competition procedure

19. The competition consists of two consecutive stages:

(a) Pre-selection stage (Call for candidature)

From the entries in response to the worldwide announcement the jury will select up to 20 candidates based on professional and quality-oriented selection criteria to take part in the competition.

(b) The competition (Award stage part 1)

The selected candidates will receive the competition brief containing all the information necessary to enable the candidates to provide a design concept.

The selected candidates will be asked to produce a design concept for the permanent premises. From the design concepts submitted, the jury will select three prize-winners, based on the best design concepts that are most suitable for this project. The jury may also offer recommendations for changes to designs.

20. The criteria for the selection will be laid down in the competition brief, which will be handed out exclusively to the participating candidates. The competition will be anonymous until the completion of the jury's deliberations and selection.

21. The official language of the competition will be English.

VII. Negotiations

22. Following the selection of the best three designs by the jury, the Project Board may invite the prize-winners to revise, if considered necessary, and taking into account any recommendations from the jury, their design concepts. After having examined and evaluated the (revised) design concepts, the Project Board will commence negotiation of the terms and conditions of a contract to prepare detailed designs for the permanent premises with the prize-winners either simultaneously, or in decreasing order starting with the winner of the first prize.

23. The aim of the negotiations is to conclude a contract with the architect as leader of the design team (which will include the work of the expert engineers e.g. structural, civil and building services engineers, energy consultants, landscape architects etc.).

VIII. Approval by the Assembly

24. The selection of the three best design concepts by the jury and the commencement of negotiations with the prize-winners by the Project Board should not be construed as implicit authorization by the Assembly to finalize the general planning or detailed design contract. The Assembly reserves the right not to proceed with the project without penalty or commitment prior to the signing of the contracts. The Assembly or its delegate must authorize the signing of the contracts.

IX. Jury

25. The entries in the pre-selection stage and the design concepts in the competition stage will be examined and judged by an independent jury.

26. The jury for the competition will execute the judgement and proofing of the entries, and decide on the final ranking of the design concepts (award of prizes) and make recommendations on the designs.

27. The composition of the jury will be as described in attachment 2 to this appendix.

28. The jury will have a secretariat and a technical advisory team in specific fields (such as spatial planning, financial and technical issues) at its disposal. The advice of this technical advisory team is not binding on the jury.

X. Schedule

29. The schedule for the architectural design competition is as follows:

- | | |
|--|------------------------|
| (a) Call for candidature (start) | February 2008 |
| (b) Pre-selection stage | March-April 2008 |
| (c) Jury meeting to pre-select a maximum of 20 | April 2008 |
| (d) The competition | May-July 2008 |
| (e) Pre-examination | August-September 2008 |
| (f) Jury meeting selection of the top three design concepts | October 2008 |
| (g) Optional revision/negotiation phase with the prize-winners | November-December 2008 |
| (h) Negotiation contract terms | January 2009 |

Attachment 1 Summary of the user requirements

Cluster Office	m ² gross
Judiciary	3746
Office of the Prosecutor	7608
Registry	19095
Secretariat ASP	1149
Internal Audit Section	187
Staff Represent. Body	52
Conference Cluster	1840
Catering Cluster	2234
Courtroom Cluster	2716
Public Court Areas	2402
Holding Cluster	693
Entrance Cluster	698
Warehouse, Central Storage	3132
Total	45552
	m ² gross

Attachment 2

Composition of the jury

- 1) Chief Government Architect of the Netherlands (Chair)
[To be determined]
- 2) Representative of the Assembly, African States
[To be determined]
- 3) Representative of the Assembly, Asian States
H.E. Mr. Kiyokazu Ota
Minister
Embassy of Japan, The Netherlands
- 4) Representative of the Assembly, Eastern European States
[To be determined]
- 5) Representative of the Assembly, Latin American and Caribbean States
[To be determined]
- 6) Representative of the Assembly, Western European and Other States
H.E. Mr. Mikko Jokela
Ambassador
Embassy of Finland, The Netherlands
- 7) Representative of the Court
[To be determined]
- 8) Representative of the Court
[To be determined]
- 9) Representative of the Court
[To be determined]
- 10) Representative of the host State
Secretary-General for Foreign Affairs
- 11) Representative of the Municipality of The Hague
Mayor of The Hague
- 12) Architect
[To be determined]
- 13) Architect
[To be determined]
- 14) Architect
[To be determined]
- 15) Architect
[To be determined]
- 16) Architect
[To be determined]
- 17) Architect
[To be determined]

Appendix II

Oversight Committee

Establishment

1. An Oversight Committee of States Parties is hereby established as a subsidiary body of the Assembly of States Parties pursuant to article 112, paragraph 4, of the Rome Statute.

Mandate

2. The mandate of the Oversight Committee shall be to provide a standing body to act on behalf of the Assembly in the construction of the permanent premises of the International Criminal Court. The role of the Oversight Committee will be strategic oversight, with routine management of the project resting with the Project Director.

3. Specifically, the Oversight Committee shall:

- (a) Provide overall monitoring and oversight of the project to ensure that project objectives are achieved within budget, and that risks and issues are identified and managed;
- (b) Prepare information, recommendations and draft resolutions for decision by the Assembly, including issues relating to operationalization of the governance structure;
- (c) Within the authority delegated by the Assembly, make key strategic decisions including the authorization of changes to the project scope and objectives that are beyond the authority of the Project Director;
- (d) Resolve any issue referred by the Project Director, Court or host State; and
- (e) Authorize signature of major contracts on the recommendation of the Project Board.

Membership

4. The Oversight Committee shall be a closed body consisting of 10 States Parties, with at least one member from each regional group.

Selection

5. Members of the Oversight Committee shall be elected by the Assembly upon recommendation of the Bureau. The duration of each term shall be two years and is renewable. If a State Party withdraws from the Oversight Committee, the Bureau may designate another State Party (preferably from the same regional group) to fill the position until the next session of the Assembly of States Parties.

Consistency

6. States Parties members should strive to ensure consistency with respect to their representation and attendance at meetings. If an Oversight Committee member fails to attend two consecutive meetings, the Chairperson of the Oversight Committee shall initiate consultations with that member to determine if the member is able to continue its participation on the Oversight Committee.

Voting

7. The Oversight Committee should strive for consensus. In the absence of consensus, decisions shall be taken on the basis of a simple majority of members present and voting. In the case of a tie, the Chairperson's vote shall be decisive. The phrase "members present and voting" means members present and casting an affirmative or negative vote. Members who abstain shall be considered as not voting.

Quorum

8. A quorum shall consist of at least six members.

Chairperson and Vice-Chairperson

9. The Oversight Committee shall elect a Chairperson and Vice-Chairperson for a two-year period. This term is renewable. The Chairperson and Vice-Chairperson shall each have a vote.

Frequency of meetings

10. The Oversight Committee shall meet four times a year or as required by the Chairperson. The Registrar of the Court, the host State or the Project Director can request a meeting of the Oversight Committee to address any urgent matter.

In camera deliberations

11. The Oversight Committee shall receive information from the Project Director, the Court and host State and may invite other experts and participants to provide information or input in open sessions. Deliberations by the Oversight Committee shall be in camera.

Participation by the Court and host State

12. The Court and the host State have the right to be present during the open sessions of the Oversight Committee.

Role of States Parties' experts

13. The Oversight Committee shall be assisted in its work by an ad hoc committee of experts from States Parties.

Role of the Committee on Budget and Finance

14. The Oversight Committee shall provide progress reports to the Committee on Budget and Finance prior to its meetings. The Oversight Committee shall submit to the Committee on Budget and Finance for advice any submissions with financial implications for the Assembly.

Role of the Bureau

15. The Oversight Committee shall provide regular status reports to the Bureau and shall submit any draft resolutions or information to the Assembly through the Bureau.

Delegated authority

16. The Oversight Committee shall have the authority delegated from the Assembly to:
 - (a) Conduct a recruitment process for the position of Project Director;
 - (b) Decide on the hiring, renewal, non-renewal, suspension and termination of the Project Director (the Registrar of the Court and a representative of the host State have the right to participate and vote in this decision-making process);
 - (c) Where a decision is required in a time frame that would not allow for a decision by the Assembly, authorize any changes to the project scope, objectives, design or expenditures up to the limit of the contingency fund established as part of the project budget; and
 - (d) Hear any serious dispute between the Court, the host State and/or Project Director, with a view to finding an efficient and effective resolution.

17. The Chairperson of the Oversight Committee shall report to the Assembly at its next session on any exercise of this delegated authority.

Support

18. The Oversight Committee shall be assisted by the Secretariat of the Assembly of States Parties.

Appendix III Project Board

1. The Assembly of States Parties hereby establishes a Project Board with the mandate to provide a cooperative and consultative structure for the overall management of the permanent premises construction project.
2. The Board will be chaired by the Project Director and will include:
 - (a) The Court, and
 - (b) The host State
3. The Project Director will share all relevant information on the project with the Court and host State and shall ensure that project information is accessible.
4. The Project Director will consult with the Court and the host State and shall strive for consensus on decisions relating to the project. In the absence of consensus, the Project Director has the authority to make decisions. However, the Project Director is not authorized to make decisions that could affect the overall scope or cost envelope of the project.
5. Any member of the Project Board may ask for a meeting of the Oversight Committee pursuant to paragraphs 10 and 16(d) of appendix II.

Appendix IV

Project Director's Office

Establishment

1. The Registrar of the International Criminal Court shall establish a Project Director's Office. The Project Director will be the head of the Office.

Independence

2. The Project Director's Office shall operate under the full authority of the Assembly of States Parties and report directly and be accountable to the Assembly through the Oversight Committee.

Relationship to the International Criminal Court

3. Without prejudice to paragraph 2 above, the Project Director's Office shall be an integral part of the International Criminal Court; for administrative and staff purposes, the Project Director's Office and its staff shall be attached to the Registry of the Court.

Privileges and immunities

4. As part of the staff of the Registry and, as such, of the Court, the staff of the Project Director's Office shall enjoy the same rights, duties, privileges, immunities and benefits.

Mandate

5. The mandate of the Project Director's Office is to ensure that the permanent premises of the Court are built on time, within cost and to specifications and quality. The Project Director shall have the final responsibility for the overall management of the project and shall be responsible for meeting the project's goals, timelines and costs and quality requirements.

Functions

6. The functions of the Project Director's Office shall be to manage the entire project, which would include, inter alia:

- (a) Provision of day-to-day oversight of the preparations and implementation of the permanent premises project;
- (b) Provision of strategic direction to the project management, construction and design teams;
- (c) Preparation and implementation of a risk management plan for the project;
- (d) Assessment and evaluation of the designs, requests for modifications, cost implications, emerging problems, mitigation solutions or any other issues that may affect the cost, quality and/or timeliness of the project;
- (e) Provision of quarterly (or as required) status reports to the Oversight Committee which will be shared with the Court and the host State and shall be made available to the Bureau;
- (f) Leading the negotiations of the terms and conditions to retain the architect and the design team;
- (g) Leading the tendering and selection process for the construction team;

- (h) Making decisions within the authority delegated by the Assembly;
- (i) Provision of assessments and advice to the Oversight Committee on any issues requiring decisions within the delegated authority of the Committee; and
- (j) Provision of assessments and advice to the Oversight Committee on any issues requiring decisions by the Assembly.

Composition of the Office

7. The Project Director's Office will consist of the Project Director and support staff.

Appendix V

Programme budget implications for the 2008 budget for permanent premises

I. Staff resources

(a) One D-1 Project Director

The Project Director will have the overall responsibility for delivering the permanent premises on time, on costs and with the required quality. Comparisons with the local market in the Netherlands conducted by experts from the host State suggest that a D-1 level (including the tax and other benefits provided to staff of the International Criminal Court) would be competitive and allow for the recruitment of a sufficiently experienced professional. As the recruitment process will only commence in January 2008, a delayed recruitment factor of 50 per cent has been applied.

Cost for 2008: €93,800

(b) One P-4 Deputy Project Director and Financial Controller

The Project Director's Office must be involved in the negotiations with the architect and design teams in late fall 2008 following the decisions by the jury for the architectural design competition. A Deputy Project Director with solid financial experience in evaluating construction and design tenders will be essential. As the recruitment process will only start some time in 2008, a delayed recruitment factor of 75 per cent has been applied.

Cost for 2008: €33,050

(c) One GS-OL Office Assistant

The Project Director's Office will require one general administrative assistant to provide general administrative and secretarial services. As the recruitment process will only start some time in 2008, a delayed recruitment factor of 75 per cent has been applied.

Cost for 2008: €15,675

The Project Director will evaluate the need for further assistance for the 2009 budget. It is expected that the Project Director will work primarily through consultants, to be paid from the consultancy fees provided for in the overall construction cost estimates.

II. Non-staff resources

(a) Regular IT

The Court estimates that each workstation requires €7,000 for hardware and software.

Cost for 2008: €21,000

(b) *Specialized IT*

The Project Director's Office may require specialized computer resources for the construction project.

Cost for 2008: €10,000

III. Recruitment

It is expected that a competitive and specialized process may be required to recruit the Project Director. This could include the use of the Court's web page, advertisements in international, specialized journals and/or the use of a professional recruitment agency. The Oversight Committee will determine, in consultation with the Court, the host State and experts, the best means of launching a recruitment process.

Cost for 2008: €35,000

IV. Cost implications

Total costs for 2008: €208,500

Appendix VI

Permanent premises construction trust fund

Establishment

1. The Registrar of the International Criminal Court shall establish a trust fund for the purpose of holding funds dedicated to the construction of the permanent premises of the International Criminal Court.

Funds

2. The trust fund shall be funded by voluntary contributions from any governments, international organizations, individuals, corporations or other entities.

Reporting

3. The Project Director shall report to the Oversight Committee on a regular basis on the amount of funds in the trust fund and their provenance as well as on disbursements from the trust fund.

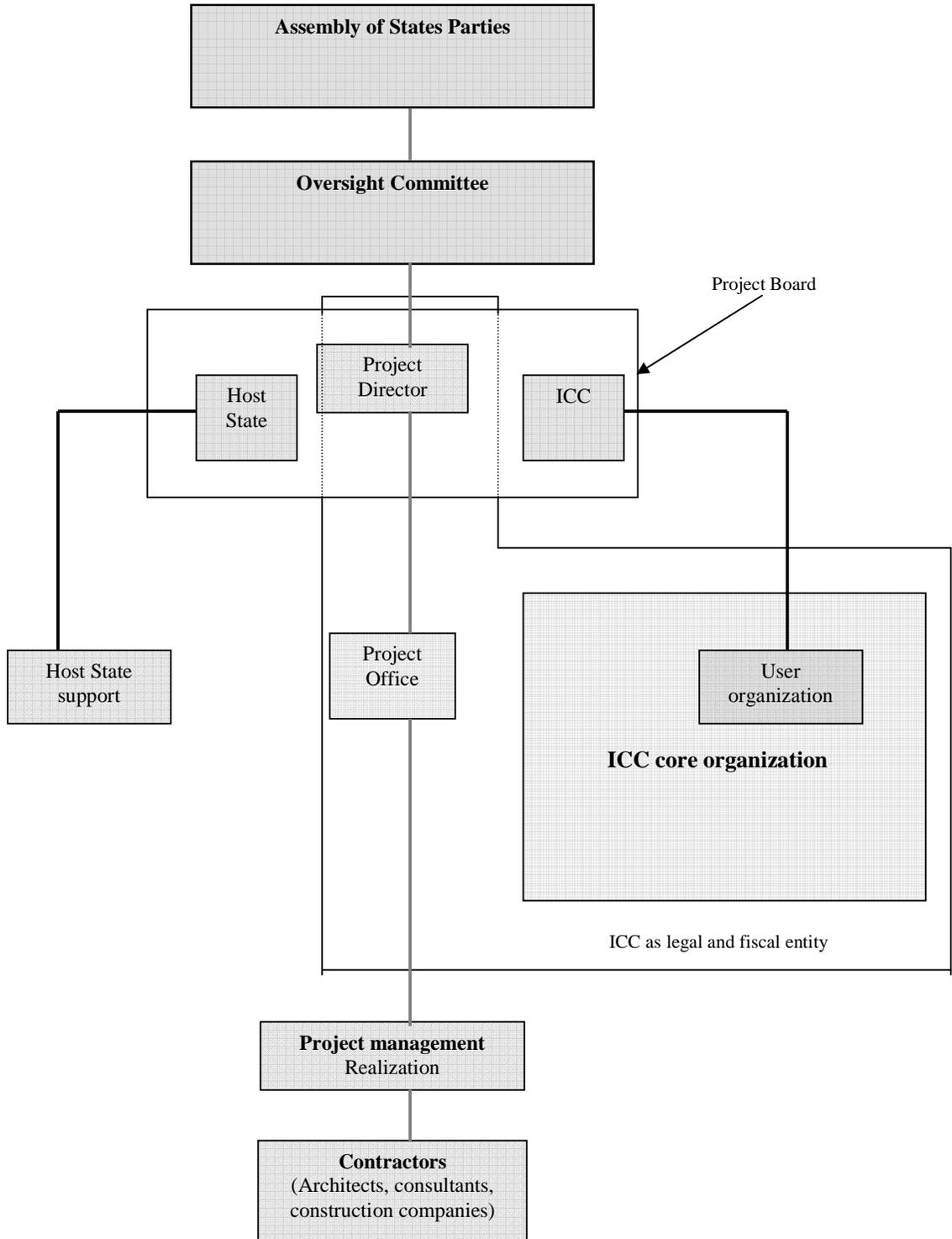
Annex II Functional Brief - Summary of areas

		Basis Scenario (Scen. 900 + Flex)				
Cluster Office	Room Type	No. WP	No. Rooms	Size	m ² net	m ² gross
Judiciary					2247	3746
JUD	Single Office	54	54	12-30		
JUD	Double Office	54	27	10-36		
JUD	Team Office + Meeting	7	7	10-118		
JUD	Supplementary *		18			
Office of the Prosecutor					4564	7608
OTP	Single Office	65	65	12-30		
OTP	Double Office	98	49	10-36		
OTP	Team Office + Meeting	160	37	10-118		
OTP	Supplementary *		23			
Registry					11455	19095
REG	Single Office	187	187	12-30		
REG	Double Office	233	117	10-36		
REG	Team Office + Meeting	252	89	10-118		
REG	Supplementary *		71			
Secretariat ASP					689	1149
ASP	Single Office	3	3	12-30		
ASP	Double Office	10	5	10-36		
ASP	Team Office + Meeting	51	15	10-118		
ASP	Supplementary *		2			
Internal Audit Section					112	187
IAS	Single Office	4	4	12-30		
IAS	Double Office	2	1	10-36		
IAS	Supplementary *		2	10-118		
Staff Represent. Body					31	52
SRB	Single Office	1	1	12-30		
SRB	Double Office	2	1	10-36		
Conference Cluster					1104	1840
CON	Foyer		2			
CON	Conference rooms		4	125-160		
CON	Supplementary *		12			
Catering Cluster					1340	2234
CAT	Staff restaurant		1			
CAT	Visitor's Restaurant		1			
CAT	Kitchen, Storage etc.		3			
Courtroom Cluster					1629	2716
COU	Courtrooms		3			
COU	Supplementary *	15	44			
Public Court Areas					1441	2402
PCA	Press Briefing		1			
PCA	Public Galleries		4			
PCA	Hot desk, supplementary	2	2			
Holding Cluster					416	693
HOL	Cells		24			
HOL	Supplementary *		16			
Entrance Cluster					419	698
ENT	Foyer and Lobby areas		1			
ENT	Information and Exhibition		4			
ENT	Supplementary *		1			
Warehouse, Central Storage					1879	3132
WAR	Storage areas		1			
WAR	Single Office	4	4	12-30		
WAR	Double Office	8	4	10-36		
WAR	Team Office + Meeting	7	2	10-118		
WAR	Supplementary *		4			
Total		1219	923		27326	45552
		No. WP				m² gross

Cluster Office	m ² gross
Judiciary	3746
Office of the Prosecutor	7608
Registry	19095
Secretariat ASP	1149
Internal Audit Section	187
Staff Represent. Body	52
Conference Cluster	1840
Catering Cluster	2234
Courtroom Cluster	2716
Public Court Areas	2402
Holding Cluster	693
Entrance Cluster	698
Warehouse, Central Storage	3132
Total	45552
	m² gross

				Box 1 and 3	Box 2 and 4
Box 1: Construction costs					
Building, incl.	46,000 m ²	€2,410		€110,860,000	
Structure, construction					
Services, technical equipment, installations					
ICT cabling					
Landscaping					
Parking	15,000 m ²	€270		€4,050,000	
Total Box 1				€114,910,000	
Box 2: Project Office	for 2008:				
Project Director	50%	€187,600		€93,800	
Deputy, Financial controller	25%	€132,200		€33,050	
Office assistant	25%	€62,700		€15,675	
IT Regular				€21,000	
IT Specialized				€10,000	
Recruitment costs				€35,000	
Total Box 2					€208,525
Box 3: Other construction costs					
Contingency	15%	of construction costs		€17,236,500	
Integrated, specialized representational features	1%	of construction costs		€1,149,100	
Fees (Project Management, designers, engineers, consultants)	18%	of construction costs + contingency		€23,786,370	
Permits and dues	4%	of construction costs + contingency		€5,285,860	
Consultancy user permits				€100,000	
Price increase	16%	of construction costs + contingency + representational features + fees + permits + consult.user perm.		€25,994,853	
Financing costs		to be clarified			
Taxes		ICC is tax exempt			
Total Box 3				€73,552,683	
Box 4: Other project costs					
Cleaning ready for use				PM*	
Relocation				PM	
Non-fixed furniture, workstations	1200	€ 3,000		€300,000	
Non-fixed furniture, special areas (entrance, conference etc)	20	€ 20,000		€400,000	
Non-fixed lighting, special areas (entrance, conference etc)	20	€ 20,000		€400,000	
Decoration, e.g. curtains, blinds				PM	
Greenery interior				PM	
ICT hardware				PM	
Communication and PR				PM	
User equipment e.g. coffee machines etc				PM	
Interim rent				PM	
Total Box 4					€4,400,000
TOTALS				€188,462,683	
* Pro memorie					

Annex IV Governance structure



Annex V

Proposed members for the Oversight Committee

States Parties that have expressed an interest in serving on the Oversight Committee (10 positions available)

African States

[To be determined]

Asian States

1. Japan
2. Republic of Korea

Eastern European States

1. Poland

Group of Latin American and Caribbean States¹

1. Brazil
2. Mexico

Western European and Other States²

1. Germany
2. Italy
3. Switzerland
4. United Kingdom

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¹ Argentina is also considering becoming a member.

² France is also considering becoming a member.