

**Assembly of States Parties**

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Report of the Committee on Budget and Finance**I. Introduction****A. Opening of the session, election of officers, and adoption of the agenda**

1. The Committee on Budget and Finance was convened in accordance with a decision of the Assembly of States Parties taken at its 3rd meeting, on 9 September 2002, and met at United Nations Headquarters from 4 to 8 August 2003. The Committee held 10 meetings.

2. The session was opened by the Vice-President of the Assembly, the Permanent Representative of New Zealand to the United Nations, Don MacKay, on behalf of the President of the Assembly of States Parties to the International Criminal Court.

3. At its 1st meeting, on 4 August 2003, the Committee elected Karl Paschke (Germany) as Chairman. At its 2nd meeting, on the same day, the Committee elected Hahn Myung-jae (Republic of Korea) as Vice-Chairman. The Committee decided not to elect a Rapporteur for the current session.

4. The Codification Division of the Office of Legal Affairs provided the substantive servicing for the Committee; the Senior Legal Officer of the Office, Serguei Tarassenko, acted as Secretary of the Committee.

5. Also at its 1st meeting, the Committee on Budget and Finance adopted the following agenda (ICC-ASP/2/CBF.1/L.1):

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Participation of observers.
6. Rules of procedure of the Committee on Budget and Finance.
7. Consideration of the draft programme budget for 2004 (ICC-ASP/2/2).
8. Modalities for funding the participation of members of the Committee on Budget and Finance in its meetings.
9. Other matters.

6. The following members attended the first session of the Committee:¹

1. Lamber Dah Kindji (Benin)
2. David Dutton (Australia)
3. Eduardo Gallardo (Bolivia)
4. Fawzi A. Gharaibeh (Jordan)
5. Hahn Myung-jae (Republic of Korea)
6. Peter Lovell (United Kingdom of Great Britain and Northern Ireland)
7. John F. S. Muwanga (Uganda)
8. Karl Paschke (Germany)
9. Michel Tilemans (Belgium)
10. Santiago Wins (Uruguay)

7. The Registrar of the International Criminal Court, Bruno Cathala, and the Deputy Director of Common Services, Sam Muller, accompanied by the Senior Information and Evidence Adviser, Klaus Rackwitz, and the Finance Officer, Marian Kashou, were invited to participate in the meetings of the Committee for the purpose of the introduction of the draft programme budget for 2004.

B. Participation of observers

8. At its 1st meeting, the Committee decided that, in accordance with paragraph 2 of rule 42 of the rules of procedure of the Assembly of States Parties, its meetings should be held, as a general rule, in private. It was decided not to admit observers. The Committee, however, decided to consider, on a case-by-case basis, requests from representatives of interested States, organizations and other interested entities to address the Committee on any particular issue on its agenda.

9. At the same meeting, the Committee decided to accept the request of the Coalition for the International Criminal Court for a 45-minute presentation to be made by its representatives William Pace, Jonathan O'Donohue and John Washburn.

C. Draft rules of procedure of the Committee

10. At its 2nd meeting, the Committee reached an understanding on the desirability of having its own rules of procedure, and in this connection reviewed the rules of procedure of selected similar bodies. At its 6th meeting, on 6 August 2003, the Committee adopted by consensus its draft rules of procedure, contained in annex II to the present report, and decided to transmit them to the Assembly of States Parties for approval.

¹ Two other members of the Committee, representing the Group of Eastern European States, remain to be elected by the Assembly of States Parties.

II. Consideration of the draft programme budget for 2004

A. Recommendations of a general nature

1. General observations

11. The Committee observed that the 2004 programme budget was based to an unusual extent on assumptions about the possible activities of the Court in 2004. The Committee recognized that in the early stages of the Court's development, while its structures and policies were still being defined and before any investigation or trial had commenced, the programme budget would necessarily be somewhat theoretical. The Committee appreciated the transparent presentation of the assumptions on which the budget was predicated and the specific manner in which estimates were derived. The Committee agreed that the Court's workload assumptions were reasonable and emphasized that the budget must provide sufficient resources to bring the Court to a state of readiness and for the Court to commence its substantive work when required.

12. The Committee was impressed with the Court's efforts to design efficient and flexible ways to conduct its work. In particular, the Committee welcomed the attention to "scalability", by which the Court intends to be able to adapt its resource and staffing levels to its workload. The Committee noted that the structure of the Court would continue to evolve as the Court began its substantive work. It welcomed the approach outlined in paragraph 8 of the programme budget, where the Court stated that the fulfilment of its functions and the performance of its tasks, rather than its organizational structure, will drive and define the Court's actions.

13. In reviewing the programme budget, the Committee recognized that estimates in many instances were unlikely to be realistic, since likely expenditure needs were unforeseeable. The Committee felt that many provisions were unlikely to be fully utilized unless the Court quickly commenced extensive investigative and judicial activity. Given the high level of contingency built into the major programmes for the three arms of the Court, the Committee recommended that a few specific reductions be made where it felt that estimates were excessive. However, the Committee did not recommend major reductions because it concluded that the programme budget was reasonable in the circumstances and because it wished to ensure that the Court had sufficient resources to cover a range of realistic eventualities in 2004.

14. At the same time, the Committee was concerned about the possibility of overbudgeting. The Committee strongly believed that, in general, the level of resources available to the Court should be sufficient for it to fulfil its role while requiring all activities to be managed efficiently and cost-effectively. If a high degree of contingency were to be built into the budget on an ongoing basis, then efficient and cost-effective management could be undermined. In the event that the assumptions on which the budget is based are not realized in 2004, or if the Court does not commence investigations, then the Committee expected that the programme budget should be significantly underspent. The Committee expected that future programme budgets would be increasingly accurate, as activities and expenditures became real rather than theoretical. Recognizing the likelihood that the Court's resource needs would always depend heavily on the nature of the particular situations with which it is dealing, the Committee recommended that the Court consider options for presenting resources in connection with each major situation. A

capacity for the Court to seek additional resources arising from unexpected developments, or the commencement of a new situation, may also be needed.

15. The Committee welcomed the close cooperation achieved so far among the President, the Prosecutor and the Registrar. Recognizing the potential for lack of cooperation among the three arms of the Court to cause serious inefficiencies and ineffectiveness, the Committee strongly encouraged the President, Prosecutor and Registrar to continue, and where possible improve, their cooperation on management and budgetary issues.

16. The Committee noted with appreciation the ongoing positive discussions between the Court and the host country regarding the interim premises requirements (construction of an interim multifunctional pre-trial courtroom; construction of an additional courtroom and adjacent facilities; creating supplementary storage space for supplies; security measures; building an additional vault in the offices assigned to the Office of the Prosecutor) as well as the permanent premises of the Court, and expressed the hope that all projects would be executed in a timely manner with a view to enabling the Court to carry out its activities effectively.

17. The breakdown of expenditures for the major programmes showing reductions in accordance with the recommendations of the present report is set out in annex I.

2. Results-based budgeting and budget presentation

18. The Committee commended the efforts of the Court to present the programme budget for 2004 in a results-based format, while recognizing the difficulty of fully and effectively implementing results-based budgeting in a new and rapidly growing organization. The Committee concluded, however, that the results framework, in most cases, did not yet constitute an adequate basis for reporting. In particular, concerns were expressed about the low level of many performance indicators, the excessive number of performance indicators in some subprogrammes and the form of objectives in some instances.

19. The Committee recommended that the Court develop further the results framework in the programme budget for 2005. It emphasized that this was essential for ensuring both effective management of the Court and effective oversight by the Committee and the Assembly. In particular, the Committee wanted to see a clear link between each objective, its expected results, its performance indicators and required resources; it also wanted to see a smaller number of performance indicators, and to see performance indicators that were measurable. The Committee also recommended that the results framework should provide the basis of self-evaluation within the Court and reporting on performance to the Committee.

20. The Committee also recommended that the Court develop the performance assessment system for all its staff and that the fulfilment of specific objectives be integrated with the results framework of the relevant section of the Court.

21. The Committee recommended that the Assembly should receive, at its September 2003 meeting, an annex to the programme budget document that would compare staff and non-staff estimates in 2003 and 2004, in accordance with rule 103.2, paragraph 3.3, of the Financial Regulations and Rules. It also recommended that year-on-year comparisons be included in future proposed programme budgets.

3. Monitoring

22. The Committee concluded that effective oversight of the Court's activities would require periodic reporting to the Committee, and that an annual report would not be sufficient, especially during the next few years when the Court will be evolving rapidly. Accordingly, the Committee recommended that the Court provide quarterly reports to the Committee, which should cover, inter alia, expenditure, significant progress in each major programme and contributions.

4. Recruitment/staffing

23. The Committee received details from the Court on its implementation of ICC-ASP/1/Res.10, by which the Assembly specified that the highest standards of efficiency, competency and integrity should serve as the basis for the employment of staff, while taking into account the need for the representation of the principal legal systems of the world, equitable geographic representation and a fair representation of men and women. The Committee was informed that as at 1 August 2003 the Court employed 34 Professional staff, who were nationals of 21 States parties and 1 non-State party, and that no more than 3 such staff were nationals of a single State party. At the same date, there were 11 women and 23 men among the Professional staff, and 33 women and 31 men among the General Service staff.

24. The Committee commended the Court for its adoption of fixed-term contracts for all staff. It also commended the Court's decision to use flexible staffing arrangements, including general temporary assistance, to meet the fluctuating demands that the Court was likely to face.

25. The Committee noted that the Court had already shown its willingness to redeploy staff as its structure and needs evolved. In that context, the Committee noted that there were likely to be instances in which the Court would wish to reclassify posts. The Committee recommended that the Court be permitted to reclassify posts within the Professional grades and within the General Service grades, in such a way that the overall number of posts in each grade remained the same. The Court should subsequently report such changes to the Committee. The Committee concluded that this mechanism would provide the Court with greater flexibility in its staffing arrangements while ensuring cost neutrality.

26. The Committee also recommended that the Court consider the use of banded grades where appropriate.

27. The Committee noted with concern the sizeable provisions for overtime in several subprogrammes. While the Committee considered that the Court would incur unavoidable overtime requirements in peak periods, it recommended that the Court institute staffing practices to ensure that all staff keep as far as possible to their regular working hours. Staff should not, as a normal practice, accrue overtime. Accordingly, the Committee recommended that overtime provisions throughout the programme budget be reduced by 50 per cent.

5. Internal controls

28. The Committee felt strongly about the necessity of effective, internal controls within the Court. It considered the functions of the external auditor and the Office of

Internal Audit to be of prime importance, and it expressed appreciation for the fact that the two would work hand in hand. The Committee recommended that, in order to enhance the weight and independence of the internal auditor, the post should be created at the D-1 level. Given the volume of oversight work that the internal auditor is supposed to perform, the Committee also recommended that an auditor post be added at the P-3 level.

29. The Committee recommended that the internal auditor should be able to decide his or her annual work programme independently, including any issues raised by the Committee, and that the internal auditor should submit an annual report about the activities of the office to the Assembly, through the Committee.

6. Procurement

30. Regarding procurement, the Committee drew the attention of the Court to rule 110.18 of the Financial Regulations and Rules of the Court.

B. Recommendations relating to major programmes

1. The Judiciary — the Presidency and Chambers

Introduction of major programme 1: The Judiciary — the Presidency and Chambers

31. At its 3rd meeting, on 5 August 2003, the Committee reviewed major programme 1: The Judiciary — the Presidency and Chambers. In introducing major programme 1, the Registrar of the Court and the Deputy Director of Common Services of the Court pointed out that major programme 1 was based on the assumption that the Court would be faced in 2004 with two situations — one situation under investigation and one under analysis. Each situation might necessitate the initiation of three cases, followed by three trials, with two to three defendants sitting per trial. They explained the requirements for the Court to be operational prior to investigations as well as the requirements to be met for effective investigations, which should include the analytical capacity within the Office of the Prosecutor, a fully functioning Pre-Trial Chamber and Appeals Chamber (and possibly a Trial Chamber), defence capacity, capacity to deal with victims and witnesses, court management capacity, translation capacity, capacity to establish field offices, and administrative and operational support capacity. The breakdowns of financial and staff requirements of the two main components of the Judiciary, namely, the Presidency and the Chambers, were also explained.

Recommendations of the Committee

32. With regard to programme 1200, “Chambers”, the Committee was informed that the President would call judges to The Hague during 2004 as required by the Court’s workload and in accordance with article 35 (3) of the Rome Statute. Accordingly, the Committee recommended that the allocation for salaries of judges be reduced by 20 per cent, which is considered a better estimate of likely expenses in 2004. Given that the 15 P-2 legal assistants will be employed no sooner than the arrival of the judges, the Committee recommended that the relevant allocation also be reduced by 20 per cent. This would reduce the allocation of salaries for judges

from €2,986,590 to €2,389,276, and for the staff costs for Professionals within the programme from €735,881 to €588,704.

33. The Committee noted that the general temporary assistance allocation for additional legal support staff was unlikely to be fully utilized and accordingly recommended that it be reduced by 50 per cent.

2. Office of the Prosecutor

Introduction of major programme 2: Office of the Prosecutor

34. At its 4th meeting, on 5 August 2003, the Committee heard the introduction by the representative of the Office of the Prosecutor regarding the general functions of the Office. The flexible structure of the 2004 programme budget of the Office of the Prosecutor was highlighted, in particular the use of core permanent staff at the senior level and teams of variable sizes to deal with specific situations. The assumptions on which the 2004 programme budget was based were the following: one investigation under article 53 of the Rome Statute regarding one situation, covering three case investigations with up to five suspects per case; and two parallel analyses of information (preliminary examinations under article 15). The role and functions of the Office of the Prosecutor under the Rome Statute were also described (article 15, defining the legal authority of the Office of the Prosecutor; article 17, illustrating complementarity between national judicial systems and the Office of the Prosecutor; and article 53, establishing the legal basis for investigations and prosecutions). It was emphasized that, under article 53, the Office of the Prosecutor was required to conduct investigations even if there was a lack of funding and that many decisions of the Prosecutor made under article 53 may be reviewed by a Pre-Trial Chamber.

35. The breakdowns of proposed staff placement by section, together with general principles regarding recruitment and staffing of the Office of the Prosecutor, were also explained. The latter principles were to be understood to mean that no recruitment would start unless there was sufficient workload for new staff, and that recruitment would follow the pace of integration. In addition, the Office of the Prosecutor's team-building strategies were outlined. Proposed general temporary assistance expenditures and details of non-staff costs, including equipment and travel costs, were also explained. It was further noted that the travel regulations of the Office of the Prosecutor would differ from the United Nations regulations, in that only economy-class travel would be provided for staff.

Recommendations of the Committee

36. With regard to subprogramme 2210, "Deputy Prosecutor (Investigations)", the Committee considered that the external relations posts were more numerous than was likely to be required, and recommended that the post of the Associate Analyst (P-2), referred to in paragraph 78 of the programme budget, and of the External Relations Adviser (P-3), referred to in paragraph 82, not be approved.

37. With regard to subprogramme 2230, "Investigation Section", the Committee noted that the third proposed investigation team was budgeted to commence in November 2004. Given the uncertainty as to the need for a third team in 2004, the Committee considered that the creation of the third team should be deferred until 2005. Accordingly, the Committee recommended that resources for the third team

not be approved. This would reduce the staff costs for the subprogramme from €1,478,600 to €1,406,670.

3. Registry

Introduction of major programme 3: Registry

38. At its 5th meeting, on 6 August 2003, the Committee heard the presentation of the Registrar of the Court on the proposed programme budget for 2004 for major programme 3, regarding the Registry. The Registrar drew the Committee's attention to the functions of the Registry as provided for under the Rome Statute and the Rules of Procedure and Evidence, adopted in 2001, namely, providing administrative support for the Court (articles 43 and 44 of the Rome Statute); serving as a channel of communication for the Court (rule 13 (1) of the Rules of Procedure and Evidence); providing internal security for the Court (rule 13 (2) of the Rules of Procedure and Evidence); setting up and servicing a Victims and Witnesses Unit (article 43); assisting with the preparation of a Code of Professional Conduct and providing administrative support for defence attorneys (rules 8, 14, 20, 21 and 22 of the Rules of Procedure and Evidence); and maintaining records of Court proceedings (rules 15, 131, 137, 138 and 151 of the Rules of Procedure and Evidence). The Registrar also described the proposed structure of the Registry.

39. The Registrar outlined the total costs per item of expenditure for the Registry and itemized the staff costs and other expenditures per section.² A comparison of non-staff costs for the period 2002-2003 and for 2004 was also provided. In addition, the Registrar indicated the proposed staff allocation and non-staff costs per section in each of the three "platforms" of the Registry: the Common Administrative Services Platform (encompassing internal audit, legal advisory, budget, finance, procurement, general services, human resources, information technology and communication, security and public information and documentation); the Common Judicial Services Platform (including court management, interpretation and translation and detention); and the Quasi Judicial Functions Platform (covering witnesses, victims' reparation, victims' participation, and defence). In so doing, the Registrar emphasized and itemized the proposed major investment expenditures in information technology and communication, security, public information and documentation, and administrative services. He also noted the complexities and costs associated with operating in many languages and providing assistance to witnesses and victims, as required by the Rome Statute.

Recommendations of the Committee

40. The Committee noted that the considerable number of posts requested might not be required beyond the initial peak of legal work associated with procurement and other legal agreements. Accordingly, the Committee recommended that the Court re-justify these posts in the budget for 2005 with information as to the actual and expected workload.

² The Registrar further drew the Committee's attention to an error contained in the itemization relating to the travel expenditures for the Security and Safety Section, and provided a corrected version.

41. With regard to the Immediate Office of the Registrar (subprogramme 3210), the Committee recommended that the P-2 post referred to in paragraph 203 not be approved, taking into account the tasks of the Legal Advisory Section. The Committee further recommended that the travel expenses in this subprogramme be reduced by 20 per cent.

42. Regarding subprogramme 3220, "Administrative Services Section", the Committee expressed concern about the high proportion of staff proposed for the general administrative services platform. While this was partly a consequence of the need to establish a support apparatus in advance of operational activities, the Committee remained concerned that 167 of the proposed 395 posts were devoted to finance, human resources, information technology, security and public information. The Committee was of the view that a ratio of one Administrative Services Section post for each seven posts in the Court was not justified, especially given the Court's commendable efforts to put in place efficient information technology processing systems. Accordingly, the Committee recommended that 10 General Service posts not be approved, and that the Registrar should decide how to spread this reduction.

43. The Committee expressed concern over the notion that States parties should subsidize the cafeteria for Court staff, and recommended that the subsidy of €211,880 not be approved. Although the Committee recognized the benefit to staff and other Court users of providing an automated teller machine (ATM), it was concerned about the level of the leasing cost. The Committee urged the Court to explore methods by which the ATM could be obtained at no or reduced cost, including sharing any cost with other occupiers of the Arc building.

44. The Committee was informed that unit prices for many hardware supplies and equipment items had been calculated at list prices, and did not take account of the Court's bulk bargaining power. Accordingly, the Committee recommended that the items in paragraphs 122, 140, 226 and 259 be reduced by 10 per cent, with the exception of overtime, general temporary assistance and travel. The Committee noted the Court's intention to purchase the vehicles outright. The Committee was of the view that the Court should also consider leasing vehicles and pursue whichever method of securing vehicles was most consistent with rule 110.12 of the Financial Regulations and Rules.

45. With respect to subprogramme 3230, "Human Resources Section", the Committee again noted the high number of staff required. The Committee was informed that the current post numbers were sufficient only for recruitment, and that it had been necessary to defer policy development. While the Committee recognized that the recruitment workload would be high in 2003 and 2004, it expected that the load would then begin to fall. Thus, the Committee had reservations about approving 18 human resources posts (a ratio of 1 human resources post for each 22 posts in the Court), plus substantial general temporary assistance. Accordingly, the Committee recommended that the Assembly not approve three of the proposed new General Service posts, and that the Registrar should decide how to spread this reduction.

46. Regarding subprogramme 3250, "Security and Safety Section", the Committee observed that possible requirements for field security were highly uncertain. The Committee expressed concern that field security could quickly become very expensive, given the likelihood that investigations would take place in a conflict situation or shortly after hostilities. The Committee urged the Court to explore

possibilities to share common security arrangements with other international and regional organizations. The Committee recommended that the Court consider the possibility of States parties contributing security capabilities in support of field investigations.

47. The Committee welcomed the Court's proposal contained in subprogramme 3260, "Public Information and Documentation", to build a media centre and its efforts to strengthen the web site by expanding content in all official languages. However, the Committee expressed concern that some aspects of the proposed public information programme were excessive. It cautioned against pursuing activities that could not be effectively evaluated and stressed the need for activities to be tightly focused and for resources to be devoted to activities with the greatest impact. Accordingly, the Committee recommended that the Court's proposed communications products (pamphlets, posters, audio and visual materials) be reassessed and reduced. The Committee also recommended that the contractual services referred to in paragraph 268 be reduced by 20 per cent. The Committee did not agree that 13 posts would be required in 2004, especially given the additional posts for media work in the Office of the Prosecutor. It recommended that the Assembly not approve the creation of two of the proposed General Service (Other level) posts. It further recommended that the P-3 post proposed for redeployment to the Section be abolished, and that the Registry utilize one of the other six Professionals as the spokesperson for the Presidency. Given the number of General Service posts in the Section, the Committee did not agree that general temporary assistance for an additional two years of General Service support (€64,584) was justified, and it recommended that this not be approved. Finally, the Committee did not agree that 12 trips abroad to promote the Court were required, and recommended that the travel allocation of €36,372 be reduced by 50 per cent.

48. In subprogramme 3270, "Judicial Administration Section", the Committee noted that translation costs were estimated to be substantial. In this context, the Committee recommended that the Court introduce productivity standards for translation, taking into account benchmarks used by international organizations and other relevant bodies.

49. With respect to subprogramme 3280, "Witnesses Protection and Victims Participation Section", the Committee was advised of the Court's unprecedented responsibilities under the Rome Statute to assist victims to participate in proceedings and for reparations to victims. The Committee emphasized the need for the Court to proceed carefully and in consultation with the Assembly, given the potential for these areas to become costly. The Committee recommended that the Court provide a separate report to the Assembly, through the Committee, on its plans for participation of and reparations to victims. The report should clearly delineate resources dedicated to such reparations work, and the administrative costs of assistance to the Victims Trust Fund. The Committee also felt that the organizational structure of this subprogramme was not clear and recommended that the Court provide clarification regarding its structure in the next programme budget.

50. The Committee observed that the estimates for the Section were higher than was likely to be required. For instance, it did not agree that it was likely that 30 witnesses would need to go to The Hague in 2004. Accordingly, the Committee recommended that the provisions for the direct expenses of witnesses be reduced by 30 per cent. Further, the Committee recommended that the sizeable allocations for

general temporary assistance (€73,584 at the P-2 level and €86,112 at the General Service level) be reduced by 50 per cent.

51. With respect to the Victims and Witnesses Unit, the Committee recommended that financial assistance for private lawyers for victims (€270,600), and the allocations for general temporary assistance (€67,273 at the P-3 level and €86,112 at the General Service level) be reduced at this stage by 50 per cent.

52. The Committee furthermore welcomed the Court's proposed model for defence costs referred to in paragraph 181. However, given the importance of the subject and the potential for high costs to be incurred, the Committee recommended that the Court provide a separate report to the Assembly, through the Committee, presenting possible options for ensuring adequate defence counsel for accused persons.

53. The Committee noted the significant information technology programme and welcomed the investment in technology to improve the Court's efficiency. Once the information technology programme is implemented, the Committee will expect to see the benefits reflected in future programme budgets, through a reduction in General Service posts.

4. Permanent secretariat of the Assembly of States Parties

Introduction of major programme 4: secretariat of the Assembly of States Parties

54. At its 6th meeting, the Committee heard a presentation on the budget for major programme 4, relating to the permanent secretariat of the Assembly of States Parties. It was recalled that the Assembly of States Parties was still to consider, at its second session in September 2003, the question of the establishment of such a permanent secretariat to replace the United Nations Secretariat. Hence, the 2004 proposed programme budget would be conditional on the Assembly's deciding to establish such a permanent secretariat. In his presentation, the Registrar outlined the proposed structure and functions of the permanent secretariat. In particular, the Registrar emphasized that, constitutionally, it would remain independent of the Court, therefore requiring a separate infrastructure. However, the Registry would render assistance to the secretariat where possible. He also drew the Committee's attention to the proposed staff allocation and non-staff expenditures for the Secretariat. In addition, the Secretary of the Committee made a statement on the functions and scope of the proposed secretariat.

55. In its consideration of the proposed budget for the permanent secretariat, the Committee considered, inter alia, the grade of the head of the secretariat (D-1 versus P-5); the level of general temporary assistance spending; the possible sharing of resources between the Court and the secretariat; the lack of provision for security expenditures; the secretariat's contingency reserve fund; and the appropriate level of staffing for the Secretariat. The difficulty of considering the programme budget for an entity that the Assembly had not yet decided to establish was also noted.

Recommendations of the Committee

56. Should the Assembly of States Parties decide to establish a separate secretariat, the Committee believed that the four requested Professional posts would not all be required. Accordingly, the Committee recommended that the Assembly not approve the proposed P-5 post, with the understanding that the size of the core

staff of the secretariat would be reviewed in the next programme budget in the light of the experience gained in 2004.

57. The Committee did not regard the proposed contingency reserve fund as an appropriate means of providing resources for the secretariat. Accordingly, the Committee recommended that the reserve fund not be approved.

III. Status of contributions and expenditure

58. At its 7th meeting, held on 7 August 2003, the Committee heard the presentation of the Registrar regarding the status of contributions from States parties. The Registrar recalled the applicable parts of the Financial Regulations and Rules governing the provision of funds to the Court by the States parties (financial regulations 5.2, 5.4 and 5.6) and the distribution of contributions into a General Fund and a Working Capital Fund (financial regulations 6.1 and 6.2). The Registrar also outlined the status of contributions for the first financial period, noting that 39 States parties to the Rome Statute had paid their contributions in full, 11 had made partial payments and 39 had not yet made any contribution to the budget of the Court. It was pointed out that the contributions received thus far made up 85 per cent of the budget for the first financial period. Concern was expressed that delays in the receipt of contributions from States parties could affect the functioning of the Court in the future.

59. In addition, the Committee was informed about the performance of the Court with respect to the implementation of the budget for the first financial period. It was noted that, as at 31 July 2003, the overall expenditures of the Court constituted 27 per cent of that budget. A breakdown of the expenditures by programme was also presented to the Committee. It was explained that the delayed commencement of full-time work by the judges, the Prosecutor and related staff reduced the level of expenditures. Another factor mentioned was the complexity of procurement and contractual processes that the Common Services Division had to initiate. The Committee also heard a short presentation regarding the Court's proposed information technology infrastructure.

60. The Registrar further forwarded to the Committee the initial report by the External Auditor, National Audit Office of the United Kingdom of Great Britain and Northern Ireland, relating to the implementation of the budget for the first financial period of the Court. The Committee was also informed of the substance of the Court's comments and observations on the initial report.

IV. Modalities for funding the participation of members of the Committee on Budget and Finance in its meetings

61. At its 7th meeting, held on 7 August, the Committee discussed the modalities for funding the participation of members in its meetings.

62. In response to financial difficulties experienced by some members in attending the Committee's meetings and in the informal visit to The Hague made by some members, and the likely need for an additional session in 2004, the Committee considered the issue of payment of members' expenses from the programme budget. While the Committee recognized that the Assembly had decided when establishing

the Committee that expenses of members should be defrayed by their respective Governments, the Committee was concerned that this arrangement would not allow equal participation by all Committee members or all States parties in the nomination of qualified candidates. The Committee believed that payment of expenses from the programme budget would ensure that all members were able to participate on an equal basis, consistent with other expert budgetary and financial bodies.

63. Accordingly, the Committee recommended that the Assembly decide that the travel, accommodation and subsistence expenses of Committee members should be met from the programme budget in the future. The Committee emphasized the need for the costs of such a decision to be minimized. Should the Assembly agree to this proposal, then an additional appropriation of €30,336 would be required for travel, accommodation and subsistence expenses of Committee members, and €17,500 would be required for conference and non-conference services (a total of €47,836) under major programme 4, “Secretariat of the Assembly of States Parties”, for an additional session, as referred to in paragraph 63 below.

V. Other matters

Future meetings

64. Given the speculative nature of important aspects of the Court’s proposed programme budget, and that the Court’s activities are evolving quickly, the Committee felt, at this stage, that a single annual session would not be sufficient for it to exercise an appropriate level of oversight. The Registrar also expressed his preference for the Committee to be available more regularly, so that the Court could draw on the advice of the Assembly, through the Committee. Thus, the Committee recommended that it hold, on a trial basis, an additional session in the spring of 2004, of no more than three days, at which it would consider the Court’s performance and look in greater depth at important issues. It would not be possible for the Committee to hold this additional session if the Assembly were not to agree to its recommendation on the expenses of members, since many members would be unable to attend.

Annex 1

Breakdown of expenditure for major programmes showing reductions in accordance with the recommendations of the Committee on Budget and Finance

(Euros)

<i>Programme</i>	<i>Total</i>	<i>Staff costs</i>	<i>Non-staff costs</i>	<i>Reduction</i>
The Judiciary — the Presidency and Chambers	5 183 659	4 242 509	941 150	850 841
Office of the Prosecutor	14 041 441	6 855 811	7 185 630	252 959
Registry	30 370 210	10 797 915	19 572 295	1 511 990
Assembly of States Parties secretariat	2 724 531	424 990	2 299 541	153 555

Annex II

Draft rules of procedure of the Committee on Budget and Finance

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I. Sessions

Rule 1

Frequency of sessions

The Committee on Budget and Finance (hereafter referred to as “the Committee”) shall meet when required and at least once per year.

Rule 2

Place of sessions

The Committee shall normally meet at the seat of the Court. Sessions of the Committee may be held at another place if the Committee and/or the Assembly of States Parties so decides.

Rule 3

Convening of sessions

1. Sessions of the Committee shall be convened at the request of:
 - (a) The Assembly of States Parties;
 - (b) The majority of the members of the Committee;
 - (c) The Chairperson of the Committee.
2. Before the Chairperson makes a request to convene a session of the Committee, he/she shall consult the members of the Committee, including on the date and duration of the session.
3. Any session of the Committee called pursuant to a request of the Assembly of States Parties shall be convened as soon as possible but no later than sixty days from the date of the request.

Rule 4

Notification of members

The Chairperson shall notify the members of the Committee as early as possible of the date and duration of each session.

II. Agenda

Rule 5

Drawing up of the provisional agenda

The provisional agenda for each session of the Committee shall be drawn up by the Secretariat of the Assembly of States Parties (hereinafter referred to as “the Secretariat”) in consultation with the Chairperson of the Committee, whenever possible, and shall include:

- (a) All items proposed by the Assembly;
- (b) All items proposed by the Committee;
- (c) All items proposed by the Chairperson;

- (d) All items proposed by any members of the Committee;
- (e) All items proposed by the Court.

Rule 6
Communication of the provisional agenda

The provisional agenda for each session of the Committee shall be communicated to the members of the Committee and the Court as early as possible in advance of the session, but at least twenty-one days before the opening of the session. Any subsequent change in or addition to the provisional agenda shall be brought to the notice of the members of the Committee and to the States Parties of the Assembly sufficiently in advance of the session.

Rule 7
Adoption of the agenda

1. At the beginning of each session the Committee shall adopt its agenda for the session, on the basis of the provisional agenda.
2. The Committee may, if necessary, amend the agenda, provided that no item referred to it by the Assembly be deleted or modified.

III. Functions of the Committee

Rule 8
Incompatible activities and confidentiality

1. Members of the Committee shall have no financial interest in any activity relating to matters upon which the Committee has the responsibility to make recommendations. They shall not disclose, even after termination of their functions, any confidential information coming to their knowledge by reason of their duties for the Committee.
2. Members of the Committee shall not be eligible to assume any other functions at the International Criminal Court.

Rule 9
Functions

The Committee shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications or any other matter of a financial, budgetary or administrative nature as may be entrusted to it by the Assembly of States Parties. In particular, it shall review the proposed programme budget of the Court, prepared by the Registrar, in consultation with the other organs referred to in article 34, subparagraphs (a) and (c), of the Rome Statute, and shall make the relevant recommendations to the Assembly concerning the proposed programme budget. It shall also consider reports of the Auditor concerning the financial operations of the Court and shall transmit them to the Assembly together with any comments that it may deem appropriate.

IV. Officers

Rule 10

Election and term of Chairperson and Vice-Chairperson

1. Each year at its first meeting, the Committee shall elect a Chairperson and a Vice-Chairperson from among its members.
2. The Chairperson and the Vice-Chairperson shall be elected for a term of one year. They shall be eligible for re-election twice.

Rule 11

Acting Chairperson

1. In the absence of the Chairperson, the Vice-Chairperson shall take his/her place.
2. If the Chairperson ceases to hold office pursuant to rule 15, the Vice-Chairperson shall take his/her place until the election of a new Chairperson.

Rule 12

Powers of the Acting Chairperson

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

Rule 13

Rapporteur

The Committee may appoint, if necessary, one of its members as Rapporteur for any particular question.

Rule 14

General powers of the Chairperson

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

Rule 15**Replacement of the Chairperson or the Vice-Chairperson**

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

V. Secretariat**Rule 16****Duties of the Head of the Secretariat**

1. The Head of the Secretariat shall act in that capacity in all meetings of the Committee. He/she may designate a member of the Secretariat to act as his/her representative. He/she shall perform such other functions as are assigned to him/her by the Committee.
2. The Head of the Secretariat shall provide and direct the staff required by the Committee, taking into account to the greatest extent possible the requirements of economy and efficiency, and be responsible for all the arrangements that may be necessary for its meetings.
3. The Head of the Secretariat shall keep the members of the Committee informed of any questions that may be brought before it for consideration.
4. The Head of the Secretariat shall provide to the Committee, at its request, information and reports on questions specified by the Committee.

Rule 17**Duties of the Secretariat**

The Secretariat shall receive, translate, reproduce and distribute recommendations, reports and other documents of, and provided to, the Committee, interpret statements made at meetings, prepare and circulate, when it is so decided, records of the session, have custody and proper preservation of the documents in the archives of the Committee and, generally, perform all other work that the Committee may require.

VI. Conduct of business**Rule 18****Conduct of business**

As far as conduct of business is concerned, the proceedings of the Committee shall be governed by general practice as reflected in the Rules of Procedure of the Assembly of States Parties.

VII. Decision-making

Rule 19

Voting rights

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

Rule 20

Decision-making

1. As a general rule, decision-making in the Committee should be by consensus. If all efforts to reach a decision by consensus have been exhausted, decisions shall be taken by a majority of members present and voting.
2. If a vote is equally divided, the proposal or motion shall be regarded as rejected.

Rule 21

Meaning of the phrase “members present and voting”

For the purposes of these rules, the phrase “members present and voting” means members present and casting an affirmative or negative vote. Members who abstain from voting shall be considered as not voting.

Rule 22

Conduct of voting

The Committee shall apply *mutatis mutandis* the rules relating to the conduct of voting in the Rules of Procedure of the Assembly of States Parties.

Rule 23

Elections

All elections in the Committee shall be held by secret ballot.

Rule 24

Conduct of elections

The Committee shall apply *mutatis mutandis* the rules relating to elections in the Rules of Procedure of the Assembly of States Parties.

VIII. Languages

Rule 25

Languages of the Committee

Arabic, Chinese, English, French, Russian and Spanish shall be the languages of the Committee.

Rule 26
Interpretation

Statements made in any of the six languages of the Committee shall be interpreted into the other five languages.

Rule 27
Other languages

Any member may make a statement in a language other than the languages of the Committee. In this case, he/she shall himself/herself provide for interpretation into one of the languages of the Committee. Interpretation into the other languages of the Committee by the interpreters of the Secretariat may be based on the interpretation given in the first such language.

Rule 28
Languages of recommendations and documents

All recommendations and other documents of the Committee shall be published in the languages of the Committee.

IX. Meetings

Rule 29
Private and public meetings

1. The meetings of the Committee shall be held in private unless the Committee decides otherwise.
 2. At the close of a private meeting of the Committee, the Chairperson may, if the Committee so decides, issue a communiqué through the Secretariat.
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