

Resolution ICC-ASP/15/Res.1

Adopted at the 10th plenary meeting, on 24 November 2016, by consensus

ICC-ASP/15/Res.1

Resolution of the Assembly of States Parties on the proposed programme budget for 2017, the Working Capital Fund for 2017, the scale of assessment for the apportionment of expenses of the International Criminal Court, financing appropriations for 2017 and the Contingency Fund

The Assembly of States Parties,

Having considered the 2017 proposed programme budget of the International Criminal Court (“the Court”) and the related conclusions and recommendations contained in the report of the Committee on Budget and Finance (“the Committee”) on the work of its twenty-sixth and twenty-seventh sessions,

A. Programme budget for 2017

1. *Approves* appropriations totalling €144,587,300 in the appropriation sections described in the following table:

<i>Appropriation section</i>	<i>Thousands of euros</i>
Major Programme I Judiciary	12,536.0
Major Programme II Office of the Prosecutor	44,974.2
Major Programme III Registry	76,632.6
Major Programme IV Secretariat of the Assembly of States Parties	2,618.8
Major Programme V Premises	1,454.9
Major Programme VI Secretariat of the Trust Fund for Victims	2,174.5
Major Programme VII-5 Independent Oversight Mechanism	514.8
Major Programme VII-6 Office of Internal Audit	694.2
<i>Sub-total</i>	<i>141,600.0</i>
Major Programme VII-2 Host State Loan	2,987.3
Total	144,587.3

2. *Notes* that those States Parties that have opted for the one-time payment in respect of the permanent premises, and have made such payments in full, will not be assessed for the contributions corresponding to Major Programme VII-2 Host State Loan amounting to €2,987,300;

3. *Further notes* that these contributions will bring down the level of the 2017 programme budget appropriations that need to be assessed for contributions by States Parties from €144,587,300 to €141,600,000 and that this amount will be assessed following the principles described in section E;

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

	Judiciary	Office of the Prosecutor	Registry	Secretariat Assembly of States Parties	Secretariat Trust Fund for Victims	Independent Oversight Mechanism	Office of Internal Audit	Total
USG		1						1
ASG		1	1					2
D-2								
D-1		3	3	1	1		1	9
P-5	4	17	22	1		1		45
P-4	3	36	43	1	4	1	1	89
P-3	20	77	85	1	2		1	186
P-2	12	71	89	1		1		174
P-1		33	5					38
<i>Subtotal</i>	<i>39</i>	<i>239</i>	<i>248</i>	<i>5</i>	<i>7</i>	<i>3</i>	<i>3</i>	<i>544</i>
GS-PL	1	1	15	3				20
GS-OL	12	77	311	2	2	1	1	406
<i>Subtotal</i>	<i>13</i>	<i>78</i>	<i>326</i>	<i>5</i>	<i>2</i>	<i>1</i>	<i>1</i>	<i>426</i>
Total	52	317	574	10	9	4	4	970

B. Working Capital Fund for 2017

The Assembly of States Parties,

Noting the recommendation of the Committee on Budget and Finance at its twenty-seventh session to reinstate the Working Capital Fund to represent approximately one month's expenditure of the Court's 2016 approved budget (€11.6 million)¹,

Further noting that the Committee recommended a consideration of a multi-year funding timetable²,

- Notes that the Working Capital Fund for 2016 was established in the amount of €7,405,983;
- Further notes that the current level of the Working Capital Fund is €3.5 million;
- Resolves that the Working Capital Fund for 2017 shall be established in the amount of €11.6 million, and authorizes the Registrar to make advances from the Fund in accordance with the relevant provisions of the Financial Regulations and Rules of the Court;
- Decides that the Court may only use the surplus funds and outstanding contributions to reach the established level of the Working Capital Fund.

C. Establishment of a credit line

The Assembly of States Parties,

- Recalls the procedure stipulated in resolution ICC-ASP/14/Res.1 with regard to financing temporary liquidity shortfalls resulting from delayed assessed contributions;
- Notes the recommendation of the Committee on Budget and Finance that the Court should be able to apply to banks for a seasonal credit;³

¹ Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifteenth session, The Hague, 16-24 November 2016 (ICC-ASP/15/20), vol. II, part B.2., para. 144.

² Ibid., para. 148.

³ ICC-ASP/15/15, para. 151.

3. *Decides* that the Court seek to establish a seasonal credit line in the amount of up to €7 million for the period of December 2016 to mid-February 2017 to cover liquidity shortfalls, and it be used as last resort, after the full utilisation of the Working Capital Fund and temporary, exceptional utilisation of the Contingency Fund, and further decides that any related fees shall be absorbed by the Court, taking all possible steps to minimize the cost of a credit line;

4. *Further decides* that the Court, as last resort and in amounts strictly necessary, may establish seasonal credit lines limited to the last quarter of 2017 and the first quarter of 2018 to cover future temporary liquidity shortfalls, subject to any relevant recommendations of the Committee on Budget and Finance and timely approval by the Bureau in a meeting open to States Parties, who will participate as observers;

5. *Requests* all States Parties to make timely payments of assessed contributions and *requests* the Court and States Parties to make serious efforts and take necessary steps to reduce the level of arrears and outstanding contributions as far as possible to avoid liquidity issues for the Court.

D. Contingency Fund

The Assembly of States Parties,

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

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

1. *Notes* that the current level of the Fund is €5.8 million;
2. *Decides* to maintain the Contingency Fund at the notional level of €7.0 million for 2017;
3. *Requests* the Bureau to keep the €7.0 million threshold under review in light of further experience on the functioning of the Contingency Fund.

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

The Assembly of States Parties,

1. *Decides* that for 2017, the contributions of States Parties shall be assessed in accordance with an agreed scale of assessment, based on the scale adopted by the United Nations for its regular budget applied for 2016-2018, and adjusted in accordance with the principles on which the scale is based;⁴ and

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

F. Financing of appropriations for 2017

The Assembly of States Parties,

1. *Notes* that the payments corresponding to Major Programme VII-2 Host State Loan will reduce the level of the budget appropriations to be assessed for contributions by States Parties to €2,987,300; and

2. *Resolves* that for 2017, assessed contributions for the budget amounting to €141,600,000, approved by the Assembly under section A, paragraph 1 of the present resolution, will be financed in accordance with regulations 5.1 and 5.2 of the Financial Regulations and Rules of the Court.

⁴ Rome Statute of the International Criminal Court, article 117.

G. Premises of the Court

The Assembly of States Parties,

1. *Notes* the draft agreement between the Project Director and the general contractor Courtys to settle outstanding financial issues, which would exceed the budget envelope authorized by the Assembly by €1.75 million, and *authorizes* an increase of the unified budget envelope in the amount of €1.75 million, bringing the total project budget to €205.75 million.

H. Transfer of funds between major programmes under the 2016 approved programme budget

The Assembly of States Parties,

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

1. *Decides* that prior to the transfer of funds between major programmes at the conclusion of 2016, the cost overrun of the Permanent Premises should be covered by the interest accrued in the amount of €553,326 over the years on the funds of the permanent premises project and any surplus from unspent resources which exists under the major programmes of the Court's regular budget in 2016;

2. *Further decides* that, in line with established practice, the Court may transfer any remaining funds between major programmes at the conclusion of 2016 after the overrun has been covered should costs for activities which were unforeseen or could not be accurately estimated be unable to be absorbed within one major programme, whilst a surplus exists in other major programmes, in order to ensure that appropriations for each major programme are exhausted prior to accessing the Contingency Fund.

I. 2015 Financial Statements

The Assembly of States Parties,

Welcoming the presentation by the External Auditor in relation to the 2015 financial statements of the Court,

Acknowledging the External Auditor's qualified opinion that, with the exception of the effects related to the final cost of the permanent premises project, the financial statements give a fair view of the financial position of the Court as at 31 December 2015, in conformity with the International Public Sector Accounting Standards,

Noting that the External Auditor had informed the Committee on Budget and Finance that he would probably change his qualified opinion to an unqualified one on the permanent premises accounts as at 31 December 2015 if the following conditions were met during or right after the Assembly in November 2016:⁵

(a) the Assembly authorizes the overrun for the permanent premises of €1.75 million;

(b) the agreement between the Court and the general contractor (*Courtys*) is signed on the total amount of the premises; and

(c) the Court amends and reissues the financial statements with explanatory notes reflecting the overrun part;

Noting paragraph 1 of section G of this resolution,

1. *Requests* the Registrar to finalize and sign, on behalf of the Court, the agreement, and to amend and reissue the financial statements.

⁵ *Official Records ... Fifteenth session ... 16-24 November 2016 (ICC-ASP/15/20)*, vol. II, part B.2., para. 217.

J. Amendments to Financial Regulations and Rules

The Assembly of States Parties,

Having regard to the Financial Regulations and Rules⁶ adopted at its first session on 9 September 2002, as amended,

Bearing in mind the recommendation of the Committee on Budget and Finance at its twenty-seventh session,⁷

1. *Decides* to amend Financial Regulations 3 and 6 as set forth in the annex to this resolution.

K. Audit

The Assembly of States Parties,

1. *Welcomes* the Annual Report of the Audit Committee⁸;

2. *Agrees* to extend the term of the External Auditor, the *Cour des comptes*, by two years so as to include the financial statements of the Court and the Trust Fund for Victims for 2018 and 2019.

L. Development of budget proposals

The Assembly of States Parties,

1. *Requests* the Court to present a sustainable budget proposal for its 2018 programme budget, whereby proposed increases above the level of the 2017 approved budget are requested only when necessary for the purpose of its mandated activities and after all possible steps have been taken to finance such increases through savings and efficiencies;

2. *Requests* the Court to present an annex to the 2018 programme budget with detailed information about the savings and efficiencies achieved in 2017 and estimations for 2018. The Committee for Budget and Finance will be updated ahead of its twenty-ninth session on the measures taken by the Court and will include its comments in its reports to the Assembly of States Parties. The potential savings and efficiencies may cover areas of administrative management, such as: streamlining of services, possible redeployment of existing staff for new activities, consultancy, documentation and duration of meetings, printing and publication, travel policy, communication, premises management and other possible areas indentified by the Court;

3. *Further recalls* that the proposed programme budget should present the costs for the following year by first highlighting the costs of maintaining current activities, then proposing changes to those activities including full costings of such changes.

M. A strategic approach to an improved budgetary process

The Assembly of States Parties,

Bearing in mind the need for the respect of the independence and confidentiality required to allow the Judiciary and the Office of the Prosecutor to carry out its duties,

1. *Calls upon* the Court to continue to base its programmes and activities on careful, transparent and strict financial assessments, resulting in a consistent budgetary proposal;

2. *Invites* the Court to continue to ensure a stringent internal budgetary process steered by the Registry as part of an annual cycle taking into account past expenditure and leading to a sound and transparent budget proposal, thus allowing the Court to manage its financial situation responsibly;

⁶ *Official Records... First session ... 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part II.D.

⁷ *Official Records ... Fifteenth session ... 16-24 November 2016* (ICC-ASP/15/20), vol. II, part B.2.

⁸ *Ibid.*, annex VII.

3. *Emphasizes* the central role that the report of the Committee on Budget and Finance has on budget discussions in preparation for the Assembly sessions, and *requests* the Committee to ensure that its reports are published as soon as possible after each session;
4. *Stresses* the utmost importance of achieving economies of scale, streamlining activities, identifying potential duplications and promoting synergies within as well as between the different organs of the Court;
5. *Welcomes* the Court's efforts to fully implement the "One-Court-principle" when establishing the proposed programme budget for 2017, which resulted in improvements to the budgetary process such as more frequent and more efficient use of the Coordination Council and other inter-organ coordination mechanisms, as well as a more coherent and consistent Court-wide budget proposal as well as an improved process and format of the budget document thus ensuring higher consistency of message and policy of expenditures across the Court;
6. *Invites* the Court, in consultation with the Committee on Budget and Finance, to continue developing its budgetary process with a view to building on the progress made, by focusing on improved context setting, better planning and presentation of cross-Court expenditures, assessing delivery and efficiency, establishing fundamental budgetary principles, and synergies; and *welcomes* the Court's assurances to continue to improve future budget processes with a view to submitting sustainable and realistic budget proposals, including by:
 - (a) Further strengthening the "One-Court-principle" by continuing to ensure that the Principals' high-level strategic vision continues to guide the budgetary process from the outset;
 - (b) Further enhancing the dialogue and information sharing between the Court and States Parties on the assumptions, objectives and priorities which underpin the draft programme budget at an early stage in the budget process, mindful of the Court's judicial independence;
 - (c) Continuing to find appropriate ways to preserve the Court's long-term ability to deliver on its mandate effectively and efficiently, while being mindful of the financial constraints of States Parties;
 - (d) Enhancing the dialogue and information sharing between the Court and States Parties on potential medium-term cost drivers with a view to enhancing budget predictability;
7. *Notes* the efforts of the Court to attain synergies among the different organs, reiterates its prior requests to the Court in this regard, *invites* the Court to strengthen the inter-organ dialogue so as to avoid potential duplication of work, further notes the Court's efforts to make more frequent and efficient use of its inter-organ coordination mechanisms in order to advance the process of identification of areas of joint optimization;
8. *Reiterates* that in principle documentation should be submitted at least 45 days before the beginning of the respective session of the Committee on Budget and Finance in both working languages of the Court;
9. *Requests* the Court to continue submitting its annual report on activities and programme performance including, as appropriate, relevant information on the approved budget, expenditure and variance at the sub-programme level with all budget lines, as well as the provisional expenditures and revenues for all trust funds administered by the Court, also being provided by the Court in its financial statements;
10. *Commits* itself to financial practices which give utmost priority to the annual budget cycle and *calls for* a restrictive use of multi-annual funds administered outside the cycle;
11. *Welcomes* the work undertaken by the Court to evaluate the full impact of the "Basic Size" model developed by the Office of the Prosecutor, which seeks to increase the predictability and certainty of the budgetary resources the Court considers necessary in order to carry out its mandate, *stresses* that the approval by the Assembly of the budget for 2017 is not to be understood as an endorsement of its budgetary implications as the budget for each year should be considered on its own merits as it is prepared by the Court

on the basis of the actual needs foreseen for the specific year, and it is considered and approved by the Assembly on an annual basis;

12. *Notes with appreciation* the report of the External Auditor on the *ReVision* process, *notes* the conclusions and recommendations made by the External Auditor, and *further notes* that the full implications of the *ReVision* process, including its financial implications in both short-term and the long-term, would be the subject of further clarifications to the Committee on Budget and Finance at its twenty-eighth session.

N. Human Resources

The Assembly of States Parties,

Noting that the United Nations General Assembly approved the International Civil Service Commission's proposal on the common system compensation package, including the unified salary scale and transitional measures,⁹

Noting the recommendations of the Committee on Budget and Finance from its twenty-seventh session for the Court to remain part of the United Nations common system, including the United Nations pension scheme, and to align itself with the actual implementation timeline of the changes to the compensation package of the Court in accordance with the modifications to the United Nations common system compensation package,¹⁰

1. *Decides* to approve the implementation of all the elements of the new compensation package in alignment with the changes and timelines approved by the United Nations General Assembly;
2. *Requests* the Court to assure that the above decisions will have no effect on the acquired rights of current staff and to adopt any transitional measures recommended by the United Nations General Assembly;
3. *Further requests* the Court to submit to the Assembly, during its sixteenth session, the full text of the amended provisional Staff Rules related to the United Nations compensation package, and applicable as of 1 January 2017, pursuant to Regulation 12.2 of the Staff Regulations.

O. Salaries of the judges of the International Criminal Court

The Assembly of States Parties,

Noting the request by the Court for a revision of the judges' remuneration in implementation of resolution ICC-ASP/3/Res.3,¹¹

Considering the conclusion of the Committee on Budget and Finance that the annual remuneration of judges would have to be considered by the Assembly as a policy matter and would require a procedure to review the salary scheme for judges¹²,

1. *Requests* the Bureau to consider a revision of the judges' remuneration in implementation of resolution ICC-ASP/3/Res.3 and to report to the Assembly at its sixteenth session.

P. Referrals by the Security Council

The Assembly of States Parties,

Noting with concern that, to date, expenses incurred by the Court due to referrals by the United Nations Security Council¹³ have been borne exclusively by States Parties,

⁹ A/RES/70/244.

¹⁰ *Official Records ... Fifteenth session ... 16-24 November 2016 (ICC-ASP/15/20)*, vol. II, part B.2., paras. 225-226.

¹¹ *Ibid*, part A, para. 164.

¹² *Ibid*, part B.2., para. 37.

¹³ United Nations Security Council resolutions 1593 and 1970.

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

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

1. *Notes* the report of the Registry on the approximate costs allocated so far within the Court in relation to referrals by the Security Council¹⁴, and *notes* that to date the approved budget allocated in relation to the referrals amounts to approximately €55 million borne exclusively by States Parties;
2. *Encourages* States Parties to continue discussions on a possible way forward on this issue;
3. *Invites* the Court to continue including this matter in its institutional dialogue with the United Nations and to report thereon to the sixteenth session of the Assembly.

Annex

Amendments to the Financial Regulations and Rules

Regulation 3 Programme budget

3.5bis In the event that unforeseen circumstances resulting in an increase or decrease of the proposed programme budget for the next financial period become known before the meeting of the Committee on Budget and Finance at which the Committee shall consider the proposed budget, and which can still be accommodated in the proposed programme budget, the Registrar shall submit an addendum to the proposed programme budget to the Committee on Budget and Finance at the earliest convenience. The addendum shall be in a form consistent with the proposed programme budget and details pertaining to the reasons for the addendum shall be specified.

3.5ter In the event that unforeseen circumstances resulting in an increase or decrease of the proposed programme budget for the next financial period become known after the session of the Committee on Budget and Finance and prior to the meeting of the Assembly of States Parties, the Registrar shall submit an addendum as described in paragraph 3.5bis to the Committee on Budget and Finance through its Chairperson. After having submitted the addendum to the Committee on Budget and Finance through its Chairperson, the members of the Committee on Budget and Finance shall consider the addendum in remote session, such as via e-mail, or may decide to convene in The Hague as a sub-committee made up of three members, in order to consider the addendum at the earliest convenience. In this case, the recommendation of the Committee on Budget and Finance in relation to the addendum shall be annexed to the Report of the Committee on Budget and Finance and submitted to the Assembly of States Parties.

3.6 Supplementary budget proposals may be submitted by the Registrar with respect to the current financial period if circumstances unforeseen at the time of adopting the budget make it necessary. A supplementary budget should only be submitted for matters of an exceptional or extraordinary nature which go beyond all precautionary financial reserves and therefore necessitate a separate decision by the Assembly of States Parties. In this case, the supplementary budget proposal shall be in a form consistent with the approved budget. The provisions of these Regulations shall be applicable to the proposed supplementary budget.

¹⁴ ICC-ASP/15/30.

3.6bis The Committee on Budget and Finance shall consider the proposed programme budgets, related addendums and supplementary budgets, and shall submit its comments and recommendations to the Assembly of States Parties. The Assembly of States Parties shall consider the proposed programme budgets, addendums and supplementary budgets and take a decision based on the recommendations of the Committee on Budget and Finance.

Regulation 6
Funds

6.7 If a need to meet unforeseen or unavoidable expenses arises for the following budget year after approval of the programme budget by the Assembly of States Parties, the Registrar, by his or her own decision or at the request of the Prosecutor, the President or the Assembly of States Parties, is authorized to enter into commitments not exceeding the total level of the Contingency Fund. Before entering into such commitments, the Registrar shall submit a letter of notification to access the Contingency Fund and additional resource requests in a form consistent with the proposed programme budget to the Committee on Budget and Finance through its Chairperson. Two weeks after having notified the Chairperson of the Committee on Budget and Finance, and taking into consideration any financial comments on the funding requirements made by the Committee through its Chairperson, the Registrar may enter into the corresponding commitments. All funding obtained in this way shall relate only to the financial period(s) for which a programme budget has already been approved.

6.7bis In the unlikely event that the amount being notified is larger than what can be absorbed by the Contingency Fund, the Court should submit a supplementary budget to the Committee on Budget and Finance for its comments and recommendations to the Assembly of States Parties.
