

**Tenth session**

New York, 12-21 December 2011

Report on the activities of the Oversight Committee**Executive summary**

The present report provides a summary of the activities of the Oversight Committee (“the Committee”) and other developments in the permanent premises project during 2011.

The final design was completed on 1 November 2011; the project enters the tendering stage and selection of the general contractor, which should end on 1 September 2012 with the signature of the construction contract.

The estimated completion date for the project is September 2015, with readiness for the Court to move into the new premises in December 2015.

After completion of the Final design stage the construction budget continues to be within the approved budget of €190 million.

The other costs related to the project but not directly related to the construction (known as “Box 4” costs) were presented to the Committee on 24 February, and estimated at €42.2 million, in addition to the €190 million construction budget, of which €22.1 million belong to integrated user equipment (“3gv”), and €20.1 million to non-integrated user equipment and other costs (“2gv and other related costs”).

The Committee decided, after careful consideration, and taking into account the recommendations of the Committee on Budget and Finance, that 2gv costs would be submitted annually to the Assembly of States Parties for approval through the Court’s budget.

The Committee also decided to consider that 3gv costs are construction costs, and as such must be part of the construction budget. The Committee requested the Project Director to find savings throughout the project in order to absorb 3gv within the €190 million construction budget. A review process of both the financial aspects of the project and the requirements is under way, according to the plan presented by the Project Director, to achieve this goal.

The total estimated cost of the project is €16.8 million, made up of the €190 million construction budget (including 3gv), and the Court’s budget expenditures related to the permanent premises (including 2gv and other costs), which amount to €6.8 million for the span of the project.

The Committee approved a new structure for the project (annex VIII), which identifies and empowers a single Project Director by giving him the strategic leadership, decision-making and overall management of the project. The new Project Director took up his responsibilities on 20 June 2011.

A draft resolution on permanent premises for consideration by the Assembly, which includes a renewed composition of the Committee, is contained as annex IX to this report.

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I. Introduction

1. At its sixth session, held in November/December 2007, the Assembly of States Parties established an Oversight Committee of States Parties (hereinafter “the Committee”) as a subsidiary body of the Assembly to provide strategic oversight for the permanent premises project in accordance with annex II to resolution ICC-ASP/6/Res.1.¹

2. The present report is submitted in accordance with resolution ICC-ASP/6/Res.1, annex II, paragraph 15, which states that the Committee shall provide regular status reports to the Bureau and shall submit any draft resolutions or information to the Assembly through the Bureau.

3. Since the ninth session of the Assembly, the Committee held seven meetings under the Chairmanship of Mr. Martin Strub (Switzerland) on 15 December 2010, 12 and 26 January, 24 February, 30 March, 7 April and 18 May 2011. Upon departure of Mr. Strub, as from June 2011, the Committee elected Mr. Roberto Bellelli (Italy) to the Chair. The Committee held an additional 11 meetings under the Chairmanship of Mr. Bellelli, on 8 June, 6 and 27 July, 16 August, 7 and 22 September, 13 October, 2, 9, 21 and 28 November.

4. Mr. Martin Strub briefed The Hague Working Group, at its third meeting, held on 11 May 2011, on new developments related to the project. Mr Roberto Bellelli briefed The Hague Working Group, at its fourth and fifth meeting, on 7 July and 8 September 2011, respectively, and at an informal meeting on 18 October 2011. Progress reports on the work of the Committee were sent to the Bureau meetings, held on 5 April 2011 and 12 July.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Sixth session, New York, 30 November - 14 December 2007* (ICC-ASP/6/20), vol. I, part III, ICC-ASP/6/Res.1, para. 5 and annex II.

II. Status of the project

A. Stages and timelines²

1. Approval of the Preliminary Design

5. The Oversight Committee approved the Preliminary Design of the project, constituting the starting point for the final design, at its fourteenth meeting of 2010, held on 24 November 2010, subject to a number of conditions to bring down the cost of the project to the figure budgeted for that stage of the project.³

2. Final Design minus

6. At the fifteenth meeting of 2010, held on 15 December, the Project Director proposed a new “Final Design minus” sub-phase which was necessary to implement the conditions set by the Committee at its previous meeting. The Project Director informed the Oversight Committee that this sub-phase, ending on 1 February 2011, would cause the project a delay of two months. Therefore, the handover of the building would be scheduled for 1 September 2015 instead of 1 July 2015.

3. Value Engineering

7. At its first meeting, held on 12 January 2011, the Committee considered changes that needed to be adopted before the start of the Final design stage in order to keep the project within budget. The Project Director informed the Committee, at its second meeting of 2011, held on 26 January 2011, that the Final Design phase needed to be further postponed, due to the fact that identified cost cuttings had not yet reached the intended level. As the way forward, the Committee accepted the recommendation of the Project Director to engage in a top-down “Value Engineering”, i.e., a series of changes in the design, all related to each other, in order to change and improve the concept with a better functional quality, and achieve considerable cost savings (up to €7 million).

8. At its third meeting, held on 24 February 2011, the Committee approved the Value Engineering proposed by the Project Director and decided to continue discussions on the technical specificities of the security concept (discussions are still open on this item posing a financial risk of up to €1.5 million), and other items for one additional month. At the same meeting, the Committee also approved a series of changes in the project related to special items, which achieved further savings and or better functionality of the design.

9. The changes in the design introduced by the Value Engineering were related to building the parking on the terrain, lifting of the building, relocating the bicycle parking in front of the building, placing the secure drop off in a tunnel with an entrance from Alkemadelaan closer to the Court tower, relocating spaces downward in the building to the basement and ground floor, replacing the conference cluster by a meeting centre, and changing the security concept.

10. In addition, the Value Engineering introduced changes related to some special items such as reducing the footprint of the Court tower, clustering offices on the 1st floor, interpreting the requirements on ICT/AV, taking a pragmatic sustainable approach on energy saving, reducing outdoor furniture, removing flaps, and adopting a new extension scenario.

11. The Value Engineering exercise meant investing two additional months than had been originally planned. However, the handover of the building by the general contractor is still scheduled for 1 September 2015 since the two additional month delay (February and March 2011) would be made up for during the execution phase due to a simpler design.

² See annex I.

³ ICC-ASP/9/28, paras..20-24.

4. Final Design

12. At its twelfth meeting held, held on 22 September 2011, the Committee decided to adopt the new schedule proposed by the Project Director, including a new negotiation period after the tender process in order to continue finding savings. The new schedule would also involve devoting more time to finishing the final design.

13. The Final Design phase, which had begun on 1 April 2011, was completed on 1 November 2011. A presentation of the final design to the Committee took place on 9 November 2011, at its fifteenth meeting.

5. Final Design plus and tendering of the general contractor

14. The final design plus stage started, together with the preparations for the tender, on 1 November 2011. During this stage, the final design is further developed in order to prepare for tender documents. This stage will end in March 2012 and will slightly overlap with the tendering phase.

15. The Project Manager made a presentation, at the fourteenth meeting of the Committee, held on 2 November 2011, on the request for expressions of interest and the tender procedure for the general contractor. The three phases of the tender procedure and their respective objectives and timelines were presented; a) pre-selection phase, b) award phase, and c) negotiation phase. The pre-selection phase aims at selecting the five most suitable tenderers to fulfill the project objectives. An Assessment Panel composed of the key stakeholders of the project would be in charge of the pre-selection, taking into account a number of grounds of exclusion, some minimal requirements as well as a set of selection criteria, both technical and qualitative in nature.

16. The Project Director indicated that the major risk of delay in the tender process and timeline would be in the award phase, given the very limited time foreseen between the submission of the proposals (in May 2012) and the selection of the preferred contractor by the Oversight Committee (in June 2012).

17. At the sixteenth meeting of the Committee, held on 21 November 2011, the Project Manager clarified some of the questions raised at the previous meeting. The Committee decided to invite the project's legal consultant to the following meeting of the Committee, before the announcement of the request for expressions of interest.

18. After having received assurance on the procedure from the project legal consultant, the Project Director and the Court, the Committee decided, at its seventeenth meeting, held on 28 November 2011, to authorize the Project Director to announce the request for expression of interest.

19. Due to the additional two months taken during Final Design stage, the tendering for the general contractor is expected to end on 1 September instead of 1 July 2012. This is the moment when the contract with the general contractor will be signed and the Construction stage will begin.

Preparation of the site by host State and permit procedure with Municipality

20. As indicated by the Project Director, before entering into the contract, some preconditions must be met such as the possession of the site and the granting of the construction permits.

21. In this regard, at the tenth meeting of the Committee, on 16 August 2011, the representative of the host State informed the Committee that the Dutch Government had decided not to start the demolition project at the site of the permanent premises in response to the 26 July decision of the Bureau to examine the interim premises purchasing option (IPPO). The host State also noted that it would restart the project as soon as the IPPO was no longer an option and there was assurance that the permanent premises project would continue.

22. Following the decision by the Bureau to no longer pursue the IPPO the host State indicated, at the fifteenth meeting of the Committee, held on 9 November 2011, that it was

firmly and totally committed and would do its utmost to have a smooth demolition process, together with the Municipality of The Hague, to meet the deadline on 1 September 2012. The demolition process started in November 2011.

23. The host State also agreed to help speed up the permit procedure for the project so that the seven months foreseen for this stage can be substantially reduced.

6. Construction – General constructor’s contract

24. The construction stage is scheduled to begin on 1 September 2012 with the signature of the contract with the selected contractor.

25. The Project Director informed the Committee at its thirteenth meeting, held on 13 October 2011, that the project was leaning towards a NEC-3 contract, a United Kingdom-originated contract that is used internationally, but is not widely used in the Dutch trading practice (i.e., procuring in a value-for-money basis instead of just the cheapest price basis). Following the tender, the Design Team, according to the Design and Construct model approved last year for the project, would become part of the contractor, which would assume all liability and risk thereof.⁴

26. The Project Director also indicated that, after the signature of the contract, the contractor would have agreed a guaranteed maximum price but would continue to be incentivised to find additional savings. During this phase, it would be important for the Committee and the Court to be disciplined as a client and to resist making changes as these would have a financial impact and would result in changing the guaranteed maximum price.

B. Box 4 costs

1. Introduction

27. In resolution ICC-ASP/9/Res.1 the Assembly requested the Court, in consultation with the Project Director, to identify and quantify the other costs related to the project but not directly related to the construction (known as “Box 4 costs”), before 1 March 2011.⁵

28. At the third meeting of the Oversight Committee, held on 24 February 2011, the Court made a presentation on Box 4 costs which was based on a clear understanding among the different actors involved in the project on the demarcation line between, on the one side, normal building elements, part of the construction (known as Box 1 costs) and, on the other, the elements that are user specific, known as Box 4 costs. This was defined in a demarcation list, dated 30 November 2010⁶. At the following meeting of the Committee, the Court stressed that no item included in the Capital Replacement Fund was part of the Box 4 elements presented.

29. Box 4 costs were estimated at €42.2 million⁷ for the span of the project, consisting of two components:

(a) The integrated user equipment (3gv elements), estimated at €22.1 million (see annex II), made up of fixed furniture for library, warehouse, fixed kitchen equipment, etc., or elements such as completion (i.e. blinds), security (i.e. cameras, door locks, cabling, etc.); and

(b) The non-integrated user equipment (2gv elements), estimated at €20.1 million⁸, such as loose ICT/AV (i.e., ICT hardware, telecom, MER/SER, etc.), or loose interior and furniture (i.e., office furniture, loose kitchen equipment, sanitary equipment, etc.). The 2gv budget also included other related costs such as consultancy fees, moving costs and start expenses (such as extra cleaning and security), as well as additional temporary staff to help support the project in general.

⁴ See paragraph 70.

⁵ *Official Records ... Ninth session... 2010* (ICC-ASP/9/20), vol. I, part II, ICC-ASP/9/Res.1, para. 16.

⁶ ICC-ASP/9/28, paras. 31-32.

⁷ After its presentation on 24 February 2011, the Court submitted a report to the Committee, dated 1 March 2011 and a revision on 1 April 2011 on the estimated Box 4 costs.

⁸ The 2gv and other related costs estimated budget has been subsequently reduced to €19.8 million.

30. Box 4 costs are in addition to the approved construction budget of €190 million. Both 3gv and 2gv costs included escalation cushion and contingency reserves. Although referred to in previous Assembly resolutions,⁹ Box 4 costs had not been susceptible of quantification until the preliminary design was concluded in November 2010.

2. Financing of Box 4 costs

31. At the fourth meeting of the Committee, held on 30 March 2011, the Committee was of the view that although it was mandated to deal with issues related to Box 4 costs, according to resolution ICC-ASP/6/Res.1, paragraph 6 (c), the question of how to finance said costs was not under the purview of the Committee and should be submitted to the Committee on Budget and Finance. The Committee would provide the Committee on Budget and Finance with different financing options.

32. At the next meeting, held on 7 April 2011, different financing options were considered:

- (a) Using the existing mechanisms of the construction project, i.e., the host State loan and one-time payments;
- (b) Direct payment by States through either the Court's budget or a special budget; and
- (c) Taking a commercial loan.

33. There was consensus among members of the Committee that a clear differentiation, in terms of their financing, needed to be made between 3gv and 2gv elements¹⁰; while 3gv elements could be considered investment costs and be financed, in principle, through the existing loan, an increase of the loan or one time payments received, 2gv elements should be financed through the Court's budget, or a commercial loan; this last option was discarded at the sixth meeting of the Committee, held on 18 May 2011.

34. At its April session, the Committee on Budget and Finance concurred with the Chair of the Committee that costs and financing for Box 4 were an inevitable and foreseeable part of the project, and indicated that the Assembly would have to consider these costs and the existing financing options. In so doing, the terms and conditions of the host State loan and the one-time payments would also have to be considered to determine the feasibility of using those options. The Committee on Budget and Finance recommended that a financing strategy be developed to deal with Box 4 (both 3gv and 2gv) and any other cost overruns that the project could potentially face in the future.¹¹

(a) 3gv elements – Construction budget

35. On 24 February 2011, at the Committee's third meeting, the Project Director had explained that it would be less expensive and a better solution from the point of view of the contractor's liabilities and responsibilities to integrate in the construction stage all 3gv elements rather than the Court receiving an empty building and having to fit out all the fixed equipment at a later stage.

36. Following the recommendation of the Project Director's Office, supported by the Project Manager and the independent experts, the Committee decided to incorporate 3gv elements into the design in order to achieve an integral design that could be tendered together with the construction, although the question of financing the 3gv costs remained pending.

⁹ *Official Records ... Sixth session... 2007* (ICC-ASP/6/20), vol. I, part III, ICC-ASP/6/Res.1, preambular para. 12; *Official Records ... Seventh session... 2008* (ICC-ASP/7/20), vol. I, part III, ICC-ASP/7/Res.1, preambular para. 4; *Official Records ... Eighth session... 2009* (ICC-ASP/8/20), vol. I, part II, ICC-ASP/8/Res.5, operative para. 10.

¹⁰ The Committee on Budget and Finance confirmed this approach, see Report of the Committee on Budget and Finance on the work of its sixteenth session (ICC-ASP/10/5), para. 89.

¹¹ Report of the Committee on Budget and Finance on the work of its sixteenth session (ICC-ASP/10/5), paras. 86, 88 and 90.

37. At its seventh meeting held on 8 June 2011, the Committee, following the recommendation of the Committee on Budget and Finance, considered options to finance 3gv costs. The Chair recalled that the Committee, at its previous meeting, had decided to retain two of the financing options proposed for further consideration: a) use of the existing financing mechanisms (host State loan and/or one-time payments), or b) direct payment by States through the Court's budget or a special project budget.

38. At that meeting, the point was made that the Committee should overcome its reticence and accept that, since 3gv elements are part of the construction, their budget should be added to the construction budget. According to a different view, incorporating 3gv costs to the construction project would have downsides such as being perceived, though unfairly, as a 10 per cent increase of the budget, reducing the subsidy on the host State loan, and possibly raising some legal issues.

39. The Court expressed the opinion that an ad-hoc budget should be created for the entire project (including Box 4 costs) totally separate from the Court's budget.

40. The Committee further reviewed 3gv costs at its eighth and ninth meetings, held on 6 and 27 July 2011, respectively.

41. At the eleventh meeting of the Committee, held on 7 September 2011, the Project Director remarked that he had asked to be given a clear target when requested to conduct a review of the requirements to increase financial security for the project. In the absence of an answer to that point, he had proceeded with the Project Team on the basis that the target was to incorporate the 3gv costs within the original €190 million budget.

42. After a presentation on updated figures and stage review plan by the Project Director, at its thirteenth meeting, held on 13 October 2011, the Committee decided that 3gv costs would be totally absorbed within the €190 million construction budget.¹²

3gv and host State loan

43. The host State indicated, at the seventh meeting of the Committee, held on 24 February 2011, that it could see certain logic in using the host State loan to pay for 3gv costs, since they related to fixed elements of the construction project¹³ but that it would be something to be considered in the broader context of Box 4 and the rent for the interim premises.

44. At the eighth meeting of the Oversight Committee, on 6 July 2011, members of the Committee recalled that the host State had already agreed to include "fixed interior costs" in the loan, in a letter, addressed by the Dutch Minister of Foreign Affairs to the President of the Assembly, dated 25 January 2006,¹⁴ which forms an integral part of the host State bid for the construction project, and was accepted, on 21 October 2008, by the Assembly of States Parties.¹⁵

45. It was later also recalled that an appendix to the above letter entitled "Information on the additional Dutch bid for the permanent premises of the International Criminal Court includes the following language: "... The Dutch Government's additional financial bid applies solely to the costs incurred in realising the purpose-built new premises of the Court, i.e. the all-inclusive construction costs. These costs consist of the direct building costs, the fees for architects and consultants, and interior fixtures and fittings, including the cabling. They do not include the costs of consultants of the Court, furniture and movable ICT infrastructure..."

¹² At its eighth meeting, held on 6 July 2011, the Committee had decided to exercise its delegated authority, under paragraph 16 c) of annex II to resolution ICC/ASP/6/Res.1 and authorize the use of the contingency budget of the project to pay for 3gv costs in 2011, in the amount of up to €1.5 million. This would be a loan from the project budget, which would be reinstated in 2012. With the decision to absorb 3gv costs within the construction budget and the new structure of the budget there is neither need nor possibility of replenishing the contingency fund of the project, and the abovementioned costs will become part of the construction budget.

¹³ The same view was reiterated at the ninth Bureau meeting, held on 29 June 2011, by the representative of the host State.

¹⁴ *Official Records ... Fourth resumed session ... 2005* (ICC-ASP/4/37), annex III.B, paragraph 8.

¹⁵ *Official Records ... Seventh session ... 2008* (ICC-ASP/7/20), Vol.1, part II, ICC-ASP/7/Res.1, para. 2.

46. In this connection, the Committee considered, at its fourteenth meeting, held on 2 November 2011, a letter from the Dutch Minister of Foreign Affairs to the President of the Assembly of States Parties, dated 31 October 2011 concerning the permanent premises, in which the host State presented as a new offer the extension of the scope of the host State loan to the 3 gv costs (i.e. fixed elements), on the condition that an agreement was found with regard to the interim premises rent.

47. There was consensus in the Oversight Committee that the new offer, dated 31 October 2011, does not provide any additional value to the 2006 bid from the host State to include 3gv costs into the scope of the host State loan.

48. At the seventeenth meeting of the Committee, held on 28 November 2011, the representative of the host State confirmed that 3gv costs can be financed through the host State loan.

(b) 2gv elements and other related costs – Court’s budget

49. The Committee on Budget and Finance, at its August 2011 session, was of the view that, to maintain the principle of budgetary integrity, 2gv costs should normally be contained within the Court’s budget, and recommended that said costs be clearly identifiable and quantifiable.¹⁶

50. After having considered 2gv financing at its sixth, seventh and eighth meetings, the Committee position was that 2gv should be funded through the budget of the Court. 2gv costs would be discussed by the Committee on Budget and Finance, through the Oversight Committee, and submitted annually to States Parties for approval via the Court’s budget in a way that would keep 2gv costs differentiated from the regular expenditures of the Court.

51. However, for the year 2012, it was not possible to include 2gv and other related costs in the proposed budget, as the figures and the requirements they were based upon, were still under review by the Oversight Committee at the time of the preparation of the 2012 proposed budget. The proposed programme budget for 2012, for the permanent premises was issued on 2 August 2011, and then revised, on 29 August 2011.¹⁷

52. Therefore, the Committee on Budget and Finance was not able to make specific recommendations on the figures for 2gv elements.. However, the Committee on Budget and Finance recommended that the Oversight Committee ensure that costs which should normally fall within the €190 million envelope for the construction project not be contained within the Court’s budget of the Court.¹⁸

53. While the Oversight Committee had decided to absorb the 3gv costs (€2.1 million) into the construction budget, it was of the opinion that the necessary temporary staff to support the project should be provided through the Court’s budget, as was the case with the Project Director’s Office, the Project Office for the Permanent Premises and all other sections of the Court involved in working for the project. In the Committee’s view, the consultants needed to prepare the work on 2gv elements should also be part of the Court’s budget since the construction budget was set up to deal only with the construction of the premises.

54. Following the recommendations of the Committee on Budget and Finance, the Committee decided to differentiate between additional temporary staff needed by the Court to support the project, on the one side, and 2gv elements and other related costs, on the other.

55. Consequently, the Oversight Committee proposed a new Major Programme VII-1, including a Programme for the Project Director’s Office, as in previous budgets, and two new Programmes, under the control of the Project Director, dealing, respectively, with additional temporary staff, and 2gv elements and other related costs. Thus, these costs

¹⁶ Report of the Committee on Budget and Finance on the work of its seventeenth session (ICC-ASP/10/15), para. 140.

¹⁷ ICC-ASP/10/10/Add.1, and ICC-ASP/10/10/Add.1/Rev.1.

¹⁸ Report of the Committee on Budget and Finance on the work of its seventeenth session (ICC-ASP/10/15), para. 139.

would be clearly identifiable and quantifiable in the budget, as recommended by the Committee on Budget and Finance.

56. The Oversight Committee, through several reviews, was able to progressively reduce the total amount of the resources needed in 2012 for 2gv elements and other related costs from the original €1.5 million estimate submitted to the Committee on Budget and Finance, on 2 August 2011, to €1 million, on 29 August 2011, €882,000, and finally €847,600, which was the figure adopted on 13 October 2011, at the thirteenth meeting of the Committee.

57. The revised programme budget for 2012, relating to the permanent premises project was circulated to States Parties on 14 October 2011.¹⁹ With a view to allowing the Committee on Budget and Finance appropriate time for consideration and thereby facilitating the work of the Assembly, the Chair of the Committee submitted the revised programme budget to the Chair of the Committee on Budget and Finance on 28 October 2011.

Supplementary budget

58. On 31 October 2011, the Registrar addressed a letter to the Chair of the Committee recalling that the Registry had expressed concerns on the direct submission by the Oversight Committee of the first version of the “Proposed programme budget for 2012 of the International Criminal Court: Permanent premises” (ICC-ASP/10/10/Add.1) to the Committee on Budget and Finance and reiterated those concerns when, document ICC-ASP/10/10/Add.1/Re.2 was circulated to States Parties.

59. The Registrar recalled in the letter that, Financial Rule 103.2 (2) vests in the Registrar the submission of the consolidated programme budget to the Committee on Budget and Finance and to the Assembly of States Parties, and consequently, requested to receive the new proposed budget approved by the Committee at its thirteenth meeting in order for the Registry to submit it to the Assembly as a supplementary budget proposal for 2012.

60. The Committee considered the matter at its fourteenth meeting, held on 2 November 2011, and agreed to request the Registrar to submit the proposed budget for permanent premises as a supplementary budget to the Assembly as expeditiously as possible with a view to allowing States Parties sufficient time to consider the document in advance of the tenth session of the Assembly.

61. At its sixteenth meeting, held on 21 November 2011, the Project Director informed the Committee that the Court had revised the final figure for the two new programmes within Major Programme VII-1 up to €904.100 to ensure consistency with the salary scale applied in the proposed programme budget for 2012.

C. Cost of the project

1. Construction budget

62. Neither the delay in 2009/2010 due to the selection of the architect, nor the new delay during the Final Design minus stage caused an overrun of the overall budget, which continued to be within the maximum figure of €190 million at 2014 prices. Furthermore, in the opinion of the Project Director’s Office and the Court, the thorough analysis of costs achieved at the Value Engineering stage of the project mitigates significantly the risk of a cost overrun at later stages.

63. However, the decision by the Committee to absorb 3gv elements (€2.1 million) in the construction budget, as noted by the Project Director at its ninth meeting, held on 27 July 2011, equates to a 12 per cent reduction of the construction budget and poses the challenge of finding savings throughout the project.

¹⁹ ICC-ASP/10/10/Add.1/Rev.2.

2. Cost reduction process to absorb the 3gv within the €190 million construction budget

64. At the third meeting of the Oversight Committee, held on 24 February 2011, the Oversight Committee decided to undertake a detailed verification of the Box 4 costs estimates, and requested the Project Manager and the Project Director to conduct a review of said costs.

65. At the seventh meeting of the Committee, held on 8 June 2011, the Project Manager explained that he had verified that the Box 4 budget proposed was related to the project, not the organization, and consistent with the structure of the project regarding 3gv and 2gv costs. The review, he added, had used benchmarks related to other governmental office headquarters. According to the Project Manager, the results showed that all main elements in the Box 4 budget estimate were generally within the benchmarks, the only exceptions being the security installations, which were higher (in the Project Manager's view this was justifiable because of the special security requirements of the Court tower), and the consultant's fees, which were slightly below the benchmark.

66. Further reviews of 3gv costs were undertaken by the Committee at its eighth, ninth, eleventh, twelfth and thirteenth meetings.

67. At the eleventh meeting of the Committee, held on 7 September 2011, the Project Director presented the results of the review he had conducted in two different phases: a) Stage 1: Review of contingency and escalation budgets; and b) Stage 2: Review of the requirements.

68. At the twelfth meeting of the Committee, held on 22 September 2011, the conclusion was reached that it was not possible to absorb the full 3 gv elements in the construction budget while keeping the budget at a maximum €190 million, using only financial means (Stage 1). Since a review of the design (Stage 2) would be necessary, the Committee, decided to follow the Project Director's advice and conduct such review in two different sub-phases, i.e., during the Final design plus stage, and at the negotiation period during the tender stage.

69. At the thirteenth meeting of the Committee, held on 13 October 2011, the Project Director made a presentation on updated figures and stage review plan, and explained the targeted savings needed in the construction project in order to absorb the 3gv elements within the €190 million construction budget:

Stage 1 (September-October 2011): €9.2 million in contingency and escalation savings;

Stage 2 (October 2011-August 2012): €14.2 to €16.2 million as follows:

(a) €3 to 4 million from Value Engineering at the Final Design Stage (October 2011-January 2012);

(b) €3.2 million from tender returns below tender price (June-July 2012); and

(c) €3 to 4 million through negotiations before the contract signature (July-August 2012);

Stage 3 (September 2012-onwards): Further savings during the construction period.

70. According to the Project Director, having high quality tender documents would be essential during the process. He pointed out that stage 2 b) would be key as it would clarify the financial reality of the project. Ideally, all necessary savings would be achieved by the end of stage 2 b). Otherwise, the requirements would need to be changed in August 2012 during stage 2 c). After Stage 2 c), it would not be possible to proceed with the contract unless the €190 million target had been reached or a new budget was approved by the Assembly of States Parties. He stressed that this could potentially delay the project as time might then be needed to implement further reductions and incorporate them into the project.

71. The Committee concluded, at its thirteenth meeting, held on 13 October 2011, that it expected to have the total absorption of 3gv elements within the 190 million budget after stage 2 c). Otherwise, it would be the Committee itself making the necessary cuts to bring the project within cost or requesting the users to look into a list of possible savings to make their own choices.

72. In this regard, the Court noted that it was important to keep in mind that, in this process, the functionality and the scope of the project should not be affected.

3. Review of the requirements

73. At its eighth meeting, held on 6 July 2011, and in order to enhance the financial security of the project, the Oversight Committee decided to approach costs not only on a phase-by-phase basis, as it had done before, but also from the perspective of the overall project budget. Therefore, the Committee decided to undertake a further review of user requirements for the project, in addition to those related to Box 4 costs.

74. The Committee agreed with the Court that the review would need to fully safeguard the functionality of the project, while drawing a distinction between those requirements which are essential to the proper performance of the core duties of the Court and other elements of the project which might not meet this standard.

75. The review of the requirements will be undertaken depending on the savings achieved in the schedule adopted at the thirteenth meeting of the Committee in order to absorb the 3gv elements into the construction budget. At its fourteenth meeting, held on 2 November 2011, the Committee requested the Project Director to prepare a list of possible cuts to the requirements in order to find additional savings to be implemented, if needed, at any stage.

4. New financial framework for the construction budget

76. At the fifteenth meeting of the Committee, held on 9 November 2011, the Committee considered and approved a change of the project's financial framework. As explained by one of the independent experts, the original framework of the project consisting of Boxes 1 to 4, with the resulting overlap of contingency, cushion and escalation budgets in several parts of the project made it very difficult in practice to effectively manage the project²⁰.

77. The Project Director's Office in close collaboration with the independent experts developed, following the internal audit and the Committee on Budget and Finance recommendations, a revised financial framework for the entire project. As a result, the project budget, set at €190 million has been restructured to include 5 sets of costs:

(a) The construction costs (comprising the direct and indirect construction costs and the fees for the design team after tendering as these will make up the cost paid to the general contractor);

(b) Funds set aside to cover project risks (such as design or construction risks – as these will also most likely end up in the cost paid to a general contractor), and client risks (such as permit risks, legal claims etc – costs that will sit outside of the general contractor's contract). The risks, managed via a detailed risk register, that materialise during the project will result in a transfer of the financial cost of the risk to any of the other four budget lines;

(c) Building permits and dues;

(d) Fees related to the design, project management and other specialist consultants; and

(e) Other costs.

78. The revised budget breakdown has been used as well to prepare the cash flow scheme annexed to the draft resolution on permanent premises.

²⁰ See annex I to ICC-ASP/9/28.

79. With this new presentation, the construction budget is expected to be much more transparent, and the 3gv elements would be subsumed into the construction and risk parts of the new budget.

5. Expenditures and projected budget from the Court's budget

80. In order to calculate the total cost of the project, as has been requested by the Committee on Budget and Finance and the Court's Office of Internal Audit, reference needs to be made to the other two components that fall under the Court's regular annual budget, which together amount to €26.8 million until the end of the project:

(a) Major Programme VII-1, for which the projected total budget until the end of the project is estimated at €23.3 million incorporates, as of 2012:

(i) Programme 7110, Project Director's Office for an estimated amount at €3.5 million;

(ii) Programme 7120, for the Court's staff resources and management support related to the project estimated at €2.3 million; and

(iii) Programme 7130 for 2gv and other related costs estimated at €17.5 million.

(b) Major Programme III, sub-programme 3160 (Registry Permanent Premises Office) estimated at €3.5 million.

81. Further details to Major Programme VII-1 and Major Programme III, sub-programme 3160 expenditures and future projected budgets are provided in annex III.

6. Total cost of the project: construction budget + Court's budget (permanent premises)

82. The revision of the financial framework has resulted in creating clarity on the full cost impact of the project, through clearly identifying the costs related to the project that are funded via the budget of the Court and those that are funded through the construction budget (annex IV).

83. Annex IV provides an estimation of the full costs related to the project for the period 2008 until 2016. The total estimated costs, amount to €16.8 million, that is, a maximum €190 million for the construction budget (including 3gv costs), and an estimated projected figure of €26.8 million from the regular annual budget of the Court (including 2gv costs).

III. Financial reporting

A. Project expenditures

84. As reported by the Project Director, the projected expenditures for the project budget (€190 million) from 2008 to 2011, as at 18 November 2011, amount to €13.4 million, as reflected in annex V to this report.

B. One-time payments

85. At its seventh session, , the Assembly, in resolution ICC-ASP/7/Res.1, paragraphs 6 and 7, invited States Parties to consider making a one-time payment equal to their share in the value of the total estimated overall construction costs, subject to an adjustment once the final cost of the project is determined. The Assembly adopted, at its resumed eighth session, resolution ICC-ASP/8/Res.8, extending the date for States Parties to opt for one-time payments to 15 October 2012.

86. As at 18 November 2011, 28 States Parties have selected the option of a one-time payment of their assessed share, representing a total value of €3,340,284. These States Parties would receive discounts on their share of the costs, as one-time payments reduce the need of making use of the host State loan, leading to a capitalization of the unused part of the loan (17.5 per cent).

87. As at 18 November 2011, one-time payments, partial or in full, have been received from 23 States Parties, totaling €26,468,660 (see annex VI).

88. The cash flow overview in connection with one-time payments is submitted as annex VII, which shows also interest received on one-time payments.

89. The current committed one-time payments and the one-time payments already received (annex VII) show that the necessary cash-flow in 2012 could be funded from committed one-time payments only, under the assumption that those will be timely received, making withdrawals from the host State loan unnecessary in 2012. As from 2013, usage of the loan would again be required. Further clarity on the actual timing of drawing down on the host State loan will be available upon agreement of the contract with the general contractor.

C. Trust Fund

90. In accordance with resolution ICC-ASP/6/Res.1, annex VI, a trust fund has been established by the Registrar for the purpose of holding funds dedicated to the construction of the permanent premises of the Court. So far no voluntary contributions from governments, international organisations, individuals, corporations or other entities have been received.

IV. Other project related issues

A. Total cost of ownership and surface area

91. At the eleventh meeting of the Committee, held on 7 September 2011, the Project Director indicated that the total cost of ownership (TCO) needed to be recalculated in order to take account of the impact of the Value Engineering conducted in February/March 2011, which had resulted in an increased gross floor area for the project. Since the Value Engineering had resulted in other efficiencies and savings, the additional gross floor area did not result in an increase of the construction budget.

92. The Committee was informed about the updated total cost of ownership at its twelfth meeting, held on 22 September 2011. The presentation, prepared by the Project Manager, showed an increase of 4.6 per cent under the current Final Design (€16,990,000 per year) compared with the previous calculations at the end of the Preliminary Design stage (€16,240,000 per year).

93. It was recalled that the TCO is composed of the following elements:

- (a) Operating costs, estimated at €2,590,000 per year;
- (b) Depreciation costs, or amortization, estimated at €7,510,000 per year; and
- (c) Financial costs, that is, the interests to be paid on the host State loan by those States Parties that did not opt for one-time payments, estimated at €6,890,000 per year.

94. In the opinion of the Project Manager, the increase of TCO was partly due to the increase of the gross floor area, which went from 50,560 square meters at the end of the Preliminary Design to 52,450 square meters after the Final Design. The Committee requested the Project Manager to provide further explanations on the benchmarks used to calculate the TCO.

95. At the fifteenth meeting of the Committee, held on 9 November 2011, the Project Manager indicated that the TCO estimate presented at the previous meeting, linking the increase of TCO to the increase of gross floor area, was the result of a theoretical exercise and that for some of the square meters considered the real cost of maintenance could be lower. The Project Director agreed that with the completion of the final design, it was time to do the real calculations.

96. The Project Manager made a presentation to the Committee, at its sixteenth meeting, held on 21 November 2011, to clarify the concepts of net area and gross floor area in the project. He indicated that it was difficult to trace back the different net areas from the

competition design to the final design, since the project did not follow the Dutch standard on net floor area and different stakeholders, such as the Design Team, the Court, etc., might have applied different criteria throughout the project. He pointed out there was an ongoing discussion with the Court on whether the net area had increased or not since the Competition design.

97. However, the Project Manager stressed that the figures on gross floor area were correct and were the most important in terms of a construction project and the calculation of its cost. The increase in gross floor area since the end of the Preliminary Design was mainly due to the addition of technical rooms and basement logistics, and the Value Engineering. In the later case the additional gross floor square meters were cheaper than average.

98. The Committee decided to keep a reference to the gross floor area of the project in the draft resolution, on the understanding that further changes might occur during the process leading to the signature of the contract with the general contractor, which would again have an impact in the total gross area of the project. The Committee would continue looking into ways of reducing the total cost of ownership.

B. Visibility of membership at the seat of the Court

99. At the seventh meeting of the Committee, held on 8 June 2011, the Chair referred to the matter of how States Parties will be reflected in the new permanent premises. He recalled that the issue had been discussed by the Committee last year at its thirteenth meeting, held on 16 November 2010. On that occasion, it was noted that having flag poles was preferable for States to having their names on bronze reliefs, as flags were easily and universally recognized symbols, while bronze reliefs raised the issue of languages, changing names of countries, succession matters, etc. and would not be readily visible from a certain distance. Although the cost of hoisting and lowering flags would have to be taken into account, the point was made that, in any case, the decision on how to best reflect at the symbolical level the political support of a State to the Court belonged to States Parties.

100. The Chair stressed that any choice to have flags rather than other ways to represent States Parties did not necessarily entail that poles had to be installed outside the premises, with the mentioned additional costs. Other international organizations had addressed this matter by having all Member States' flags placed indoors, at the public entrance of their premises (e.g., OPCW, UNOV).

C. District heating

101. At the sixth meeting of the Committee, held on 18 May 2011, the Acting Project Director recalled that in the initial starting point for the project, i.e., the competition brief, district heating would be available for the new premises. However, it had become apparent that this initial starting point might have to be altered since the host State was not able to arrange rates for the district heating system in conformity with the market situation.

102. After intensive discussions between the host State, the Municipality, the energy supplier Eneco and the Project Director's Office, an alternative solution was proposed consisting in providing the project with a heat and cold storage provision. This was, according to the Acting Project Director, an acceptable alternative solution for the project both from the technical and sustainable points of view. Furthermore, the alternative solution would have slightly less maintenance costs for the Court and be offered at market energy prices. The Acting Project Director specifically thanked the host State for its intervention and persistence in getting the matter solved.

103. The Project Manager explained that the alternative solution consisted in storing warm water in summer to be extracted in winter to heat the premises, and storing cold water in winter to be used in summer for the cooling of the Court. The energy company would bill the Court according to the energy used. The host State clarified that this solution had not been retained in the beginning of the project because drilling at the site was not permitted. However, this could be done several hundred meters from the Court. The host State and the Municipality would finance the additional investment needed so that the energy company would charge the Court only the regular market price for the service.

104. The point was made, at the 8 June 2011 meeting of the Committee, held on, that the new solution could not be less favourable to the project than the strong position the project had been granted by the competition brief on this matter.

105. The change was accepted since it provides a more sustainable solution (e.g. lower energy consumption) and lowers the investment costs and running costs for the energy provision.

106. This form of energy provision will require a contract to be negotiated with the energy provider for a period of between 15-20 years. A project working party consisting of representatives of the Project Director's Office, the Court and the Project Management has been set up to deal with this issue.

D. Residual mechanism

107. At the second meeting of the Committee, held on 26 January 2011, the Registrar referred to the United Nations Security Council resolution 1966 (2010) on the residual mechanism and proposed to consider ways to accommodate it. In this regard, it was pointed out that, at that stage, it was still premature to discuss the matter. It was recalled that the decision was to have the residual mechanism located in The Hague, which did not necessarily mean at the Court. However, if that was the case, a decision would have to be reached by the Assembly before the Committee could consider the financial implications of such decision. In this connection, reference was made to paragraph 23 of the omnibus resolution adopted at the ninth session of the Assembly²¹, which stated that any action taken in this regard should be on a "cost-neutral basis" for the Court.

108. In this connection, on 24 November, in reply to a query by the Committee, the Registrar informed the Committee that it had responded to the requests in relation to the possible housing of and cooperation with residual mechanisms assuring full cooperation to the extent possible. In this respect the Court had, *inter alia*, been in contacts with the Special Court for Sierra Leone (SCSL) and the UN Office of Legal Affairs (OLA). Since the adoption of Resolution 1966 (2010) by the United Nations Security Council, establishing the International Residual Mechanism for Criminal Tribunals, on 22 December 2010, the Court had not been approached by the United Nations Office of Legal Affairs, nor the Tribunals.

V. Governance structure

A. Operation of the governance structure

109. At its seventh meeting, held on 8 June 2011, the Committee decided to approve a new governance structure for the project (see annex VIII). This was done in accordance with the mandate given by the Assembly to the Oversight Committee to make any changes in the structure that it deemed appropriate and to implement them with immediate effect subject to confirmation by the Assembly at its next session.²²

110. The new structure identifies and empowers a single Project Director by giving him the strategic leadership, decision-making and overall management of the project. The Oversight Committee is of the opinion that the revised governance structure is an appropriate and adequate response to the issues highlighted in the various relevant audit reports and takes account of the position expressed by the Court.

111. Thus, the improved governance structure:

(a) Is based on the assumption that the Court and the States Parties both share the same interest in the project, namely to deliver a building that meets the project's goals regarding timelines, cost and quality requirements;

(b) Implies that the Project Director can act and must be seen to act on behalf of all stakeholders allowing him to effectively lead the project. Thus, the revised governance

²¹ *Official Records ... Ninth session ... 2010* (ICC-ASP/9/20), vol. I, part III, ICC-ASP/9/Res.3, para. 23.

²² *Official Records ... Ninth session ... 2010* (ICC-ASP/9/20), vol. I, part III, ICC-ASP/9/Res.1, para. 8.

structure is made consistent with the Assembly's original policy for the project laid out in resolution ICC/ASP/6/Res.1, including its annexes II, III, and IV. Under the prior governance framework, the Project Director's overriding authority had not worked in practice;

(c) Identifies and empowers a single Project Director by giving him or her the strategic leadership, decision-making and overall management of the project, including the design and construction project, the users' project, the cost and quality project, and the site project. Thus, the confusion that would arise from having two different directors for a single project is avoided;

(d) Responds to the recommendation of the External Auditor since the revised governance is fit for the purpose of the project as it lays out full and clear accountability for the project with the Project Director;²³ and

(e) Is consistent with the experts' recommendations, from the outset in 2005, that the Project Director be in charge of coordinating all parties involved in the project. Communication with and implication of the user is guaranteed, under the overall authority of the Project Director, through established reporting lines and direct access for the user to the new Project Director (policy of open doors).

112. The Chair of the Oversight Committee made a presentation on the new governance structure of the project to the Court's Audit Committee on 17 June 2011.

113. Following the adoption of the revised governance structure, the Oversight Committee has been pleased to note that the Project Director and the Court are jointly exploring avenues for increased integration of their resources in the project, with the aim of creating synergies which will hopefully result in efficiency gains throughout the process.

B. New Project Director

114. After the resignation of the first Project Director, Mr. Hans Heemrood, effective 1 March 2011, the Committee, at its third meeting, held on 24 February 2011, appointed Ms. Ann Janssens Acting Project Director from 1 March 2011 until the recruitment of a new Project Director was completed.

115. The new Project Director, Mr. Neil Bradley, took up his responsibilities on 20 June 2011.

C. Development of an overall procurement and financing strategy during the construction stage

116. As part of developing the revised Financial Framework the Project Director's Office has undertaken a collaborative Strategic Procurement exercise with the Court resulting in a Project Strategic Procurement Matrix identifying activities that can follow the regular Court procurement procedures and those that will follow a specifically developed variant Project procedure (which is in line with the Financial rules and regulations of the Court). This is in the process of being finalized before being formally presented to the Registrar for approval.

VI. Development of an audit strategy

117. At the sixth meeting of the Committee, held on 18 May 2011, the Acting Project Director informed the Committee that an audit strategy for the project was being developed in conjunction with the external auditor. When ready, the proposal would be shared with both the external and internal auditors for feedback and comments, and submitted to the Committee for approval.

118. At the seventh meeting of the Committee, held on 8 June 2011, the Chair informed the Committee that the Office of the Internal Oversight Services of the United Nations had submitted the Court's Assurance Mapping Study, on 25 May 2011, following a request by

²³ *Official Records ... Ninth session ... 2010* (ICC-ASP/9/20), vol. II, part C, Financial statements for the period 1 January to 31 December 2009, para. 26, Recommendation 1.

the Bureau. The main recommendation, as regards the Permanent Premises project, was the need to develop and implement an Audit Strategy, including an assurance map for the risks to the project..

119. The Committee, at its eleventh meeting, held on 7 September 2011, considered a document, prepared by the Secretariat and dated 26 August 2011, containing extracts from various audit reports, highlighting recommendations related to the permanent premises project.

120. The Project Director explained, at the same meeting, that the Project Director's Office had already provided responses to the external audit report recommendations and made comments on them all, although they had yet to formally reply to some of the internal audit recommendations.

121. It was noted, at the sixteenth meeting of the Committee, held on 21 November 2011 that the new external auditor was in the process of being recruited by the Court; therefore in 2012 it would be possible, working also in conjunction with the Court's Office of Internal Audit, to finalize the audit strategy for the project.

VII. Voluntary contributions

122. At the seventh meeting of the Oversight Committee, held on 8 June 2011, the Chair recalled prior discussions on possible actions for adopting a policy on donations and other voluntary contributions to the project. He noted that the establishment of the ad hoc Trust Fund had not brought in itself any result so far. The Chair indicated that donations should be regarded as a means to increase the sense of global ownership of the permanent premises by the international community at large as well as by the general public, resulting in a reinforced credibility for permanent international justice carried out on behalf of "all peoples ... [with] a shared heritage".²⁴ At the same meeting, the Acting Project Director presented ideas related to possible items in the project susceptible of sponsorship or donation, types of sponsors or donors and conditions for sponsorship.

123. At the ninth and eleventh meetings of the Committee, held on 27 July and 16 September 2011, respectively, the Project Director updated the Committee on the preparation of a list of possible elements that had been identified for donation or sponsorship. The Project Director's Office presented the Committee, at its fourteenth meeting, held on 2 November 2011, with draft regulations for the Trust Fund for the Permanent Premises project and in-kind contributions, dated 1 November 2011, and draft terms of reference for the voluntary contributions campaign which included an annexed list of potential sponsorship items, dated 24 October 2011.

124. The Executive Director of the Trust Fund for Victims (TFV), Mr. Pieter de Baan, made presentations to the Committee at its fourteenth and fifteenth meetings, held on 2 and 9 November, respectively. He addressed challenges and lessons learned, specifically focusing on private donors. However, he indicated that, for the moment, the TFV had very limited experience on private donors which had contributed only 1 per cent of the Fund's resources.

125. Mr. de Baan noted that the Court's Financial Regulations and Rules had not been tailored to receive voluntary contributions from the private sector and might therefore require some amendments in the future. In order to attract private donors, there was need to put in place a policy of private contributions and work on a message (purpose) to be conveyed to potential donors. He emphasized the need to know the market well (institutional, corporate and private survey donors), and dedicate efforts to nurture prospective donors knowing that, when the time is ripe, there is usually one shot only at getting the sought-after donation. He also recommended investing in capability and really be prepared to satisfy investors' concerns by having in place proper procedures, such as a policy of due diligence to assess potential donors. Furthermore, he found interesting the idea of exploring organizational synergies between the TFV and the permanent premises project but being extremely careful to avoid competition between the two, which, in his view, would be destructive.

²⁴ Rome Statute, Preamble, paragraph 2.

126. Following the presentation, concern was expressed about the Committee expanding its role to deal with private contributions. Having been warned that raising funds is both time consuming and resource intensive, the Committee would need to hire a consultant and that would imply a cost without knowing whether such expenditure would be justifiable from a cost and benefit analysis. Without arguing necessarily in favour of discarding voluntary contributions, in addition to the previous considerations, the point was also made that the Oversight Committee would need to start the work from zero since the TFV had not developed yet a policy on private donations.

127. There was a general agreement among the members of the Committee, at its sixteenth meeting, held on 21 November 2011, that given the timeline and complexity of the matter, the Committee would not be in a position to present a comprehensive proposal on the strategy for voluntary contributions and regulations of the Trust Fund to the Assembly at its tenth session. The Committee would keep the matter under consideration to address it after the Assembly.

VIII. Draft resolution on the permanent premises

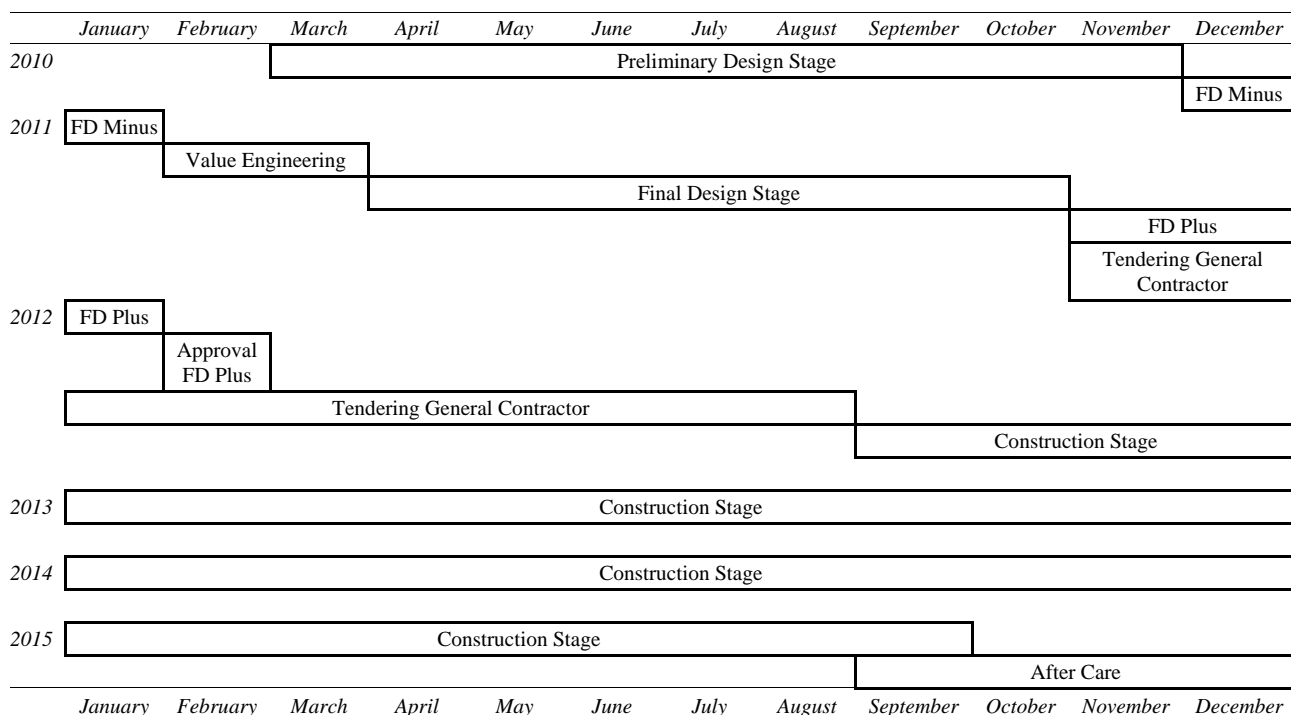
128. At its seventeenth meeting, held on 28 November 2011, the Committee decided to submit to the Assembly of States Parties, the draft resolution attached (annex IX).

IX. Membership of the Committee

129. Pursuant to paragraph 5 of annex II to resolution ICC-ASP/6/Res.1, the membership of the Committee needs to be renewed, as reflected in appendix II to the draft resolution on permanent premises.

Annex I

Timescale Overview



Annex II

3gv costs (in euros)

| | |
|--|-------------------|
| Construction costs | |
| Additional completion | 408,750 |
| Additional security installations | 4,853,136 |
| Additional ICT/AV installations | 6,163,500 |
| Fixed catering equipment | 847,150 |
| Additional fixed furniture | 117,400 |
| Other | 510,500 |
| Indirect construction costs | 3,078,892 |
| | <i>Subtotal</i> |
| | 15,979,328 |
| Fees | |
| Design team | |
| Architect | 464,065 |
| Interior architect | 123,228 |
| Security engineer | 167,978 |
| ICT/AV engineer | 284,160 |
| Catering consultant | 42,707 |
| Project management and cost management | 990,448 |
| | <i>Subtotal</i> |
| | 2,072,585 |
| Escalation | 2,077,214 |
| | <i>Subtotal</i> |
| | 2,077,214 |
| Cushion and contingency | 2,003,756 |
| | <i>Subtotal</i> |
| | 2,003,756 |
| Total 3gv | 22,132,884 |

Annex III

Expenditures and future projected budgets for Major Programme VII-1 and subprogramme 3160 (in thousands of euros)

Expenditures and future budgets Major Programme VII-1 (Project Director's Office)

| Project Director's Office (permanent premises) | Expenditures 2008 | Expenditures 2009 | Expenditures 2010 | Projected expenditures 2011 | Proposed budget 2012 (*) | Projected budget 2013 (*) | Projected budget 2014 (*) | Projected budget 2015 (*) | Projected budget 2016 (*) | Total 2008-2016 |
|--|------------------------|-------------------|-------------------|-----------------------------|--------------------------|---------------------------|---------------------------|---------------------------|---------------------------|-----------------|
| Professional staff | No breakdown available | | | | | | | | | |
| General Service staff | | | | | | | | | | |
| <i>Subtotal staff</i> | 48.3 | 266.6 | 315.6 | 335.4 | 350.8 | 350.8 | 350.8 | 350.8 | | 2,369.1 |
| General temporary assistance | | 16.8 | 26.4 | 16.8 | 473.7 | 517.4 | 617.4 | 617.4 | 100 | |
| <i>Subtotal other staff</i> | | 16.8 | 26.4 | 16.8 | 473.7 | 517.4 | 617.4 | 617.4 | 100 | 2,385.9 |
| Travel | 0.5 | 4.4 | 14.9 | 26.2 | 27.8 | 27.8 | 27.8 | 27.8 | | |
| Hospitality | | 5.7 | 8.6 | 5 | 5.0 | 5.0 | 5.0 | 5.0 | | |
| Contractual services | 35.0 | 2.1 | 9.4 | 81 | 557.8 | 310.0 | 3,410.0 | 13,610.0 | 100 | |
| Training | | | | 6.2 | 11.9 | 11.9 | 11.9 | 11.9 | | |
| General operating expenses | | 9.9 | 20 | 9 | 10.0 | 10.0 | 10.0 | 10.0 | | |
| Supplies and materials | | | | 1.9 | 3.5 | 3.5 | 3.5 | 3.5 | | |
| Furniture and equipment | | 11.9 | 0.5 | 8 | 10.0 | 10.0 | 10.0 | 10.0 | | |
| <i>Subtotal non-staff</i> | 35.5 | 34.0 | 53.4 | 137.3 | 626.0 | 378.2 | 3,478.2 | 13,678.2 | 100 | 18,520.8 |
| Total | 83.8 | 317.4 | 395.4 | 489.5 | 1,450.5 | 1,246.4 | 4,446.4 | 14,646.4 | 200 | 23,275.8 |

(*) Proposed budgets and subject to change. As of 2012 Major Programme VII includes two new subprogrammes, namely 7120 ICC Staff Resources and management support and 7130 2gv elements (non-integrated user equipment).

Expenditures and future budgets subprogramme 3160 Registry Permanent Premises Office

| 3160 Registry Permanent Premises Office | Expenditures 2008 | Expenditures 2009 | Expenditures 2010 | Projected expenditures 2011 | Proposed budget 2012 (*) | Projected budget 2013 (*) | Projected budget 2014 (*) | Projected budget 2015 (*) | Projected budget 2016 (*) | Total 2008-2016 |
|---|------------------------|-------------------|-------------------|-----------------------------|--------------------------|---------------------------|---------------------------|---------------------------|---------------------------|-----------------|
| | | | | | | | | | | |
| | | | | | | | | | | |
| Professional staff | No breakdown available | | | | | | | | | |
| General Service staff | | | | | | | | | | |
| <i>Subtotal staff</i> | 195.8 | 191.8 | 201.5 | 209.4 | 227.3 | 227.3 | 227.3 | 227.3 | 227.3 | 1,935.0 |
| General temporary assistance | 29.4 | 2.5 | 36 | | | | | | | |
| <i>Subtotal other staff</i> | 29.4 | 2.5 | 36 | | | | | | | 67.9 |
| Travel | 5.3 | 2.3 | 3.3 | 7 | 12.7 | 12.7 | 12.7 | 12.7 | 12.7 | |
| Hospitality | | | | | | | | | | |
| Contractual services | 34.3 | 51.6 | 139.4 | 166.2 | 200 | 200 | 200 | 200 | 200 | |
| Training | | | | | 4.3 | 4.3 | 4.3 | 4.3 | 4.3 | |
| General operating expenses | 3.4 | 0.2 | | 4.8 | 5.0 | 5.0 | 5.0 | 5.0 | 5.0 | |
| Supplies and materials | | 0.4 | 0.3 | 0.1 | | | | | | |
| Furniture and equipment | | 12.1 | 0.9 | | | | | | | |
| <i>Subtotal non-staff</i> | 43.0 | 66.6 | 143.9 | 178.1 | 222.0 | 222.0 | 222.0 | 222.0 | 222.0 | 1,541.6 |
| Total | 268.2 | 260.9 | 381.4 | 387.5 | 449.3 | 449.3 | 449.3 | 449.3 | 449.3 | 3,544.5 |

(*) Proposed budgets and subject to change.

Grand total 2008 - 2016 **26,820.3**

Annex IV

Total cost of the permanent premises project

| (million euros) | Expenditures 2008 | Expenditures 2009 | Expenditures 2010 | Projected expenditures 2011 | Proposed budget 2012 (*) | Projected budget 2013 (*) | Projected budget 2014 (*) | Projected budget 2015 (*) | Projected budget 2016 (*) | Total 2008-2016 |
|--|----------------------|----------------------|----------------------|-----------------------------------|--------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|--------------------|
| Project budget including 3gv | 0.0 | 1.3 | 5.1 | 7.0 | 7.3 | 51.7 | 65.7 | 51.9 | 0.0 | 190.0 |
| Annual budget | | | | | | | | | | |
| Major Programme VII-1 | 0.1 | 0.3 | 0.4 | 0.5 | 1.4 | 1.2 | 4.4 | 14.6 | 0.2 | 23.3 |
| Programme 7110 - Project Director's Office | 0.1 | 0.3 | 0.4 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.0 | 3.5 |
| Programme 7120 - ICC Staff Resources and management support | 0.0 | 0.0 | 0.0 | 0.0 | 0.5 | 0.5 | 0.6 | 0.6 | 0.1 | 2.3 |
| Programme 7130 - 2gv elements (non-integrated user equipment) | 0.0 | 0.0 | 0.0 | 0.0 | 0.4 | 0.2 | 3.3 | 13.5 | 0.1 | 17.5 |
| Sub-programme 3160 - Registry Permanent Premises Office | 0.3 | 0.3 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 0.4 | 3.5 |
| Grand Total 2008 - 2016 | | | | | | | | | | 216.8 |

(*) Proposed budgets and subject to change.

Annex V

Expenditures for the permanent premises for the period 2008 to 2011, as at 18 November 2011

| (euros) | 2008 ^(a) | 2009 ^(a) | 2010 ^(a) | First quarter 2011 ^(a) | Second quarter 2011 ^(a) | Third quarter 2011 ^(a) | Fourth quarter 2011 ^(b) | Total 2011 ^(b) | Total expensed [2008 to 2011] ^(b) | Budget |
|--|---------------------|---------------------|---------------------|---|--|---|--|------------------------------|---|--------------------|
| 1. Construction costs | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 136,100,000 |
| 1a. Direct costs | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| 1b. Indirect costs | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| 1c. Fees design team (after tendering) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| 2. Risks | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 32,900,000 |
| 2a. Project risk | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| 2b. Client risk | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| 3. Permits and dues | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2,600,000 |
| 3a. Permits and dues | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| 4. Fees | 0 | 1,279,471 | 3,633,326 | 9,213 | 1,426,343 | 2,440,243 | 3,092,588 | 6,968,387 | 11,881,184 | 16,900,000 |
| 4a. Design related | 0 | 0 | 2,652,553 | 0 | 1,352,123 | 1,653,630 | 2,191,898 | 5,197,651 | 7,850,204 | |
| 4b. Project management | 0 | 909,756 | 738,661 | 0 | 413 | 724,222 | 606,502 | 1,331,137 | 2,979,555 | |
| 4c. Other consultants (e.g. legal, experts, security, 3gv Court support [2011 only]) | 0 | 369,715 | 242,111 | 9,213 | 73,807 | 62,391 | 294,188 | 439,599 | 1,051,425 | |
| 5. Other costs | 0 | 0 | 1,500,000 | 0 | 0 | 0 | 0 | 0 | 1,500,000 | 1,500,000 |
| 5a. Other design related expenses | 0 | 0 | 1,500,000 | 0 | 0 | 0 | 0 | 0 | 1,500,000 | |
| Actual expenditures | 0 | 1,279,471 | 5,133,326 | 9,213 | 1,426,343 | 2,440,243 | 3,092,588 | 6,968,387 | 13,381,184 | |
| Forecasted expenditures | 0 | 1,300,000 | 5,200,000 | | | | | 12,200,000 | 18,700,000 | 190,000,000 |
| Variance | 0 | -20,529 | -66,674 | | | | | -5,231,613 | -5,318,816 | |

Legend:

Expenditures = disbursed expenditures + unliquidated obligations.

(a) Actual expenditures.

(b) Projected expenditures.

Annex VI

Status of one-time payments, as at 18 November 2011 (in euros)

| States | Pledged Amounts | | | | | Amount received | | | | Outstanding amounts | | | |
|------------------------|-----------------|------------|-----------|-----------|------------|-----------------|------------|-----------|-------------------|---------------------|---------|-----------|------------------|
| | 2009 | 2010 | 2011 | 2012 | Total | 2009 | 2010 | 2011 | Total | 2010 | 2011 | 2012 | Total |
| 1. Albania | - | - | 6,865 | 6,864 | 13,729 | - | - | 6,865 | 6,865 | - | - | 6,864 | 6,864 |
| 2. Andorra | - | 18,305 | - | - | 18,305 | - | 18,305 | - | 18,305 | - | - | - | - |
| 3. Argentina | - | - | 743,641 | - | 743,641 | - | - | 743,641 | 743,641 | - | - | - | - |
| 4. Australia | - | 1,362,961 | 1,362,960 | 1,362,960 | 4,088,881 | - | 2,725,921 | 1,362,960 | 4,088,881 | - | - | - | - |
| 5. Benin | - | - | 2,288 | - | 2,288 | - | - | - | - | - | 2,288 | - | 2,288 |
| 6. Bolivia | - | 4,577 | 4,576 | 4,576 | 13,729 | - | 13,729 | - | 13,729 | - | - | - | - |
| 7. Burkina Faso | - | 4,576 | - | - | 4,576 | - | - | - | - | 4,576 | - | - | 4,576 |
| 8. Cambodia | - | 2,288 | - | - | 2,288 | - | 2,288 | - | 2,288 | - | - | - | - |
| 9. Canada | - | 6,811,751 | - | - | 6,811,751 | - | 6,811,751 | - | 6,811,751 | - | - | - | - |
| 10. Czech Republic | - | - | - | 642,963 | 642,963 | - | - | 321,482 | 321,482 | - | - | 321,481 | 321,481 |
| 11. Dem. Rep. of Congo | - | - | 6,864 | - | 6,864 | - | - | 6,864 | 6,864 | - | - | - | - |
| 12. Djibouti | - | 763 | 763 | 762 | 2,288 | - | - | - | - | 763 | 763 | 762 | 2,288 |
| 13. Finland | - | 1,290,503 | - | - | 1,290,503 | - | 1,290,503 | - | 1,290,503 | - | - | - | - |
| 14. Hungary | - | 186,101 | 186,101 | 186,101 | 558,303 | - | - | 186,101 | 186,101 | - | 186,101 | 186,101 | 372,202 |
| 15. Iceland | - | - | - | 84,661 | 84,661 | - | - | - | - | - | - | 84,661 | 84,661 |
| 16. Italy | 2,092,090 | 1,781,707 | 3,873,797 | 3,873,798 | 11,621,392 | 2,092,090 | 1,781,707 | 3,873,797 | 7,747,594 | - | - | 3,873,798 | 3,873,798 |
| 17. Jordan | - | 9,152 | 9,153 | 9,153 | 27,458 | - | 9,152 | 9,153 | 18,305 | - | - | 9,153 | 9,153 |
| 18. Liechtenstein | - | 22,881 | - | - | 22,881 | - | 22,881 | - | 22,881 | - | - | - | - |
| 19. Lithuania | - | - | 47,288 | 23,644 | 70,932 | - | - | - | - | - | 47,288 | 23,644 | 70,932 |
| 20. Luxembourg | - | - | 97,246 | 97,245 | 194,491 | - | - | 194,491 | 194,491 | - | - | - | - |
| 21. Mauritius | - | 25,169 | - | - | 25,169 | - | 25,169 | - | 25,169 | - | - | - | - |
| 22. Mexico | - | 1,721,434 | 1,721,433 | 1,721,433 | 5,164,300 | - | 1,721,434 | 1,721,433 | 3,442,867 | - | - | 1,721,433 | 1,721,433 |
| 23. Montenegro | - | 2,288 | - | - | 2,288 | - | 2,288 | - | 2,288 | - | - | - | - |
| 24. Portugal | - | 401,948 | 401,947 | 401,947 | 1,205,842 | - | 401,948 | 401,947 | 803,895 | - | - | 401,947 | 401,947 |
| 25. Samoa | - | 2,288 | - | - | 2,288 | - | 2,288 | - | 2,288 | - | - | - | - |
| 26. San Marino | - | 6,864 | - | - | 6,864 | - | 6,864 | - | 6,864 | - | - | - | - |
| 27. Serbia | - | 16,017 | 16,017 | 16,017 | 48,051 | - | 48,051 | - | 48,051 | - | - | - | - |
| 28. South Africa | - | 663,557 | - | - | 663,557 | - | 663,557 | - | 663,557 | - | - | - | - |
| | 2,092,090 | 14,335,130 | 8,480,939 | 8,432,124 | 33,340,284 | 2,092,090 | 15,547,836 | 8,828,734 | 26,468,660 | 5,339 | 236,440 | 6,629,844 | 6,871,623 |
| States | 2009 | 2010 | 2011 | 2012 | Total | 2009 | 2010 | 2011 | Total | 2010 | 2011 | 2012 | Total |
| | Pledged Amounts | | | | | Amount received | | | | Outstanding amounts | | | |

Annex VII

Cash flow and one-time payments, as at 18 November 2011

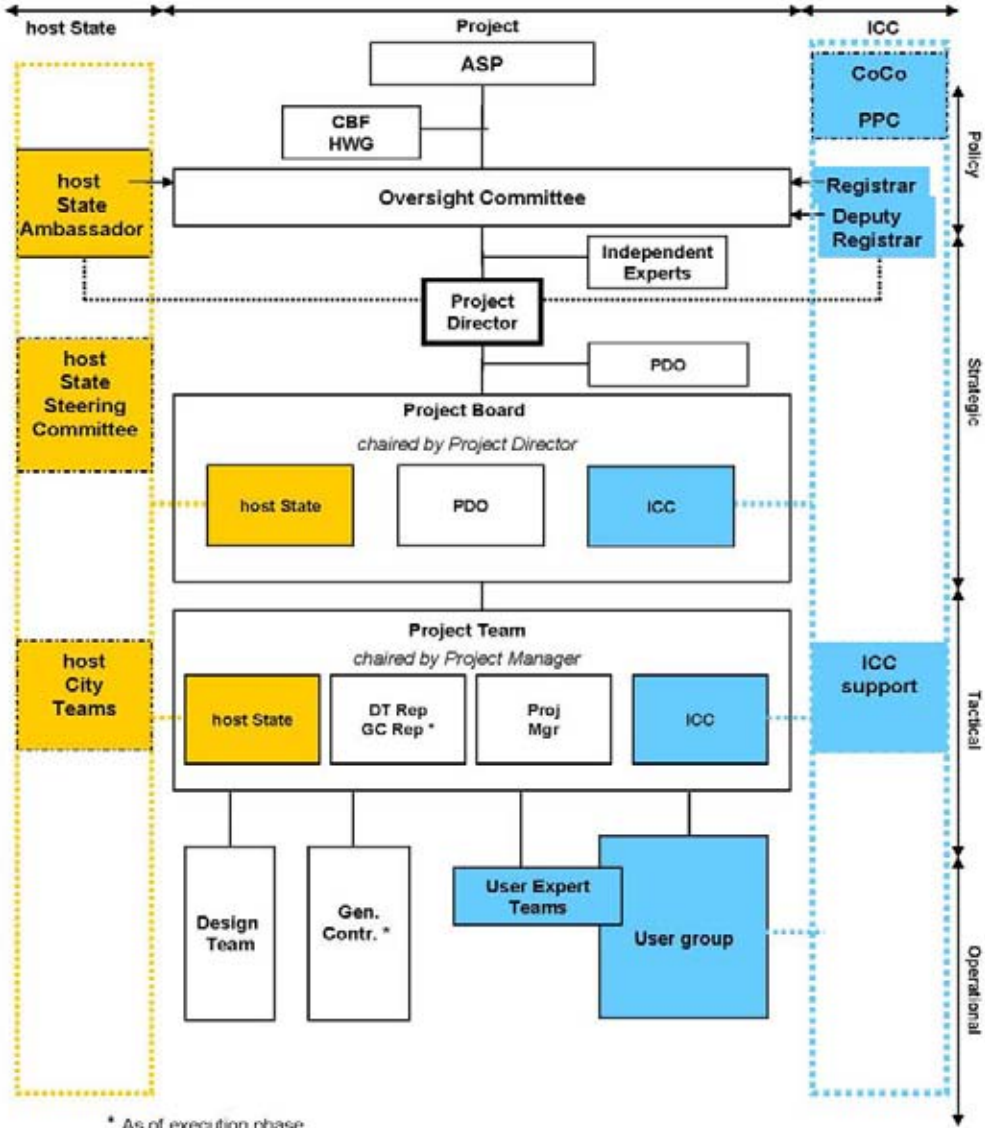
| 2010 (in euros) | Actuals 2010 | | | | Actuals | | Estimated | |
|-----------------------------------|------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|--------------------|
| | Qtr I | Qtr II | Qtr III | Qtr IV | 2010 | 2010 | 2011 | 2012 |
| <i>Cash flow overview</i> | | | | | | | | |
| Cash in: | | | | | | | | |
| Balance from previous year | 2.237.619 | 3.321.410 | 12.425.800 | 13.061.940 | 2.237.619 | 2.237.619 | 11.442.193 | 5.934.662 |
| Incoming One-time payments | 2.847.212 | 11.336.882 | 1.363.722 | 0 | 15.547.816 | 15.762.900 | 7.492.496 | 7.992.805 |
| Received Interest | 1.271 | 6.666 | 13.714 | 28.455 | 50.106 | | | |
| Total | 5.086.102 | 14.664.958 | 13.803.236 | 13.090.395 | 17.835.541 | 18.000.519 | 18.934.662 | 13.927.467 |
| Cash out: | | | | | | | | |
| Costs for the permanent premises | 1.764.692 | 814.158 | 741.296 | 1.492.658 | 4.812.804 | 5.133.326 | 13.000.000 | 32.000.000 |
| Repayment Loan MFA NL | | 1.425.000 | | | 1.425.000 | 1.425.000 | | |
| Balance to carry over | 3.321.410 | 12.425.800 | 13.061.940 | 11.597.737 | 11.597.737 | 11.442.193 | 5.934.662 | -18.072.533 |

| 2011 (in euros) | Actuals 2011 | | Forecast 2011 | | Estimated (*) | | | | | Total |
|---|-------------------|-------------------|-------------------|-------------------|-------------------|------------------------|--------------------|---------------------|---------------------|--------------------|
| | Qtr I | Qtr II | Qtr III | Qtr IV | 2011 | 2012 | 2013 | 2014 | 2015 | |
| <i>Cash flow overview</i> | | | | | | | | | | |
| Cash in: | | | | | | | | | | |
| Balance from previous year | 11.597.737 | 16.663.029 | 16.951.099 | 16.278.992 | 11.597.737 | 13.191.404 | 12.957.518 | -38.742.482 | -104.442.482 | |
| Incoming One-time payments | 5.212.350 | 1.700.460 | 1.915.924 | 0 | 8.828.734 | 7.066.114 | 0 | 0 | 0 | |
| Received Interest | 5.581 | 13.953 | 29.308 | 5.000 | 53.842 | | | | | |
| Total | 16.815.668 | 18.377.442 | 18.896.331 | 16.283.992 | 20.426.471 | 20.257.518 | 12.957.518 | -38.742.482 | -104,442,482 | |
| Cash out: | | | | | | | | | | |
| Costs for the permanent premises | 9.213 | 1.426.343 | 2.440.243 | 3.092.588 | 7.288.909 | 7,300,000 ¹ | 51,700,000 | 65,700,000 | 51,918,816 | 190,000,000 |
| Costs for the permanent premises [unliquidated obligations of 2010] | 143.426 | | 177.096 | | | | | | | |
| Repayment Loan MFA NL | | | | | | | | | | |
| Balance to carry over | 16.663.029 | 16.951.099 | 16.278.992 | 13.191.404 | 13.191.404 | 12.957.518 | -38.742.482 | -104,442,482 | -156,361,298 | |

(*) Negative "Balance to carry over" figures implies usage of the loan. The above estimated figures are estimates only and are subject to change.

Annex VIII

New governance structure



Annex IX

Resolution on permanent premises

The Assembly of States Parties,

Recalling its resolutions adopted with regard to the permanent premises, including ICC-ASP/6/Res.1,¹ ICC-ASP/7/Res.1,² ICC-ASP/8/Res.5,³ ICC-ASP/8/Res.8,⁴ and ICC-ASP/9/Res.1,⁵ and *reiterating* the importance of the permanent premises to the future of the Court,

Noting the report of the Oversight Committee on the permanent premises⁶, the recommendations of the External Auditor⁷ as well as the reports of the Committee on Budget and Finance on the work of its sixteenth and seventeenth sessions and the recommendations contained therein,⁸

Reiterating its firm intention that the permanent premises should be delivered within the €90 million budget (at 2014 price levels) as per resolution ICC-ASP/6/Res.1, *emphasizing* the role of the Oversight Committee in implementing under its delegated authority any actions which might be needed to ensure that the project proceeds safely within budget as well as that the ownership costs of the permanent premises be as low as possible,

Recognizing the importance of effective and efficient decision-making, clear lines of authority, stringent risk identification and management, and strict control of design changes for ensuring that the project is delivered to cost, and *welcoming* the steps taken by the Oversight Committee to implement good governance arrangements for the permanent premises project, and the participation of the Court and the host State in this joint effort,

Welcoming the fact that 28 States Parties have committed to making a one-time payment in accordance with the principles contained in resolution ICC-ASP/7/Res.1, annex III, as at 18 November 2011, in an amount of €33.3 million, of which €6.5 million have already been received,

Noting that the Court has quantified on 1 March 2011 in the amount of €42.2 million the other costs related to the project but not directly related to the construction,

Noting that such costs concern elements that are user specific and include two components: (a) 3 gv, estimated at €2.1 million, for integrated user equipment, that is fixed elements integrated in the design; (b) 2 gv and other related costs, originally estimated at €0.1 million and later reduced to €19.8 million, for non-integrated user equipment, that is loose elements, and other costs such as moving, additional staff and consultancy fees,

Noting that at the end of the Final Design phase the ownership costs (depreciation, financial and operating costs) are currently estimated at €7 million per year⁹,

Welcoming the cost-review strategy put in place by the Oversight Committee to address 2 gv and 3 gv costs and to reduce their impact on the annual budgeting process, as well as to maintain the construction costs within the overall budget, and *encouraging* the continuation of a downward trend of these costs,

Stressing that the permanent premises shall be delivered at a good quality standard within the approved budget, and thereby that the Oversight Committee is mandated to ensure that the design and functionality requirements are constantly in line with the resources approved, and that the ownership costs are kept at the lowest possible level,

¹ *Official Records ... Sixth session ... 2007* (ICC-ASP/6/20), vol. I, part III.

² *Official Records ... Seventh session ... 2008* (ICC-ASP/7/20), vol. I, part III.

³ *Official Records ... Eighth session ... 2009* (ICC-ASP/8/20), vol. I, part II.

⁴ *Official Records ... Resumed eighth session ... 2010* (ICC-ASP/8/20/Add.1), part II.

⁵ *Official Records ... Ninth session ... 2010* (ICC-ASP/9/20), vol. I, part II.

⁶ ICC-ASP/10/22.

⁷ *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. II, part C.1.

⁸ *Ibid.*, parts B.1 and B.2.

⁹ Report on the activities of the Oversight Committee, ICC-ASP/10/22, paras. 91-98.

Recalling that the trust fund for voluntary contributions dedicated to the construction of the permanent premises has been established and that voluntary contributions can also be provided through earmarked funds for special features, or in kind contributions, upon consultation with the Oversight Committee,

I. Project: budget and timeliness

1. *Welcomes the report of the Oversight Committee and expresses* its appreciation to the Project Board and the Oversight Committee for the progress made on the permanent premises project since the ninth session of the Assembly;
2. *Welcomes* the completion of the final design stage of the permanent premises project and *approves* the revised cash-flow scheme contained in annex I;
3. *Also welcomes* that the project continues to remain within the approved budget of €190 million;
4. *Approves* the strategy of the Oversight Committee to maintaining costs within budget, focusing on the overall budget rather than on the resources available during each phase and stage of the project;
5. *Approves* that non-integrated elements (2gv) and other related costs shall not exceed €19,8 million, and will be approved upon submission year by year in the Court's budget;
6. *Further approves* that the integrated elements (3gv) are construction costs and, as such, incorporated in the overall budget of €190 million, and also *approves* that such elements and their costs be entirely absorbed within the overall budget, so that the same is not exceeded;
7. *Authorizes* the Oversight Committee to review the design and/or the functionality requirements, as needed, in order to ensure a good quality building but keeping the budget within approved cost and, to this end, *requests* the Project Director to ensure that changes to the project which might be needed can be implemented with due regard to the minimisation of additional costs related to delays and other factors, wherever possible, so as to ensuring a positive balance between additional costs and saving achieved through changes;
8. *Requests* the Oversight Committee, the Project Director and the Court, when making decisions on the design of the project, to take account of the consequences on the Court's future operating costs, and *stresses* that the project should go forward in such a way as to keep future operating costs of the permanent premises, including maintenance costs, at the minimum level possible given the necessary budgetary constraints;
9. *Takes note of and approves* the revised total gross floor area of no more than 52,450 square meters as a result of the Value Engineering conducted in March 2011;
10. *Notes* that the completion date for the permanent premises is September 2015, with readiness for the Court to take occupation thereof in December 2015, and *encourages* the Project Director, in consultation with the Oversight Committee, the Court and the host State to continue to identify ways to mitigate any delay and its consequences;
11. *Stresses* that the project budget will not be used to cover delays which might depend on the demolition schedule;
12. *Welcomes* the decision adopted by the Oversight Committee to procure the construction contract on a Best Value for Money basis, with a target cost mechanism which involves a guaranteed maximum price being agreed with a contractor, with incentives to continue to find additional savings during the construction period.

II. Governance

13. *Stresses* the importance of a shared vision and ownership of the project among all stakeholders, as well as of an effective coordination and communication between the Project Director, the Court and the host State at all levels and stages of the permanent premises project and, in this regard, *approves* the revised governance arrangements adopted

by the Oversight Committee and *welcomes* the reported improved effectiveness of the decision making process;

14. *Stresses* the importance of a timely and full involvement and participation by the host State at all stages and levels of the project and *further notes* the importance of the commitment of the host State for ongoing cooperation;

15. *Reiterates* the important role of the Project Director in providing strategic leadership and overall management of the project, and his responsibility for meeting the project's goals, timelines and costs, and quality requirements, as provided in resolution ICC-ASP/6/Res.1, and *invites* the Registrar to delegate authority to the Project Director where necessary and at an appropriate level, in accordance with the Financial Regulations and Rules, with respect to engaging funds for the permanent premises project;

16. *Requests* the Project Director, together with the Court, to prepare recommendations, in accordance with resolution ICC-ASP/7/Res.1, annex V, paragraph 5, on ways to improve current guidelines on contracts and expenditures for the purpose of expediting the execution of the project, and to submit them to the Oversight Committee for approval;

III. Financial reporting

17. *Requests* the Project Director, in consultation with the Oversight Committee, in accordance with resolution ICC-ASP/6/Res.1, to continue to submit annually, for consideration by the Assembly at its regular session, a detailed cost estimate for the project on the basis of the most recent information, and incorporating the schedule for the use of funds deriving from one-time payments;

18. *Requests* the Court to keep under review, in consultation with those States that commit to making a one-time payment, the schedule for receiving such one-time payments and to keep the Oversight Committee permanently informed thereof;

19. *Requests* the Project Director to continue to report annually to the Assembly, through the Oversight Committee, on the realization of the previous years' estimates and the level of expenditure;

IV. Management of the project

20. *Requests* the Project Director to keep the project manual, together with a project plan under review and to report thereon to the Oversight Committee;

21. *Requests* the Oversight Committee to continue to develop and implement an audit strategy;

V. Voluntary contributions

22. *Reiterates* the invitation to members of civil society with a proven track record of commitment to the mandate of the Court to raise funds for the permanent premises project;

VI. Renewal of membership of the Oversight Committee

23. *Endorses* the recommendation of the Bureau, in accordance with ICC-ASP/6/Res.1, annex II, that the membership of the Oversight Committee, for the next term, be comprised of those States referred to in annex II to this resolution;

VII. Future reporting by the Oversight Committee

24. *Requests* the Oversight Committee to remain seized of this issue, to continue to provide regular progress reports to the Bureau and to report to the Assembly at its next session.

Appendix I

Cash-flow scheme

Budget Permanent Premises project (in million euros)

| | Total costs | Overall total | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|---|--------------|---------------|------------|------------|-------------------|--------------|-------------|-------------|--------------|--------------|--------------|
| | | | PD (*) | FD (**) | FD+ and tendering | Construction | | | Moving | | |
| 1. Construction Costs | | 136.1 | | | | | | | | | |
| 1a. Direct costs | 121.8 | | | | | | 36.5 | 48.7 | 36.5 | | 121.8 |
| 1b. Indirect (excluded general site costs) | 8.9 | | | | | | 2.7 | 3.6 | 2.7 | | 8.9 |
| 1c. Fees design team (after tendering) | 5.4 | | | | | 1.7 | 2.3 | 0.8 | 0.5 | | 5.4 |
| 2. Risks | | 32.9 | | | | | | | | | |
| 2a. Project risk (all issues incl. design or third parties) | 27.6 | | - | - | - | 1.0 | 7.3 | 10.3 | 9.0 | - | 27.6 |
| 2b. Client risk (outside project e.g. municipality) | 5.3 | | - | - | - | 0.2 | 1.5 | 1.1 | 2.5 | - | 5.3 |
| 3. Permit and dues | | 2.6 | | | | | | | | | |
| Permit and dues | 2.6 | | | | | 2.6 | - | - | - | - | 2.6 |
| 4. Fees | | 16.9 | | | | | | | | | |
| 4a. Design related | 7.9 | | - | 2.7 | 5.2 | - | - | - | - | - | 7.9 |
| 4b. Project management | 6.6 | | 0.9 | 0.7 | 1.4 | 1.0 | 0.3 | 1.0 | 0.8 | 0.5 | 6.6 |
| 4c. Other consultants | 2.4 | | 0.4 | 0.2 | 0.4 | | 0.5 | 0.4 | 0.4 | 0.1 | 2.4 |
| 5. Other costs | 1.5 | 1.5 | | | | | | | | | |
| Total | 190.0 | 190.0 | 1.3 | 5.1 | 7.0 | 1.0 | 6.3 | 51.7 | 65.7 | 51.9 | 190.0 |
| | - | - | 1.3 | 5.1 | 7.0 | | 7.3 | 51.7 | 65.7 | 51.9 | |
| Cumulative | | | 1.3 | 6.4 | 13.4 | | 20.7 | 72.4 | 138.1 | 190.0 | |

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

(*) PD: preliminary design stage.

(**) FD: final design stage.

Appendix II

Members of the Oversight Committee*

African States

1. Kenya

Asian and Pacific States

2. Japan
3. Republic of Korea

Eastern European States

4. Romania

Group of Latin American and Caribbean States

5. Argentina
6. Mexico

Western European and Other States

7. Germany
 8. Italy
 9. [Switzerland]
 10. United Kingdom
-

* As of 21 December 2011.