

**Cour
Pénale
Internationale****International
Criminal
Court****Administrative Instruction****ICC/AI/2004/005**Date: 04th November 2004**ESTABLISHMENT OF TRUST FUNDS BY THE REGISTRAR**Section 1Purpose

1. Article 116 of the Rome Statute authorizes the Court to receive voluntary contributions from Governments, international organizations, individuals, corporations and other entities in accordance with relevant criteria adopted by the Assembly of States Parties. ASP Resolution ICC-ASP/1/Res.11 sets out criteria referred to in Article 116 of the Statute. Financial Regulation 6.5 provides that Trust Funds may be established and closed by the Registrar. The purpose of this administrative instruction is to set out procedures to be followed by the Implementing Offices and the Office of the Prosecutor in establishing, administering and controlling Trust Funds in accordance with the criteria established by the Assembly of States Parties in Resolution ICC-ASP/1/Res.11 and the President's Guidelines on the establishment of Trust Funds of the ICC in Directive ICC/PRESG/2004/002. Defined terms as established in the annex to that Directive are also used in this Administrative Instruction.

Section 2Procedures

- 2.1. The Originating Office shall complete Part I of the "Proposal to Establish a Trust Fund" (form ICC/TF: annex 1 to this Administrative Instruction) and shall forward it to the Head of the Budget and Control Section (hereinafter "the Controller"), together with a detailed description of the proposed Trust Fund, a copy of the proposed agreement with the donor, a Cost Plan and estimates of income and expenditure phased by calendar year. The proposal should also include information on the relationship of the proposed Trust Fund to the over-all policy and priorities of the Court or decisions of the Assembly of States Parties as well as a declaration by the donor that the contributions are not intended to affect the independence of the Court.

- 2.2. In cases where the donor is a corporation or an individual, the Originating Office shall notify the Registrar, who shall where necessary, in consultation with the Prosecutor and the President, refer the proposed Voluntary Contribution to an *ad hoc* committee (the "Screening Committee"). The Screening Committee shall consist of one representative from each of the Presidency, Office of the Prosecutor and the Registry (each appointed by their respective Organs) and shall evaluate any potential implications of the proposed donation on the reputation of the Court. Where a Screening Committee has been established, the proposal forwarded to the Controller shall also include the unanimous endorsement by the Screening Committee.
- 2.3. When the work plan is to be implemented by an office other than the Originating Office, the Implementing Office shall be consulted by the Originating Office in the drafting of the costed work plan.
- 2.4. The proposed Trust Fund shall be reviewed by the Controller:
 - (a) to determine whether it meets the criteria and guidelines laid down by the Assembly of States Parties and any guidelines issued by the President and/ or the Registrar;
 - (b) to obtain, when required, relevant advice from other sections, in particular, the Legal Advisory, Human Resources, General Services and Finance Sections;
 - (c) to determine whether there are any direct or indirect financial implications for the regular budget.¹
- 2.5. Based on this review, the Controller shall decide whether to recommend approval of the proposed Trust Fund as it stands or to require modifications to the proposal. Where the Controller decides to recommend approval, the Controller shall indicate such approval by signing the appropriate block on Form ICC/TF and shall forward it, together with its attachments, to the Registrar for approval.
- 2.6. Where the Registrar approves the establishment of the Trust Fund, the Registrar shall indicate such approval on the form and shall designate the Implementing Office. The Registrar shall return the signed form to the Controller, who then shall complete Part IV of the form, indicating the full allotment code to be used. Copies of the approval form shall be distributed to the Implementing Office and the Finance Section.

Section 3

Pledges and payments

¹ NB that acceptance of contributions which directly or indirectly involve additional financial liability for the Court require the prior approval of the ASP. (Financial Regulation 7.2)

- 3.1. The Controller, the Finance Section, the Originating Office and the Implementing Office shall share with each other any information they have received on Pledges to Trust Funds and payments pursuant thereto.
- 3.2. The Finance Section shall formally record Pledges received on the "Record of Pledges form". All Pledges must be in written form from a representative of the donor and shall indicate the amount, currency, payment schedule, method of payment, purpose or fund for which the Pledge is made and any conditions of the Pledge.
- 3.3. The Finance Section shall prepare an acknowledgement of Pledges in the form of a note verbale or letter, as appropriate, to the donor. The acknowledgement shall include notification to the donor as to where the payment(s) should be sent or to which bank accounts they should be deposited.²
- 3.4. The Finance Section shall distribute copies of the "Record of the Pledges form" to the Controller, the Originating Office and the Implementing Office.
- 3.5. The Finance Section shall receive payments by the following methods:
 - (a) by cheque or letter of credit sent to it directly; or
 - (b) by deposit into a designated ICC deposit account.

Pledges of cash shall not be accepted and payments of cash shall be accepted only in exceptional circumstances..

- 3.6. Upon receipt of payment, the Finance Section shall issue a cash-receipt voucher. The original shall be transmitted to the donor with copies to the Implementing Office and to the Controller.
- 3.7. Based on a monthly status-of-Pledges report, the Finance Section shall follow up quarterly on unpaid Pledges.
- 3.8. The Finance Section, based on information received on quarterly costs requirements submitted by the Originating Office through the Controller shall invest all Trust Fund moneys not required for immediate use. Investments may be made for a Trust Fund alone, or a common Trust Fund investment pool may be utilized for investment of moneys of a number of Trust Funds.
- 3.9. For those Trust Funds included in the investment pool, the Finance Section shall compute and distribute the proportionate share of investment income to each Trust Fund semi-annually, based on an average of the actual cash balances at month-end for each fund having a share in the investment pool.

² If special conditions are attached to the Pledge, no acknowledgement of the Pledge should be made until the acceptability of such conditions has been determined in accordance with policies formulated by the Registrar.

Section 4

Allotment and revisions

4.1. The Controller

- (a) When sufficient cash payments have been received to meet initial expenditure estimates and operating reserve requirements established by the Controller, the Implementing Office shall submit to the Controller a request for an allotment on the basis of a cost plan.
- (b) An operating cash reserve at a level of up to 15 per cent of estimated annual planned expenditures may be maintained during the implementation of Trust Fund activities to cover shortfalls and shall be utilized to meet the final expenditures under the Trust Fund, including any liquidating liabilities.
- (c) All allotments shall be issued and transmitted by the Controller to the offices concerned.
- (d) All allotments shall be issued in euros, and the amounts contained therein are the controlling expenditure ceilings. Therefore, all expenditures incurred, irrespective of the currency involved, must be met within the allotted amount. Expenditure against temporary posts, established through an approved staffing table, may exceed the amount provisionally allotted for the staffing element of the total allotment by 10 percent as long as the staffing levels set out in the staffing table are not exceeded. Expenditure against an allotment may never exceed the total allotment within a given year.
- (e) Trust fund allotments may be revised at any time during the year, usually pursuant to a request by the Implementing Office to the Controller. A revised allotment not exceeding available resources shall be issued for each revision and shall be transmitted to all offices concerned.
- (f) At the end of each year, unencumbered balances of allotments may lapse. If specific elements of the Cost Plan remain uncompleted or are of a long-term or continuing nature, a new allotment may be requested for the ensuing year. Unliquidated obligations shall be recorded as expenditure in the current year, and shall remain valid through the end of the Financial Year following the year in which they were recorded.
- (g) The Controller shall record the allotments and revisions thereof.

4.2. Implementing Office(s)

- (a) Based on information from the Finance Section on contributions received, the Implementing Office(s) shall prepare a detailed annual Cost Plan and shall submit it to the Controller together with a request for an allotment. In the case of continuing Trust Funds, cost plans for the following year shall be submitted to the Controller by the Implementing Office no later than 2 months before the end of the current Financial Year End³, thus allowing time for review.
- (b) The Implementing Office shall receive allotments from the Controller, authorizing such to incur programme expenditures up to the limits contained in such allotment.
- (c) The Certifying Officer or allotment manager for the Implementing Office shall be responsible for oversight of financial and personnel transactions, in accordance with the applicable financial and staff regulations, rules, directives and administrative instructions.
- (d) In the case of any Trust Fund with an estimated annual expenditure of more than €500,000, the Implementing Office(s) must submit to the Finance Section each month a three-month rolling forecast of cash requirements, for use in cash management, with a copy sent to the Controller.

Section 5

Accounting

5.1. The Finance Section shall ensure that

- (a) Accounts shall be maintained separately for each Trust Fund.
- (b) In accordance with financial rule 111.3, financial transactions for Trust Funds are recorded in the accounts on an accrual basis.
- (c) The Finance Section shall record Pledges on the basis of the "Record of Pledges form" against general ledger accounts for Pledges receivable for the current year and Pledges receivable for future years.
- (d) Pledges other than those made in euros shall be translated into euros at the United Nations rate of exchange valid for the date the Pledge was made. If the market rate of exchange at the time the funds are received is different from that at the time the

³ Based on Financial Year January through December. Should the Financial Cycle be amended so that the Financial Year End does not fall at the end of December, the submission shall be submitted to the Controller no later than 2 months before the Financial Year End.

Pledge was made, the amount of the item, "Pledge unpaid (asset)", shall be adjusted to agree with the amount received, and the difference shall be recorded as loss/gain on exchange. The item "income from Pledge contributions" however, shall not be adjusted to reflect changes in exchange rates and, consequently, shall reflect the value of the Pledge at the United Nations rate of exchange in effect on the date the Pledge was made.

- (e) Any prior unpaid Pledge and unpaid Pledges due by the end of the current year shall be retranslated at the date of the current financial statements at the United Nations rate of exchange in effect at that date, and any difference shall be recorded as loss/gain on exchange.
- (f) Pledges received for future years shall be recorded as deferred income and shall not be retranslated until the year in which the Pledges become due for payment.
- (g) Pledges of contributions in kind shall be assigned an estimated monetary value by the Implementing Office at the time the Pledge is received. They shall be entered in memoranda accounts on the basis of information received from the Implementing Office and shall be reported in foot-notes to the financial statements.
- (h) Cash balances of Trust Funds shall normally be maintained in a Trust Fund bank account which is separate from the bank accounts which contain the common fund cash balances.
- (i) Payments of Trust Fund expenditures may be made from the common fund bank account. The interfund indebtedness thus created between the various funds shall be settled each month in cash, based on the net interfund indebtedness shown in the end-month accounts.
- (j) All Trust Funds are subject to a charge of 1 per cent of the net base salaries and of fees of consultants as a reserve for possible claims covered by appendix D of the United Nations Staff Rules. This reserve is kept in a special ICC commingled account and is not refundable to donors.

Section 6

Reporting

6.1. Financial

- (a) Financial statements for all Trust Funds showing income, expenditure, assets and liabilities shall be prepared by the Finance Section on an annual basis. Separate financial reports may be submitted to the donor as specified in the donor agreement provided that such reporting does not affect the independence of the Court.

- (b) The financial reports shall be distributed to the Controller, the Implementing Offices, the Registrar, the Head of Internal Audit, the donors and other interested parties for review and action, as required.

6.2. Substantive

Annually or more frequently as requested, substantive progress reports on implementation shall be prepared by the Implementing Office for each Trust Fund. These reports shall be transmitted to the Controller and shall be made available to donors where doing so does not affect the independence of the Court.

Section 7

Auditing

- 7.1. All Trust Funds are subject to audit by the Internal Audit Section and external auditors of the Court. No other additional or special audit arrangements shall be made with donors.

Section 8

Final Provisions

- 8.1. The present instruction shall enter into force on 5th November 2004.



Bruno Cathala
Registrar