

**The Budget and Finance Team of the
Coalition for the International Criminal Court (CICC)**

Statement on the Report of the Committee on Budget and Finance

**Recommendations to the Fifth Session of the Assembly of States Parties
from 23 to 25 November and 27 November to 1 December 2006**

[17 November 2006]

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PREFACE

While the work of the Budget and Finance Team reflects the positions of those Coalition members most active on particular issues and this paper has been prepared in consultation with other Coalition teams, this paper cannot be construed to represent the views of all organizations/members of the CICC. Since the Rome Diplomatic Conference, Coalition members have organized themselves into teams, one to follow each working group or theme of the intergovernmental process. Coalition teams now follow issues addressed by the Assembly of States Parties or its subsidiary mechanisms and by the International Criminal Court. Teams provide a forum within which interested members discuss issues, follow developments, elaborate relevant research and positions in response to developments, and elaborate and implement advocacy strategies in relation to those positions. All Coalition members are welcome to join any teams and all Coalition members are regularly apprised of the work of the teams.

As in previous years, the Budget and Finance Team of the Coalition for the International Criminal Court¹ (Team) is following closely the development of the 2007 budget of the International Criminal Court (Court). The Team met with the Court in May 2006 to provide input into its budgetary process. In September, following the release of the proposed budget, the Team issued *Comments on the Proposed Programme Budget for 2007 of the International Criminal Court*.² This paper was submitted to the Committee on Budget and Finance (Committee) and on 9 October, the Team met with the Committee to discuss a number of issues.

During the Preparatory Commission, the Team supported the establishment of the Committee to provide essential expert oversight of the Court's financial issues. Where possible, the Team endeavours to support the important work of the Committee by providing input on specific issues where the Team has expertise. We welcome the time taken by the Committee to engage with the Team on specific issues of priority to us, including outreach, victims' issues and premises. This paper raises two major concerns arising from the Committee's Report on the work of its seventh session which recommends cuts to some of these areas and the Team requests the Assembly to take measures to address these issues. Raising these concerns with the Assembly is not intended to undermine the important role played by the Committee, but to advocate for sufficient funding for fundamental tasks conducted by the Court.

As a subsidiary body to the Assembly consisting of "expert[s] of recognized standing and experience in financial matters at the international level", the Committee's comments and recommendations are essential to guide the budgetary decisions of the Assembly. However, the Assembly in exercising its oversight functions of the Court set out in the Rome Statute needs to consider a broad range of political and legal factors. Accordingly, in considering the draft budget and the Committee's recommendations, the Assembly may come to different conclusions from those of the Committee. For these reasons it is important that the Assembly considers the Committee's report and the potential impact of adopting its recommendations. The Assembly should not abdicate its oversight responsibilities by adopting the Committee's report 'as a package'.

I. Recommended cuts to outreach

Last year, non-governmental organizations (NGOs) welcomed the Assembly's affirmation of its support for the Court to undertake effective outreach. In its Resolution on Strengthening the International Criminal Court and the Assembly of States Parties, the Assembly:

*"Recognizes the importance for the Court to engage communities, in situations under investigation in a process of constructive interaction with the Court, designed to promote understanding and support for its mandate, to manage expectations and to enable those communities to follow and understand the international criminal justice process and, to that end, encourages the Court to intensify such outreach activities and requests the Court to present a detailed strategic plan in relation to its outreach activities to the Assembly of States Parties, in advance of its fifth session."*³

This decision has resulted in important progress made by the Court to address the challenges it has faced in its first years to conduct effective outreach. In particular, the Court has developed its first Strategic

¹ The Budget and Finance Team (Team) of the Coalition for the International Criminal Court (CICC) was established at the sixth session of the Preparatory Commission and its members have followed and contributed to the drafting of the Financial Regulations, Financial Rules, the Remuneration of Judges, the Budget for the First Financial Period and the Programme Budgets for 2004, 2005 and 2006. In organizing themselves for the Preparatory Commission and now the Assembly of States Parties (Assembly), CICC members from civil society organizations, with a broad range of specialization in international justice issues form teams focusing on specific issues including the annual programme budget. Teams provide a forum within which interested members discuss issues, follow developments, and consider relevant research and positions in response to these developments. The Team aims to assist the Committee on Budget and Finance (Committee) and the Assembly in considering the budget and other financial matters by submitting detailed commentaries and recommendations incorporating member groups' expertise and practical knowledge on international justice issues.

² *Comments on the Proposed Programme Budget for 2007 of the International Criminal Court and other matters*, available on the Coalition's website: www.iccnw.org

³ Resolution ICC-ASP/4/Res.4, 3 December 2005, para. 22.

Plan for Outreach (Outreach Strategy).⁴ The Outreach Strategy provides a detailed strategy for establishing two-way communication between the Court and affected communities, including situation specific strategies for Democratic Republic of Congo, Uganda and Sudan. The Strategy also sets out a detailed explanation of the staff the Court will need to implement it.

NGOs have welcomed the strategy as an important basis upon which to conduct effective outreach. A number of NGOs are providing additional input to the Court to further develop the strategy to ensure its effectiveness recognizing that in all three situations under investigation, there is widespread misunderstanding about the Court and how it works. This must be addressed without delay. The Team, therefore, supported the increased investment requested by the Court in its 2007 budget proposal. The Committee in its Report, however, makes recommendations for significant cuts to the budget request of the Court. In particular, the Committee recommends:

"that the two P-2 Associate Outreach Officer posts (paras. 334 - 337) should not be approved, since the Section already had considerable resources and the Committee was not satisfied that the need for additional posts had been justified in terms of results...The Committee was not convinced of the need to increase contractual services for printing (paras. 342 - 345) by €438,000 and recommended a smaller increase of €200,000."⁵

The Team is concerned that these recommendations, if adopted by the Assembly, would seriously obstruct the implementation of the Court's Outreach strategy, undermining the Court's ability to give effect to the Assembly's request at its fourth session to intensify its efforts. The Team does not agree with the Committee's reasons to make the cuts. The two posts that the Committee recommends be cut are justified in detail in the proposed budget, including setting out their duties. The Committee does not provide any basis for its conclusion that the resources requested for contractual services are unconvincing. On the contrary, there is a real need for outreach materials in a range of media and a number of languages.

The Team believes that the Assembly should be consistent with its last year's resolution and provide the Court with sufficient resources to implement its outreach strategy. We, therefore, urge states parties not to approve the Committee's recommendations for cuts to outreach.

II. Recommended cuts to victims and witnesses protection and support

The protection and support of victims and witnesses is one of the most serious and important tasks mandated to the Court in Article 68 of the Rome Statute. As the Court is investigating and prosecuting crimes in three situations where there are on-going conflicts, it is essential that the Victims and Witnesses Unit receives the necessary resources to perform its complex and highly skilled work. The Team is therefore deeply concerned that the Committee recommends in its Report:

"that three P-2 Associate Protection Officers posts (paras. 306 - 307) should not be established at the current stage but should be converted into GTA and that another P-2 Associate Operations Officer post for situation IV (paras. 308 - 309) should not be approved. It also recommended that the increase in proposed travel of €171,000 (para. 312) should not be approved and that travel should be approved at the 2006 level."⁶

It is worrying that the Committee has made these recommendations to cut resources to such an important Unit within the Court without providing any reason for the basis for the cuts.

The importance of the **Associate Protection Officers** is set out in the budget request of the Court which states:

⁴ Strategic Plan for Outreach of the International Criminal Court, ICC-ASP/5/12.

⁵ Report of the Committee on Budget and Finance on the work of its seventh session, ICC-ASP/5/23, para. 77

⁶ Report of the Committee on Budget and Finance on the work of its seventh session, ICC-ASP/5/23, para. 75.

“The Associate Protection Officer will be required to provide protection services to maximize the physical safety and security of victims and witnesses, including protection management and administration.”⁷

The Team disagrees with the Committee’s proposal to fund the posts by GTA for two reasons. Firstly, the Team notes that the sensitive and confidential nature of these posts requires careful screening of candidates which may not be available or will be costly in the recruitment of short term contracts using GTA. Secondly, the posts require persons who are highly qualified and skilled in protection issues, a profession where expertise and experience is scarce and limited to a small number of individuals. Offering short-term contracts will make it very difficult for the Court to attract the highest qualified candidates. Furthermore, as the Team has indicated, replacing these posts with GTA will not result in any saving of resources compared to the costs of permanent positions. For these reasons, the Team urges the Assembly to fully establish these posts in 2007.

The Associate Operations Officer, which the Committee has recommended not be approved, “will be required...to support all planning, financial and administrative functions related to the movement of victims and witnesses.”⁸The Committee’s recommendation states that the position would only cover situation IV. However, the position will service all situations where the Court is investigating and prosecuting crimes. The Court’s budget stresses the importance of the post:

“The absence of this staff will negatively impact on the Unit’s ability to provide protective measures and security arrangement, counseling and other appropriate assistance for witnesses, victims who appear before the Court, and others who are at risk on account of testimony, and hence on the Court’s objective of conducting six investigations into cases and one trial.”⁹

The Team urges the Assembly to ensure that resources are provided so that this important post can be established in 2007.

The Committee’s recommendation to reduce travel resources by €171,000 may have serious implications on the ability of the Unit to provide protection and support to victims and witnesses. If implemented the cuts would preclude a significant amount of staff travel to conduct threat assessments, and respond to threats without delay. In particular, it would have a significant impact on the ability of the Unit to relocate victims and witnesses who are most at risk. The Court is of course mandated by the Rome Statute to perform these essential protection and support functions. Failure to implement these measures effectively will not only endanger victims and witnesses but also undermine the work of the Prosecution and the Defence, the participation of victims and judicial proceedings in general.

The effect of the cuts to travel would also undermine the ability of Court to enter into relocation agreements with states to ensure that a person at serious risk can be transferred safely without delay. The request to provide travel to 10 countries to negotiate these agreements appears reasonable and will contribute to the short and long term effectiveness of victims and witness protection of the Court. The Court has indicated that missions to capitals to negotiate these agreements are essential. The Team believes the travel request should be approved by the Assembly.

⁷ Proposed Programme Budget for 2007 of the International Criminal Court, ICC-ASP/5/9, para. 306

⁸ Ibid., para. 308.

⁹ Ibid., para. 309.