

B. Related documents

1. Programme of work and initial report of the External Auditor

Summary

The present paper is submitted to inform the Assembly of States Parties on the scope and approach of the External Auditor's work for 2003; and to invite the Assembly's comments.

The paper covers:

- The context, scope and approach of the financial audit
- Initial observations on financial issues
- Initial observations on management and governance
- Reporting arrangements

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Introduction and executive summary

Introduction

1. This paper is presented to provide the Assembly of States Parties with an overview of the External Auditor's planning and initial work on the audit of the International Criminal Court's financial statements and activities covering the financial period September 2002 to 31 December 2003. This report sets out our audit strategy and approach, and provides States Parties with an indication of the Court's progress in establishing key systems.
2. Our observations are based on an introductory visit to the Court where we met key officials and began the process of familiarization with the Court's structure and business systems. As such these observations precede our detailed planning, being finalized in September 2003, and further substantive audit work which will take place during autumn 2003. Following this, we will complete the audit of the Court's financial statements in spring 2004.
3. This report provides an executive summary of findings; information on the background, context and scope of the audit; our initial observations on financial, management and governance issues; and an outline of the audit reporting arrangements.

Executive summary

4. **We are pleased to report that our initial discussions and observations did not reveal any significant or immediate risks. We were encouraged by the Court's progress in developing its arrangements and the priority that appears to be given by management to efficient and effective procedures. We were also encouraged by the way in which the Court is seeking to develop flexible arrangements, allowing it to tailor costs according to its level of activity and to avoid unnecessary institutional costs.**
5. As with any new entity there are some issues which will need to be addressed by management to ensure the establishment of a robust internal control environment. We have made a number of initial observations to management on financial issues; and on management and governance.
6. **In relation to financial issues**, we have identified a number of areas which the Court may wish to consider further. In particular, the Court should seek to ensure that adequate systems are established to secure the collection of outstanding contributions, where we noted that in late June, some 8 million euros of assessed contributions for the first financial period remained uncollected. Management further need to ensure the completeness and accuracy of the main accounting system, which currently is being populated with financial transactions made prior to the system's implementation. While these aspects do not pose significant risks while satisfactory progress is achieved, they could give rise to problems if not fully addressed by the end of the financial period. Notwithstanding these observations, we are satisfied that on current evidence the Court is adequately managing these potential risks and we will continue to monitor progress.

7. We have made further observations to management on:
 - The Victims Trust Fund, where we have suggested that the Court should clarify the status, reporting and audit arrangements of the Fund.
 - Payroll, where we have commented on potential risks in the use of manual payroll procedures; and on the extent to which the adoption of interim arrangements on the United Nations model (for example in relation to allowances) might reduce the scope for adopting alternative policies in the future.
 - The investment of surplus funds, where the Court may wish to establish appropriate policies for the investment of cash resources.
 - The format of the financial statements, where the Court still needs to decide on an agreed set of accounting policies and the form of financial reporting it requires.
8. **In relation to management and governance issues**, our initial audit review considered the Court's progress in developing sound governance arrangements. We noted the positive development of introducing the Committee on Budget and Finance, which will have a scrutiny role to fulfil on behalf of States Parties. Such developments are a positive contribution to the establishment of good governance arrangements. We noted from our review that individual managers have a positive attitude to controlling risk but that this might be developed further by ensuring that States Parties are fully informed of all business risks and the way in which management are controlling and minimizing the risks identified. This type of reporting is now at the forefront of good practice in corporate governance and is a positive development which can reduce and help manage the impact of risks.
9. We note the present absence of an internal audit or oversight function and have suggested that outsourcing this key function might offer the Court best value for money, and be more flexible and economical than direct employment of an auditor to the staff. Our audit will routinely monitor the progress of the emerging arrangements and we will review their effectiveness on an annual basis.
10. We have also provided observations to management in relation to Human Resources and Information Technology, where initial developments have been positive. We have, for example, suggested that it is important to the Court's operations and reputation that adequate employee reference checks should be made prior to appointment; and that all staff clearly evidence their receipt and acceptance of relevant Codes of Conduct.
11. **In summary**, the Court has made a very positive start to establishing its operational and management infrastructure; and management are clearly keen to learn from the experience of other organizations during their start-up phases. We will, of course, continue to monitor these developments; and our more detailed audit testing and review work may raise other issues for the Court to consider. Our intention is to provide the Assembly of States Parties with the independent audit assurance required under the Financial Regulations; and to support the Court's development and progress through constructive and cost-effective recommendations.

Background to the audit

Context

12. The Comptroller and Auditor General of the United Kingdom is the independent External Auditor of the International Criminal Court, appointed by the Assembly of States Parties under financial regulation 12.1. He is required to examine, certify and report on each of the statements comprising the financial accounts of the Court, in accordance with generally accepted common auditing standards, namely those established by the Auditing Standards Committee of the International Organization of Supreme Audit Institutions. Under the provisions of the Annex to the Financial Regulations, Additional Terms of Reference Governing External Audit (paragraphs 6c and 7, as appended to this paper), the External Auditor may also report on matters relating to wasteful or improper use of the Court's financial or other assets.

Scope

13. Under the terms of engagement agreed by the Assembly, we will be responsible for delivering a report on the Court's financial statements. In addition to this we will provide an annual management letter, summarizing the key issues arising from our annual audit. As specified in Regulation 12.5 we are also committed to providing reports on specific matters requested by the Assembly. We will also provide an interim report to management based on the findings from our interim audit visit to be conducted in the autumn.
14. Our audit will take account of the particular nature and circumstances of the Court as a developing organization and we will address all aspects of its activities, operations and the development of systems. Our audit will include a comprehensive review of the financial systems, which will provide comments recommendations to add value to the development of the Court's processes and systems.

Audit approach

15. The primary objective of our financial audit is to provide the Assembly, the main users of the financial statements, with assurance that the accounts and underlying financial transactions are free from material error and comply with the Court's Financial Regulations. Our audit opinion will also confirm whether expenditure and income has been applied to the purposes intended; and whether the transactions conform to the authorities which govern them.
16. We apply the highest professional auditing standards and our approach adopts a clear focus on risks and controls, producing an audit designed to:
 - Add value for our clients.
 - Provide opportunities for improving efficiency and generating savings for the client organization.
17. Our audit approach is based on obtaining a thorough understanding of the operations and activities of the Court in order to identify the key risk areas. Significant or material risks may affect the ability of the Court to achieve its business objectives and may influence the reliability and accuracy of the

financial statements. Our audit approach therefore focuses on the concepts of materiality and risk, and on the needs of the main users of the financial statements.

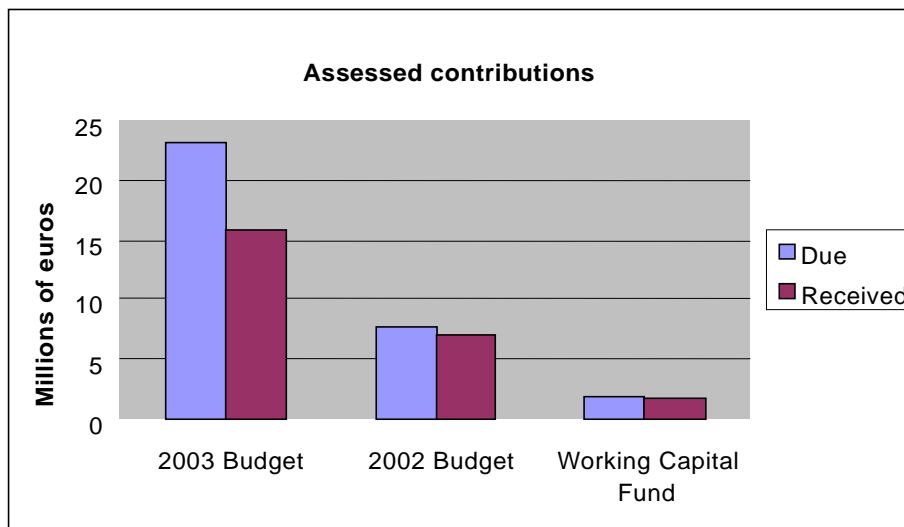
18. Materiality is a concept which recognizes that financial statements can rarely be absolutely correct. A matter is regarded as material if its inclusion, omission, misstatement or non-disclosure is likely to distort the overall view given by the financial statements. Our work therefore concentrates on all key areas of activity, and the External Auditor's report on the financial statements is confined to substantive issues. Less important matters will be dealt with in discussion and correspondence with the Registrar.
19. We carry out a thorough risk evaluation, which includes an assessment of the strengths and weaknesses of controls within the organization's financial systems. This enables us to determine the likelihood of the occurrence of material error, including fraud. The results of the assessment help to determine the level of audit evidence needed to support the audit opinion; to concentrate our efforts towards high-risk areas; and to maintain the cost-effectiveness of audit testing.
20. We will obtain direct audit evidence to support the audit opinion; and we attach importance to testing the regularity of expenditure, to ensure that the purposes for which the Assembly approved funding have been observed.
21. As part of our audit approach, we will liaise with any internal oversight services which the Court may establish in order to avoid duplication of effort. We will evaluate the work of the internal oversight services, once such systems have been introduced, and seek to place reliance on that work where appropriate.
22. Our audit procedures are designed to achieve a cost-effective audit to a high professional standard. We have well-established review procedures to ensure that appropriate audit work is undertaken efficiently and in accordance with auditing standards. The National Audit Office's standard procedures include a routine independent internal quality control process, carried out by experienced audit staff unconnected with the audit, which provides additional assurance that standards and efficiency are being maintained.
23. We will present our audit report to the Committee on Budget and Finance and, at the request of the Court, to the annual Assembly of States Parties.

Initial observations on financial issues

24. As the Court establishes its systems and procedures there will inevitably be areas which may present particular audit risks. Our audit approach and testing is designed to ensure that these potential risks are adequately addressed. Our initial visit identified a number of areas where we feel that the Court needs to consider the adequacy of its current arrangements. However, we are conscious of the significant progress made towards establishing processes and that, in many of the areas we identified, management was already active in addressing potential risks.

Assessed contributions

25. We reviewed the collection of assessed budget contributions for the first financial period and noted that some 8 million euros remained outstanding at the end of May 2003, representing a collection rate of only 75 per cent. The majority of outstanding contributions related to the current financial year. The potentially adverse financial position arising from this shortfall in collections was moderated by a number of approved posts which had not yet been filled and which gave rise to lower expenditure than might otherwise have been the case.



Source: ICC schedule of assessed contributions (as at May 2003).

26. The Court will need to be mindful of the gap between assessments and the current collection rate. Failure to address this shortfall in receipts could affect the Court's ability to bring its development phase to a satisfactory conclusion, as it may need to reduce its recruitment plans to ensure the retention of adequate funds for running costs. To encourage prompt payment of assessed contributions, the Court may wish to consider reporting formally and regularly to States Parties on the details of contributions assessed and collected.

Victims Trust Fund

27. In order to offer compensation to victims of war crimes and other injustices, under Resolution ICC-ASP/1/6 States Parties established a Victims Trust Fund, to be administered by a separate Board of Trustees. In our opinion these funds, though intended to be handled through the Court's financial systems, will not constitute the Court's own resources and potentially might require a separate audit opinion. Under the terms of our engagement, we were not appointed as auditors for these funds and the Assembly will need to consider how it wishes the transactions of the Fund to be reported.
28. The Victims Trust Fund does not yet have any significant reserves and as such there is some risk that achievement of the objectives set by the Court might be

at risk in the event of significant demands being made on the Fund. This could have potential to damage the reputation of the Court, although Court officials are clearly mindful of this and have been in discussion with a number of parties to research potential contributors.

General accounting systems

29. In common with most other newly established international organizations, the Court has carried out financial transactions prior to the establishment of a comprehensive accounting system. This can lead to significant problems in completely and accurately identifying expenditure and income for reporting purposes and to support an unqualified audit opinion. From our discussions with Court staff, we noted that the Court had established a process for inputting all such transactions to its new accounting system but that some backlog remained.
30. This situation prevented the Court from being able to produce statements of income and expenditure to report to States Parties, although finance staff considered that it will be possible to produce such statements from late summer 2003. A key aspect of our further audit examination will be to confirm that this work has been sufficient to provide the necessary information in support of the Court's financial statements as at 31 December 2003. The Court's approach to this issue appears sound and management have a clear understanding of the risks associated with failing to achieve an accurate and complete accounting system.
31. We will review the accounting system as part of our audit process and use computer techniques to interrogate the accuracy of the system and the transactions held within it. These processes will be useful in providing assurance that the new system is both adequate and effective. The use of computer techniques in support of our audit enables us to analyse greater amounts of information than would be possible using manual techniques; and helps us to facilitate efficient working arrangements and secure best value from the audit fee.
32. In order to reduce the costs associated with manual, cheque-based payments, the Court endeavours to make automated payments where possible. Our further audit work will review the controls established by management to prevent unauthorized access or payments through the system. We will also review other aspects of the Court's financial systems and procedures, such as accounts receivable and payable.

Payroll

33. The Court currently operates a manually based payroll system but may seek, as part of its Information Technology Strategy, a solution which would allow integration with the personnel, accounting and other business systems. By its nature, the existence of a manual payroll system can present an increased risk of error, and our audit will focus on the controls established to identify and prevent errors. Our testing will provide added assurance on the accuracy of payroll costs by ensuring these are accurately recorded in the accounting systems. Our standard audit procedures will focus on verifying the accuracy of information held on the manual system to provide assurance that payroll costs are incurred only in relation to staff employed by the Court. Our initial

discussions confirmed that checks are being made by management to ensure the accuracy of these payroll transactions.

34. The nature of the Court's work is likely to result in periods of fluctuating activity and the ability to apply flexible arrangements will help management to demonstrate that the high standards of efficiency expected by States Parties are being achieved. This has been demonstrated, for instance, by the structured way in which recruitment to posts has taken place on the basis of the Court's current needs. Where possible staff have been appointed on shorter term contracts; and temporary staff have been used to fill posts where future demand is less certain.
35. The Court is currently exploring arrangements to replace the complex United Nations system of allowances with its own lump sum arrangements. However, the Court has adopted United Nations-type arrangements as an interim measure to secure membership of the United Nations Pension Fund. Care needs to be taken to ensure that decisions made now on these arrangements do not prevent the Court from pursuing its goal of flexible and controllable cost structures. In the course of our work we will seek to identify opportunities where the Court can seek additional efficiencies.

Investment of surplus funds

36. The Court has not yet established a policy for managing income from surplus funds. The Court may therefore wish to consider establishing a policy on the investment of funds which are surplus to immediate operational requirements. The application of an appropriate policy would generate income from interest, even where security of funds rather than maximization of income were the underlying investment principle. This investment may be managed internally or through external investment brokers. It is important that States Parties — potentially through the Committee on Budget and Finance — establish clear parameters within which such funds can be invested. A policy should be predicated on the basis of ensuring that any risk is spread across a number of financial institutions whose financial health has been properly considered; and that adequate arrangements are maintained to ensure that the process is properly controlled. The returns made on these investments and the overall operation of the policy should be reported to and reviewed by States Parties.

Format and content of financial statements

37. The Financial Regulations specify that the Court's accounts should be compiled in accordance with generally accepted accounting principles. We consider such principles to be embodied in International Accounting Standards, as established by the International Accounting Standards Board. Adoption of International Accounting Standards would place the Court in the forefront of best practice and ensure maximum transparency in its financial affairs: qualities which are in keeping with the overall aims of the Court.
38. We have advised the Court that consideration should be given to establishing a clear set of accounting policies and the overall format of the financial statements as soon as possible. This should allow States Parties to provide valuable input on the nature and format of the statements they wish to be reported to them.

Initial observations on management and governance

39. In considering the Court's management arrangements, we have drawn on our understanding of its business and its key objectives, selecting areas for audit which are of significance to the efficient and effective operation of the organization and in the scale of resources devoted to them. Given that the Court is a new entity, we will carry out reviews as part of a flexible programme to cover key activities over the course of our appointment, focusing on key priorities and risks.
40. Initially our primary focus will be to review key financial systems and the Court's approach in areas such as information technology and human resources. Subsequently, other areas may be covered, such as procurement and systems to monitor the achievement of the Court's organizational objectives. We are happy to consider the views of the Assembly of States Parties on areas of interest to the Assembly; and, in addition to our basic audit, to consider any additional work which the Assembly may wish to commission in relation to specific areas of concern, under the arrangements provided for in the Financial Regulations (Regulation 12.5).

Corporate governance

41. We propose to review the Court's present governance framework, examining the arrangements for securing accountability; and for addressing and managing organizational and operational risk. As a matter of course, we will review the internal control environment and assess how the organization compares with current good practice arrangements for international and United Nations organizations. The review will look at financial monitoring and accountability, including reporting to donors; and will examine the level of assurance provided to donors on the regularity of the funds utilized on their behalf.
42. The adequacy of governance arrangements is an important and topical issue in most organizations and provides a vital contribution to an organization's overall control environment. The importance of these arrangements has been highlighted by corporate failures and stakeholder interest in management practices in both the private and public sectors. Robust governance arrangements are central to sound financial stewardship and the management of reputational risk; and thus are crucial to maintaining the positive profile of the Court, as well as increasing the efficiency and effectiveness of its use of resources.
43. The Court's creation of a Committee on Budget and Finance is a positive development in managing and controlling these risks. The effectiveness of the Committee will be further enhanced when the full introduction of the accounting system and financial reporting will allow it to regularly review the financial performance of the Court. Such regular scrutiny will enable States Parties to review the way in which resources are being utilized and managed against the objectives established by the Assembly. This review function will increase the accountability of officers to the governing body and strengthen the link between management and the Assembly.
44. The Court may wish to consider developing its governance arrangements still further by establishing mechanisms to review business risks. The latest

developments in public sector organizations have focused on the identification, reporting and management of business risk. These assessments have been used to inform governing bodies of the potential risks faced by the organization and how management has either mitigated these risks or designed contingency plans to reduce their impact. Such analysis would enable States Parties to gain assurance that potential risks, which could give rise to political or financial embarrassment, are being appropriately managed and controlled. Our discussions with the Court's staff indicated that individual managers have a clear understanding of risks and are managing these in their areas; however, a more corporate approach to identifying and managing risk would enhance the existing arrangements.

Internal audit

45. A key component of internal control and governance is the existence of an appropriate and adequate internal audit function. We noted that no appointment had yet been made to the post of internal auditor. We discussed with management the options which the Court could consider to address this vacancy, in particular that benefit and greater value for money might be available from obtaining the internal audit service from an external provider. This would allow the Court to obtain access to a greater range of skills and experience than might be secured through an in-house provision; and also reduce the risk of reliance on a single employed individual. The establishment of an adequate internal audit function should be viewed as a priority. A prompt appointment would also enable the Court to benefit from internal audit review of new and developing systems, allowing a greater degree of input in the formulation of systems and processes than is possible from the independent external audit process.

Human resources

46. The Court has embarked on an ambitious programme to recruit staff to provide the skills and qualities to enable it to achieve its goals. Good progress has been made but a number of posts remain unfilled. Human resources managers are clearly conscious of the need to continue the recruitment process for key posts within a suitably controlled framework. A key objective which the Court has established is to introduce a comprehensive Human Resources Strategy, a process which is important to ensure that staff skills and resources match the evolving circumstances of the Court's activities. The strategy will also help to establish and encourage the development and retention of the Court's most important resource, its employees.
47. In our initial review we did not identify any significant weaknesses with regard to the Court's processes in this area, but made two observations where potential improvements might enhance the existing arrangements. The Court may wish to review the prudence of appointing staff prior to the completion of full pre-employment checks, in particular the receipt of full references and security checks. While the attendant risks may not be seen as significant, we believe it would be preferable, in the current international climate and with the Court's profile, that all required checks and references are expedited as soon as possible and prior to appointment. The Court may also wish to ensure that appointed staff clearly evidence receipt and acceptance of the relevant Codes

of Conduct. This would ensure that employees are fully aware of and accountable for the high standards expected of them.

Information technology

48. The Court has maximized its IT resources and obtained significant support from the host country in the acquisition of IT equipment. It is also considering innovative solutions to fund future acquisitions, which demonstrates management's approach to maximizing the effective use of resources. In our initial discussions at the Court, IT managers demonstrated a clear awareness of the principles of good project management and we were encouraged by the initial steps taken in managing current IT projects and developments. We noted that the Court is considering the acquisition of an integrated business system. Such systems can increase the effectiveness of management processes and are being acquired by other international bodies. Care needs to be taken to ensure that such packages cover all key systems, since risks and costs can increase where packages have to be specifically tailored to enable subsequent integration of free standing systems.

External Auditor's report

49. Each year we will produce a report for consideration by the Committee on Budget and Finance and for presentation to the Assembly of States Parties. This report will accompany the financial statements and audit opinion, and comply with the Financial Regulations.
50. The published report of the External Auditor on the Court's financial statements will include significant matters arising from our financial and management report work, as provided for in the Financial Regulations. Where necessary we draw on the services of specialists within the National Audit Office to augment the skills of the audit team.
51. In accordance with the requirements of the Financial Regulations, the Registrar will be given the opportunity to comment on audit findings before transmission of our reports to the Committee on Budget and Finance. The procedure for clearing our reports is a well-established feature of our work in the United Kingdom and in the international environment. We operate a "no surprises" policy of fully discussing our audit findings with the organization, and seeking to agree the facts on which the conclusions and recommendations of the audit report are based. This facilitates governing body consideration of the issues raised in the External Auditor's report in the confident knowledge that they are based on sound, reliable and fairly presented facts. In addition, the process will give the Registrar and his staff the earliest possible opportunity to act on practical recommendations made by the External Auditor.
52. As provided by the Financial Regulations, we would be fully prepared to carry out additional specific examinations, and issue separate reports on the results, at the request of the Assembly.

Acknowledgement

53. We are grateful for the assistance and cooperation provided by the Registrar and his staff, and by the officials of the Court, in facilitating our preliminary familiarization and understanding of the Court's structure, activities and systems.

John Bourn
Comptroller and Auditor General
United Kingdom of Great Britain and Northern Ireland
External Auditor

Annex

Relevant extracts from the Financial Regulations and Rules relating to the role of the External Auditor

[Extracts omitted]*

* Previously issued in *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First Session, New York, 3-10 September 2002* (United Nations publication, Sales No. E.03.V.2 and corrigendum), part II, sect. D, regulation 12 and annex.

2. Comments of the International Criminal Court on the initial report of the External Auditor

1. These comments are submitted by the Registrar in consultation with other organs of the Court pursuant to financial regulation 12.8 of the Financial Regulations and Rules of the Court.
2. **The Court appreciates the detailed and helpful assessment of the Court's current situation prepared by the External Auditor, and the fact that this report was prepared on short notice. The Court commits itself to stay in a permanent dialogue with the External Auditor, to provide complete and up-to-date information whenever so requested, and to follow-up on the recommendations and suggestions made by the Auditor.**
3. At this stage, the Court merely wishes to note that the report raises some issues of a constitutional nature, which touch upon the delimitation of competences between the Assembly of States Parties and the Court, as follows:

Outstanding assessed contributions

4. The Court agrees with the observation of the External Auditor regarding the status of the assessed budget contributions for the first financial period and with his view that regular reporting to the Assembly of States Parties could be a useful controlling instrument. The Court notes, however, that it is not itself in the position to take measures regarding the collection of outstanding assessed contributions, and considers this mainly a matter for the Assembly of States Parties.

Victims Trust Fund

5. The Court also agrees with the observation of the External Auditor that the Victims Trust Fund will not constitute the Court's own resources and that its management requires consideration by the Assembly of States Parties, in accordance with article 79 of the Statute. In addition, in the view of the Court, the constitution of reserves of the Fund should also be considered by the Assembly of States Parties.

Investment of surplus funds

6. On the basis of the general policy on investment of surplus funds as laid out in rule 109.1 (b) of the Financial Rules and Regulations, the Court will establish appropriate guidelines for investments which will be subject to the auditing process. This will be done in close consultation with the Committee on Budget and Finance of the Assembly of States Parties.

(Signed) Bruno **Cathala**
Registrar

