

Statement to 29th Committee on Budget and Finance Session – CICC Budget and Finance Team

The Coalition’s Budget and Finance Team (“Team”) welcomes this opportunity to share its views and concerns with the Committee on Budget and Finance (Committee) as it completes its mandate for 2017, and to encourage the Committee’s continued support of an efficient but foremost need-based budget of the International Criminal Court (ICC) in coming judicial years.

The Team expresses its gratitude to the Committee for its continuing dialogue with the CICC and non-governmental organizations monitoring activities and processes impacting the Court’s annual budget request. Such engagement in 2017 has included offering the Committee, on the occasion of its 28th session, **constructive input and relevant background** on the most current challenges to setting an annual ICC budget.

In the Team’s submission to the Committee on its 28th session, the concerns raised touched primarily on risks of real and perceived politicization in connection with a budget-setting process constrained by outer limits. The Team continues to hold the view that the adoption of a financial envelope or any comparably restrictive budget mechanism would be wholly inappropriate for the ICC as it seeks to independently implement its mandate.

In this light, while welcoming initiatives by the Committee to help the ICC implement its mandate in a sustainable manner, including by way of the requested budget proposal annex on *“Savings and efficiencies achieved in 2017 and estimations for 2018,”* the Team stresses the importance of giving due weight to the Court’s conclusion that “efficiency improvements are often only achieved by improving the use of staff time within the same staff cost budget.”¹

The Team similarly draws the Committee’s attention to the requested budget proposal annex on *“Impact on the Court of constant budget size or ‘zero nominal growth’ (ZNG)”* and the Court’s own conclusions reached in that regard: that a ZNG budget will cause the Office of the Prosecutor (OTP) to lose operational capacity; will undercut Registry capacity to provide vital services to the OTP and Court as a whole, including victims and witnesses; and will cause delay and inefficiencies for the Judiciary, among other potentially significant consequences.

While recognizing the Committee’s interest in transparency and the Court’s ability to clearly establish its priorities, the Team considers it necessary to impress upon the Committee the

¹ *Proposed Programme Budget for 2018 of the International Criminal Court Budget*, Annex X, p. 201, para. 1.

inherent detriment of a budget request process premised on resource-driven approaches. At its worst, such a process has potential to subordinate the Court's budget requests to political funding will; at its best, it disrupts or curtails the Court's capacity to independently assess interests of justice in setting its priorities.

The Team continues to encourage long-term planning for the ICC that bears in mind not only the **operational risks**, but also **reputational risks** that mechanisms like a financial envelope or ZNG may pose. In terms of operational risks, the Team reiterates that such mechanisms may restrict the Court's ability to act effectively and independently as need arises in situations with which it is already seized; to open new investigations; to strengthen its field presence and fully implement all necessary outreach and victim participation activities; to adequately respond to conduct that undermines the safety of witnesses and integrity of ICC proceedings; and to achieve returns on past financial investments, such as in relation to information technology and management.

The Team also respectfully notes that restricted budget projections – where there is likelihood that factors beyond the Court's control will bear on its projected workload – can subject the Court to undue reputational harm. As the ICC works to determine precisely which factors it can control to solidify its own standing as a model of fair and independent international justice, the Court must not be held to account through a constrained budget for purely external roadblocks. These can include failure by the United Nations Security Council (UNSC) to finance and support its referred situations; individual State Party positions on ZNG; and the situation of arrears among States Parties.

In this regard, the Team urges the Committee to recommend an approach that complements efforts by the ICC to address genuine concerns about its functioning. Such an approach would not only promote a positive narrative about the Court, thus bolstering cooperation, complementarity, and universality efforts, but also free up the Court's capacity with respect to internal initiatives, including around harmonization of procedures and geographic and gender representation among ICC staff.

Recognizing the Committee's independent mandate, the Team expresses its gratitude for this opportunity to raise its concerns in a frank and constructive dialogue. The Team welcomes the Committee's continued consideration during its 29th session of not only institutional efficiencies, but also growth insofar as it will allow the ICC to effectively serve as both a last-resort and model for national jurisdictions in their efforts to achieve sustainable peace and security through justice for war crimes, crimes against humanity, and genocide.