

International Criminal Court

ICC-ASP/4/10

Assembly of States Parties

Distr.: General
7 September 2005

Original: English

Fourth session

The Hague

28 November to 3 December 2005

**Trust Fund for Victims
financial statements for the period
1 January to 31 December 2004**

Financial statements for the period 1 January to 31 December 2004

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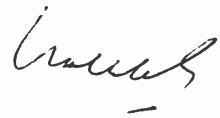
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Letter of transmittal

10 June 2005

In accordance with Financial Regulation 11.1, I have the honour to submit the financial statements of the Trust Fund for Victims for the financial period 1 January to 31 December 2004.



(Signed) Bruno Cathala
Registrar

Sir John Bourn
Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
Victoria
London SW1W 9SP
United Kingdom

AUDIT OPINION

To the Board of Directors of the Trust Fund for Victims and the Assembly of States Parties.

I have audited the accompanying financial statements, comprising Statements I to III and the supporting Notes of the Trust Fund for Victims of the International Criminal Court for the financial period ended 31 December 2004.

Respective responsibilities

These financial statements are the responsibility of the Registrar of the International Criminal Court as set out in Resolution 6, reference ICC-ASP/1/Res.6, Annex, para.5, and have been prepared in accordance with the United Nations System Accounting Standards. My responsibility is to express an opinion on these financial statements based on my audit.

Basis of opinion

Except as discussed in the following paragraph, I conducted my audit in accordance with the Common Auditing Standards of the Panel of External Auditors of the United Nations, the Specialized Agencies and the International Atomic Energy Agency and conforming to International Standards on Auditing. Those standards require that I plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, and as considered by the auditor to be necessary in the circumstances, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by the Registrar, as well as evaluating the overall financial statement presentation. I believe that my audit provides a reasonable basis for the audit opinion.

The evidence available to me was limited in respect of the prior year comparative figures as I was unable to confirm the completeness of donated income in 2003. There were no other satisfactory audit procedures that I could adopt to confirm that the prior year comparatives were not materially misstated.

Qualified opinion arising from limitation in audit scope relating to prior year comparative figures

In my opinion:

- Except for any adjustments to corresponding amounts for the year ended 31 December 2003 that might have been found to be necessary had I been able to obtain sufficient evidence concerning the completeness of donated income these financial statements present fairly, in all material respects, the financial position as at 31 December 2004 and the results of operations and cash flows for the period then ended in accordance with the Trust Fund for Victims' stated accounting policies set out in Note 2 to the financial statements; and
- In all material respects the transactions of the Trust Fund for Victims, which I have tested as part of my audit, have in all significant respects been in accordance with the Financial Regulations and legislative authority which govern them.

Details of these matters are set out in my long form audit report



**Sir John Bourn
Comptroller and Auditor General
United Kingdom
External Auditor**

London, 15 July 2005

International Audit

The United Kingdom National Audit Office (NAO) provides an external audit service to the International Criminal Court’s Trust Fund for Victims. Management have asked the External Auditor of the Court, Sir John Bourn, to provide an audit opinion on the Court’s Trust Fund for Victims. In addition to certifying the accounts of the Fund, he has authority under the mandate of the Court to report to the Assembly and the Board of Directors on the economy, efficiency and effectiveness with which the Fund has used its resources.

The NAO provides external audit services to international organisations, working entirely independently of its role as the Supreme Audit Institution of the United Kingdom. The NAO has a dedicated team of professionally qualified staff with wide experience of the audit of international organisations.

The aim of the audit is to provide independent assurance to the Board of Directors and to States Parties; to add value to the Fund’s financial management and governance; and to support the objectives of the Fund’s work

International Criminal Court – Trust Fund for Victims

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Executive summary

This section of the report summarises:

- *The overall results of the audit – a qualified audit opinion (scope limitation).*
- *The key financial matters arising from the audit.*
- *Issues identified from our review of the Fund's management arrangements.*

1. In order to offer compensation to victims of war crimes and other injustices, States Parties established a Trust Fund for Victims under Resolution ICC-ASP/1/6, to be administered by a separate Board of Directors. In our previous reports to the Assembly of States Parties, we drew attention to various legal and regulatory issues and advised on the need for a clear regulatory framework for this Fund.

Overall results of the Audit

2. The External Auditor audited the accounts of the Court in accordance with the Court's Financial Regulations; and in conformity with the common auditing standards of the Panel of External Auditors of the United Nations, the Specialized Agencies and the International Atomic Energy Agency, and with International Standards on Auditing. The scope and approach of the audit were communicated to management in a detailed audit strategy. The key aspects of this are summarised in Annex I to this report.
3. In forming our judgement on the financial statements of the Fund for 2004, we considered the impact of voluntary cash donations; the control environment; and the accounting policies of the Fund, areas which were factors in our qualified opinion in 2003.
4. **As a consequence of the qualification of the audit opinion in 2003, we have limited the scope of the audit opinion for 2004 to exclude assurance over the prior year comparative figures, disclosed as part of the financial statements in 2004. The audit opinion also draws attention to the potential misstatement which would arise if any adjustments had been made to the financial statements for 2003, had appropriate and sufficient evidence on the completeness of donated**

income been available at that time. In all other material respects the financial statements present fairly the financial position of the Fund.

On financial matters

5. In addition to our audit of the financial statements, we review the key financial controls and management arrangements established in relation to the Fund. A number of these observations relate to the issues identified in last year's External Audit report, some of which still require formal action by the Board of Directors. Annex II to this report discloses progress against the recommendations contained in our 2003 report. We believe the following recommendations should now be addressed as a matter of priority:

- the need to formally approve the external audit arrangements and appointment of an External Auditor for the Victims Trust Fund, which is not currently provided for in the Financial Regulations;
- the establishment of appropriate arrangements for recording donated income received through arrangements with third parties;
- finalising of the management structures and administrative procedures in relation to the Fund, to clarify the role of the Registrar and to ensure that transactions are conducted in accordance with the intentions of the Directors and the Assembly;
- ensuring that relationships with third parties and other collaborators are clearly defined and documented in the form of legal agreements; and
- the documenting of a clear fund raising strategy and associated expenditure budget, to provide focus to the Trust Fund's activities and ensure that predicted income is sufficient to meet the administrative and other expenditure demands on the Fund.

6. We encourage management to share the details of the implementation of external audit recommendations with the Board of Directors and the Committee on Budget and Finance. This process provides scrutiny of management's responses and gives assurance to States Parties about the implementation of recommendations.

Detailed report findings

Financial matters

This section of the report presents 5 audit recommendations arising from:

- *A review of the Fund's financial performance;*
- *Audit observations on donated income, the regulatory framework and audit arrangements; and*
- *Follow up to the previous year's audit recommendations.*

Financial performance

7. The incoming resources of the Fund increased substantially during 2004, with voluntary contributions totalling Euro 234,318, compared with Euro 19,028 in the previous year. Interest income also increased to Euro 555. The Fund's holdings comprise a mixture of US dollars and Euros. US dollar holdings are reported in the financial statements in Euros, valued at the UN rate of exchange prevailing at 31 December 2004. Fund expenditures in 2004 related to bank charges and exchange rate losses arising from the Fund balance held in US dollars. Total expenditure for the year was Euro 3,294, compared with Euro 6,284 in 2003. This decrease on the previous year resulted from a reduction in bank charges following a review of the Fund's banking arrangements as recommended during our audit for 2004.
8. The overall Fund balance increased from Euro 17,168 in 2003 to Euro 248,747 in 2004. We encourage the Board of Directors to consider the observations made in the External Auditor's report for 2004, to ensure that Fund balances will be sufficient to deal with the potential future demands on the Trust Fund.
9. As the Fund balances increase, we would recommend that the Directors review the investment arrangements used to secure the most effective return on the Fund balances. It is important that the return on Fund assets is evaluated regularly to ensure that best value is achieved, and to ensure that investment risks are properly managed.

Recommendation 1: We recommend that the Fund's cash investments are kept under regular review and that investment risks are actively managed.

Donated income

10. As part of our audit, we assessed the impact of the source of voluntary contributions which gave rise to audit qualification of the financial statements in 2003. For 2004, the Fund received voluntary contributions from States Parties amounting to Euro 231,068; and contributions from individuals of Euro 3,250. We reviewed the value of income recorded from individuals, which had given rise to the audit qualification in 2003; and we assessed the impact which a potential misstatement might have on the accounts as a whole for 2004. We also took account of the application of the stated accounting policies of the Court for the year, as shown in Note 2.7 to the financial statements, which provides for income to be recognised only when cash is received from the donor. In our view, this income source would not give rise to a material misstatement.

11. However, the audit opinion for 2004 is qualified as a result of the uncertainties in relation to the previous financial statements, for 2003. This arises in consequence of:

- the absence of assurance over the comparative figures for 2003, which refer to transactions and balances on which the External Auditor was unable to form an opinion in 2003; and
- the potential misstatement that might be reflected in the financial statements for 2004 as a result of any adjustments to corresponding amounts for the year ended 31 December 2003, had we been able to obtain sufficient evidence concerning the completeness of donated income in that year.

Regulatory framework

12. At present there are no financial regulations or instructions which provide a framework for financial management of the Fund. If reliance is to be placed on the financial regulations and procedures of the

Court, this should also be clearly specified in the Fund's own regulations. Further, it is unclear whether the Court's internal audit arrangements apply to the Fund, a factor which should be specifically addressed in the Fund's regulations.

13. As previously reported, we are also unclear about the responsibilities of the Registrar as administrator of the Fund. We carried out a review of the Fund's draft regulations and noted that these did not set out clear provisions concerning responsibilities for financial administration or over the operation of internal controls. We would recommend that the responsibilities of the Registrar are clarified in a Memorandum of Understanding or in approved Regulations. This will be particularly important when the new Fund Secretariat is established.

Recommendation 2: We recommend the establishment of a specific framework of financial regulations, to ensure that the Fund operates within a clear and approved regulatory framework.

Recommendation 3: We recommend that roles and responsibilities in relation to internal control and financial management be specified in a properly approved set of Financial Regulations for the Fund.

Appointment of external auditors

14. In our report for 2003, we noted that the Board of Directors had not formally appointed an External Auditor to the Fund. We have undertaken the audit of the Trust Fund for Victims at the request of the Chair of the Board of Directors, and under the mandate as auditors of the International Criminal Court. We are available to continue to serve in this capacity, however we consider that the Fund's audit requirements should be put on a more formal arrangement and specified in the Fund Regulations.

Recommendation 4: We recommend that the Board of Directors formalise the external audit requirements of the Fund and formally appoint an External Auditor.

Prior year recommendations

15. As a routine part of our audit, we review the extent to which management have taken action to implement recommendations arising from our previous audit work. In a number of instances, this present report includes observations which echo those made in 2003. Annex II sets out those earlier recommendations, management's response thereto and our comments on any additional work still required to fully implement the audit recommendations. It is important that the Board of Directors and the Assembly of States Parties consider the need for action on these recommendations.

Recommendation 5: We recommend that the Fund should prepare a detailed action plan to consider and provide analysis of how recommendations arising from the external audit will be addressed. This plan should be subject to scrutiny by the Board of Directors to enhance the existing governance arrangements of the Fund.

Acknowledgements

16. We are grateful for the assistance and co-operation received from the International Criminal Court's Trust Fund for Victims and, in particular, from the Registrar and his staff during the course of our audit.

A handwritten signature in black ink, reading "John Bourn". The signature is written in a cursive style with a large initial 'J'.

Sir John Bourn
Comptroller and Auditor General, United Kingdom
External Auditor

ANNEX I

Scope and audit approach

The main purpose of the financial audit was to enable the External Auditor to form an opinion as to whether expenditure recorded in the financial statements for 2004 had been incurred for the purposes approved by the Assembly of States Parties and the Board of Directors; whether income and expenditure were properly classified and recorded in accordance with the Court's Financial Regulations as far as we interpreted these as being applicable to the Fund; and whether the financial statements fairly presented the financial position at 31 December 2004. The basis, assumptions and audit risks were considered in detail and were summarised to management in an Audit Strategy document, which was finalised in December 2004.

Audit approach

The examination was performed on a test basis, in which all areas of the financial statements were subject to substantive testing of the transactions recorded. We also undertake testing on the key internal controls operated by the Court and the Fund for the purpose of providing our audit opinion. Finally an examination was carried out to ensure that the financial statements accurately reflected the Fund's accounting records and were fairly presented.

This audit examination included a general review and such tests of the accounting records and other supporting evidence as we considered necessary in the circumstances. Our audit procedures are designed primarily for the purpose of forming an opinion on the Fund's financial statements. Consequently, the work did not involve a detailed review of all aspects of the Fund's budgetary, financial information systems and internal controls, and the results should not be regarded as a comprehensive statement on them. Our report has identified issues regarding the regulatory framework of the Fund which will need to be addressed by the Board of Directors and by States Parties.

Follow-up of 2003 Recommendations

Recommendation	Response from ICC Management	External Auditor Comment
<p>Recommendation 1</p> <p>That the Board of Directors or the Assembly formally consider and recommend the appointment of an External Auditor for the Fund's financial statements.</p>	<p>It is for the Board of Directors to consider the formal appointment of an External Auditor</p>	<p>We recommend that the arrangements for the external audit of the Fund and the formal appointment of an External Auditor is considered and approved at the next meeting of the Board of Directors.</p>
<p>Recommendation 2</p> <p>That the Board of Directors and management review and establish improved arrangements for administering donated income.</p>	<p>The Court has established clearer accounting policies over the recording of donated income.</p>	<p>The Court has reflected on the comments made in our report last year, and there is greater awareness of the risks over the use of agents to collect income. The campaign which gave rise to our concerns in 2003 was inactive from January 2004, and we have been able to form an unqualified opinion on the Fund's accounting for voluntary contributions in 2004.</p>
<p>Recommendation 3</p> <p>That the Board of Directors consider the administrative and accountability arrangements for the management and administration of the Fund; and, with the advice of the Registrar, consider the role of the Court's Committee on Budget and Finance in the development and operation of the Fund.</p>	<p>Draft Regulations have been prepared for discussion by the Board of Directors and for approval by the Fourth Session of the Assembly of States Parties.</p> <p>The ASP has requested the CBF to review the draft Regulations.</p>	<p>Further work needs to be carried out on financial regulations and on the responsibilities for internal control which will relate to the Fund. Existing draft regulations do not make these arrangements clear.</p>

Recommendation	Response from ICC Management	External Auditor Comment
<p>Recommendation 4</p> <p>That the Board of Directors establish procedures to ensure that formal agreements defining roles and responsibilities are in place for all collaborating partners responsible for administering donations directly to the Fund.</p>	<p>The Registry’s Legal Advisory Section is in the process of preparing advice in relation to the form of agreement which will define the relationship between the Fund and any collaborating partner.</p>	<p>Our future audit work will review how these arrangements have been defined and any risks that may result. Our audit of 2004 did not identify any collaborating partners.</p>
<p>Recommendation 5</p> <p>That the Board of Directors consider establishing a fund raising strategy; and review the levels of anticipated income and budget for the expenditure of the Fund, to ensure that the Trust Fund has sufficient resources to meet its anticipated objectives over time.</p>	<p>The Fund has prepared, and the ASP has approved, a budget, which includes provision for a Secretariat and for a specific fundraising officer.</p>	<p>We will continue to review the extent to which Fund resources and its strategic objectives can be met, once these objectives have been fully established.</p>

Statement I

Trust Fund for Victims
Statement of income and expenditure and changes in fund balances
for the period ending 31 December 2004
(in euros)

	2004	Notes Ref.	2002-2003
<i>Income</i>			
Voluntary contributions	234,318	3.5	19,028
Contribution from ICC	-		4,424
Interest income	555		
Total income	234,873		23,452
<i>Expenditure</i>			
Expenditures	3,294	3.6	6,284
Total expenditure	3,294		6,284
Excess/(shortfall) of income over expenditure	231,579		17,168
Fund balances at beginning of financial period	17,168		-
Fund balances as at 31 December 2004	248,747		17,168

Signed (Marian Kashou')
Chief Finance Officer

Statement II

Trust Fund for Victims
Statement of assets, liabilities, reserves and fund balances
as at 31 December 2004
(in euros)

	2004	Notes Ref.	2002-2003
<i>Assets</i>			
Cash and term deposits	231,814		12,744
Interfund balances receivable	16,406	3.7	4,424
Other accounts receivable	527	3.8	-
Total assets	248,747		17,168
<i>Liabilities</i>			
Total liabilities	-		-
<i>Reserves and fund balances</i>			
Cumulative surplus	248,747		17,168
Total reserves and fund balances	248,747		17,168
Total liabilities, reserves and fund balances	248,747		17,168

Signed (Marian Kashou')
Chief Finance Officer

Statement III

Trust Fund for Victims
Statement of cash flow as at 31 December 2004
(in euros)

	2004	2002-2003
<i>Cash flows from operating activities</i>		
Net excess/(shortfall) of income over expenditure (Statement I)	231,579	17,168
Interfund balances receivable (increase)/decrease	(11,982)	(4,424)
Other accounts receivable (increase)/decrease	(527)	-
Less: interest income	(555)	-
Net cash from operating activities	218,515	12,744
<i>Cash flows from investing and financing activities</i>		
Plus: interest income	555	-
Net cash from investing and financing activities	555	-
<i>Cash flows from other sources</i>		
Net increase/(decrease)	-	-
Net cash from other sources	-	-
Net increase/(decrease) in cash and term deposits	219,070	12,744
Cash and term deposits at beginning of period	12,744	-
Cash and term deposits at 31 December 2004 (Statement II)	231,814	12,744

Notes to the financial statements of the Trust Fund for Victims

1. The Trust Fund for Victims and its objectives

1.1 The Trust Fund for Victims was established by the Assembly of States Parties (ASP), in its resolution ICC-ASP/1/Res.6, for the benefit of victims of crimes within the jurisdiction of the International Criminal Court (ICC), and the families of such victims.

In the annex to the Resolution 6, the Assembly of States Parties established a Board of Directors which is responsible for the management of the Trust Fund.

2. Summary of significant accounting and financial reporting policies

2.1 The accounts of the Trust Fund for Victims are maintained in accordance with the Financial Regulations and Rules of the ICC, as established by the Assembly of States Parties in its annex to the resolution ICC-ASP/1/Res.6. Therefore, the accounts of the Trust Fund are currently in conformity with the United Nations system accounting standards. These notes form an integral part of the Trust Fund's financial statements.

2.2 **Fund accounting:** the Trust Fund's accounts are maintained on a fund accounting basis.

2.3 **Financial period:** the financial period of the Trust Fund is one calendar year, unless otherwise decided by the Assembly of States Parties.

2.4 **Historical cost basis:** the accounts are prepared on the historical cost basis of accounting and are not adjusted to reflect the effects of changing prices for goods and services.

2.5 **Currency of accounts:** the accounts of the Trust Fund are presented in euros. Accounting records kept in other currencies are converted into euros at the United Nations operational rate of exchange in effect at the date of the financial statement. Transactions in other currencies are converted into euros at the United Nations operational rate of exchange in effect at the date of transaction.

2.6 **Funding:** the Trust Fund for Victims is funded by:

- a) Voluntary contributions from governments, international organisations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties;
- b) Money and other property collected through fines or forfeiture transferred to the Trust Fund if ordered by the ICC pursuant to article 79, paragraph 2 of the Statute;
- c) Resources collected through awards for reparations, if ordered by the ICC pursuant to rule 98 of the Rules of Procedure and Evidence;
- d) Resources as the Assembly of States Parties may decide to allocate.

2.7 **Income:** voluntary contributions are recorded as income on the basis of a written commitment to pay monetary contributions during the current financial year, except where contributions are not preceded by a pledge. For these funds, income is recorded at the time that the actual contributions are received from the donors.

2.8 **Cash and term deposits** comprise funds held in interest-bearing bank accounts, time deposits, and call accounts.

3. The Trust Fund for Victims (statements I-III)

3.1 The financial period is one year. However, the first financial period extended from 1 September 2002 to 31 December 2003, in accordance with ASP resolution ICC/ASP/1/Res.12.

3.2 **Statement I** reports the income and expenditure and changes in reserve and fund balances during the financial period. It includes the calculation of the excess of income over expenditure for the current period and prior-period adjustments of income or expenditure.

3.3 **Statement II** shows the assets, liabilities, reserves and fund balances as at 31 December 2004.

3.4 **Statement III** is the cash flow summary statement prepared using the indirect method of International Accounting Standard 7.

3.5 **Voluntary contributions:** a total amount of €234,318 was received from voluntary contributions as follows:

- a) A total amount of €231,068 representing voluntary contributions was received from governments, individuals, organisations and other entities.
- b) The equivalent of €3,250 were received in the form of US dollar cheques donated by individuals in the United States of America as a result of the Trust Fund for Victims campaign which had been launched in the USA by a number of non-governmental organisations. The cheques were collected by one of the participating NGO's in the USA, Citizens of Global Solutions, and were forwarded for deposit into the bank account of the Trust Fund. In the absence of a policy to be established by the Board of Directors to the Trust Fund for Victims regarding the receipt of donations to the Trust Fund via third parties, the financial statements record only those donations which have been received in the Trust Fund's US dollar bank account.

3.6 **Expenditures:** total expenditures of €3,294 comprising €2,095 for bank charges and €1,199 representing the balance of net gain or loss on revaluation or devaluation of currency.

As mentioned in the previous year's financial statements, the Court has changed the type of bank account effective June 2004 in an effort to reduce bank costs associated with the US dollar account.

3.7 **Interfund balances receivable** represents a contribution in the amount of €16,406 which was mistakenly transferred by the donor to the bank account of the ICC instead of the Trust Fund's bank account.

3.8 **Other accounts receivable** in the amount of €526 represent interest earned but not yet received as at 31 December.

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