

**Informal and Unofficial Summarised Notes from the ASP  
Budget & Finance Working Group, 28<sup>th</sup> November 2006**

*These notes are not an official transcript of the meetings, but may serve as an informal and general overview of the proceedings. Please do not use these notes for official purposes.*

Chair: Good afternoon. From this morning debate, three questions are yet to be resolved: outreach, translation costs and victims and witnesses issues. We are talking about money equivalent to 1 million euros in total (460 000 for outreach, 400 000 for translation costs and 170 000 euros for victims and witnesses issues). I will continue further with consultations and present you with the results in tonight's report or at the latest tomorrow in the meeting. We will then hold informal discussions and get back to the formal Working Group after that.

Before starting the general debate on the budget, I want to look at the baseline; do we want an overall picture or a more precise picture of the budget presentation, what is actually spent in time? It would also be interesting to consider the long-term policy, to see how costs develop. Shall we consider the forecast of the budget? The approved budget?

We will have a debate after on that matter; at this point, I would like to ask if I omitted issues you would like to discuss. If you want to raise issues not touched upon, please do. [Silence] If not, I would start with the general debate. I think we had an interesting start with the notes of Mr Lowell on Monday evening. I would like to give the floor to the Court, and then the delegations.

Registrar: Just very quickly, I will give you some general information, before going into the more detailed points of the debate. In general terms, the Court is aware, like the CBF, in agreement with the CBF, of the negative aspects of the budget presentation. The 3<sup>rd</sup> budget took the form of the current budget; this is one used by the UN. We have tried to improve transparency and clarity.

The CBF's view is that we still have a fragmented vision of the Court. It would be clearer if we could deal with all the subjects in a more comprehensive way; conversely the question is how to get the details in the discussion. The debate is thus divided into a more 'macro' vision and a more detailed vision. It is easier to track if we would make a better overview.

In this regard, I would like to emphasise the advantages of transparency and of an overview of a number of projects. On the other hand, the ASP needs to know what is really happening. The discussion on budgetary presentation will begin next year so that it can evolve. The fact remains that there should not have to be new reports and workload, otherwise producing reports is going to outweigh the actual work. [...]

Regarding the IT system, we fully agree with all the recommendations of the CBF regarding the budget. The only question is when we will be ready to produce all these documents. The IT projects were established in special programmes and we are in the

Fifth Session of the Assembly of States Parties to  
the Rome Statute of the International Criminal Court  
*Working Group on the Budget, Afternoon Session 3.00-4.30 pm*

middle of the process of managing the system and implementing it. This should be achieved by the end of next year.

On another item regarding the matter of the comparison of the 2006 and 2007 budgets, there is a necessity to compare the actual numbers of 2006. When finalising the budget, we rely on accumulated numbers until May, which are not representative for the whole year. There is a plan of a forecasting system for a better projection and better accuracy. The budget is thus compared to the forecast of the previous year instead of being compared to the actual budget.

Regarding the external audit, it is mandatory in the UN. The International Public Section within the UN will provide us with a good outlook on the future. It is a matter of *when* we can conduct the audit. Implementation of the info-system will cost money and investments of a significant magnitude. If this can be done in cooperation with the UN synergy, this might be less costly.

When do we reach the ceiling of the budget? The Court is always going to face unpredictable costs. I can give you an example: a while ago rebels took over places where field offices were located. We did not expect this. We keep learning during the process; we know there will be surprises along the way. This is a question of the ability to forecast the budget. In the future we will be able to do so.

Chair: Thank you, Registrar. I now open the floor to all issues and questions. This is not a structured debate; this is a chance to ask questions to the Court. I see the Netherlands has a question.

The Netherlands: Thank you Mr. Chairman. I am grateful to have the time to look into the future. It is necessary to have some thoughts on this issue, because we have some experience now. I am grateful to the Court for putting forward suggestions. They still need to be worked on. If I just may voice some basic thoughts to you.

We were always impressed that the Court prepared its own work in regards to the budget. What has always struck me is that we, States Parties, are not well prepared to ask relevant questions on the budget at that time. States Parties only think about the budget around October - maybe this is only the Dutch delegation. This is too late. We have to prepare ourselves to give questions in the first half of the next year. Maybe The Hague Working Group can think, through focal points, concerns or suggestions, by spring 2007. These focal points could then be instruments for the next budget and the Court.

The second point is that we feel that the way of presenting the document is very detailed, but can you avoid that? We doubt it - that the solution would be, like Mr. Cathala asks, to present a global approach. Would this be good? It looks like we can not have the pie and eat it too.

The third point I would like to make is, that there are items that cannot be settled in one year; in that perspective a multi-annual approach would be possible. Simple examples are IT, Outreach and Victims issues which all form part of the core-business of the Court.

Fifth Session of the Assembly of States Parties to  
the Rome Statute of the International Criminal Court  
*Working Group on the Budget, Afternoon Session 3.00-4.30 pm*

Point four. What we would like to see in the next budget presentation, is that the Court doesn't only explain the need for a change (which is always an increase), but also lays down language related to the resources to implement the policy (infrastructures and money). That would allow us to have a good overview.

Then point five. If I understood Mr. Lowell well, then the major programme structure is too rigid, and that it hinders the work of the Court. A merit would be to have flexibility not only within major programmes, but between major programmes.

Point six is about a baseline thing you mentioned. The concentration should not only be on the approved budget, but also on best effort figures. It should be possible.

Our last point concerns the issue of reclassification. We have some homework to do on that. After a couple of years, we are in the position to have a more interesting talk on the structure of the Court. We have to have reasons to reclassify.

Mexico: Thank you. My delegation notices an improvement of the budget presentation each year. It is notably much better thanks to the work of the CBF, the CBF's recommendations. The debate should be between the Court and the CBF. We would like to see a stabilized budget. It is consolidating itself, we are aware of the uncertainty of some variables but flexibility should be looked into in greater detail.

What should the State Parties and the CBF be doing for a better understanding of the budget process as a whole? It is important that the CBF has an understanding of the Court. The main policies of the Court should be indicated and analysis should be carried out. Interaction between States forms a merit and the Bureau should have a continuing dialogue, maybe during the following year on premises within The Hague Working Group.

Regarding the Strategic Plan on Outreach, the Strategic Plan of the OTP has brought greater clarity on what is needed. There is need for greater depth with the help of the ASP. We appreciate the efforts done on that matter.

Uganda: I would like some clarification about the Chair's summary. It does not seem to reflect the majority of issues, notably the concerns about outreach and victims and witnesses protection.

Chair: The summary has not been done yet. I was just expressing the feeling of where the room went, show the transparency of the process. There will be an informal meeting tomorrow with translation. With your indulgence, I would ask you to wait overnight, I will present it tomorrow afternoon. The United Kingdom has the floor.

UK: Thank you. I would like to emphasise our disappointment not to be able to benefit from the CBF presence in this meeting. We would not blame the CBF itself; arrangements should have been made. The absence of the CBF results in an incomplete debate.

Thank you for the opportunity to have a strategic discussion on the budget presentation. We agree that the process of making the budget has improved, and we welcome the role the Court plays in the strategic discussions. The dialogue with the

Fifth Session of the Assembly of States Parties to  
the Rome Statute of the International Criminal Court  
*Working Group on the Budget, Afternoon Session 3.00-4.30 pm*

Court, the State Parties and the CBF has improved. We agree with the Netherlands, there is a need to focus on the whole instead of the year-to-year increase. The opportunity to consider a holistic approach is a good way for us. We should bear in mind flexibility. It merits further attention and we must see the lessons to be learned from other organizations, these could be private organizations as well. Finally, State Parties need to be more involved in the process on a continual basis. The establishment of a new body or not is not to be discussed now; but there is a duty to engage in the process, a process that should involve the Court. I commit the UK to do so.

Spain: Thank you Chairman. This is an excellent idea to raise issues spontaneously.

The Ambassador of the Netherlands did a good job to take the opportunity to highlight issues, I would like to pick up 3 points:

We welcome the programme streamlined budget; this is according to us a wise advice. It constitutes a more integrated and strategic form of the budget. Transparency is essential. We should decide on the measure of detail where we wish to go along with, to ascertain the relevance of positions and guidelines of the Committee.

We have no objection on establishing a dialogue between the Assemblies on multi-year budget thus clarifying various positions. We would pick up on the UK remarks: we welcome the interactions with the Court and the openness of the Court on that matter, this is always a feature. There is a need not to duplicate the work of the CBF; the CBF has a clear mandate, it is not a supporting player but a body at the heart of these considerations. We need to see mechanisms that enrich dialogues; the basic structure should not be changed. Doing this to protect the legitimacy where the CBF stands for.

The third point I would like to emphasise is flexibility. It is an important issue, but one should look at it with a view on contingencies. Making the Budget is always an estimation, there needs to be a strategy for the entire process.

France: We share the views of the Delegations in favour of clarification on urgent issue. My apologies, but I personally need clarification from 2 years ago. I have not understood why the [...] of two years ago doesn't comply with the Financial Regulations [...]. The programme is split into major-minor programmes, but this is not how the Budget is presented. The CBF could clarify this issue now.

Canada: Thank you Mr. Chairman. The 2007 budget is key to this year's ASP. Sufficient resources are essential. An increase in the budget is expected - the reasons for such an increase are thus the point to discuss. We recognise the great value of the role of the CBF, it offers us technical information which is very important. We do not encourage a line by line debate. We should continue to rely on the CBF report as the basis for our discussion. But it is not a dangerous precedent to question the CBF's recommendations when exceptional measures arrive. We should trust the State Parties to make sure that the recommendations are implemented rightly.

Fifth Session of the Assembly of States Parties to  
the Rome Statute of the International Criminal Court  
*Working Group on the Budget, Afternoon Session 3.00-4.30 pm*

There is some room for improvement. Multi-year budgets are a good idea, but it is still premature to provide for them, this is something for the future. The presentation of the budget has improved. We are open to ways to foster this improvement.

Chair: Argentina please.

Argentina: Thank you Mr Chairman. I would like to take this opportunity to praise the work of the head of the Working Group. The view adopted by the Working Group to stress key points, especially the CBF's work, has been a crucial benefit for this ASP.

As a realistic starting point, I would like to say that stabilizing the budget is essential. The budget process must seek to observe a 0% growth, as it has been achieved in other international organisations. I would like to refer to the important managerial quality in dealing with existing financial and material resources. We acknowledge the complexity of the process, but this is a crucial objective.

In this context, flexibility is a vital factor, without the authority of the ASP, it is to be diminished. (Like Spain said.) I would like to stress the importance of the internal coherence of the Court. In that perspective, we would like to highlight the importance of outreach and internal cohesion. Indeed, internal cohesion is a vital factor as outreach develops.

The draft omnibus resolution includes an encouragement for contacts with other international organisations so that the international system with years of experience will provide us with procedures and models, in the respect of the specificities of the ICC.

Chairman: I think there is something wrong with the speaking system, I have the feeling we lost some Delegation speakers. I now give the floor to Namibia.

Namibia: My delegation welcomes the report of the CBF, independent expertise is of great use. The ASP is no rubber stamp, it is a decision making body in which we need to take into account the wisdom of the CBF, the Court and the Member States as well as the States Parties' interests. We appreciated the presentation made by the CBF.

South Africa: Much has been done, and we would simply like to add the following. By large, the process in which the Budget was adopted is quite intimidating. It is therefore difficult to go through the whole document, but the reports of the CBF are very readable and helpful on that matter. The value of how the budget is translated lies in the dialogue with the CBF, the type of discussion following should be on the right level.

Another concern is the continuous growth of the Court. The Court Capacity Model will have to be the subject of discussion through the CBF sooner or later. We are of the view that we could have a stable structure. There are 18 judges and there is no appetite for increasing this number. So we know the number of Chambers: 6 judges for each trial chamber, 5 judges for Appeals Chamber, 3 for each pre-trial chamber. From that, it is possible to indicate how much that component will absorb, and how many trials per year the Court will be able to undertake. I think we can make a prognosis then, am I right? Is that possible from the Court's stand?

Fifth Session of the Assembly of States Parties to  
the Rome Statute of the International Criminal Court  
*Working Group on the Budget, Afternoon Session 3.00-4.30 pm*

Chairman: I will have to close the debate in 8 minutes; I will thus let the Court respond. The last 2 minutes will be dedicated to an update on pensions by our facilitator in the issue.

Registry: To answer South Africa, the projecting budget takes as corollaries the structure of the budget and the one of the Court. One should look at the Structure and think of building blocks - 8.4 millions euros for 66 people for 1 trial. For indication, we count 20 people for one field office. We know how much the Ugandan Field Office costs - this could serve as the basis in the dialogue with the CBF and as the basis for a generic budget for field operations offices.

On the Basic Budget there is 0% growth. There are some changes, but it is our strategy to settle in this structure mentioned. We are slowly making it possible to give indications, with the help of the building blocks. The Judges are not alone to decide how many trials there would be in a year.

The budget is getting closer to stability. There have already been presented field operations to the CBF (these are confidential). We should look at what is needed, and have a generic budget for field operations. Now, if there are any other questions?

B. Cathala, Registrar: I just would like to make a quick response to France regarding its concerns with the Financial Regulations and Rules. It does correspond with it. Last year, the transfer of funds shows that there was a similar reading with the financial regulations. If the French delegation is willing to speak more on that subject, I would remain available.

Chair: Yes, well maybe this is a more linguistic issue? I would like to thank all the distinguished Delegates for the good debate and all the observations and statements made.

I now turn to the facilitator for an update on the conditions of service and pensions.

Mexico: Thank you for letting me be the facilitator. We had two informal meetings in which we relied on the draft report as the basis of our work. We considered the CBF recommendations on pensions and we concurred. There is no action to be taken there. Regarding the pensions scheme applicable to the ICC, we concurred with the CBF. Regarding the conditions of services of the judges, we concurred with the CBF recommendations. Regarding the conditions of services of the chief prosecutor and deputy prosecutors, USG levels apply. The other parts still need to be worked on - we still need to discuss some aspects. We will submit our conclusions to the Working Group. Some language on the matter will be included in the omnibus resolution, as discussed with the coordinator of the omnibus resolution.

Chair: Thank you for the update and the work of the facilitator. I will liaise with the coordinator of the omnibus resolution. I will check with the President of the Assembly, to see if we could have some extra time for the meeting tomorrow. We will meet tomorrow for informal meetings with translation provided. Thank you for the valuable debate. *End of session (4.30 PM)*