

Fifth Session of the Assembly of States Parties to
the Rome Statute of the International Criminal Court
Working Group on the Budget
29 November 2006, 4:30-6:00, 7:30-10:30pm

Informal and Unofficial Verbatim Notes from the ASP
29 November 2006, afternoon and evening session, Working Group on the Budget

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[16:30]

Netherlands: Thank you. I would be a very sad man if we would leave out the first part of paragraph 22. One cannot talk of a consistent pattern of under-spending. No organisation has a policy to consistently under-spend. In accordance with the Netherlands budget regulation, you always count for inflation, and it is logical think to do. Thank you.

Chair: Thank you very much.

South Africa: Thank you Chair. I want to endorse the comment just made by the distinguished ambassador of the Netherlands.

Sweden: Thank you. Inflation should be not compensated, but accounted for in the budget.

Chair: Thank you very much.

Italy: Thank you. I can live with the compromise.

Chair: Lets leave paragraph 22 open.

Germany: Paragraph 22 should not deal with the term “inflation”. In the principle, I would like to suggest that we delete everything after “although” in the first sentence and second sentence. Also, “could” should be changed to “shall” before “be endorsed”. Thank you.

Chair: Thank you very much. Yes, the word “shall” would give more guidance. Let us leave that open for a moment perhaps. Let us move to paragraph 23. Probably it will not cause many problems. Then we move to re-classification, from paragraph24 to paragraph26. Paragraph 24 is drawn from the CBF language, just to state what they’ve stated.

Netherlands: Thank you. A minor point on paragraph 24. We feel that there is a word missing in the last sentence of this paragraph - after “should not”.

Chair: Yes, the word “included” is missing. Thank you for drawing our attention to it. Can we move on to paragraph 25? Also there would be a second additional sentence in paragraph 25: “The Working Group further recommends the ASP that it requests the Court and the CBF to consider re-classifications in accordance with standards of openness and transparency, in keeping with integrity with UN staffing principles”.

[Registrar says something to the Chair, explaining something to him.]

Chair: I see that the Court hesitates.

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Registrar: I would like to draw your attention to the fact that we're absolutely convinced by transparency; we're trying to create a system which is not so heavy as the UN. If we're bound by UN principles, that may not allow us to reach the transparency for which we aim.

Chair: Thank you, let's insert only the first part of the sentence, without reference to the UN staffing principles.

Italy: Thank you, Mr. Chairman. Yes, re-classification shall be exercised in a transparent manner. No misunderstanding shall arise in the implementation of this provision.

Chair: Thank you very much. Yes, it is exactly my reading of openness and transparency.

Argentina: Thank you. Just to clarify, we deleted the reference to the UN procedures from this text? I didn't really understand what exactly has been done here.

Chair: My understanding is that not all details of UN staffing principles should apply to the ICC, because the ICC has a more flexible approach based on merits and expertise. There might be some differences, and we should not follow the UN staffing principles in all the details, acknowledging of course the principles behind it.

Argentina: The UN has a lot of years of experience. Let's be very careful regarding this reference.

Chair: If it is the proposal to delete the second sentence altogether, I have no problems with it. Let's return to it later and move to paragraph 26.

Italy: Thank you. We propose to include "provided that the upgraded provisions should be advertised".

Chair: Thank you very much. The Court, please.

Registrar: We had discussions with the CBF on this matter. We do have a re-classification procedure.

Chair: The CBF is our expert body, let's entrust them to authorize them to look at every re-classification individually, and to deal with it. Let's leave it as it is for now.

Italy: I understand that 342 positions were re-classified in 2005. I also understand that the CBF in paragraph 52 of its report requested directions from the ASP on this matter. As I understand the Registrar, advertisements will concern only P-4 and P-5 posts, positions like heads of sections, but it shall also concern the lower positions.

Chair: Of course, I'm in your hands. I just want to remind you that every advertisement includes a recruitment process which is cost-intensive and time-intensive. Having said this, I should emphasize that I am only co-ordinating the discussion.

South Africa: Thank you. I do take the point raised by Italy.

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Netherlands: Thank you. I would like to recall that we previously requested the Court to show us the policy behind its proposals. The same is absolutely relevant with respect to re-classification.

Germany: We are not talking here about how to recruit people, but only about re-classification. I would like to mention that we reserved zero money for re-classification in 2007. We'd have to come back to this issue next year. Let's leave paragraph 26 as it is.

Chair: Thank you for your flexibility. We leave paragraph 26 as it is. We move to the specific recommendations of the CBF.

Argentina: Just one thing regarding paragraph 24. [...]

Chair: Ok, we go back to specific recommendations of the CBF. We don't have any questions regarding major programmes I, II; only with regard of major programme III. Paragraph 27 is about detention, why it's not possible to accommodate detainees at the premises of the ICTY.

Netherlands: Thank you. I think that the language is good, but also information is necessary to manage expectations. I know that there is an agreement concluded by the Court with the detention authorities of the Netherlands regarding 12 fully-equipped cells. 12 cells including personnel will be in place for a certain time. The personnel has already been recruited, you can't fire them overnight. So, there should be additional recommendations of the CBF on this matter.

Chair: Thank you very much.

Germany: Thank you, chair, for drafting this complicated paragraph. Germany would like to see outreach implemented, Victims and Witnesses Unit, and translation implemented as the Court requested - but where should this money come from? And I think that the reducing of the number of cells is a real outbreak in this field, and it gives us savings, to spend money to realize outreach.

Chair: Thank you very much.

Trinidad and Tobago: Thank you. My delegation would like to see the last sentence of paragraph 27 in the following way: "To achieve savings by exploring the possibility of having a number of cells reduced from 12 to 6".

Chair: Thank you very much. I have three speakers in the list.

France: Thank you. I would like to react to the proposal of the German delegation. I would like to thank the Netherlands for the steps taken to reduce detention costs. The private agency to which the Netherlands delegates its authority runs this detention entity. And this leads to difficulties.

Chair: Thank you very much.

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Netherlands: Thank you. I would like to pay my compliments to the French delegation, because I could not explain it better. In consultation with the Registrar, I can ask the detention agency to explore the possibility of reducing cells from 12 to 6. The Court needs flexibility, if more than one suspect will come to The Netherlands and will be put into detention. We'll give our reaction in advance before the next session of the CBF. The reduction will take time, this reduction will materialize only in the last quarter of 2007, and you can't link this with other programs, like outreach.

Mexico: I can't hear interpretation into Spanish.

Chair: No comments to paragraph 28? Ok. We now come to paragraphs 29, 30, and 31. Three open issues. You have before you my non-paper on the language proposed to be included. It is in English only. I will now read it for the benefit of those who are working in other languages. [*reads proposal*]

To "reallocate" in the last sentence of the proposed language of paragraph 31 means "to give back" to the Court. Let's think about this principle; it was my genuine effort to make you all equally unhappy, because it is impossible to make everybody happy. Of course, it is not a solution for everything. We all respect each other's position. First, let's talk about the concept as such.

Italy: Thank you again for the excellent work done. We are equally unhappy, and it works. As we learned a few minutes ago, there is no prospective of reduction of detention costs, so let's delete this line or replace "perspective" with "expectation" or "hope".

Sweden: Yes, we can live with this compromise.

Chair: Thank you very much.

Canada: Thank you, Chairman. I think we're talking here more about words than about money. Certainly, there is no difficulty that there is a high degree of flexibility within the programme budget III. There was a discussion on trying to absorb outreach costs as well - we think they can also be absorbed. And we have a couple of constructive suggestions regarding the wording. We appreciate the work of the CBF.

Chair: Thank you very much. Yes, we should not express any criticism towards the CBF, and the wording here certainly needs fine-tuning.

UK: Thank you. We understand that it is a compromise and we're strongly in support of accepting the CBF recommendations as a package. We think that the same approach as for the first and second paragraphs should also be adopted for the third paragraph. Thank you.

Chair: Thank you very much. Yes, I understand that you would like to accept the CBF recommendations as a package.

Norway: Thank you. We think that it's a good compromise solution, and we're ready to accept this package deal as a solution. I would like to support Italy on re-phrasing paragraph 29.

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Trinidad and Tobago: We support you, Chairman. Thank you for your very good efforts which are done in very balanced way.

Chair: Thank you for your very kind words.

Belgium: Thank you, Chair, for your very kind words. I think it is essential that we're able to look at these very specific issues from the CBF report. We agree on your proposal for paragraph 31.

Spain: Thank you for identifying several very important areas. The reallocation within major programmes should not be the normal practice of the Court; it may be applied only in extraordinary circumstances.

Chair: Yes, of course the flexibility should be within certain limits.

South Africa: Thank you. We also commend you for the work you've done. The flexibility of absorption is limited because of arrears.

Chair: Thank you very much.

Austria: Thank you, chairman, for your balanced proposal, and we indeed are not unhappy but happy with it. We value the very important work of the CBF, but we have the possibility to review some of their recommendations at the Assembly.

Uganda: Thank you. We align with the delegations which commend you. We support your proposal.

Chair: Thank you very much. We have 9 speakers on the list, and we can take 1 or 2.

Brazil: Thank you for your proposal. Brazil is of the view that the recommendations of the CBF should be adopted by ASP as much as possible, but these recommendations should be carefully reviewed by the ASP. It is very important to reduce increases in the Court's budget. For the sake of compromise, Brazil is prepared to accept the proposal submitted by the coordinator.

Chair: Thank you very much.

Mexico: We congratulate you, chairman, for the work that you've done. My delegation would have taken the Committee's report as the package, but we're ready to accept the compromise language proposed by you, chairman. I'd like to give more clarity on the language. Thank you.

Chair: Thank you very much. We have to suspend this informal meeting. We can have a night session tonight from 7:30 to 10:30 because we do need to adopt the WG's report today. We have to table our report tomorrow morning in all the languages. I hope that you have no social events you need to attend. We'll see each other again at 7:30. Meeting is adjourned.

The meeting is resumed at 7:45p.m.

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Chair: The list is open again, and the first speaker is Australia.

Australia: Thank you. We support the approach outlined by Canada and supported by the UK. This certainly reflects an acceptable compromise. We are not happy with the proposed increases on outreach and victims. This compromise position was not easily reached by my delegation but we do want to show some flexibility in this respect. We support the colleague of Brazil that there is a strong presumption in favour of adopting the CBF recommendations. We think that the proposed budget can accommodate it.

Chair: Thank you very much and thank you for your flexibility. Next speaker is Argentina.

Argentina: I would like to thank you for all your work. My delegation considers that any improvements in the language of paragraphs 29, 30, and 31, which involve the improvement of the recommendations by the CBF, should be welcomed by my delegation. The reasonability of the arguments is something we can note in the analyses of the report, but like other delegations, we can be flexible. The CBF report is an excellent basis for our work.

As I understand it, accepting the language in paragraph 31 will involve creating new posts; this was not foreseen by my delegation. Although the costs may be distributed, we are at this moment not in favour of creating new posts regarding outreach; however we can be flexible in order to reach consensus. My delegation believes in the need of internal consistency in the outreach work of our Court, coherence in it between the different organs of the Court. We need to ensure consistency between the Registry, the Secretariat and other organs on outreach; this element should not be lost. My delegation would join the consensus. However, making it clear that these conditions expressed by my delegation and also by other delegations, we would like the language in paragraph 31 to be altered in a more consistent way with paragraphs 29 and 30. Thank you.

Chair: Thank you very much.

Namibia: I thank you for the excellent work done. We should emphasize again that the work on the budget is really a tri-partied enterprise of the Court, the ASP and the CBF. The work of the CBF is extremely valuable. We face just minor issues in front of us which do not represent even 1% of budget, and it emphasizes the valuable work done by the CBF.

We are not very confident with the language regarding absorption in paragraph 30. However, we think there is a compromise in the package we have before us. We should finalise the meeting ASAP. For in this meeting, we can spend more money than that which we're discussing now.

Chair: Thank you very much.

Finland: I'm very impressed by the quality of your work, chairman. All three items are of utmost importance and need adequate funding. Recognising the general need to adopt the recommendations of the CBF, our delegation nevertheless would like to support the recommendations made in this paper. Thank you.

Chair: Finland is for general support of the entire package. We have to address the issue of the language, after we do the provisional overview but I have to say that we must do this

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because if we don't speak about it then, according to paragraph 17, the CBF recommendations will be adopted as such. There were also other opinions. We can't avoid saying that we do not endorse recommendations by the CBF. I tried to be nice with regard to this, but we have to say this.

With respect to outreach, there were concerns that this amount should be absorbed within major programme III - this money is around 1% of the total budget for this major programme. Can we work with half of the money for outreach? This is not how I would like to see it, but then again I have to make everyone equally unhappy and that includes me. Again, I remind you that we are talking about a relatively small amount of money here. It's already 8p.m. and we have several open points by now. I appeal to your understanding.

Sierra Leone: Thank you Chair. We have remained quiet until now because we don't want to delay the work here. We thought that in this late stage, delegations would want to deal with this quickly. We believe in compromises, but it will be very difficult for my delegation to absorb outreach. We have made some compromise, and other delegations will have to meet us half way. Thank you.

Chair: Thank you very much.

Senegal: I support Sierra Leone. Thank you.

Chair: Thank you very much.

Uganda: I've congratulated you already and I continue to do it. Outreach is desirable, we can't agree on cuts in it. Outreach is very important and we should not allow any reductions on its funding. Thank you.

Chair: Thank you very much.

UK: I would like to pick up on your suggestion. Maybe, we should discuss now the remaining items, and then come back to this.

Chair: Yes, we should keep the momentum, and for the moment leave these three paragraphs.

France: Thank you. My delegation is perfectly happy to go with your compromise, but we have instructions to keep within budget limits, but we also have priorities, including communications and outreach. Maybe, we will find areas where the savings are possible when considering the other paragraphs.

Chair: Yes, let's continue with the report. Paragraph 32, major programme V on permanent premises, contains a cross-reference to the paragraph C 4 below, with which we will deal with later. Paragraphs 33-43 come from separate informals - these come directly from Mexico. In paragraph 33, we have the question of the pension scheme regulations for judges. Paragraph 34 is taking up the recommendations made by the CBF to ensure the tender of alliance of pension schemes. Paragraph 35 is about the pension schemes for future judges. In paragraph 36 we say that the CBF should look into the pension schemes of other international courts. Mexico has the floor.

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Mexico: Thank you Chair. The specification is required at the end of paragraph 36, “as mentioned in paragraphs 86-90 of the report of the report of the Committee”. Thank you.

Chair: Thank you, this cross-reference is really helpful. No objections to this amendment? Then paragraph 37, here we endorse that the pension schemes should be amended immediately to preclude judges receiving pensions from the Court while receiving pensions from another international court - so this is now the question of double or triple pensions. And in paragraph 38 is the invitation to the UNGA to amend its pension scheme regulations.

Mexico: Thank you Chair. These paragraphs should be also reflected in the omnibus resolution. Thank you.

Chair: Thank you very much. Yes, I will liaise with the omnibus resolution co-ordinator on this matter. Then we could move to paragraph 39 on the conditions of service of judges and relocation after completion of service. There, the Working Group would endorse the recommendations of paragraph 98 of the report and decided not to approve the proposed amendments as to the service of judges, so there won't be an increase of the budget for recruitment liabilities. We go to paragraphs 40 and 41, that USG and ASG levels should apply to the Prosecutor and the Deputy Prosecutors respectively.

Mexico: Paragraphs 41 and 42 should also be included into the omnibus resolution. In 42(c) it should say - not about the report of the Registrar but about the report of the Court.

Chair: Thank you, we go to paragraph 43, which is rather straight-forward. We move further. Interim premises and security arrangements. I have South Africa in the list.

South Africa: Thank you. I would like to know whether the resources requested in the budget are on the basis of pre-fabricated premises?

Chair: Thank you very much.

Representative of the Court: It's on the basis of two floors in the Hoftoren building.

France: Thank you. It's hard to understand the logic in the French text of this draft. If I understand it correctly, prefabricated premises are no longer on the agenda due to security reasons. It seems that we need to review the budgetary forecasts for interim premises. Thank you.

Chair: Thank you very much.

South Africa: Thank you. I have nothing more. France has said everything. Thank you.

Republic of Korea: Thank you. My delegation has the same concern as France. Which building are we talking about now? Thank you.

Chair: I will give the floor to the Court to respond to this question now.

Registrar: Thank you. I will respond on general issues. When we prepare the budget, we did it on the assumption of pre-fabricated premises. Perhaps, there is translation problem with the

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French version. Two floors at the Hoftoren building might not be adequate. But we're talking about the extreme case only, not about the likelihood. The host State is proposing us the building next door to the Court's building; maybe, it is a solution. Thank you.

Representative of the Court: Of course, in 2007 we do not have pre-fabricated premises, the budget as submitted to the ASP is not a practice. The Hoftoren building gives an efficiency. Another building is just an alternative scenario.

Chair: Is it clear to everyone?

France: I would like to know how much the Court will need on today's level?

Representative of the Court: We need 1.7 million euros for the Hoftoren solution.

Mexico: Thank you. Perhaps, we need to remove the phrase "if expectations are met".

Chair: I am little a bit lost on who will go to which building.

Netherlands: Thank you. The Court can't be housed in the Arc building where it has three wings; the fourth wing is occupied by Eurojust. Thank you.

Chair: Thank you very much.

UK: Thank you. I still am trying to be absolutely clear in the response to the question of France. Is it true that there may be potential savings here - around 150'000 euros? Thank you.

Chair: Thank you for trying to find funds for outreach.

Representative of the Court: Yes, your calculations are true. Maybe, the host State will make a statement on it? But premises are major programme V, and we can't redeploy between the major programmes.

France: Thank you. At the end of the day, States make a contribution to a single Court. If we give less to interim premises, we can give more to outreach.

Chair: Now we need to decide what to do with the phrase "if expectations are met" in paragraph 44.

Mexico: We can keep "expectations" on that.

Chair: Thank you very much.

Netherlands: Thank you. I just propose in the end of paragraph 44 that replace "full use of B-wing" by "additional office space in Hoftoren". Thank you.

Chair: Thank you very much.

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France: Thank you. If you explicitly mention these new premises, you completely exclude the possibility for the Court to occupy the B-wing. We should not name the specific name here.

Chair: Thank you very much.

South Africa: Thank you. I wanted to make the same point.

Chair: Thank you very much.

Brazil: Thank you. The suggestion made by the delegation of France is very sensible; it should be taken into consideration.

Chair: OK, we move to paragraph 46 - we endorse the recommendation made by the CBF regarding the re-appointment of the External Auditor. We move to the question of relationship with the SCSL. It's the end of the report, but we also have pending points.

Netherlands: Thank you. In paragraph 9, fourth line, after "however", we suggest to insert "that budget proposal with regard to specific activities adequately reflect how they stand up to the merits".

Chair: I think it reflects our discussion on this point.

Uganda: Thank you. I need a clarification on paragraph 9, please repeat the question.

Chair: [*repeats paragraph 9*] Another open question is paragraph 22. We have proposal of Australia to delete several points from this paragraph which is then slightly amended by Germany. Can we agree with it?

South Africa: But it is linked with paragraph 21.

Chair: Maybe, we should cut paragraph 21 as well? We should not repeat all of the Committee's reasoning.

Sweden: Thank you. Sweden would like to retain this paragraph as it stands. But we can strongly go on with the Australian proposal in the spirit of compromise. Thank you.

Chair: Thank you very much.

Australia: Thank you. At the end of paragraph 21 we can note that it is due to the increased staff costs, if it helps with all the things.

Chair: Thank you for your flexibility.

Netherlands: We do not need to intervene after this intervention from Australia.

Chair: It's all about the reasons why we follow the recommendation contained in paragraph 51 of the CBF report.

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South Africa: Thank you. The issue of under-spending is connected with the whole discussion. We take all the proposals as a package. We can't agree on everything until everything is agreed.

Chair: Thank you very much.

UK: Likewise, in the spirit of compromise, we would support the shortening of the text as proposed.

Chair: OK, we now come to the resolution on budgetary matters, which is the standard resolution, dedicated to the programme budget for 2007. First part is about the budget. Second part is about the working capital fund. The third part is about the scale of assessment - here you shall remember the proposal introduced by New Zealand on maximum assessment rates.

New Zealand: Thank you. We have new text now, with a new paragraph – paragraph 2 in section C.

Chair: Thank you very much.

South Africa: It looks strange to me. Thank you.

New Zealand: Thank you. There are different assessment rates in the UN system. And this language is very important to the EU.

Chair: Thank you very much.

Finland: Thank you. Yes, indeed, there are different ceiling rates in the UN system.

Chair: Does that satisfy South Africa? Thank you very much.

Japan: Thank you for giving me the floor. It's very important that this language be approved in this resolution. Many thanks to CANZ, it will be very helpful to the Government of Japan to move forward with the internal process of accession to the Rome Statute. If we join, we will be the main contributor. The ICC should have the necessary financial resources for its work. Thank you.

Chair: Thank you for your efforts in becoming a Party to the Rome Statute. We have a new paragraph 48 containing the reference to the resolution on budgetary matters to which we are looking at now. So, we basically conclude the first reading of the draft report of our Working Group.

UK: Thank you. We would prefer to accept the CBF recommendations as package. However, we are now ready to agree with the compromise proposed by the chairperson. But this should be contingent on there not being any other decisions with budgetary implications. Thank you.

Chair: Thank you very much. It is my understanding that there will be no further surprises with budgetary implications.

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Uganda: Thank you Chair. We certainly welcome the consensus and nothing should destroy this consensus.

Australia: We also considered your proposal very carefully; as stated by the UK, we'd prefer that the CBF recommendations be adopted as a package.

Chair: Thank you very much.

Argentina: Thank you. I would like you to clarify the point on surprise that you've made. My delegation reserves the right to make a declaration during the adoption of the report of this WG. It's too late, and we all are very tired. I would like to join the statement of the United Kingdom that the acceptance of this compromise is conditional on the fact that there will be no surprises. Thank you.

Chair: Thank you very much. I am really very thankful to you and all the delegations. We have some time to deal with the language of paragraphs 29, 30, and 31.

Canada: Thank you. In paragraph 29, we can replace "stressed" with "noted". We can delete the second and fourth sentences not to be too critical to the CBF, and the fourth sentence in paragraph 30. And the words "not convinced" in paragraph 31 (fourth line from the bottom).

Chair: But we lose the reference to paragraph 77 of the CBF report.

Canada: We can place it somewhere in the beginning of paragraph 31.

Spain: Thank you. We are not quite clear whether the Assembly achieved the clear definition of outreach and its difference with information and PR, and I suggested that we remove the third sentence from paragraph 31. Thank you.

Chair: thank you very much. I am not sure that we should delete the reference to the strategic plan for outreach entirely.

Argentina: If I understand Spain correctly, I agree with the Spanish proposal.

Chair: Thank you very much.

Sweden: Thank you for the spirit of compromise. We accept all the changes. My proposal is about paragraph 31, fourth and fifth line, to keep the reference to the strategic plan for outreach.

Chair: Thank you very much.

Mexico: Thank you. We agree with the text as improved by Canada, and adjusted by the UK. We propose to replace "sophisticated" with "accurate". Thank you.

Chair: Thank you very much.

Uganda: Thank you Chair. I just seek clarifications on whether there will be more surprises.

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South Africa: I thank all the delegations for this compromise.

Chair: Thank you very much. In paragraph 29, second line “stressed” is replaced with “noted”, second sentence deleted, fourth sentence deleted, and reference to the reduction of detention costs deleted. In paragraph 30, sixth line deleted “not approved by the Committee.” The sentence starting at the seventh line is deleted. In paragraph 31, the third sentence would be shortened and linked to the fourth sentence, to combine the sentence starting with “it nonetheless” with the subsequent sentence. We also replace “sophisticated” with “accurate”. It is a proposal to replace “reallocate” with “reinstate”. We have final the English text; we will adopt it provisionally, and on Friday it may be adopted formally.

Australia: Thank you. Can you please read the second sentence of paragraph 30 as currently proposed?

Peru: There is no interpretation into Spanish.

Canada: To include reference to the “specific expertise” with respect to paragraph 30.

Argentina: There is no point to refer to “already today” in paragraph 29.

Chair: Thank you very much.

France: Thank you. We propose an addition to paragraph 45.

Chair: Let’s go through the report chapter by chapter. First chapter? Second chapter? Third chapter? Fourth chapter? and so on. Can we adopt this Working Group report? Yes.
[Applause]

Chair: We shall also discuss the resolution, as amended by the CANZ proposal. Let’s go through its chapters. In C there is a phrase proposed by New Zealand. The figures will be included when it is possible. Can we adopt this draft resolution? Yes, the decision is taken. I would like to thank everybody for your co-operation, thank you interpreters for their extra-time, thank you the representatives of the Court, and Secretariat, and we’ll see each other at the plenary on Friday morning.

Secretariat: Tomorrow at 1-2p.m. in Antarctica there will be briefing by the Prosecutor.