

Resumed Fifth Session of the Assembly of States Party to
the Rome Statute of the International Criminal Court
SWGCA and Plenary, 1 February 2007, 3:30 pm-6pm

**Informal and Unofficial Notes from the ASP
SWGCA and Plenary, 1 February 2007 (Afternoon Session)**

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. Please note in particular that some of the interventions were listened to in translation and may differ significantly in meaning from the original.

Chairman: We convene now to consider the adoption of the report of the Special Working Group on the Crime of Aggression. We did not yet get the Arab version. There are a couple of changes to the text you have in front of you: In para.3 we will insert “informal” before “intersessional”. In para.11 after the second sentence ending with “proposed text”, it continues with a new sentence: “The point was made that the new formulation seemed to link the leadership element to the scope of the jurisdiction of the Court and no longer to the definition of the crime of aggression itself.” It was also brought to my attention that I did not put in a reference to the Princeton dates. I will add a reference to the dates. There is an oversight in footnote 5. What is not reproduced here is the last sentence of the Norwegian proposal which reads, “In the absence of a determination by the Security Council, the Court may notify the Security Council of a situation that concerns an alleged crime of aggression”. I will refrain from reading that in dictation because you all have that text and clearly that is just something that we forgot to include in the report. [...]

Now I am going to open the floor and I suggest that as always we go through this paragraph by paragraph. Paragraph 1, no comment. Paragraph 2? Paragraph 3? Paragraph 4? Paragraph 5? Paragraph 6? Paragraph 7? 8? 9? Paragraph 10? Paragraph 11? 12? Samoa? It’s really OK if no one says anything, but Samoa has the floor.

Samoa: Can we just change that to “the view was expressed”? Thank you Mr. Chairman.

Chairman: Ok, that is fine with me. Is that agreeable? Ok, so we change that, we delete the words “there was agreement” and we replace it with “the view was expressed.” Anything else on 12? 13? 14? 15? 16? 17? 18? United Kingdom, you have the floor.

United Kingdom: Sorry, it was in fact on 18 and it was just in the second sentence. I think the beginning of the second sentence is basically me and I am just wondering if instead of saying “Mainly due to”, we should say “mainly so as to utilize” the Nuremberg precedent.

Chairman: [...] Anything else on 17 or 18?

Venezuela: (*Translation from Spanish*) The question we want to follow up on this and make sure it is correct in the Spanish. We only have the report in English, we don’t have

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it in Spanish and we believe it is very important for us to have this report, because after all it is the report of the Special Working Group.

Chairman: It is indeed available in Spanish, thank you. Ok, we proceed to 19 then, paragraph 20, 21?

United Kingdom: Mr. Chairman, this is I think a very minor point and I am not sure it changes anything in the report and perhaps I should begin my remarks by saying that, as when I spoke, when I was looking at the negotiations on the crime of aggression, there are in fact I think about 5 or 6 interpretative statements about it to be found in the report of the Special Committee and in the report of the 6th Committee and, as I have said to your delegation, I think we need to consider how if at all we reflect those references in any definition we eventually reach, which refers to Paragraph 1. I don't think it's anything for this report but we may want to think about how to reflect this in the definition.

Chairman: Indeed, thank you very much, you did raise the point during consultations already, thank you. Anything on 20, 21, 22? UK?

United Kingdom: Mr. Chairman, this is a very, very minor point, but there should be an "of" before "legality," right at the end.

Chairman: [...] Okay. On 23? Austria?

Austria: I would like to refer to a statement I made earlier that, "in either case the Court would benefit from the authority of the Security Council as there would be political backing for the Court's investigation." This might fit into Paragraph 23. May I just read the sentence to you and let you decide where to put it in the report? It would read, "in any case, the Court would benefit from the authority of the Security Council as there would be political backing for the Court's investigating of situations."

Chairman: Please read it again

Austria: "In any case, the Court would benefit from the authority of the Security Council as there would be political backing for the Court's investigating of situations."

Chairman: Thank you. I think we could add that at the end of 23, but we would certainly make it clear that this was a view that was expressed, not to be misunderstood that it was a point of agreement, is that agreeable? Thank you. 24? 25? 26, UK?

United Kingdom: Mr. Chairman, I wonder if we could be a bit more specific in the first sentence of 26 and make the antithesis with the first sentence of 25. So, can I suggest that the first part of the first sentence is redrafted to say that "in view of the role of the Security Council under Article 39 of the Charter, a prior determination by the Security Council would be necessary"? Thank you.

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Chairman: Another paragraph makes the same point. This is just quite a bit stronger; is that agreeable? Ok, we'll put that in, thank you. Anything else on 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40?

United Arab Emirates (*Translation from Arabic*): Thank you Mr. President. Our remark is in light of the comments you made at the beginning of this meeting, mainly that there was no translation into Arabic of this report and, because of our desire to see the successful outcome to this meeting, we did not take the floor. However, we do reserve the right to comment on the text once it has been published in Arabic.

Chairman: This is certainly understood. Venezuela?

Venezuela (*translation from Spanish*): Thank you, Mr. President. We see that in Paragraph 39, there really should have been a number of concerns expressed here. We only have 3 lines here. We believe that the various views expressed by delegations would be better reflected here if we said that this could create a hierarchy with the ICC and the Council. It's not clear when you simply speak of hierarchy between the two institutions that there was concern expressed in the room that if the Council would qualify an act of aggression that this could neutralize the involvement and the judicial standing of the ICC, so we would prefer to say "a subordinate relationship to the Security Council", something along those lines rather than say "create a hierarchy".

Chairman: Thank you, but Paragraph 39 speaks about the relationship between the ICJ and the ICC, and doesn't have anything to do with the Security Council.

Venezuela: (*Translation from Spanish*) It only makes reference to Option 4 in the Chairman's paper, you are quite right Mr. President. But we do not see the expression of the concerns raised by a number of delegations about a Security Council determination and this creating subordination. We haven't seen any reference to the subordination of the ICC to the SC. A number of delegations made a reference to that, they felt that it wasn't appropriate to have that dependence. We have heard that stated in the room and feel that it is important to have that reflected. You are quite right when you say that this paragraph only relates to the ICJ and the ICC.

Chairman: Paragraph 36 has it. It is about Option 1 and mentions the Court's independence. Sierra Leone, sorry didn't see you over there, Sierra Leone has the floor.

Sierra Leone: Thank you, Mr. President. In sympathy with the view expressed by Venezuela, because in the course of the discussion here with regards to the conditions for the exercise of jurisdiction, I believe quite a number of delegations expressed the view that the Court cannot be subordinated. [...] I agree with Venezuela, even if that view is in the minority, one would expect some mention of it in your report [...].

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Chairman: I don't disagree, but it is also reflected in Paragraph 25. If you want, we can flesh out that sentence if you want...

Sierra Leone: Thank you, Mr. Chairman, yes, thank you for pointing that out to me, I think, with a little bit of redrafting, that would be acceptable to my delegation.

Chairman: That's okay, as far I am concerned. We could add "and make the Court subordinate to the Security Council." United Kingdom?

United Kingdom: Do I understand that this is to go at the end of 37?

Chairman: No, in the middle of 25. "The point was made and make it subordinate to the Security Council."

United Kingdom: Right.

Chairman: The paragraph reflects the essence, I believe, of that view anyway, and now I am suggesting to flesh that out a little bit, agreeable? Venezuela?

Venezuela: (*Translation from Spanish*) We would like to hear exactly how the paragraph will read.

Chairman: It starts with the words, "the point was made that the involvement of a political body would undermine the Court's independence" - the language would then read now "and make it subordinate to the Security Council." Agreeable?

Venezuela: (*Translation from Spanish*) Thank you Mr. Chairman. We are not going to take advantage of your generosity, I would just like to inform you that my delegation has just distributed Venezuela's proposals on the 3 items that we have been discussing, in particular, an alternate proposal to the Discussion Paper proposed by the Chair on Paragraphs 4 and 5.

Chairman: But the language is agreeable to you.

Germany: This point about subordination or non-subordination of the ICC under the Security Council, I think, if you put it in Paragraph 25 where this first sentence starts with "some delegations support the view", then this raises who said exactly that...? I think almost all delegations had this view. I saw a lot of nodding heads in the room. Actually nobody wanted to subordinate the Court ... I recall the UK So, perhaps, putting it in 25 it gets kind of diluted. But of course I could live with whatever you decide on this point, thank you.

Chairman: Australia?

Australia: You want to first resolve this?

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Chairman: It is resolved.

Australia: Thank you, Mr. Chairman. This is actually on a different point you might be relieved to hear. My apologies, could I ask that we go back to paragraph 14? In the first sentence, here you've noted that "broad support was expressed for the term "act of aggression", which reflects the "specific definition"." I quibble with this last phrase. It rather depends on how we then went on, for example, to refer to General Assembly resolution 3314. You might be very clear with the specified acts that apply. [A generic chapeau...] With Resolution 3314 you have then Art. 4. That to me would look more like a generic definition than a specific definition. So, I wonder therefore that we might delete that phrase, as a consequence it would then be logical to delete. [...]

Chairman: Greece

Greece: Thank you Mr. Chairman. Our understanding is what has been drafted in your text. Indeed, we think the specific definition is reflected in the term "act of aggression," and "armed attack" would be in case of general definition. I think this is a critical point and we should not lose sight of it. Perhaps a better way, you could say, for example, "broad support was expressed for the term "act of aggression" which connected with a specific definition" something of that sort. Certainly, we do not agree with the deletion of the phrase, thank you.

Australia: How about saying "broad support was expressed for "act of aggression" being linked to a generic or specific definition?"

Chairman: I think the problem is, you have a different understanding of what the generic definition is than Greece does. This came up when we discussed paragraphs 1, 2 and 3 and this is what is reflected especially in a footnote in my paper, in footnote 3, when it speaks of the proponents of the language "armed attack". Yes, Australia?

Australia: Thank you Mr. Chairman, my Austrian colleague has just handed to me the records of our most recent Princeton meetings where, and I quote "extensive discussion [...]". It goes on to explain that 3314 in essence could pretty much go either way, so I think that my view is consistent with what is in this document. [...]

Chairman: Greece?

Greece: In the spirit of cooperation, I just wanted to say we are willing to compromise. But I served as Coordinator for this particular basket, so I should be in a position to know what the understanding is that we had when we were working in Princeton. We should not change the reality of things, thank you.

Chairman: We leave it as is? Cuba.

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Cuba: (*translation from Spanish*) Thank you Mr. Chairman, I do apologize but I wanted to come back to Paragraph 25, but apparently you didn't see that I had raised my hand. I agree with the wording, but I would like to know in which part of Paragraph 25 this wording would be placed.

Chairman: We will make changes that were agreed to in the room, and all language versions will be available on Monday. Venezuela?

Venezuela: (*Translation from Spanish*) I apologize; however, there is one point that we haven't covered in the Spanish version. Page 7, under options for procedures, we express in English quite clearly, but in Spanish we could have other wording. So "previous determination by the Security Council" in the Spanish version, that would perhaps reflect more closely the idea that we have.

Chairman: We can raise this to the attention of the translators. It is not my mother tongue. I don't see a difference.

Thank you very much for your cooperation in adopting the report, and we will make the changes agreed on this afternoon, and I hope very much that you can attend the informal intersessional meeting in Princeton on June 11-14. Thank you very much for a very constructive meeting. I think we have made good progress on this, of course, very complex topic, but I am very satisfied with this meeting and the very positive atmosphere we have had.

Venezuela (*Translation from Spanish*): I apologize Mr. Chairman for taking the floor once again, we did request at the beginning of the meeting of the Working Group that we should cover in the minutes, that is, the need for the Working Group to continue to ensure that all delegations can attend, if there should be any delegation which should have difficulty coming to Princeton, I think this should be reflected in the minutes of the meeting.

Chairman: Ok. Thank you very much. If it is agreeable to you, I will add in the sentence in which I refer to the intersessional meeting, also that efforts will be undertaken by the ASP to ensure that all interested delegations will be able to participate in the meeting. Is that OK? Thank you very much.

One last thing from my own delegation is that we still have the Virtual Working Group, which you know is essentially an email list, also as a means of exchanging ideas and consulting online. If you are interested in trying the Virtual Working Group, please deposit your business card with my delegation. So it is a useful tool. We are not working with the three Baskets anymore - that we did in the past. But the Virtual Working Group will continue to exist [...]. Please deposit your business card with my delegation. Thanks again for everything. I will see you in a few minutes in the Plenary. The meeting is adjourned.

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SWGCA Adjourns. President of the ASP convenes the Plenary.

PLENARY

President: The 9th meeting of the Assembly of States Parties to the Rome Statute of the International Criminal Court is called to order. We will now consider agenda number 5. We will then proceed with agenda item 6, that is the SWGCA and the adoption of the report. Then item 7, "Other matters". Subsequently, Item 8, we would consider the report of the Credentials Committee.

At the outset, I wish to inform you that the Secretariat has prepared the list of the participants of the Resumed 5th Session, which is before you now. I kindly request that all delegations review the document and submit any changes.

I recognize the delegation of Namibia.

Namibia: Thank you for giving me the floor, I beg your indulgence, Mr. President. Under Agenda Item 7, "Other Matters", my delegation would appreciate the opportunity to make a short statement. We would highly appreciate it. Thank you, Mr. President. And we would really appreciate it if our statement could be reflected in the Report of this Resumed Session. Thank You

President: I thank you. I will give you the floor as soon as we cover those two items under other matters.

Moving then on to agenda item 5: the election of the members of the Board of Directors of the Victims Trust Fund. So, let us now proceed with the election of the members of the Board of Directors. I wish to recall that at the 6th meeting of the 5th Session, which was held on 30 November 2006 the Assembly proceeded to elect 4 members to the Board of Directors, namely Archbishop Desmond Tutu of South Africa for the African States, Mr. Tadeusz Mazowiecki of Poland for the Eastern European States, Mr. Arthur Napoleon Raymond Robinson from Trinidad and Tobago for the Latin American and Caribbean States, and Madam Minister Simone Veil of France for the Western European and Other States.

At its 6th meeting, the Assembly decided to defer the election for the seat allocated to the group of Asian States to the Resumed 5th Session of the Assembly. Accordingly, the Bureau fixed the nomination period to run from Monday, 1 January to Sunday, 28 January 2007. As indicated in document ICC-ASP/5/28/Add.1, the Secretariat has received only 1 nomination.

I would like to remind the Assembly that, as required by Paragraph 10 of resolution ICC-ASP/1/Res.7, every effort shall be made to elect the Members of the Board by consensus. In the absence of consensus, the election shall be by secret ballot. However, this requirement may be dispensed with if the number of candidates corresponds with the

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number of seats to be filled; or in respect of candidates endorsed by their respective regional groups, unless a delegation specifically requests a vote on a given election. Given the fact that there is only 1 candidate for 1 seat, may I take it that the Assembly would, in accordance with Paragraph 10 of Resolution ICC-ASP/1/Res.7, dispense with the secret ballot and proceed to elect the nominee of Mongolia as a member to the Board of Directors of the Victims Trust Fund for a three-year period that commenced on 1 December 2006. I see no objection, it is so decided. We have thus concluded with Agenda Item 5.

Moving on to Agenda Item 6, we will now turn to the Report of the Special Working Group on the Crime of Aggression, which is contained in document, ICC-ASP/5/SWGCA/3. I give the floor to Ambassador Christian Wenaweser, the Chairman of the Special Working Group, so he can introduce the report. You have the floor, Ambassador.

Chairman of SWGCA: Thank you very much, Mr. President. Given that we chose to adopt the Report a few minutes ago with the same people in the room, I think I can be very brief. The Special Working Group met both formally and informally and considered a discussion paper that I had prepared, as a reflection of the progress made since the Coordinator's Paper of 2002 was produced. We first discussed the provisions relating to the definition of the crime of aggression in paragraphs 1 through 3 of this paper, and then moved on to discuss the conditions for the exercise of jurisdiction contained in paragraphs 4 and 5. The report before the ASP is structured thematically and lists all the major topics that were discussed during the meeting. It also makes reference to new drafting proposals that were suggested during the course of this meeting, all of which were discussed. It was understood that this was obviously preliminary. We agreed that there will be another intersessional meeting held at Princeton University in June of this year, 11-14 June 2007. And obviously we will meet again in the framework of the ASP proper in late November. This is what I had to say by way of introduction. I would again like to thank everybody who has participated in a very excellent meeting and I would like to thank them for their spirit of cooperation, a truly constructive spirit to work on this very difficult topic. Again, also I would like to thank very warmly the Secretariat for all the support I have been given from them. I thank you, Mr. President.

President: I thank Ambassador Wenaweser for the introduction of the report of the Special Working Group. May I take it that the Assembly wishes to take note of the report of the Special Working Group on the Crime of Aggression? I see no objection. It is so decided. We have thus concluded our consideration of Agenda Item 6. I would like to congratulate Ambassador Wenaweser for his spectacular leadership on the issue of the crime of aggression and thank all delegations for their splendid and constructive spirit. Thank you all very much.

Moving then onto other matters. The first matter is the judicial vacancy. As we agreed last Monday, we have to consider the issue of the judicial vacancy arising from the resignation of Judge Maureen Harding Clark. The Bureau held informal consultations on

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the matter, and recommended to the Assembly, at our Plenary meeting on Monday, to defer the election until the 6th Session of the Assembly scheduled to take place from the 30 November until 14 December 2007 at the United Nations headquarters. This option requires an amendment of Paragraph 27(a) of resolution ICC-ASP/3/Res6. I trust that you all have before you document ICC-ASP /5/L.4, that is to say the draft resolution containing the amendment. We shall now take action on the draft resolution. Is there any delegation that wishes to explain its position before taking action on the draft resolution? I see none. May I take it that the Assembly wishes to adopt the draft resolution? I see no objection, it is so decided. Is there any delegation that wishes to explain its position on the draft resolution we have just adopted? I see none.

In this connection, I wish to recall that Paragraph 3 of resolution ICC-ASP/3/Res6, which states that the nomination period for the election of judges shall open 26 weeks before the election and shall last 12 weeks. May I therefore suggest that the Assembly fixes the nomination period to run from Friday the first of June to the 24th of August 2007? That is Friday, 1 June until 24 August 2007. I see no objection, it is so decided.

Moving on to the pension scheme regulation for judges. During its 5th Session in The Hague, the Assembly decided in Resolution ICC-ASP/5/Res3, Paragraph 27, that the pension scheme regulation for judges of the ICC should be amended immediately to preclude the possibility of individuals receiving a pension from the Court while serving as a judge at another international court. The draft resolution reflecting one amendment to that effect is contained in document ICC-ASP/5/L.6 and should be before you now. Without further delay, we shall take action on that draft resolution. Is there any delegation that wishes to explain its position before taking action on the draft resolution? I see none. May I take it that the Assembly wishes to adopt the draft resolution? I see no objection; it is so decided. Is there any delegation that wishes to explain its position on the draft resolution we have just adopted? I see none. I thank you very much for your cooperation.

I would now give the floor to the delegation of Namibia under other matters, you have the floor.

Namibia: Thank you for the floor under Agenda Item 7, "Other matters", and your guidance of this Resumed Session. I want to congratulate the Director from Mongolia on his election just now.

Mr. President, Namibia is delighted about the wide and constructive participation and progress achieved in our meeting, which was primarily taken up by the Special Working Group on the Crime of Aggression. Like Trinidad and Tobago, and many others, we salute Ambassador Christian Wenaweser of Liechtenstein for his perfect stewardship of the Working Group. We believe Liechtenstein is moving to being an icon in international criminal law, just as Malta was in the Law of the Sea. I am convinced that Ambassador Wenaweser will join Arvid Pardo in the annals of diplomatic history.

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Mr. President, some credit for the distinct success of this particular session must of course also go to the venue. The drafters of the Rome Statute were indeed wise to provide in Article 112(6) for ASP meetings to be held also at UN headquarters.

Mr. President, I am obliged, if not compelled, to bring the following to your, the Bureau, and this Assembly's attention. The International Criminal Court essentially and practically consists of 5 visible institutions: the Court, the Office of the Prosecutor, the Registry, the Secretariat of the ASP, and the NY Liaison Office. None of these institutions is headed by an African. In fact, 2 are headed by individuals from the Western European and Others Group, and 3 by individuals from Latin America. And this situation prevails despite the fact that the African group is the largest in the ICC, indeed, nearly providing a third of its States Parties. Additionally, all current situation countries are in Africa.

Mr. President, while excellence is paramount, my delegation should like to bring to the attention of you, the Bureau and the Assembly, all of whom are by definition political actors and take political decisions, that equitable geographic representation at all levels must also be taken into account. Namibia, of course, is proud to hail from Africa and its abundance of excellent people. Finally, Mr. President, I should like to emphasize that excellence, particularly in peer abundance and peer occupied international relations, is grounded on a multitude of attributes, including first and foremost adequate required and relevant experience and qualifications, as well as stature, persuasiveness, language abilities, etc, etc. Mr. President, I thank you for the opportunity to speak, and request that this statement be included in the records of this session. Thank you very much.

President: I thank the delegation of Namibia. I recognize the delegation of Sierra Leone. You have the floor sir.

Sierra Leone: Thank you, Mr. Chairman. Let me render an unqualified apology for taking the floor, just about when we think of closing this meeting. Mr. Chairman, I think it would be remiss of me if I did not add the voice of my delegation to the statement that has just been made by my distinguished colleague from Namibia. Mr. Chairman, Sierra Leone, like Namibia, is very delighted of the positive and constructive participation of all the delegations in the course of this week, especially of the progress on the crime of aggression. In this regard, Mr. President, we want to commend, like Namibia, the distinct leadership that has been ably demonstrated by the distinguished Ambassador of Liechtenstein, Ambassador Wenaweser. On the subject in question, I am tempted to re-echo what my colleague from Namibia has said about the place that will be reserved for Ambassador Wenaweser in the annals of international criminal justice. My delegation fully endorses that.

Mr. Chairman, with the issue of equitable geographic representation, the position of the State of Sierra Leone on the International Criminal Court is well-known. Our commitment and our dedication to that Court is well known. Mr. Chairman, we are of the view, and we maintain, that the International Criminal Court is a truly *International*

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Criminal Court - international, I will underscore that word. And therefore, like Namibia, we believe the Court should reflect all regions of the world in the organs of the Court. In this regard, Mr. Chairman, permit me to quote some of the remarks made by my distinguished colleague from Namibia, and I quote, "I am obliged, if not compelled, to bring the following to your, the Bureau, and this Assembly's attention. The International Criminal Court essentially and practically consists of 5 visible institutions: the Court, the Office of the Prosecutor, the Registry, the Secretariat of the Assembly States Party, and the NY Liaison Office. None of these institutions is headed by an African. In fact, 2 are headed by individuals from the Western European and Others group, and 3 by individuals from Latin America."

Mr. Chairman, if we maintain that the International Criminal Court is a truly international institution, Mr. Chairman, we strongly believe that the institution should reflect its regional character. But I am afraid, Mr. President, that as things stand now, the institution does not seem to reflect its regional character. And Mr. Chairman, I want to venture respectfully a word of caution, that if this situation is allowed to persist, then it will create divisions in those of us that have been dedicated and committed supporters of the Court. I will end this statement, Mr. Chairman, by quoting once more my distinguished colleague from Namibia: "this situation prevails despite the fact that the African group is the largest in the ICC, indeed, nearly providing a third of its State Parties. Additionally, all current situation countries are in Africa." Mr. Chairman, I would like to prevail on this Assembly, and you as the President, Mr. Chairman, that this situation must not continue to persist. If it continues to persist, those of us who have given a long time life commitment to the International Criminal Court will create disappointment in our heart, and that might affect in the long-run our commitment to this institution. Mr. Chairman, I thank you very much, and I thank the delegations for giving me the opportunity and listening to what I have to say. I thank you, Mr. President.

President: I thank the delegation of Sierra Leone, before I give the floor to a few more delegations who I assume wish to address the same matter, I just wish to recall that in the Hague Working Group, we have one group that was headed, and I think we all thank her, by Ambassador Mworio of Kenya, and precisely the task for that group is the issue of equitable geographical representation. I think we all thank Ambassador Mworio of Kenya, for the good job that she is doing in The Hague and we should hope that she would continue doing that precisely to address this matter. Thank you. I would now give the floor to the delegation of Nigeria. You have the floor.

Nigeria: Thank you Mr. President. Mr. President please permit me to express profound appreciation for your able leadership; in the same course for Ambassador Christian Wenaweser for also steering efficiently the Working Group on the crime of aggression. Mr. President, also allow me to acknowledge the brotherhood, the sisterhood we experienced here at these various meetings. We are truly a community of nations through brotherhood working together, and in this spirit Mr. Chairman, I am endorsing the statement by our able representative of Namibia and also the able representative of Sierra

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Leone on this very fundamental principle. And we are happy that you also have raised the issue.

The issue needs to be reiterated, i.e. an organization is more powerful, more cohesive if it is representative. And on that basis we believe efforts should continue to be made to recognize all various regions, particularly Africa, there seems to be lagging, they should be brought on board in issues of international affairs. Mr. President, as you know, the United Nations are being at the forefront in ensuring that democratization take place in all countries, in all institutions, and even in the United Nations organizations there is a call for greater democratization of international organizations. And so, against this background, I think it is important that efforts should be made to have all regions, to have a feeling of belonging, and that will strengthen the United Nations, will strengthen the ASP, and will strengthen all other international organizations. So, in that spirit I endorse on behalf of the delegation of Nigeria, wholeheartedly, the statement made by the able representative of Namibia and supported by the able representative of Sierra Leone. Thank You.

President: I thank the delegation of Nigeria. I recognize the delegation of Uganda. You have the floor Madam.

Uganda: Yes, Mr. President. Many delegations have now spoken, and Africans are known to be speaking quite long, and fortunately also very wisely, and that is why I would like to keep it very short. My delegation is extremely pleased with the statements made by the distinguished delegations of Namibia, Sierra Leone and Nigeria. And without further ado, my delegation would like to endorse every word of every one of these statements. And we would like to add lastly my appreciation for your excellent leadership and that of Ambassador Wenaweser, which has concluded this 5th resumed session so successfully. Thank you very much.

President: I thank you Uganda for that. I thank the four delegations for their statements. As I said, within the framework of the Hague Working Group, we have a facilitator on this matter. The task before that facilitator is precisely the issue of equitable geographic representation and gender balance, so I thank you for the very pertinent statements you have all made and I will certainly communicate them to the facilitator. And I am certain that your own delegations and other African delegations that are present in The Hague, and those of you who are in New York, can convey your feelings to that facilitator whom, I repeat, as of today is still Ambassador Mworira of Kenya. So I am sure that she will be most receptive to your comments.

I thank you very much for that, I think that with that unless any other delegation would like to address any other matters, I see none, so that would bring to our conclusion our consideration of Agenda Item 7, "Other Matters."

With that, I would move on to the Credentials of representatives of States. Let us now turn to Agenda Item 3. Last Monday, we heard the midterm report of the Credentials

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Committee. The Assembly now has before it the report of the Credentials Committee contained in document ICC-ASP/5/34. I would give the floor to the chair of the Credentials Committee, Mr. Khair of Jordan, who will introduce the report of the Committee. You have the floor.

Credentials Committee Chair (Jordan): I thank you Mr. President and distinguished delegates. The Credentials Committee had two meetings on the 29 January and 1 February 2007, respectively. At both meetings the Committee has reported by, 29 January and 1 February 2007, regarding the credentials of the representatives of State Parties to the Rome Statute of the International Criminal Court. For the Resumed 5th session of the Assembly States Parties, the Committee has updated information contained there. The Committee would like to report to the Assembly that as of 1 February 2007, 47 credentials issued by Heads of State or Government or the Minister of Foreign Affairs, as provided for under Rule 24 of the Rules of Procedures of the Assembly of States Parties of the Rome Statute of the International Criminal Court, had been submitted to the Secretariat of the Assembly of States Parties. Allow me to orally amend the report to 49 formal credentials. On the other hand, information from 39 States Parties regarding the appointment of States Parties' representatives, to the resumed 5th session of the Assembly of States Parties has been communicated to the Secretariat by means of a cable or telefax from the Head of State or Government or the Minister for Foreign Affairs. In this regard, the Credentials Committee recommends that the Assembly accepts the credentials of all States Parties mentioned in the Secretariat's memorandum, under the understanding that formal credentials for representatives of States Parties regarding the appointment of their representatives to the resumed 5th session of the Assembly of States Parties be communicated to the Secretariat as soon as possible. On the proposal of the Chair Person, the Committee adopted the draft resolution of the Credentials Committee, as contained in Paragraph 7 in the report of the Credentials Committee. The Chairperson then proposed that the Committee recommend to the Assembly of States Parties the adoption of the draft resolution as contained in paragraph 11 of the report of the Credentials Committee. The proposal was adopted without a vote. In light of the aforementioned, the report has been submitted to the Assembly of States Parties. Mr. President, I would like to thank my colleagues in the Credentials Committee for their cooperation and support. I would also like to thank the distinguished members of the Secretariat. Mr. President, this concludes the report of the Credentials Committee. Thank you.

President: I thank Mr. Khair for the report of the Credentials Committee. May I take it that the Assembly wishes to approve the report of the Credentials Committee as contained in document ICCASP/5/34 as orally amended? I see no objection, it is so decided. We have thus concluded our consideration of Agenda Item 3. We have thus concluded the consideration of all matters on the agenda for this resumed 5th session. We shall now proceed with the adoption of the report of the Assembly. I invite Ms. Orosan, the Rapporteur, to introduce the draft report as contained in document ICCASP/5/L.5. You have the floor.

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Rapporteur, Ms. Alina Orosan (Romania): Thank you Mr. President. I present the draft report of the Assembly of States Parties to the Rome Statute of the International Criminal Court, which held its Resumed 5th Session in New York from 29 January to 1 February 2007, in document ICC-ASP/5/L.5. All the necessary cross-references to the resolutions that this Assembly has adopted will be reflected in that report. Moreover, the blank spaces that are now in some paragraphs of the report will be filled in with the appropriate information as reflected in the decisions taken just now by the Assembly.

The draft report of the Assembly is structured in two parts: the first one covers the proceedings of the session and is divided into 3 chapters. Chapter A entitled “Introduction”, from paragraph 1 to paragraph 11, provides information containing the participation in the Resumed session, the composition of the Credentials Committee, and the adoption of the Agenda. Chapter B, regarding the Agenda of the Assembly during the Resumed 5th Session, has 5 sections and concerns the proceedings of the Resumed 5th Session. It includes information on the activities of the Assembly in respect of the items included in the agenda of its resumed session. The various outcomes are outlined therein. The first section of Chapter B, paragraphs 12 to 13, of the draft report concerns States in arrears. Section 2, paragraph 14 relates to the credentials of the representatives of the States Parties of the Resumed 5th Session. Section 3, paragraphs 15 to 18, refer to the election of the members of the Board of Directors of the Trust Fund for Victims. Please note that there is a typo in paragraph 16 when a reference is made to resolution ICCASP/1/Res. 7 and not Res.5. Section 4, paragraph 19, deals with the report of the Special Working Group on the Crime of Aggression. This report contains proceedings of the Resumed Session of the ASP. Section 5, containing “Other Matters”, is divided into 3 subsections: paragraphs 20 and 21 dealing with judicial vacancies, paragraph 22 regarding the pension scheme regulations for judges, and paragraph 23 referring to the Trust Fund for Victims [...] in the work of the Assembly.

The second part of the report will contain the resolutions adopted by the Assembly of States Parties, mainly the resolution concerning the procedure for the nomination and election of judges, the Prosecutor and the Deputy Prosecutor of the ICC, an amendment is offered to paragraph 27 of resolution ICC-ASP/3/Res.6, and the resolution concerning the amendment for the pension scheme regulations for judges. The annexes would include the report of the Credentials Committee, the report of the Special Working Group on the Crime of Aggression and a list of documents. Mr. President, I conclude my presentation of the draft report by recommending its adoption by the Assembly. Thank you.

President: I thank the Rapporteur for her introduction of the draft report. As she indicated, there are parts of the report that have to be completed in view of our deliberations and decisions, which the Assembly just made today, regarding in particular the issue of judicial vacancy. We shall now proceed to the adoption of our report paragraph by paragraph. Paragraph 1, adopted, Paragraph 2, adopted, paragraph 3 adopted, paragraph 4, adopted, paragraph 5, adopted, paragraph 6, adopted, paragraph 7, adopted, paragraph 8, adopted, paragraph 9, adopted, paragraph 10, adopted, paragraph 11, adopted, paragraph 12, adopted, paragraph 13, adopted, paragraph 14, adopted,

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paragraph 15 as orally amended by the Rap., adopted, paragraph 16, adopted, paragraph 17, adopted, paragraph 18, adopted, paragraph 19, adopted, paragraph 20, adopted, paragraph 21, adopted, paragraph 22, adopted and paragraph 23, adopted.

Namibia, I recognize the delegation of Namibia, you have the floor.

Namibia: Thank you very much Mr. President, and I do apologize for taking the floor again, I was wondering, and I should also thank, of course, the rapporteur for the oral presentation of the report, it is very much appreciated. I was wondering, Mr. President, if, on the short discussion we had just now, concerning equitable geographical representation under “Other Matters” of the agenda, whether this could not also be reflected in Section 5 of our report, in the Subsection D in an appropriately numbered paragraph. I thank you very much.

President: Thank you, that will be reflected in the report. Thank you very much. I believe that then we have concluded the adoption of our report. The Secretariat will then compile the report and the relevant annexes and we will issue it as soon as possible. May I take it that it is the wish of the Assembly to proceed on this basis? I see no objection, it is so decided.

We have thus concluded our business for our resumed session. We managed to make tremendous progress on the crime of aggression within a very short period of time. I thank you all for your cooperation and understanding. In particular, I would like to thank the Chairman of the Special Working Group, Ambassador Christian Wenaweser of Liechtenstein, for his remarkable stewardship, leadership and commitment to this project. And I think we all wish that his place as an icon of international criminal law will become a firm reality by 2008 or 2009. In addition I wish to thank the members of the Bureau for their advice and support.

And I would like to thank once again the United Nations officials and the staff for making it possible for us to hold our resumed 5th session here at the United Nations Headquarters. I wish to thank the conference officers and the interpreters for their patience and support, and in addition, I would like to also express the appreciation of the Assembly to the Secretariat for its dedication and its efficiency in the face of logistical challenges resulting from being away from home. In this connection, I would wish to inform all delegations that the 6th Session of the ASP shall take place here in United Nations Headquarters starting on 30 November to 14 December 2007.

Before closing, pursuant to Rule 43 of the Rules of Procedure, I would invite you all to observe one minute of silence dedicated to prayer and meditation. (*one minute of silence*) Thank you. I now declare the Resumed 5th Session of the Assembly of States Parties to the Rome Statute closed. Thank You. (*applause*)