

United Nations

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Financial report and audited financial statements

for the biennium ended 31 December 2001 and

Report of the Board of Auditors

General Assembly
Official Records
Fifty-seventh Session
Supplement No. 5K (A/57/5/Add.11)

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Note

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[3 July 2002]

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28 March 2002

In accordance with financial regulation 11.4, I have the honour to submit the accounts of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium 1 January 2000 to 31 December 2001, which I hereby approve. The financial statements have been drawn up and certified by the Controller.

Copies of these financial statements are also being transmitted to the Advisory Committee on Administrative and Budgetary Questions.

(*Signed*) Kofi A. **Annan**

Mr. Shauket A. Fakie
Chairman
United Nations Board of Auditors
New York

27 June 2002

I have the honour to transmit to you the financial statements of the International Tribunal for Rwanda for the biennium 2000-2001 ended 31 December 2001, which were submitted by the Secretary-General. These statements have been examined and include the audit opinion of the Board of Auditors.

In addition, I have the honour to present the report of the Board of Auditors with respect to the above accounts.

(*Signed*) Shauket A. **Fakie**
Auditor-General of the Republic of South Africa
and Chairman
United Nations Board of Auditors

The President of the General Assembly
of the United Nations
New York

Chapter I
Financial report for the biennium ended 31 December 2001

A. Introduction

1. The Secretary-General has the honour to submit his financial report on the accounts of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium ended 31 December 2001. The accounts consist of four statements and the related notes.

2. The present report, the audited financial statements and the report of the Board of Auditors, along with the associated report of the Advisory Committee on Administrative and Budgetary Questions, will be submitted to the General Assembly at its fifty-seventh session.

3. The present report, which is designed to be read in conjunction with the financial statements, can also be considered alone. Attached hereto is a technical annex, which includes information that is required by the Financial Regulations and Rules to be reported to the General Assembly.

B. Overview

4. Statements I to IV of the accounts summarize the financial results of the International Tribunal for Rwanda for the biennium 2000-2001. Statement I includes all categories of income and expenditures incurred during the biennium. Statement II includes a summary of assets, liabilities, reserves and fund balances as at 31 December 2001. Statement III summarizes the Tribunal's net cash flows for the period, and statement IV shows the appropriations and expenditures against appropriations during the biennium.

5. As at 31 December 2001, unpaid contributions to the Tribunal totalled $19.8 million, representing an increase of 32.5 per cent when compared to the situation as at 31 December 1999. Schedule 2.1 includes the full listing of unpaid assessed contributions of $19.8 million at the end of 2001. Due to the failure of Member States to pay their assessed contributions in full and on time, it was necessary for the Tribunal to borrow $13 million from other funds during the biennium in order to meet current operating requirements.

6. The budget of the Tribunal for the biennium 2000-2001 totalled $180.1 million, as appropriated by the General Assembly in its resolutions 54/240 and 55/226. Actual expenditures for the biennium totalled $179.8 million, leaving an unencumbered balance of $0.3 million. The 2000-2001 expenditure total of $179.8 million represented an increase of 30.7 per cent over the total expenditure in the previous biennium of $124.6 million. The following table shows expenditures by functional category as a percentage of the total:

Functional category	*2001*	*1999*
Salaries and related personnel costs	83.7	76.4
Travel	2.4	3.1
Contractual services	2.4	6.9
Operating expenses	7.7	5.8
Acquisitions	2.6	7.6
Grants and other	1.2	0.2
Total	**100.0**	**100.0**

7. The following table shows the amount of expenditure by functional category (in thousands of United States dollars):

Functional category	*2001*	*1999*
Salaries and related personnel costs	150 564	95 275
Travel	4 230	3 828
Contractual services	4 338	8 579
Operating expenses	13 858	7 235
Acquisitions	4 715	9 511
Grants and other	2 079	193
Total	**179 784**	**124 621**

8. At the end of 2001, the accounts of the Tribunal showed a surplus of $5.5 million, which comprises the unobligated balance of appropriations of $0.3 million, net prior-period savings of $2.6 million and miscellaneous income of $2.6 million for the biennium. The balance of $5.5 million will be available to be offset against the assessments of Member States after taking into consideration an appropriate level of reserve.

Annex

Supplementary information

1. The present annex contains supplementary information that the Secretary-General is required to report.

Cash and investments

2. The cash figures shown in the financial statements represent operational cash held at Headquarters and at the International Tribunal for Rwanda, as well as interest-bearing bank deposits and call accounts. The detailed breakdown, in millions of United States dollars, is as follows:

Operational cash	4.5
Time deposits and call accounts	1.1
Total	**5.6**

Write-off of losses of cash and receivables

3. No write-off of losses of cash and receivables was reported during the biennium 2000-2001.

Write-off of losses of property

4. Property losses for the Tribunal amounting to $1,004,048 (based on their original cost) were written off in accordance with financial rule 110.15 during the biennium 2000-2001. The write-offs brought the recorded balances of the properties to the same levels as those shown in the property records for the actual quantities on hand. The details of the amounts written off were reported to the Board of Auditors in accordance with the provisions of financial rule 111.10 (b).

Ex gratia payments

5. No ex gratia payments were reported during the biennium 2000-2001.

Chapter II
Report of the Board of Auditors

Summary

The Board of Auditors has reviewed the operations of the International Tribunal for Rwanda and also audited its financial statements for the biennium ended 31 December 2001. The audit also included a special review at the request of the General Assembly, as noted in paragraph 4.

The Board's main findings are as follows:

(a) The Tribunal had no completion strategy for meeting its objectives in an efficient and effective manner, and the absence of a completion strategy does not facilitate a process of developing objectives, indicators, realistic targets and performance measures, which would enable the Tribunal to effectively complete its mandate;

(b) Defence counsel costs amounted to $23.1 million for the biennium 2000-2001, exceeding the approved allocation of $12.1 million by 91 per cent;

(c) There were no quantitative criteria such as a financial threshold to determine whether an accused qualified for legal aid;

(d) The provision of legal aid was based on information provided by the accused; there was no effective process of verification;

(e) Applicants for legal aid had an option of electing defence counsel, which could have created opportunities for fee-splitting;

(f) A total of 22 lead counsel and 24 co-counsel changes occurred during the biennium 2000-2001;

(g) The Tribunal could not provide a final report containing an overview of the activities performed through the trust fund and a complete financial account reflecting how the funds provided by the donor country had been utilized, as it was not aware of the donor requirements.

The Board made recommendations to formalize and monitor a completion strategy; to improve the legal aid system while limiting its cost; to explicitly forbid fee-splitting practices; and to improve the monitoring of obligations, especially those related to defence charges. Recommendations have also been made on the safe keeping of assets and a number of administrative matters.

A list of the Board's main recommendations is included in paragraph 11.

A. Introduction

1. The Board of Auditors has audited the financial statements of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium ended 31 December 2001 in accordance with General Assembly resolution 74 (I) of 7 December 1946. The audit was conducted in conformity with article XII of the Financial Regulations and Rules of the United Nations and the annex thereto and with the common auditing standards of the Panel of External Auditors of the United Nations, the specialized agencies and the International Atomic Energy Agency. Those standards require that the Board plan and perform the audit to obtain reasonable assurance as to whether the financial statements are free of material misstatement.

2. The audit was conducted primarily to enable the Board to form an opinion as to whether the expenditures recorded in the financial statements for the biennium 2000-2001 had been incurred for the purposes approved by the General Assembly; whether income and expenditures had been properly classified and recorded in accordance with the Financial Regulations and Rules; and whether the financial statements of the Tribunal presented fairly its financial position as at 31 December 2001 and the results of the operations for the period then ended. The audit included a general review of financial systems and internal controls and a test examination of accounting records and other supporting evidence to the extent that the Board it considered necessary to form an opinion on the financial statements.

3. In addition to the audit of the accounts and financial transactions, the Board carried out reviews under article 12.5 of the Financial Regulations. The reviews concerned the efficiency of financial procedures, the internal financial controls and, in general, the administration and management of the International Tribunal for Rwanda.

4. The present report also addresses, in the paragraphs identified below, the special requests made by the Advisory Committee on Administrative and Budgetary Questions and the General Assembly. The Advisory Committee requested that the Board follow up on allegations of fee-splitting (A/55/643, para. 58). Subsequently, it requested the Board to carry out a special evaluation of the effectiveness of the means available, including staff and non-staff assets, to manage, monitor and control the expenses of the Tribunal's legal aid system (A/56/666, para. 44). The Board expresses its observations about the legal aid system in paragraphs 41 to 72 below, and considers that, while the external auditors are not in a position to investigate the allegations of fee-splitting practices, the present system may contribute to increasing the risk of such practices.

5. The Board continued its practice of reporting to the Administration the results of specific audits in management letters containing detailed observations and recommendations. This practice helped to maintain an ongoing dialogue with the Administration on audit issues.

6. The present report covers matters that, in the opinion of the Board, should be brought to the attention of the General Assembly. The Board's observations and

conclusions were discussed with the Administration, whose views, where appropriate, have been reflected in the report.

7. A summary of the Board's main recommendations is contained in paragraph 11 below. The detailed findings are discussed in paragraphs 13 to 93.

1. Previous recommendations not fully implemented

8. In accordance with section A, paragraph 7, of General Assembly resolution 51/225 of 3 April 1997, the Board has reviewed the action taken by the Administration to implement the recommendations made in its report for the biennium ended 31 December 1999,[1] and the Board's comments are addressed in the annex to the present report.

9. The General Assembly, in its resolution 52/212 B of 31 March 1998, accepted the recommendations of the Board of Auditors for improving the implementation of its recommendations that are approved by the Assembly, subject to the provisions contained in the resolution. The Board's proposals, which were transmitted to the Assembly in a note by the Secretary-General (A/52/753) annex), included the following main elements:

(a) The need for specification of timetables for the implementation of recommendations;

(b) The disclosure of office-holders to be held accountable;

(c) The establishment of an effective mechanism to strengthen oversight in regard to the implementation of audit recommendations. Such a mechanism could be in the form of either a special committee comprising senior officials or a focal point for audit and oversight matters.

10. The Board noted that the Administration could improve on the implementation subparagraphs (a) and (b) above.

2. Main recommendations

11. **The Board recommends that the International Tribunal for Rwanda:**

(a) **Be provided with copies of all agreements in respect of voluntary contributions to enable it to comply with the requirements of donors. Also, the Tribunal should keep a proper record of all such agreements and monitor compliance with donor requirements (para. 36);**

(b) **Develop and implement a completion strategy with a view to ensuring the attainment of objectives in an efficient and effective manner (para. 40);**

(c) (i) **Establish clear and quantitative criteria to determine whether a person qualifies or partly qualifies for legal aid; (ii) formulate working definitions, for such terms as "indigence" and "sufficient means", including a determination of the financial threshold below which a person is regarded as indigent or partly indigent; and (iii) develop a formula to determine the**

[1] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 5K* (A/55/5/Add.11), chap. II.

contributions to be made by the persons who qualify for partial legal aid (para. 48);

(d) **Establish clear and enforceable working relationships with Member States to ensure that they will provide all reasonable assistance necessary to verify the financial position of the accused (para. 52);**

(e) **Require that counsel to be paid by the Tribunal be chosen at random from among the available lawyers whose names appear on a list established and approved by the Registrar (para. 59);**

(f) (i) **Consider the feasibility of using computer software that meets the need of the Lawyers and Detention Facility Management Section to review the accounts of defence team members and of implementing a matrix system for standard activities performed by counsel; (ii) conduct a thorough review of the human resources needs of the Lawyers and Detention Facility Management Section to improve the quality of assessments of the accounts of defence team members; and (iii) implement appropriate procedures to render illegal and effectively prohibit overbilling and fee-splitting practices by counsel (para. 64);**

(g) **Establish clear and unambiguous rules to define and regulate the notion of "exceptional circumstances", as contemplated by rule 45 of the Rules of Procedure and Evidence (para. 73).**

12. The Board's other recommendations are shown in paragraphs 23, 25, 30, 33, 55, 68, 77, 80, 82, 85, 90 and 92.

B. Financial issues

1. Overview

13. The statement of income and expenditure of the International Tribunal for Rwanda for the biennium ended 31 December 2001 reflects a net excess of income over expenditure of approximately $2.9 million, compared with $5.7 million for the biennium 1998-1999.

14. Total income increased by approximately 41 per cent, from $130 million in 1998-1999 to $183 million in 2000-2001. The increase in the amount of assessed contributions, from $118.9 million in the prior biennium to $170.3 million in 2000-2001, contributed largely to the increase in total income for the financial period under review. The total assessed contributions receivable from Member States have increased by approximately 48 per cent, from $13.4 million in 1998-1999 to $19.8 million for the biennium under review.

15. Total expenditure increased by approximately 55 per cent, from $125 million as at 31 December 1999 to $180 million for the biennium under review. Of the total expenditure of $180 million for the biennium as at 31 December 2001, 84 per cent relates to personnel, operational requirements account for 8 per cent, and the balance of 8 per cent represents travel, contractual services, acquisitions, fellowships, grants and other expenditures.

16. The unliquidated obligations decreased by 33 per cent, from $9 million in the prior biennium to $6 million as at 31 December 2001. The Board is concerned that the Tribunal's liabilities of $25.3 million ($22.5 million in 1998-1999) are being

"funded" by an increasing level of outstanding contributions, amounting to $19.8 million ($13.3 million in 1998-1999), which affected the Tribunal's cash position. Cash and term deposits and the cash pool at 31 December 2001 amounted to approximately $5.6 million, compared with $10 million in the previous biennium, representing a decrease of 44 per cent.

17. The total reserves and fund balances of the Tribunal decreased by approximately 12 per cent, from $6.3 million in 1998-1999 to $5.5 million for the biennium under review.

2. Compliance with United Nations system accounting standards

18. The Board assessed the extent to which the financial statements of the Tribunal for the biennium ended 31 December 2001 conformed to the United Nations system accounting standards. The review indicated that the financial statements were generally consistent with the standards, except to the extent of the issues raised in the present report, specifically in paragraphs 21 and 22.

3. Presentation of the financial statements

19. The Board has reviewed the financial statements as presented by the Tribunal for the biennium ended 31 December 2001. The United Nations system accounting standards require that the statement of cash flow indicate corresponding figures for the preceding period. However, we noted that in the 2000-2001 cash flow statement, the prior-period figures did not agree with the corresponding figures in the financial statements for the biennium ended 31 December 1999 with regard to net cash from operating activities and net cash from investing activities. These differences amounted to $556,000 and $44,000 respectively, although the ending balance does agree with the prior biennium's financial statements.

20. Following the Board's recommendation, United Nations Headquarters has taken action to include a footnote to statement III on the restatement of prior-year amounts.

21. Paragraph 49 of the accounting standards requires the disclosure of the opening and closing balance of non-expendable equipment and encourages the disclosure of additions and disposals. However, the Tribunal disclosed the value of non-expendable equipment of $13.2 million for the biennium 2000-2001 only in note 5 (e) to the financial statements.

22. Furthermore, in the Board's previous audit report for the biennium 1998-1999,[1] it recommended that the Administration disclose the value of non-expendable property pending write-off decisions in the notes to the financial statements.

23. **The Board recommended disclosing non-expendable equipment as required by paragraph 49 of the accounting standards, and the Administration agreed. Furthermore, the Board reiterates its recommendation that the Administration disclose the value of non-expendable property pending write-off decisions in the notes to the financial statements.**

4. Unliquidated obligations and over-expenditure

24. Rule 110.9 of the Financial Regulations and Rules of the United Nations states:

> "Outstanding obligations retained against appropriations of the previous financial period in accordance with regulation 4.3 shall be reviewed periodically by the certifying or alternate certifying officers. Obligations reflected in the accounts, which, in the opinion of the Controller, are no longer valid obligations, shall be cancelled from the accounts forthwith, and the resulting credit surrendered."

The Tribunal earned savings of some $6.1 million from the cancellation of prior-period obligations, compared with $0.6 million in the prior biennium. While this significant cancellation indicates that unliquidated obligations were reviewed, the Board is concerned that it is also indicative of inappropriate budget control. Furthermore, for 2001 the Board noted overexpenditures for objects for which there was no corresponding underexpenditure within the group of compatible objects of expenditure, as set out in table 1 below. The increase in defence counsel costs represented a significant overexpenditure of 124 per cent in 2001.

25. **The Board recommended implementing strict procedures to ensure proper budgetary control, and the Tribunal agreed.**

5. Non-expendable equipment

26. The Tribunal has five self-accounting units, which are responsible for the control of equipment. The Tribunal implemented the field assets control system in July 2001 to improve the record keeping, control and administration of non-expendable and special property valued at $13 million as at 31 December 2001. The reported $13 million value of non-expendable property at the end of 2001 was the result of the closing year-2000 balance of $13 million, plus acquisitions during 2001 of $1.5 million, less write-offs of $0.5 million, resulting in a difference of $0.8 million. This difference represented items physically found but not listed. These were items valued below the financial threshold for asset-tracking purposes and whose records were kept with the self-accounting unit as "durable/expendable" and were not migrated; duplicate entries that were deleted; values amended whereby the currency was not correct and unit cost was adjusted to reflect the correct value; and estimated prices replaced by the correct acquisition price when available documentation was found by the Property Control and Inventory Unit.

27. The implementation of the field assets control system had not yet been finalized. Data of inventories from self-accounting units had not been fully transferred to the system. An inter-office memorandum, addressed to the Officer in Charge of the Electronic Data-Processing Unit, stated that the Property Control and Inventory Unit had found some 204 items that were never physically checked during the 2000 year-end inventory, either during the 2001 mid-year inventory or the 2001 year-end inventory, as requested by Unit personnel. As no unit price had been entered into the system, no value could be placed on those items. Two similar memorandums had been sent to the self-accounting units earlier requesting their response, but at the time of the audit, no response had been received.

Table 1
Allotments and overexpenditures for 2001
(In United States dollars)

BIS Code	*IMIS Code*	*Object of expenditure*	*Allotment*	*Total disbursements*	*Unliquidated obligations*	*Total expenditure*	*Overexpenditure*	*Percentage*
A. Chambers								
192	606	Common costs of judges	271 700	455 413	6 560	461 973	190 273	70
B. Office of the Prosecutor								
242	608	Travel	938 700	1 020 152	258 934	1 279 086	340 386	36
C. Registry								
053	605	Overtime	300 000	305 469	17 580	323 049	23 049	8
081	605	Defence counsel	6 065 600	12 423 643	1 134 524	13 558 167	7 492 567	124
242	608	Travel	566 900	576 894	38 256	615 150	48 250	9
450	613	Hospitality	4 000	4 813	0	4 813	813	20
410	614	Rental and maintenance of premises	1 579 000	1 580 402	195 878	1 776 280	197 280	12
491	616	Freight and related cost	160 000	205 050	90 597	295 647	135 647	85
493	616	Bank charges	180 000	250 430	0	250 430	70 430	39
490	616	Miscellaneous services	776 100	635 151	269 453	904 604	128 504	17
440	617	Communications	1 584 100	1 539 471	716 882	2 256 353	672 253	42
921	622	Grants and contributions	216 000	175 481	150 260	325 741	109 741	51
N/A	629	Vehicle insurance repairs	0	69 359	50 449	119 808	119 808	
Subtotal			**11 431 700**	**17 766 163**	**2 663 879**	**20 430 042**	**8 998 342**	**127**
Total			**12 642 100**	**19 241 728**	**2 929 373**	**22 171 101**	**9 529 001**	**75**

Acronyms: BIS, budget information system; IMIS, Integrated Management Information System.

28. In addition to the Board's findings, the Office of Internal Oversight Services also found that no written procedures had been developed and approved for the 2001 inventory. In an attempt by the Property Control and Inventory Unit to reconcile stock records with the field assets control system, discrepancy reports were sent to all sections for input and explanation. Section chiefs were also requested to provide information, including on asset movements. However, few responses had been received at the time of audit.

29. In order to reinforce the accuracy of the inventories maintained by the self-accounting units, the Tribunal informed the Board that it would ensure that self-accounting units cooperated fully with the Property Control and Inventory Unit in order to maintain the accuracy expected of the field assets control system.

30. **The Board recommends that the Tribunal establish a time frame for the completion and finalization of all asset records, enforce compliance with directives in that regard and implement procedures to maintain accurate information on the field assets control system.**

6. Trust fund

31. The Tribunal has one trust fund. The voluntary fund was established by the General Assembly under the terms of its resolution 49/251 of 20 July 1995, in response to Security Council resolution 955 (1994). It is a general trust fund that had an opening balance of $3.17 million. The fund received income of $0.95 million and incurred expenses of $0.96 million during the biennium, resulting in a closing balance of $3.16 million as at 31 December 2001. The Secretary-General's bulletin on the establishment and management of trust funds states that the implementing office is responsible for the preparation of the cost plan and that all cost plans for trust funds, including those for operational activities, must include provision for support costs (ST/SGB/188, para. 39). The Board noted that no provision for support cost was provided in a cost plan submitted to United Nations Headquarters and that either the plan had to be resubmitted or the cost had to be taken into account by Headquarters.

32. The Board further noted that some allotments totalling $443,000 that were requested by the Tribunal were either not obligated or were only partially utilized, in the amount of $85,500, resulting in a difference of $357,800 (81 per cent) of allotted amounts not obligated. On the other hand, allotments amounting to $383,900 were exceeded by obligations of approximately $550,800.

33. **The Board recommends that the Tribunal: (a) make provision for support costs in its cost plans; and (b) ensure proper monitoring, implementation and control of budgets and expenditure in accordance with applicable directives.**

34. The Tribunal informed the Board that the support costs were now included in the cost plans for the biennium 2002-2003.

35. **The Tribunal did not comply with the requirements of a donor country that requested a report on trust fund activities and a financial account on the utilization of funds.** The donor had contributed $2,996,000 to the Tribunal. The Tribunal informed the Board that, with the exception of very few earmarked voluntary contributions directly solicited and received by the Tribunal, all pledges for contributions and collections thereof to the Tribunal trust fund were received by Headquarters. Through an administrative oversight, United Nations Headquarters

(Contributions Service) did not inform the Tribunal about the conditions related to this voluntary contribution until November 2001, and therefore the Tribunal did not submit to the Controller the required reports for onward submission to the donor. It was in the process of completing the final report for submission to the donor.

36. **The Board recommends that the Tribunal obtain copies of all agreements in respect of voluntary contributions from United Nations Headquarters in a timely manner to enable it to comply with the requirements of donors. Also, the Tribunal should keep a proper record of all such agreements and monitor compliance with donor requirements.**

7. Write-offs and losses

37. The Local Property Survey Board wrote off a total amount of $922,092 in accordance with financial rule 110.15, as detailed in table 2, while headquarters had written off a further amount of $81,956, resulting in a total of $1,004,048 for the biennium 2000-2001.

Table 2
Write-offs and losses by the Local Property Survey Board
(In United States dollars)

Category	*Value*
Wear and tear	609 775
Damage	90 378
Theft and loss	16 652
Obsolescence	200 915
Accident	4 372
Total	**922 092**

8. Ex gratia payments

38. The Tribunal informed the Board that no ex gratia payments had been made during the biennium ended 31 December 2001.

C. Management issues

1. Completion strategy

39. The Security Council, in its resolution 955 (1994), established the Tribunal without setting a precise time limit for the completion of its mission. In its report (A/56/666), the Advisory Committee on Administrative and Budgetary Questions commented, and the Board concurred, that the Tribunal did not have a firm, realistic and achievable exit strategy for the completion of its mandate. The last indictments are only expected to be presented by the end of 2005. The average period of detention was estimated at 33 months, while the subsequent trial length was estimated at an average of 12 to 18 months. The cost of the Tribunal amounted to $180 million for the biennium 2000-2001, an increase of 177 per cent compared with the cost of $65 million for the biennium 1996-1997. The final cost for the

completion of the Tribunal's mandate is unknown. **The absence of a completion strategy does not facilitate a process of developing related annual objectives, indicators, realistic targets and performance measures.** Since its inception, the Tribunal has had eight convictions and one acquittal. At the time of the audit, the Tribunal was conducting 7 trials for 17 defendants. Of a total of 75 persons indicted, 52 were in custody and 6 had been convicted and were serving sentences. The Tribunal informed the Board that the Registrar had requested the Prosecutor to provide an exit strategy and a phasing-out plan for investigators and that the Prosecutor's response was being reviewed.

40. **The Board recommends that the Tribunal develop and implement a completion strategy with a view to ensuring the attainment of objectives in an efficient and effective manner. In this regard, the Tribunal should consult with the International Tribunal for the Former Yugoslavia, which has drafted a completion strategy.**

2. Legal aid system and fee-splitting

41. Fee-splitting, in the context of the International Tribunals, refers to the sharing of fees between detainees and their defence counsel. The Advisory Committee on Administrative and Budgetary Questions and the General Assembly were concerned about the implications of alleged fee-splitting at the International Tribunals for Rwanda and the Former Yugoslavia. Following a request of the Advisory Committee, the Office of Internal Oversight Services conducted a detailed review of the allegations of fee-splitting arrangements at both Tribunals in 2000 (A/55/759). In summary, the Office concluded that the allegations of fee-splitting could not be substantiated, although the possibility of fee-splitting existed. The Office also recommended that controls be implemented to prevent fee-splitting arrangements from taking place. Pursuant to a request of the General Assembly (resolution 55/250), the Office conducted a follow-up investigation in late 2001 and early 2002 (A/56/836). The Board is pleased to note that the Office is assigning resident auditors, and periodically investigators, to the Tribunal.

42. Fee-splitting is an alleged practice which so far is not explicitly prohibited by any rule applying to the Tribunal. Such a practice would be hidden, possibly involving money-laundering circuits. The actual detection of fee-splitting would call for international and highly sophisticated criminal investigations, jointly pursued by internal revenue services and police forces. This task would have to be undertaken mainly in countries monitoring the Tribunal's legal aid expenditure, and improving the preventative controls in place may be useful but largely inefficient for fee-splitting, and consequently the matter is largely beyond the resources of the Board of Auditors. The Tribunal informed the Board that in an effort to prohibit the possibility of fee-splitting, an amendment to article 97 of the Rules of Procedure and Evidence has been submitted to the plenary for consideration.

43. Therefore, the Board, in order to prevent duplication of auditing work and to ensure cost-effective arrangements, has focused on other aspects of the legal aid system, as referred to in the report of the Advisory Committee. In that report, the Advisory Committee requested that in its next audit, the Board of Auditors carry out a special evaluation of the effectiveness of the means available, including staff and non-staff assets, to manage, monitor and control the expenses of the Tribunal's legal aid system (A/56/666, para. 44).

44. In summary, the Board's main findings were that:

(a) **There were no quantitative criteria to determine whether an accused person qualifies for legal aid, such as a financial threshold;**

(b) **Legal aid was based on information provided by the accused without an effective process of verification;**

(c) **Applicants for legal aid had an option of electing defence counsel, which could create opportunities for fee-splitting;**

(d) **Defence counsel costs amounted to $23.1 million for the biennium 2000-2001, exceeding the approved appropriation (allotments) of $12.1 million by 91 per cent;**

(e) **22 lead counsel and 24 co-counsel changes occurred during the biennium.**

Establishing of indigence

45. In terms of article 3 of the directive on the assignment of defence counsel, suspects and accused persons, if they have insufficient means, may be assigned counsel free of charge on certain conditions. Article 4 of the directive continues by stating that a person shall be considered to be indigent if he/she does not have sufficient means to engage counsel and to be legally represented or assisted by counsel of his/her choice. The costs and expenses to be met by the Tribunal shall include all reasonable costs and expenses of counsel, assistants and investigators, as well as witnesses. All 52 detainees qualified and had received legal aid from the Tribunal at the time of the audit.

46. **There were no quantitative criteria to determine whether an accused qualified for legal aid; for example, there was no financial threshold** established below which an accused person was regarded as indigent. In addition, there were no policies or procedures in place regulating the sharing of costs between an accused person and the Tribunal in the event that the accused person is in a position to partly finance his/her legal expenses. The Tribunal is of the opinion that an accused person's ability to pay for legal representation should be comparable at the level of the Tribunal's legal aid programme. The actual cost of defence counsel amounted to $23.1 million for the biennium 2000-2001, or an estimated average of $444,000 per detainee per biennium.

47. The Board is of the opinion that the establishment of quantitative criteria for determining to what extent persons qualify for legal aid constitutes the basis of the whole system of legal aid and would contribute to the fair and reasonable application of the system. In determining the financial position of a person, consideration should include assessing both the immovable property and the other cash and money-related assets of the applicant. If the total of those assets is sufficiently large to cover the expected legal costs, legal aid may be refused even if the person qualified for legal aid as a result of insufficient income.

48. **The Board recommends that the Tribunal: (a) establish clear and quantitative criteria to determine whether a person qualifies or partly qualifies for legal aid; (b) formulate and formalize working definitions for such terms as "indigence" and "sufficient means", including a determination of the financial threshold below which a person is regarded as indigent or partly indigent; and**

(c) develop a formula to determine the contributions to be made by persons who qualify for partial legal aid.

49. The Tribunal has, over the years, established thresholds for those qualifying for legal aid as follows: average disbursement for convicted persons; average disbursement for convicted persons who pleaded not guilty; and average disbursement for convicted persons who pleaded guilty.

50. The Lawyers and Detention Facility Management Section has been assigned the responsibility for controlling and supervising the investigation of declarations made by applicants for legal aid. However, **the Board noted with concern that there was no effective mechanism in place in the Section for verifying the financial position of an applicant for legal aid.**

51. An applicant for legal aid has to complete a declaration of means. Article 8 of the directive on the assignment of defence counsel provides that a declaration of means must, as far as possible, be certified by an appropriate authority located either in the place where the suspect or accused resides or is found or any other place considered appropriate in the circumstances, to be determined by the Registrar. The Tribunal informed the Board that immediately after the accused claims to be indigent, the Registry requests Member States that have a connection with the accused to cooperate in verifying the existence of assets in those States. So far, only two States have assisted the Registry in verifying the means of the accused. However, an investigator is expected to be recruited who will be in charge of establishing better working relationships with Member States.

52. **The Board recommends that the Tribunal establish clear and enforceable working relationships with Member States to ensure that they will provide all reasonable assistance necessary to verify the financial position of the accused.**

53. The Security Section of the Tribunal was supposed to conduct an investigation on the information provided in the statement of assets. However, according to information at the Board's disposal, the Security Section did not have the capacity to conduct investigations of such magnitude and, consequently, **legal aid was provided solely on the basis of information provided by the applicant for legal aid without an effective and focused process of verification.** The Registrar informed the Board that approval had been granted in April 2002 for the appointment of an investigator at the P-4 level with the primary function of investigating indigence.

54. The Board also noted that **there were no policies or procedures in place to determine when changes to an accused person's financial position had occurred.** In this regard, the Board is of the opinion that continued monitoring of an accused person's financial position could also form part of the responsibilities of the investigator to ensure that any changes in financial position are promptly identified and to mitigate the risk of fee-splitting.

55. **The Board recommends that the Tribunal clarify the role and responsibility of investigating indigence as soon as possible with a view to implementing more effective procedures to verify and monitor the financial position of accused persons receiving legal aid.**

Assignment of defence counsel

56. In terms of article 13 of the directive on the assignment of counsel, any person may be assigned as counsel if the Registrar is satisfied that he or she fulfils certain prerequisites. An accused person applying for legal aid is provided with a list of potential counsel approved by the Registrar. The applicant then has to elect three possible counsel from the list, one from the common law, one from the civil law and one from the mixed legal system. The Lawyers and Detention Facility Management Section forwards the names to the Registrar for assignment of counsel, together with a recommendation of the preferred counsel.

57. Although under rule 45 of the Rules of Procedure and Evidence the Registrar has the sole prerogative to assign any counsel complying with the above-mentioned requirements, one of the counsel elected by the accused is, in principle, always appointed by the Registrar, who makes the final choice. The Tribunal is of the opinion that, based on experience, the imposition of defence counsel by the Registrar creates suspicion on the part of the accused, leading to a breakdown in communication with the defence counsel.

58. **The Board is of the opinion that the practice of providing the accused with the opportunity to elect counsel may result in increased expenses for the Tribunal as well as creating opportunities for fee-splitting.**

59. **The Board recommends that the Tribunal require that counsel to be paid by the Tribunal be chosen at random from among the available lawyers whose names appear on a list established and approved by the Registrar.**

Verification of bills of counsel

60. Article 17 of the directive on the assignment of defence counsel states that where counsel has been assigned, the costs and expenses of legal representation of the suspect or accused necessarily and reasonably incurred shall be met by the Tribunal, subject to the availability of funds, the applicable United Nations regulations and rules and the procedures established by the Registrar with the approval of the Bureau. Article 17 further stipulates that such costs and expenses to be met by the Tribunal shall include costs relating to investigative and procedural steps, measures taken for the production of evidence to assist or support the defence, expenses for the ascertainment of facts, consultancy and expert opinion, transportation and accommodation of witnesses, etc. It is the function of the Lawyers and Detention Facility Management Section to evaluate the reasonableness of accounts delivered by defence team members. However, there appeared to be no specific system in place to ensure the effectiveness of the evaluation process.

61. **The approved appropriation for the defence counsel for the biennium ended 31 December 2001 amounted to $12.1 million. However, the Board was concerned that actual expenditure exceeded the approved appropriation by some $11 million**, as detailed in table 3, representing overexpenditure of some 91 per cent.

Table 3
Defence counsel costs
(In millions of United States dollars)

Description of costs	*Approved allocation*	*Actual expenditure*	*Overexpenditure*
Defence counsel fees	10.0	18.8	8.8
Travel and allowances			
Defence counsel	1.3	2.2	0.9
Investigators	0.8	2.1	1.3
Total	**12.1**	**23.1**	**11.0**

62. The Lawyers and Detention Facility Management Section had developed a set of guidelines relating to the payment of fees and the settlement of defence counsel costs to ensure the control and reasonableness of activities charged by defence team members. There were three officials in the Section working on the merit of the files. A computer system was not used to aid the evaluation process. In addition, the remuneration paid to assigned counsel for any one case and at any one stage of the procedure shall in terms of article 22 of the directive on the assignment of defence counsel include a fixed rate as well as fees calculated on the basis of a fixed hourly rate determined by the Registrar based on the Counsel's seniority and experience in accordance with the table of rates published by the Registrar.

63. The Board noted that there were certain standard tasks that were always performed by counsel irrespective of the specific type of case. Activities such as preparing and filing motions, reviewing clients' statements and interviewing witnesses were all standard tasks and occurred during virtually all the hearings. At the time of the audit, there was no matrix in place in which a maximum number of hours could be allocated for every specified activity. Furthermore, while the Tribunal agreed that a matrix for the allocation standard costs would be useful, a ceiling on fees is not envisaged. The Board is of the opinion that the risk of fee-splitting is partly related to the high level of relatively unlimited legal aid.

64. **The Board recommends that the Tribunal: (a) consider the feasibility of using computer software that meets the need of the Lawyers and Detention Facility Management Section to review the accounts of defence team members and of implementing a matrix system for standard activities performed by counsel; (b) conduct a thorough review of the human resources needs of the Section to improve the quality of assessments of the accounts of defence team members; and (c) implement appropriate procedures to render illegal and effectively prohibit overbilling and fee-splitting practices by counsel.**

65. **The Tribunal informed the Board that it supported the recommendation that the Lawyers and Detention Facility Management Section rely more on a computer database tailored to its needs. However, while the Section has developed some software, it needs external support and resources, as its staff have limited skills. The implementation of the task matrix system is still under consideration by the panel for review of the legal aid programme, including the need for human resources.**

Lawyer and client privilege

66. Rule 97 of the Rules of Procedure and Evidence stipulates:

> "All communications between lawyer and client shall be regarded as privileged, and consequently disclosure cannot be ordered, unless:
>
> "(i) The client consents to such disclosure; or
>
> "(ii) The client has voluntarily disclosed the content of the communication to a third party, and that third party then gives evidence of that disclosure".

67. The Board is of the opinion that the above rule may complicate the reporting of fee-splitting activities. Counsel may, for example, be hesitant to report proposals for fee-splitting by their clients due to the fact that this kind of information may, in terms of rule 97, be privileged. Following the Board's recommendation, the Tribunal informed the Board that an article 5 bis had been added to the Code of Conduct to deal with fee-splitting; that an association of counsel existed at the Tribunal that was of a private nature; and that the Tribunal could take disciplinary measures against counsel under rule 46 of the Rules of Procedure and Evidence.

68. **The Board recommends that the Tribunal implement the formal interdiction of fee-splitting and gift-giving from counsel to their clients or any person directly or indirectly related to the accused, as well as the recruitment of relatives by the defence counsel.**

Recruitment of investigators

69. The Tribunal informed the Board that the title of investigator was a misnomer, as the persons used by defence counsel were usually informants and not qualified and experienced investigators. The appointment of investigators was done upon the written request by the lead counsel to the Registrar. The investigators were entitled to an hourly rate of $25 and a maximum of 100 hours per month. The maximum potential costs of investigators therefore could amount to $3,060,000 for the biennium, or $127,500 per month.

70. The Tribunal had appointed 51 investigators, which, at the time of the audit, compared with 52 detainees present in Arusha. The Board considers that appointing separate investigators for every accused person could not be regarded as cost-effective. The Tribunal, however, was of the opinion that sharing a limited number of investigators would impede the preparation of cases.

Change of counsel

71. Rule 45 (H) of the Rules of Procedure and Evidence stipulates that under exceptional circumstances, at the request of the suspect or accused or his/her counsel, the Chamber may instruct the Registrar to replace an assigned counsel, upon good cause have been shown and after having been satisfied that the request was not designed to delay the proceedings. **The Board noted that, for the biennium ending 31 December 2001, 22 lead counsel changes and 24 co-counsel changes had occurred.**

72. The Tribunal had not established a working definition for the phrase "exceptional circumstances". The phrase has cost implications such as preparation

time, becoming acquainted with the case and consultations. In view of the cost implications for the Tribunal when counsel is changed, it is imperative that clear rules and guidelines be established to regulate such changes.

73. **The Board recommends that the Tribunal establish clear and unambiguous rules to define and regulate the notion of "exceptional circumstances", as contemplated by rule 45 of the Rules of Procedure and Evidence.**

74. The Tribunal agreed with the Board's recommendation, but considered that the definition of exceptional circumstances would be a sensitive exercise. Changes are often made after a ruling of the Chambers, which has taken into account whether exceptional circumstances were prevailing. Moreover, both the Registry and the Chambers take into consideration dilatory measures when considering a request for dismissal of counsel. Moreover, as soon as a counsel is withdrawn, the procedure for the assignment of a replacement counsel is launched. Had a definition including specific exhaustive requirements been given, it would restrict the power of appreciation of the circumstances by the Registrar and the judges.

3. Procurement

Revision of translated documents

75. In terms of article 12 of the directive for the Judicial and Legal Services Division, translations and revisions of original documents duly certified by the Translation Unit of the Tribunal form part of the original documents, which are integral to the Tribunal's proceedings. A reviser is ideally expected to supervise the work of up to 25 translators, whereas the current reviser/translator situation in the Language and Conference Services Section at Arusha was as follows:

(a) French: 2 revisers for 18 translators, i.e. a ratio of 1 to 9;

(b) English: 2 revisers for 16 translators, i.e. a ratio of 1 to 8;

(c) Kinyarwanda: 1 reviser for 9 translator, i.e. a ratio of 1 to 9.

76. The Board established that the backlog of pages translated but awaiting revision was 1,675 pages. The Registrar was concerned about the time involved at the Translation Unit, which has a negative impact on the time it takes to finish a case. This has been identified as a direct result of the shortage of revisers in the Section.

77. **The Board recommended, and the Tribunal agreed, to consider the redeployment of posts in order to eliminate the backlog of work and increase the efficiency of the Language and Conference Services Section.**

78. The Tribunal informed the Board that with effect from 1 January 2002, bidders are invited to send representatives to attend the opening of bids.

Payment of invoices

79. The Board noted that invoices dated as far back as February 2000 had been presented for payment only in June 2001. The actual payment was made in January 2002, although the invoices were recorded correctly in the books of account. Delays of between 3 and 23 months were noted. The Tribunal informed the Board that the

problem of delays in payment arose when there were queries with regard to the invoices in question, either by the Procurement or the Finance Section. The delays in getting replies sometimes resulted even in the lapsing of the unliquidated obligations. However, such cases were rare.

80. **The Board recommends that the Tribunal implement control measures to ensure that invoices are processed and payments are made in a timely manner.**

Opening of bids

81. Financial rule 110.20 states that all bids shall be opened at the time and place specified in the invitation to bid. Also in accordance with the Procurement Manual, the Procurement Office must indicate the bid opening date on the invitation worksheet and the actual time of opening on the invitation. No evidence was found that suppliers were informed of the time and place of opening of bids, and therefore they were not given the opportunity to attend the opening of bids.

82. **The Board recommended that an opening date and time be included in the invitations to bid to allow all potential contractors to attend the opening in compliance with the approved directives; the Tribunal agreed.**

Contracts

83. In the Board's report on the previous biennium,[1] it recommended that the Tribunal take action to recover inappropriate cleaning and maintenance costs from the lessor and to request a reduction in rent payable. In following up on the implementation of that recommendation, the Tribunal informed the Board, in a letter dated 4 April 2002, that an agreement had been reached with the lessor to refund charges for cleaning services through deductions from monthly rent.

84. **Under the terms of the agreement, the Tribunal pays 1.5 million Tanzania shillings ($1,493) less per month. However, at the time of our audit, the Tribunal was still paying the same rent at the original level.** Also, since the reduction is in local currency, while the rental was payable in United States dollars, the Tribunal was exposed to exchange rate fluctuations.

85. **The Board recommends that the Tribunal: (a) immediately apply the reduced rent payment and deduct any overpayments already made; and (b) renegotiate the reduced amount in United States dollars to minimize currency exchange risks.**

86. The Tribunal informed the Board that the monthly deduction from rent had been retroactively recovered and future payments had been addressed in the amended lease agreement, which was pending.

4. Human resources

General temporary assistance

87. The Tribunal utilized the services of 91 staff under general temporary assistance at the time of the Board's audit. The total expenditure amounted to $2.6 million for the biennium under review.

88. In reviewing the duties relevant to certain positions allocated in the budget for general temporary assignments, the Board noted that those resources had not been

utilized on a short-term basis for the purpose for which they were intended. Table 4 serves as an example.

Table 4
General temporary assignments

Post title	*Date appointed*	*Contract period (months)*
Audio-visual technician	6/3/2000	25
Cleaner	6/5/2000	23
Video operator	17/7/2000	21
Car washer	16/11/2000	17
Electrician	13/9/2000	19
Carpenter	1/3/2001	13
Driver	24/4/2001	12
Fuel pump attendant	1/9/2001	7
Cook	28/9/2001	7

89. The electrician had been on general temporary assistance for the past 19 months. If an electrician is needed that often, the Tribunal should consider appointing one on a permanent basis. If not, outside service providers can be utilized for minor repairs and maintenance. The carpenter was in a similar position. A committee was established by the Registrar to take decisions regarding the necessity of those posts. No decision had been made at the time of the audit. The Board is concerned that those posts were used to supplement permanent posts rather than for the temporary replacements of posts.

90. **The Board recommended that the Tribunal review and analyse the use of general temporary assistance and that those positions of a strategic nature should be budgeted for in a fixed-term contract; the Tribunal agreed.**

Reference checks and interviews

91. In the Board's interim audit, it was noted that applicants' references were not always checked nor were they always interviewed; the Tribunal responded that a system of interviews and reference checks had been implemented, although not in a consistent manner, and that due to budgetary constraints, it was not always possible to conduct interviews. In following up this observation during the final audit, the Board randomly selected a sample of employees from the last six months of the biennium and noted that there was no evidence of any interview or reference checks for five applicants. The Tribunal informed the Board that, taking into account the volume of recruitment, the location of the duty station and the communication facilities there, reference checks were conducted to the extent possible within the first six months up to a maximum period of one year. Interviews were conducted for P-4 posts and above.

92. **The Board recommends that the Tribunal ensure that it conducts reference checks and interviews. Key posts should get priority treatment in deciding which applicants will be interviewed.**

5. Fraud and presumptive fraud

93. The Administration informed the Board that there had been no cases of fraud during the biennium under review.

D. Acknowledgement

94. The Board of Auditors wishes to express its appreciation for the cooperation and assistance extended by the Registrar and staff of the International Tribunal for Rwanda.

(*Signed*) Shauket A. **Fakie**
Auditor-General of the Republic of South Africa

(*Signed*) Guillermo N. **Carague**
Chairman, Philippine Commission on Audit

(*Signed*) François **Logerot**
First President of the Court of Accounts of France

27 June 2002

Annex

Follow-up on action taken to implement the recommendations of the Board of Auditors in its report for the biennium ended 31 December 1999[a]

The Board has followed up on the action taken by the International Tribunal for Rwanda to implement the Board's recommendations made in the context of its report for the prior biennium ended 31 December 1999. Table A.1 summarizes the status of implementation of all the previous recommendations, while table A.2 details specifically those recommendations not implemented and those recommendations under implementation that require further comment.

Out of a total of eight recommendations, the Tribunal has implemented three, while a further four were under implementation. One recommendation was not implemented.

Table A.1
Summary of status of implementation of recommendations for the biennium 1998-1999

Topic	*Implemented*	*Under implementation*	*Not implemented*	*Total*
A. Financial issues				
Financial reporting	para. 19	para. 17	-	2
Obligations	-	para. 24	-	1
Imprest account	para. 26	-	-	1
Write-offs	-	-	para. 32	1
Subtotal				
Number	**2**	**2**	**1**	**5**
Percentage	**40**	**40**	**20**	**100**
B. Management issues				
Procurement	para. 43	para. 39 para. 35		3
Subtotal				
Number	**1**	**2**	**0**	**3**
Percentage	**33.33**	**66.67**	**0**	**100**
Total				
Number	**3**	**4**	**1**	**8**
Percentage	**37**	**50**	**13**	**100**

[a] *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 5 K* (A/55/5/Add.11), chap. II.

Table A.2
Details on previous recommendations under implementation or not implemented for the biennium 1998-1999

	Management		
Component/area of concern	*Recommendation*	*Specific management action/comments as at 30 April 2002*	*Comments of the Board*
Financial reporting, para. 17	The Tribunal as well as the Administration should take action to ensure the timely submission of financial reports and the consolidated accounts.	Marked improvement has been achieved in meeting schedules for the submission of financial reports. Further measures have been taken to enhance the Sun accounts finance reporting system and to ensure that all finance staff are trained. Installation of the Sun business application is in progress.	Under implementation. The Tribunal did improve on submission dates but are still a month behind. The Board will monitor this following the installation of the Sun business application at the next audit.
Obligations, para. 24	The Tribunal should ensure full compliance with established procedures, which do not permit the use of miscellaneous obligating documents to reserve credits for travel and the purchase of goods and services.	The concurrence of the Advisory Committee on Administrative and Budgetary Questions in changing the biennial budget appropriation from an annual to a biennial basis has given the Tribunal sufficient time for procurement planning and efficient use of appropriation as per established procedures, without having to resort to the use of miscellaneous obligating documents. The use of such documents to withhold appropriations has been restricted to real requirements.	Under implementation. The Board noted limited use of miscellaneous obligating documents, but will keep this matter under review.
Write-offs, para. 32	The Administration should disclose in the notes to the financial statements the value of non-expendable property pending write-off decisions.	Head Office responsibility.	Not implemented. The Board has addressed the issues in para. 23 of the present report.
Procurement, para. 35	The Tribunal as well as the Administration should keep relevant registration information on vendors and regularly carry out the required periodic evaluation of the performance of suppliers. Adequate training should be provided to the Procurement Section to enable it to re-establish separation of duties.	Most significantly, individual vendor case files have been established that contain all pertinent data on contractual performance evaluations of each vendor. Additionally, as per the United Nations Procurement Manual, periodic reviews of the data are conducted.	Under implementation. The Board will keep the matter under review in future audits.

	Management		
Component/area of concern	*Recommendation*	*Specific management action/comments as at 30 April 2002*	*Comments of the Board*
Procurement, para. 39	The Tribunal should take action to recover the appropriate cleaning and maintenance cost from the lessor and request a reduction in the rent payable	The appropriate cleaning and maintenance costs have been recovered retroactively from the lessor and an amount of $1,493 per month is being deducted from the rent.	Under implementation. The amendment to the lease is pending. The Board has addressed the matter in para. 85 of the present report.

Chapter III
Audit opinion

We have audited the accompanying financial statements comprising statements I to IV, schedule 2.1 and the supporting notes of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium ended 31 December 2001. These financial statements are the responsibility of the Secretary-General of the United Nations. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with the common auditing standards of the Panel of External Auditors of the United Nations, the specialized agencies and the International Atomic Energy Agency. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, and as considered by the auditor to be necessary in the circumstances, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by the Secretary-General, as well as evaluating the overall presentation of the financial statement. We believe that our audit provides a reasonable basis for the audit opinion.

In our opinion, these financial statements present fairly, in all material respects, the financial position as at 31 December 2001 and the results of operations and cash flows for the biennium then ended in accordance with the stated accounting policies set out in note 2 of the financial statements, which were applied on a basis consistent with that of the preceding financial period.

Further, in our opinion, the transactions of the International Tribunal for Rwanda that we have tested as part of our audit have, in all significant respects, been in accordance with the Financial Regulations and legislative authority.

In accordance with article XII of the Financial Regulations, we have also issued a long-form report on our audit of the financial statements on the International Tribunal for Rwanda.

(*Signed*) Shauket A. **Fakie**
Chairman, Auditor-General of the Republic of South Africa

(*Signed*) Guillermo N. **Caragu**e
Philippine Commission on Audit

(*Signed*) François **Logerot**
First President of the Court of Accounts of France

27 June 2002

Chapter IV
Certification of the financial statements

1. The financial statements of the United Nations International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 for the biennium 1 January 2000 to 31 December 2001 have been prepared in accordance with financial rule 111.4.

2. The summary of significant accounting policies applied in the preparation of these statements is included as notes to the financial statements. The notes provide additional information on and clarification of the financial activities undertaken by the Organization during the period covered by these statements for which the Secretary-General has administrative responsibility.

3. I certify that the appended financial statements of the International Tribunal for Rwanda, numbered I to IV, are correct.

(*Signed*) Jean-Pierre **Halbwachs**
Assistant Secretary-General, Controller

28 March 2002

Chapter V

Financial statements for the biennium ended 31 December 2001

Notes to the financial statements

Note 1
The United Nations and its activities

(a) The Charter of the United Nations was signed on 26 June 1945 and came into force on 24 October 1945. The Organization's primary objectives, to be implemented through its five major organs, were as follows:

(i) The maintenance of international peace and security;

(ii) The promotion of international economic and social progress and development programmes;

(iii) The universal observance of human rights;

(iv) The administration of international justice and law;

(v) The development of self-government for Trust Territories.

(b) The General Assembly focuses on a wide range of political, economic and social issues, as well as the financial and administrative aspects of the Organization.

(c) Under the direction of the Security Council, the Organization has been involved in various aspects of peacekeeping and peacemaking, including efforts to resolve conflicts, restore democracy, promote disarmament, provide electoral assistance, facilitate post-conflict peace-building, engage in humanitarian activities to ensure the survival of groups deprived of basic needs and oversee the prosecution of persons responsible for serious violations of international humanitarian law.

(d) The Economic and Social Council plays a particular role in economic and social development, including a major oversight role in the efforts of other organizations of the United Nations system to address international economic, social and health problems.

(e) The International Court of Justice has jurisdiction over disputes between Member States brought before it for advisory opinions or binding resolutions.

(f) The Trusteeship Council completed its primary functions in 1994 with the termination of the Trusteeship Agreement for the last United Nations Trust Territory.

Note 2
Summary of significant accounting and financial reporting policies of the United Nations

(a) The accounts of the United Nations are maintained in accordance with the Financial Regulations and Rules of the United Nations as adopted by the General Assembly, the rules formulated by the Secretary-General as required under the regulations and administrative instructions issued by the Under-Secretary-General for Management or the Controller. They also take fully into account the United Nations system accounting standards, as adopted by the Administrative Committee on Coordination. The Organization follows international accounting standard 1 on the disclosure of accounting policies, as modified and adopted by the Committee, as follows:

(i) Going concern, consistency and accrual are fundamental accounting assumptions. Where fundamental accounting assumptions are followed in financial statements, the disclosure of such assumptions is not required. If a fundamental accounting assumption is not followed, that fact should be disclosed together with the reasons;

(ii) Prudence, substance over form and materiality should govern the selection and application of accounting policies;

(iii) Financial statements should include clear and concise disclosure of all significant accounting policies that have been used;

(iv) The disclosure of the significant accounting policies used should be an integral part of the financial statements. The policies should normally be disclosed in one place;

(v) Financial statements should show comparative figures for the corresponding period of the preceding financial period;

(vi) A change in an accounting policy that has a material effect in the current period or may have a material effect in subsequent periods should be disclosed together with the reasons. The effect of the change should, if material, be disclosed and quantified.

(b) The Organization's accounts are maintained on a fund accounting basis. Separate funds for general or special purposes may be established by the General Assembly, the Security Council or the Secretary-General. Each fund is maintained as a distinct financial and accounting entity with a separate self-balancing double-entry group of accounts. Separate financial statements are prepared for each fund or for a group of funds of the same nature.

(c) The financial period of the Organization is a biennium consisting of two consecutive calendar years for all funds other than peacekeeping accounts, which are reported on a fiscal year basis covering the period from 1 July to 30 June.

(d) Generally, income, expenditure, assets and liabilities are recognized on the accrual basis of accounting. For assessed income, the policy set out in paragraph (i) (ii) below applies.

(e) The accounts of the Organization are presented in United States dollars. Accounts maintained in other currencies are translated into United States dollars at the time of the transaction at rates of exchange established by the Under-Secretary-General for Management. In respect of such currencies, the financial statements, prepared at such intervals as may be prescribed by the Controller under delegation of authority from the Under-Secretary-General for Management, shall reflect the cash, investments, unpaid pledges and current accounts receivable and payable in currencies other than the United States dollar, translated at the applicable United Nations rate of exchange in effect as at the date of the statements. In the event that the application of an actual exchange rate as at the date of the statements would result in a valuation materially different from that which would result from the application of the Organization's rate of exchange for the last month of the financial period, a footnote will be provided quantifying the difference.

(f) The Organization's financial statements are prepared on the historical cost basis of accounting and are not adjusted to reflect the effects of changing prices for goods and services.

(g) The Organization's financial statements are presented in accordance with the ongoing recommendations of the Working Party on Accounting Standards of the Administrative Committee on Coordination.

(h) Separate financial statements are issued for the United Nations general and related funds, the United Nations escrow account, the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 under the provisions of Security Council resolutions 808 (1993) and 827 (1993), the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 under the provisions of Security Council resolution 955 (1994) and the peacekeeping accounts, which are reported separately on a fiscal year basis covering the period from 1 July to 30 June.

(i) Income:

(i) The amounts necessary to finance the activities of the United Nations regular budget, the peacekeeping operations, the International Tribunals for the Former Yugoslavia and Rwanda, the United Nations Mission in East Timor and the Working Capital Fund are assessed to Member States in accordance with the scale of assessments as determined by the General Assembly;

(ii) For purposes of the financial statements, income is recognized when assessments to Member States have been authorized by the General Assembly. Neither appropriations nor spending authorities are recognized as income except to the extent that a matching assessment on Member States has been levied;

(iii) Amounts assessed to non-member States that agree to reimburse the Tribunal for the cost of their participation in the Organization's treaty bodies, organs and conferences are credited to miscellaneous income;

(iv) Voluntary contributions from Member States and other donors are recorded as income on the basis of a written commitment to pay monetary contributions at specified times within the current financial period. In accordance with General Assembly resolution 44/192 A of 21 December 1989, voluntary contributions made in cash or in the form of services and supplies that are acceptable to the Secretary-General are credited to income or noted in the financial statements;

(v) Income received under inter-organizational arrangements represents allocations of funding from agencies to enable the Organization to administer projects or other programmes on their behalf;

(vi) Allocations from other funds represent monies appropriated or designated from one fund for the transfer to and disbursement from another fund;

(vii) Income for services rendered includes reimbursements for salaries of staff members and other costs that are attributable to the provision of technical and administrative support to other organizations;

(viii) Interest income includes all interest earned on deposits in various bank accounts and investment income earned on marketable securities and other negotiable instruments. All realized losses and net unrealized losses on short-term investments are offset against investment income;

(ix) Miscellaneous income includes income from the rental of premises, the sale of used or surplus property, refunds of expenditures charged to prior periods, income resulting from net gains resulting from currency translations, settlements of insurance claims, monies accepted for which no purpose was specified and other sundry income;

(x) Income relating to future financial periods is recorded as deferred income, as referred to in item (l) (iii) below.

(j) Expenditure:

(i) Expenditures are incurred against authorized allotments. Total expenditures reported include unliquidated obligations and disbursements;

(ii) Expenditures incurred for non-expendable property are charged to the budget of the period when acquired and are not capitalized. Inventory of such non-expendable property is maintained at the historical cost;

(iii) Expenditures for future financial periods are not charged to the current financial period but are recorded as deferred charges, as referred to in item (k) (v) below.

(k) Assets:

(i) Cash and term deposits comprise funds held in demand-deposit accounts and interest-bearing bank deposits;

(ii) Investments include marketable securities and other negotiable instruments acquired by the Organization to produce income. Short-term investments are stated at the lower of cost or market value; long-term investments are stated at cost. Cost is defined as the nominal value plus or minus any unamortized premium or discount. The market value of investments is disclosed in the footnotes of the financial statements;

(iii) The United Nations Headquarters cash pool comprises participating funds' share of the cash and term deposits, short-term and long-term investments and accrual of investment income, all of which are managed in the pool. The investments in the pool are similar in nature and are accounted for as stated in item (k) (ii) above. Income earned on the investments of the cash pool and the costs associated with the operation of those investments are allocated to the participating funds. The share in the cash pool is reported separately in each of the participating fund's statements. The composition of the cash pool is also disclosed in a footnote on the individual statements;

(iv) Assessed contributions represent legal obligations of contributors and, therefore, the balances of unpaid assessed contributions due from Member

States are reported irrespective of collectability. It is the policy of the United Nations not to make provision for delays in the collection of such assessments;

(v) Deferred charges normally comprise expenditure items that are not properly chargeable in the current financial period. They will be charged as expenditure in a subsequent period. These expenditure items include commitments approved by the Controller for future financial periods in accordance with financial rule 110.6. Such commitments are normally restricted to administrative requirements of a continuing nature and to contracts or legal obligations where long lead times are required for delivery;

(vi) For purposes of the balance sheet statements only, those portions of education grant advances that are assumed to pertain to the scholastic years completed as at the date of the financial statement are shown as deferred charges. The full amounts of the advances are maintained as accounts receivable from staff members until the required proofs of entitlement are produced, at which time the budgetary accounts are charged and the advances settled;

(vii) Maintenance and repairs of capital assets are charged against the appropriate budgetary accounts. Furniture, equipment, other non-expendable property and leasehold improvements are not included in the assets of the Organization. Acquisitions are charged against budgetary accounts in the year of purchase. The value of non-expendable property is recorded in memorandum accounts and is disclosed in the notes to the financial statements.

(l) Liabilities, reserves and fund balances:

(i) Operating and other types of reserves are included in the totals for reserves and fund balances shown in the financial statements;

(ii) Unliquidated obligations for future years are reported both as deferred charges and as unliquidated obligations;

(iii) Deferred income includes pledged contributions for future periods, advance sales realized under revenue-producing activities and other income received but not yet earned;

(iv) The commitments of the Organization relating to prior, current and future financial periods are shown as unliquidated obligations. Current period obligations related to the regular budget and special accounts remain valid for 12 months following the end of the biennium to which they relate. Obligations for most technical cooperation activities remain valid for 12 months after the end of each calendar year. Unliquidated obligations relating to amounts owed by peacekeeping operations to Member States may be retained for a period of five years beyond the end of the financial period. Unliquidated obligations relating to funds of a multi-year nature remain valid until the completion of the project;

(v) Contingent liability, if any, is disclosed in the notes to the financial statements;

(vi) The United Nations is a member organization of the United Nations Joint Staff Pension Fund, which was established by the General Assembly to provide retirement, death, disability and related benefits. The Pension Fund is a funded

defined-benefit plan. The financial obligation of the organization to the Fund consists of its mandated contribution at the rate established by the Assembly together with its share of any actuarial deficiency payments under article 26 of the Regulations of the Fund. Such deficiency payments are payable only if and when the Assembly has invoked article 26, following a determination that there is a requirement for deficiency payments based on an assessment of the actuarial sufficiency of the Fund as at the valuation date. As at the date of the current financial statement, the Assembly had not invoked that provision.

Note 3
International Tribunal for Rwanda (statements I-IV)

(a) The International Tribunal for Rwanda was established by the Security Council in its resolution 955 (1994). The Tribunal consists of the following organs:

(i) The Chambers, comprising three Trial Chambers composed of nine independent judges, no two of whom may be nationals of the same State, and an Appeals Chamber. The Appeals Chamber, which is composed of seven judges, services both the International Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia;

(ii) The Prosecutor, who is responsible for the investigation and prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such violations committed in the territory of neighbouring States between 1 January and 31 December 1994. The Prosecutor acts independently as a separate organ of the Tribunal;

(iii) A Registry, which services both the Chambers and the Prosecutor and is responsible for the administration and servicing of the Tribunal.

(b) The General Assembly, in its resolutions 54/240 and 55/226, approved the funding of the 2000-2001 budget appropriations. Annual budget appropriations are funded by assessments to Member States, 50 per cent in accordance with the scale of assessments applicable to the United Nations regular budget and 50 per cent in accordance with the scale of assessments applicable to peacekeeping operations. Although funds are appropriated on an annual basis, the financial statements for the Tribunal are prepared every six months in line with the financial reporting period for various other United Nations funds, with a final accounting at the end of the biennium.

(c) Statement I reports the income and expenditure and changes in the reserves and fund balances during the financial period. It includes the calculation of the excess of income over expenditure for the current period and prior-period adjustments of income or expenditure.

(d) Statement II shows the assets, liabilities, reserves and fund balances as at the end of the financial period. Excluded from the assets are capital assets and the value of furniture and equipment (see note 5 (e)).

(e) Statement III is the cash flow summary statement prepared using the indirect method in line with international accounting standard 7.

(f) Statement IV reports on expenditures against the appropriation approved for the biennium.

Note 4
Status of appropriations

In accordance with General Assembly resolutions 54/240 and 55/226, the appropriations and gross assessments for the biennium 2000-2001 are as follows (in thousands of United States dollars):

	2000	*2001*	*Total*
Budget appropriation	86 155	93 975	180 130
Less: Estimated unencumbered balance as at the end of 1999 after absorption of overexpenditure recorded as at the end of 1998			
Add: Estimated unencumbered balance for 1998-1999 that was taken into account and reduced from the assessment			
Less: Actual unencumbered balance for the biennium 1998-1999 as at 31 December 1999	-	(2 937)	(2 937)
Interest and other miscellaneous income for 1998-1999			
Estimated unencumbered balance from the appropriation			
Gross amount assessed to Member States	**84 155**	**86 134**	**170 289**

Note 5
Assets, liabilities, reserves and fund balances (statement II)

(a) The cash and term deposits figure shown, represents the total cash balance (including funds held in local currency) at United Nations Headquarters and at offices away from Headquarters.

(b) Assessed contributions unpaid:

(i) The assessed contributions receivable as at 31 December 2001 have been recorded in accordance with the Financial Regulations and Rules of the United Nations, the relevant resolutions of the General Assembly and the policy of the United Nations. Based on this policy, no provision has been made for delays in the collection of outstanding assessed contributions;

(ii) The report entitled status of contributions as at 31 December 2001 (ST/ADM/SER.B/585, annex XXIII), shows unpaid assessed contributions of $19,696,135. The unpaid assessed contributions from the former Yugoslavia amounting to $74,857 is excluded from that report, as the former Yugoslavia ceased to be a Member State on 1 November 2000. However, no action has been taken in the accounts as there is no specific General Assembly resolution on the matter. The remaining difference of $3 is due to rounding.

(c) Accounts receivable. The following is an analysis of the accounts receivable as at 31 December 2001 compared with those as at the end of 1999 (in millions of United States dollars):

Accounts receivable	*2001*	*1999*
Staff members	2.6	1.9
Vendors	0.3	0.2
Specialized agencies	0.1	0.1
Other United Nations entities	0.6	0.3
Total	**3.6**	**2.5**

(d) Inter-fund balances reflect transactions between the United Nations General Fund and other United Nations funds. Inter-fund indebtedness with the General Fund is not restricted to transactions carried out directly between the General Fund and the Tribunal account. Transactions between the Tribunal account and funds other than the General Fund are reported as indebtedness from the General Fund to the fund owed and indebtedness to the General Fund from the fund owing.

(e) Non-expendable property. In accordance with United Nations accounting policies, non-expendable property is charged against the current allotment in the year of purchase. The non-expendable property, valued at historical cost, according to the cumulative inventory records totalled $13.2 million as at 31 December 2001.

(f) Accounts payable. The following table provides a breakdown of the accounts payable balances as at 31 December 2001 compared with those as at the end of 1999 (in millions of United States dollars):

Accounts payable	*2001*	*1999*
Staff members	0.4	0.4
Vendors	0.3	1.0
Specialized agencies	0.3	0.4
Other United Nations entities	2.9	-
Provision for repatriation grant	-	0.2
Total	**3.9**	**2.0**

(g) Reserves and fund balances. The surplus account of the International Tribunal for Rwanda represents funds available for credit to Member States arising from unobligated balances of appropriations, savings in liquidation of prior-period obligations and other designated income. The balance in the surplus account at the end of the financial period will be offset against future assessments in accordance with the provisions of financial regulation 5.2 (d) unless the General Assembly decides otherwise.

Note 6
Liabilities for end-of-service and post-retirement benefits

(a) Staff members who separate from the International Tribunal for Rwanda are entitled to be paid for any unused vacation days they may have accrued up to a

maximum of 60 days. The total liability for such unpaid accrued vacation compensation as of 31 December 2001 is estimated to be $4.1 million.

(b) Some staff members are entitled to repatriation grants and payment of related relocation expenditures upon their separation from the Organization based on the number of years of service. The total liability for such unpaid repatriation and relocation entitlement as at 31 December 2001 is estimated to be $3.8 million.

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