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**Financing 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**

**Financing 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 2004-2005**

**Report of the Advisory Committee on Administrative and
Budgetary Questions**

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the budget for 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 2004-2005 (A/58/269). The Committee also considered the report on the supplementary estimates arising in respect of Security Council resolution 1503 (2003) on the creation of a new position of Prosecutor for the International Criminal Tribunal for Rwanda (A/58/368) and the comprehensive report on the progress made by the Tribunal in reforming its legal aid system (A/58/366). During its consideration of the reports, the Committee met with the newly appointed Prosecutor, the Registrar and other representatives of the

Tribunal and representatives of the Secretary-General, who provided additional information.

2. Subsequent to its consideration of the budget estimates of the Tribunal for 2004-2005 and the supplementary estimates arising in respect of Security Council resolution 1503 (2003), the Advisory Committee received the report of the Secretary-General on the revised estimates arising in respect of Security Council 1512 (2003) on the establishment of five additional ad litem judges in the Tribunal (A/58/550) (see paras. 33-43 below).

Completion strategy

3. The Advisory Committee notes that pursuant to the request of the General Assembly in its resolution 57/289 of 20 December 2002, the Tribunal has developed a completion strategy (see A/58/269, annex).

4. In this connection, the Advisory Committee notes the following:

- It is expected that by the end of the biennium 2002-2003 the Tribunal will have rendered 15 judgements involving 21 accused since the first trial was held, in 1997
- In addition to the 21 accused whose trials have either been completed or are at the closing stage, 41 detainees are engaged in or awaiting trial
- 10 persons are currently on trial, and 4 trials involving 10 accused will have started in the second half of 2003
- Trials involving the remaining 21 detainees will start in 2004 and later
- 17 indictees remain at large
- 3 cases were on appeal as at July 2003

5. The Advisory Committee further notes that it is expected that by July 2005 a maximum of 26 new indictments could result from ongoing investigations expected to be completed by the Office of the Prosecutor by the end of 2004. However, there will be fewer trials if all the persons are not found.

6. With four ad litem judges supplementing the trial chambers (from September onward), it is expected that the trials of the 41 detainees mentioned above could be completed by 2007. Trials of the indictees still at large, 17 at most, could be completed by 2009, and trials of the suspects not yet indicted, a maximum of 26, could be completed by 2011. However, the number of persons brought to trial will most probably be fewer than 43, so the trials could be completed earlier.

7. However, the Advisory Committee notes that the Tribunal's completion strategy was estimated on the basis of the trial capacity and number of judges as at September 2003 (see para. 18 below). As further indicated in the summary and conclusion of the completion strategy, the time frame for the completion of the Tribunal's mandate could be expedited if the number of ad litem judges allowed to sit at any one time were increased from four to nine and if they were allowed to adjudicate over pre-trial matters, which would require amendments to the Tribunal's statute (A/58/269, annex, para. 4).

8. The effect on the completion strategy of the increase in the number of ad litem judges approved by the Security Council in its resolution 1512 (2003) of 27 October 2003 is discussed in paragraphs 42 and 43 below.

Proposed budget for the biennium 2004-2005

9. The Advisory Committee welcomes the presentation of the budget of the Tribunal in a results-based format, as requested by the General Assembly in its resolution 57/289. The Registrar informed the Committee during its hearings that the budget proposal for the biennium 2004-2005 had been prepared primarily on the basis of the concept of and in the spirit of the completion strategy, the highlights of which were reflected in the logical framework developed in the context of the presentation in the results-based budgeting format.

10. The overall level of resources proposed for the Tribunal for the biennium 2004-2005 amounts to \$208,768,800 gross (\$187,272,900 net) before recosting, reflecting an increase of \$4,806,200 gross (\$4,402,200 net), or 2.4 per cent, over the 2002-2003 appropriation (see A/58/269, table 2). After recosting, estimated at \$26,408,300 gross (\$25,585,000 net), the proposed requirements for 2004-2005 amount to \$235,177,100 gross (\$212,857,900 net).

11. However, the decision of the Security Council to create the new position of Prosecutor of the Tribunal would entail an increase in the estimated resource requirements in the amount of \$3,971,700 gross (\$3,417,900 net), increasing the overall requirements for the Tribunal for 2004-2005 to \$239,148,800 gross (\$216,275,800 net) after recosting (see A/58/368, table 2, and paras. 21 and 23 below).

12. The Advisory Committee notes that the budget estimates for 2004-2005 were calculated on the basis of a projected exchange rate of 1,039 Tanzanian shillings to one United States dollar and 530 Rwanda francs to the dollar. The vacancy rates used are 16.5 per cent for Professional and 10.4 per cent for General Service staff.

13. Extrabudgetary resources projected for 2004-2005 amount to \$2,723,900, as compared with an estimated amount of \$2,368,600 for 2002-2003 (see A/58/269, table 2).

14. The Advisory Committee was informed of the delayed payment by several Member States of their assessed share of the approved budget of the Tribunal for 2002-2003. As a result of such delays, allotments to the Tribunal are issued in a piecemeal manner covering only two months at a time, and there is a need to cross-borrow. **The Committee reiterates the importance of ensuring the flow of funds in order to allow the Tribunal to carry out its activities and complete its mandate.**

15. The proposed staffing table for the period 2004-2005, as shown in the budget document, comprises 984 posts, reflecting the conversion of three posts (2 P-4 and 1 P-3) from temporary assistance resources to temporary posts for internal oversight services (see A/58/269, table 2 and para. 69).

16. However, as indicated in the report of the Secretary-General on supplementary estimates arising in respect of Security Council resolution 1503 (2003) (A/58/368, paras. 7-8), the appointment of a separate Prosecutor for the International Criminal

Tribunal for Rwanda and the establishment of an independent Appeals Unit will entail additional resources in terms of staffing and related costs related to a net increase of 13 posts. The staffing changes include seven additional posts in the Office of the Prosecutor and seven additional posts for the Appeals Unit, offset by the elimination of one Local level post. This would bring the total number of staff to 997 (394 Professional and 603 General Service) (see *ibid.*, table 3, and para. 23 below).

17. The Advisory Committee notes that, as at 31 August 2003, the Tribunal's vacancy rates were 20 per cent for Professional and 12 per cent for General Service staff. The Committee has referred to the issue of high vacancy rates in the past and the related difficulty of accurately determining requirements for additional personnel until the number of vacancies is considerably reduced (see A/56/666, para. 16). The Committee was informed that efforts and plans had been introduced to reduce the vacancy rates of the Tribunal for international and national staff. In this connection, the Committee notes that important posts such as Deputy Prosecutor, Chief of Investigations, Chief of Prosecutions and Chief of Evidence have been filled during the current biennium (see A/58/269, para. 9).

Chambers

18. The proposed budget for the Chambers for the biennium 2004-2005 amounts to \$7,212,100 gross before recosting, reflecting resource growth of \$2,203,000 or 44.0 per cent, as compared with the appropriation for 2002-2003 of \$5,009,100 (see *ibid.*, table 4). The provision includes an amount of \$6,756,400 for salaries and allowances for nine permanent trial judges, two appeals judges and the four ad litem judges established by the Security Council in its resolution 1431 (2002) and elected by the General Assembly in its decision 57/414 C of 25 June 2003.

19. The resource growth is due mostly to the delayed impact of the honorariums of the four new ad litem judges approved in 2003, the related common staff costs and retirement allowances in respect of four judges. The provision for salaries and allowances has been calculated on the basis of the terms and conditions of service set out in General Assembly resolutions 53/214 of 18 December 1998, 55/249 of 12 April 2001 and 56/285 of 27 June 2002. As indicated in the report of the Advisory Committee on the International Criminal Tribunal for the Former Yugoslavia (A/58/449, para. 16), the next comprehensive review of emoluments, pensions and other conditions of service of the judges will be undertaken during the fifty-ninth session of the General Assembly, and estimates may need to be adjusted in the light of decisions taken at that time. The provision also includes an amount of \$455,700 for travel, an increase of \$38,500.

Office of the Prosecutor

20. Resources for the Office of the Prosecutor for the biennium 2004-2005, as proposed in the budget document, amount to \$51,129,800 gross before recosting, a decrease of \$170,600, or 0.3 per cent, compared with the resources appropriated for 2002-2003 of \$51,300,400. The recosting of the budgetary provisions to 2004-2005 rates would increase them to \$60,347,000 gross (\$52,947,800 net).

21. The appointment of a separate Prosecutor of the International Criminal Tribunal for Rwanda will entail an increase in the estimated requirements for the Office of the Prosecutor in the amount of \$3,971,700 gross, thus increasing the

assessed budget requirements for the Office to \$64,318,700 gross at 2004-2005 rates (see A/58/368, para. 8 and table 2).

22. The proposed staffing requirements of the Office of the Prosecutor for 2004-2005, as shown in the budget document, reflect the continuation of 221 posts (175 Professional and 46 General Service). The net increase of \$444,500 for posts and of \$66,500 for staff assessment results from the delayed impact of 11 new posts approved for the biennium 2002-2003 (see A/58/269, table 6).

23. The supplementary estimates arising with respect to the creation of a new position of Prosecutor include a net addition of 13 posts for the Office of the Prosecutor. Seven additional posts relate to the immediate Office of the Prosecutor (1 Under-Secretary-General, 1 P-5, 2 P-4, 1 P-3, 1 General Service (Other level) and 1 Field Service), thus bringing the total number of posts in that Office to 10 (1 Under-Secretary-General, 1 D-2, 1 P-5, 2 P-4, 2 P-3, 2 General Service (Other level) and 1 Field Service). Additional resources of \$2,208,800 gross (\$1,882,400 net) are estimated. Seven additional posts are proposed for the Appeals Unit (2 P-4, 2 P-3, 2 P-2, 1 General Service (Other level)), offset by the elimination of one Local level post, which, combined with the 5 existing posts in the Appeals Unit, would bring the total number of posts there to 11 (1 P-5, 3 P-4, 3 P-3, 3 P-2, 1 General Service (Other level)). The additional related resources would amount to \$1,762,900 gross (\$1,535,500 net) (see A/58/368, paras. 7-8). **The Advisory Committee has no objection to this request.**

24. As indicated in paragraph 5 above, and in accordance with the completion strategy, it is expected that investigations could be concluded by the end of 2004. At the same time, preparatory work has been initiated in expectation of appeals being lodged. Moreover, it is anticipated that the number of potential appeals could increase during 2004-2005 from 10 to 25 (see A/58/269, para. 55).

25. The Advisory Committee notes the initiatives undertaken by the Office of the Prosecutor to alleviate the staffing situation, including the introduction of a new staff selection system, which is expected to decrease the high vacancy rate; internal redeployment; enhancement of the capabilities of the Information and Evidence Support Unit; and training of staff (see *ibid.*, para. 58). The Committee welcomes the in-depth assessment to be made as the investigation phase nears completion, which should lead to a determination of the number of posts to be abolished, redeployed or retained (see also A/58/449, para. 22). **The Committee looks forward to the results of this assessment.**

26. **The Advisory Committee concludes from the narratives on the budget and the completion strategy as well as its hearings that the number of accused still at large and yet to be arrested is very tentative, and that this uncertainty may affect the performance measures established for the Office of the Prosecutor (A/58/269, table 5).**

27. The Advisory Committee notes that 40 suspects have been identified whose prosecution could be referred to national jurisdiction for trial. However, for the International Criminal Tribunal for Rwanda, unlike the situation in the International Criminal Tribunal for the Former Yugoslavia, no procedures for such transfer have been established or have received the concurrence of the Security Council (see *ibid.*, para. 30).

Registry

28. The resource requirements for the Registry for the biennium 2004-2005 are estimated at \$150,426,900 gross (\$136,006,400 net) before recosting, an increase of \$2,773,800 gross (\$2,436,300 net), or 1.9 per cent, over the 2002-2003 appropriation of \$147,653,100 gross (\$133,570,100 net). Extrabudgetary resources are estimated at \$2,549,000 for 2004-2005, compared with \$2,216,600 for the biennium 2002-2003.

29. Resources of \$86,559,200 for posts provide for a staffing table comprising 763 posts (208 Professional and 555 General Service) (see *ibid.*, table 8). The increases of \$2,331,200 under post resources and \$337,500 under staff assessment compared with the 2002-2003 appropriation reflect the delayed impact of the 98 posts approved for 2002-2003 and the conversion of three posts (2 P-4 and 1 P-3) from general temporary assistance to temporary posts under internal oversight services (see para. 15 above). The proposed non-post resources of \$49,447,200 reflect an increase of \$105,100, before recosting, over the 2002-2003 appropriation.

30. The Advisory Committee notes increases of \$321,600 under travel of staff, in view of the increase in travel and related allowances for witnesses and the travel of staff in support of witnesses, and \$150,100 under general operating expenses, based on the pattern of expenditure and revised rental agreements. An amount of \$330,400 is included for the Tribunal's share in the coordination of United Nations security measures. A provision for the upgrading of prison facilities in third countries is also included (\$250,000). **The Advisory Committee is of the view that the use of these funds should be properly managed and closely monitored in order to ensure that convicted prisoners are housed and maintained in appropriate conditions.** The increases are offset by decreases of \$510,300 under furniture and equipment and \$384,400 under improvement of premises.

31. **The Advisory Committee stresses the need for continued close collaboration and coordination between the two Tribunals.** In this connection, the Committee notes the statement in the proposed budget that, with the substantial progress made in implementing the teleconferencing link with the International Criminal Tribunal for the Former Yugoslavia, it is anticipated that greater cooperation and exchange of information will be achieved in 2004-2005 (see *ibid.*, para. 65).

32. **The Advisory Committee welcomes the report on the progress made by the International Criminal Tribunal for Rwanda in reforming its legal aid system (A/58/366) and commends the course of action proposed. However, the Committee does not share the concern raised in the report as to the discriminatory effect of restricting the lists of lead counsel, co-counsel, legal assistants and investigators to persons who reside in Africa, or that all co-counsel, and legal assistants and investigators are from Africa (see *ibid.*, para. 42). The Committee is also of the view that the effect of implementing the recommendations on the cost of defence counsel is not yet clear, but that it is bound to be considerable. Information on progress made in that regard should be provided in future.**

Revised estimates arising in respect of Security Council resolution 1512 (2003)

33. The Security Council, in its resolution 1512 (2003) of 27 October 2003, increased the number of ad litem judges from four to nine and accordingly amended articles 11 and 12 quater of the statute of the International Criminal Tribunal for Rwanda, authorizing the use of a maximum of nine ad litem independent judges at any one time and giving them power to adjudicate in pre-trial proceedings.

34. The Advisory Committee was informed that the additional ad litem judges could come on board very quickly from the pool of 18 such judges elected by the General Assembly in its decision 57/414 C of 25 June 2003, pursuant to Security Council resolution 1431 (2002) of 14 August 2002.

35. The report of the Secretary-General (A/58/550) sets out the additional resource requirements for 2004-2005 arising from the establishment of five additional ad litem judges in the International Criminal Tribunal for Rwanda. The Advisory Committee notes that the revised estimates arising in respect of Security Council resolution 1512 (2003) would amount to \$12,239,600 gross (\$11,193,400 net), inclusive of 45 additional temporary posts and related costs. The overall requirements for the Tribunal for the biennium 2004-2005 would therefore amount to \$251,388,400 gross (\$227,469,200 net) at 2004-2005 rates.

36. An additional 45 posts are foreseen in connection with the five new ad litem judges, including 20 Professional (1 P-5, 6 P-4, 8 P-3, 5 P-2/1) and 25 General Service posts (10 General Service (Other level) and 15 Local level). The additional post-related resources amount to \$6,657,700 at 2004-2005 rates.

37. The Advisory Committee notes that the decision of the Security Council in its resolution 1512 (2003) entails an increase of \$2,445,100 in the estimated requirements for Chambers, for a total of \$9,789,600 at 2004-2005 rates. The Committee also notes that increase in the number of ad litem judges will change the number of trial chamber sections from four to six, thus increasing the trial capacity of the Tribunal and accelerating the completion strategy (see para. 42 below). The provision for salaries and allowances mentioned in paragraph 18 above would increase by \$2,400,100 at 2004-2005 rates to include the additional five ad litem judges.

38. The additional requirements for the Office of the Prosecutor would amount to \$1,897,400 gross, increasing the assessed budget requirements for the Office to \$66,216,100 at 2004-2005 rates. Six Professional posts are proposed to handle the anticipated heavier workload related to the increase in trial sessions to six per day, the need to strengthen major trials in progress and the need for support in bringing additional cases to trial. The additional posts include one P-5 for a senior trial attorney, two P-4s for trial attorneys and three P-3s for assistant trial attorneys.

39. The requirements for the Registry arising from Security Council resolution 1512 (2003) entail additional resources of \$7,897,100, bringing the total requirements to a total of \$175,382,700 gross at 2004-2005 rates. The Secretary-General is proposing an additional 14 Professional posts and 25 General Service posts (10 General Service (Other level) and 15 Local level). Seven Professional posts (2 P-3 and 5 P-2) and two General Service (Local level) posts are proposed for the Chambers Support Section. The two P-3 posts will coordinate each new

Chambers section, and the five P-2 posts will provide assistance to the judges by conducting research on jurisprudence of the Tribunal and general international legal issues. The General Service staff will provide secretarial support.

40. The Judicial and Legal Services Division is proposed to be strengthened with 19 General Service posts (10 General Service (Other level) and 9 Local level). The Language Services Section would be strengthened with seven Professional posts for interpreters and revisers (4 P-4 and 3 P-3) and one General Service (Local level) post for a court attendant. Three additional General Service (Local level) posts are proposed to provide administrative and support services in the Administrative Support Services Division.

41. The Advisory Committee recommends acceptance of the requests for posts referred to in paragraphs 38 to 40 above.

42. The Advisory Committee notes that the strengthening of the Tribunal's judicial capacity would most probably put the Tribunal in a position to complete all its trial activities very close to the end of 2008, the target set by the Security Council in its resolution 1503 (2003), instead of 2011 (see A/58/550, para. 2). Furthermore, the Committee notes the indication that increasing the number of ad litem judges to nine, at an additional cost of \$12 million per biennium, will allow the Tribunal to deliver its mandate in 2.5 bienniums (including 2004-2005) through 2008, at an estimated total cost of 628,471,000, as compared with the initial estimate of 4 bienniums (including 2004-2005) and total estimated resources of \$956,600,000 — hence the savings of \$328,124,200 (see *ibid.*, para. 5).

43. The Advisory Committee recommends that the completion strategy for the Tribunal be revised to take into account the decisions of the Security Council contained in its resolutions 1503 (2003) and 1512 (2003) (see paras. 3-8 above).

Conclusions and recommendations

44. The initial estimate proposed by the Secretary-General for 2004-2005 in respect of the International Criminal Tribunal for Rwanda amounts to \$235,177,100 gross (\$212,857,900 net). The additional requirements related to the decision contained in Security Council resolution 1503 (2003) on the establishment of a Prosecutor for the Tribunal increase the overall estimate by an amount of \$3,971,700 gross (\$3,417,900 net) to a total of \$239,148,800 gross (\$216,275,800 net). The additional requirements related to Council resolution 1512 (2003) increase the estimate for 2004-2005 by an amount of \$12,239,600 gross (\$11,193,400 net) to a total of \$251,388,400 gross (\$227,469,200 net) at 2004-2005 rates. **The Advisory Committee recommends approval of this amount.**
