United Nations A/60/573

General Assembly

Distr.: General
1 December 2005

Original: English

Sixtieth session
Agenda item 134
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

Second performance report of the International Criminal Tribunal for Rwanda for the biennium 2004-2005

Report of the Secretary-General*

Summary

The second performance report of the International Criminal Tribunal for Rwanda for the biennium 2004-2005 is submitted pursuant to resolution 59/273 of 23 December 2004. The report reflects a decrease in requirements of $3,307,300 gross ($3,875,900 net) as compared with the revised appropriation for the biennium 2004-2005. The reduction in requirements includes changes with respect to the combined effect of exchange rates and inflation ($1,285,100 gross ($1,088,000 net)) and decreases in post incumbency and other changes ($4,592,400 gross ($4,963,900 net)).

The General Assembly is requested to revise the appropriation for 2004-2005 to $252,602,200 gross ($227,630,600 net) for the Special Account for the International Criminal Tribunal for Rwanda.

* The report is being issued at the present time in order to reflect the latest data available following intensive consultations.

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I. Introduction

1. The purpose of the second performance report on the budget for the International Criminal Tribunal for Rwanda is to provide an estimate of the final level of resources required for the biennium. The estimate is based on actual expenditures for the first 20 months of the biennium, projected requirements for the last four months and changes in inflation and exchange rates and cost-of-living adjustments as compared with the assumption made in the first performance report (A/59/549), which was reviewed by the General Assembly at its fifty-ninth session and which formed the basis for the revised appropriation for the biennium 2004-2005.

2. The activities of the Tribunal are predominantly trial based, and most of the requirements are therefore linked to the pace of trial activities. However, owing to the slower than anticipated pace of trial activities in the biennium 2004-2005, various objects of expenditure reflect a lower than anticipated level of requirements.

II. Explanation of the changes in net expenditure requirements

3. The estimates proposed in the present report reflect a decrease of $3,307,300 gross ($3,875,900 net) as compared with the revised appropriation approved by the General Assembly in its resolution 59/273 of 23 December 2004. The distribution of the projected changes and the proposed final appropriation for the International Criminal Tribunal for Rwanda for the biennium 2004-2005 are set out in tables 1 and 2.

Table 1
Estimated final requirements by component and main determining factor
(Thousands of United States dollars)

		Projected changes				
Component	*Revised 2004-2005 appropriation*	*Rate of exchange*	*Inflation*	*Post incumbency and other changes*	*Total*	*Proposed 2004-2005 final appropriation*
Expenditure						
Chambers	9 657.1	(26.1)	(4.2)	(1 140.1)	(1 170.4)	8 486.7
Office of the Prosecutor	70 212.3	86.9	534.2	(7 097.3)	(6 476.2)	63 736.1
Registry	176 040.1	(928.5)	1 622.8	3 645.0	4 339.3	180 379.4
Total expenditure (gross)	**255 909.5**	**(867.7)**	**2 152.8**	**(4 592.4)**	**(3 307.3)**	**252 602.2**
Income						
Staff assessment	24 403.0	(17.5)	214.6	371.5	568.6	24 971.6
Total requirements (net)	**231 506.5**	**(850.2)**	**1 938.2**	**(4 963.9)**	**(3 875.9)**	**227 630.6**

Table 2
Projected expenditures by object of expenditure and main determining factor
(Thousands of United States dollars)

Object of expenditure	*Revised 2004-2005 appropriation*	*Projected changes*				*Proposed 2004-2005 final appropriation*
		Rate of exchange	*Inflation*	*Post incumbency and other changes*	*Total*	
Expenditure						
Posts	171 214.0	(355.2)	2 044.4	(6 932.2)	(5 243.0)	165 971.0
Other staff costs	4 325.6	(43.1)	(15.4)	698.1	639.6	4 965.2
Salaries and allowances of judges	9 135.1	(26.1)	(9.4)	(998.4)	(1 033.9)	8 101.2
Consultants and experts	609.0	0.4	2.7	—	3.1	612.1
Travel of representatives	522.0	—	5.2	(141.7)	(136.5)	385.5
Travel	5 410.7	—	58.9	—	58.9	5 469.6
Contractual services	21 000.4	(234.4)	(83.6)	1 530.1	1 212.1	22 212.5
General operating expenses	11 133.9	(110.8)	(35.9)	(395.6)	(542.3)	10 591.6
Hospitality	6.4	—	—	—	—	6.4
Supplies and materials	2 666.5	(32.6)	(11.5)	—	(44.1)	2 622.4
Furniture and equipment	3 598.3	(46.8)	(16.7)	—	(63.5)	3 534.8
Improvement of premises	454.3	(1.6)	(0.5)	299.8	297.7	752.0
Grants and contributions	1 430.3	—	—	976.0	976.0	2 406.3
Staff assessment	24 403.0	(17.5)	214.6	371.5	568.6	24 971.6
Total expenditure (gross)	**255 909.5**	**(867.7)**	**2 152.8**	**(4 592.4)**	**(3 307.3)**	**252 602.2**
Income						
Staff assessment	24 403.0	(17.5)	214.6	371.5	568.6	24 971.6
Total requirements (net)	**231 506.5**	**(850.2)**	**1 938.2**	**(4 963.9)**	**(3 875.9)**	**227 630.6**

A. Variations in budgetary assumptions

Rates of exchange and inflation (increase: $1,285,100)

4. The increase in this category is attributable to the impact of changes in inflation ($2,152,800), offset by the favourable rate of exchange ($867,700) of the United States dollar, primarily against the Tanzanian shilling and the Rwanda franc, during the period from January to November 2005 and the application of the November exchange rate for December 2005. With regard to inflation, the adjustments are based on the latest information available on consumer price indices as well as adjustments resulting from differences in actual post adjustment indices for staff in the Professional category and above and actual cost-of-living adjustments of salary scales for staff in the General Service and related categories compared with the assumptions made in the revised appropriations.

B. Other requirements

Chambers

Table 3
Projected expenditures by object of expenditure and main determining factor
(Thousands of United States dollars)

Object of expenditure	*Revised 2004-2005 appropriation*	*Projected changes*				*Proposed 2004-2005 final appropriation*
		Rate of exchange	*Inflation*	*Post incumbency and other changes*	*Total*	
Salaries and allowances of judges	9 135.1	(26.1)	(9.4)	(998.4)	(1 033.9)	8 101.2
Travel of representatives	522.0	—	5.2	(141.7)	(136.5)	385.5
Total requirements	**9 657.1**	**(26.1)**	**(4.2)**	**(1 140.1)**	**(1 170.4)**	**8 486.7**

Salaries and allowances of judges (decrease: $998,400)

5. The decreased requirements under this heading are attributable mainly to lower actual requirements under common staff costs arising from a lower than anticipated number of dependants per judge, which resulted in reductions in the amount of $789,500 as well as reductions in the amount of $410,500 under honorariums, owing to: (a) delays in the appointment of five additional ad litem judges during 2004 and (b) a gap of approximately two months between the departure of one judge and his replacement. Those decreases are partially offset by additional requirements for salaries of judges ($201,600) resulting from the decision of the General Assembly in its resolution 59/282 to increase the annual salary of judges and ad litem judges of the Tribunals by 6.3 per cent effective 1 January 2005.

Travel of representatives (decrease: $141,700)

6. The reduction in travel requirements can be attributed to measures, including videoconference links between Arusha and The Hague, which have resulted in decreased requirements for travel of judges to attend meetings with judges of the International Tribunal for the Former Yugoslavia. In addition, the decreased requirements reflect the decision taken by the President to travel unaccompanied.

Office of the Prosecutor

Table 4
Projected expenditures by object of expenditure and main determining factor
(Thousands of United States dollars)

Object of expenditure	*Revised 2004-2005 appropriation*	*Projected changes*				*Proposed 2004-2005 final appropriation*
		Rate of exchange	*Inflation*	*Post incumbency and other changes*	*Total*	
Expenditure						
Posts	57 839.3	73.2	416.8	(6 741.7)	(6 251.7)	51 587.6
Consultants and experts	388.6	3.9	3.9	—	7.8	396.4
Travel	3 284.9	—	34.8	—	34.8	3 319.7
General operating expenses	334.0	7.0	6.2	(10.9)	2.3	336.3
Staff assessment	8 365.5	2.8	72.5	(344.7)	(269.4)	8 096.1
Total expenditure (gross)	**70 212.3**	**86.9**	**534.2**	**(7 097.3)**	**(6 476.2)**	**63 736.1**
Income						
Staff assessment	8 365.5	2.8	72.5	(344.7)	(269.4)	8 096.1
Total requirements (net)	**61 846.8**	**84.1**	**461.7**	**(6 752.6)**	**(6 206.8)**	**55 640.0**

Posts (decrease: $6,741,700)

7. The decrease under this heading is caused by the combined effect of reductions in salaries ($1,215,300) and common staff costs ($5,526,400). Consistently higher than standard vacancy rates have been experienced by the Office of the Prosecutor during the biennium 2004-2005. During 2004, the average vacancy rates were 19.2 per cent for Professional posts and 9.9 per cent for General Service posts, compared with the budgetary assumptions of 15.1 per cent and 8.9 per cent respectively. During the period from January to August 2005, average vacancy rates were 22.1 per cent for Professional posts and 16.9 per cent for General Service posts. At the time of the preparation of the present report, a total of 37 posts (33 Professional and 4 General Service) remained unencumbered, reflecting actual vacancy rates of 17.2 per cent and 8.3 per cent for Professional and General Service posts respectively. Furthermore, the reductions under common staff costs reflect both the realized vacancy rates described above and the lower than budgeted actual rate of common staff costs ($5,526,400).

8. Provisions under staff assessment amount to $8,096,100, reflecting a net decrease of $269,400, which is offset under income from staff assessment.

Registry

Table 5
Projected expenditures by object of expenditure and main determining factor
(Thousands of United States dollars)

Object of expenditure	*Revised 2004-2005 appropriation*	*Projected changes*				*Proposed 2004-2005 final appropriation*
		Rate of exchange	*Inflation*	*Post incumbency and other changes*	*Total*	
Expenditure						
Posts	113 374.7	(428.4)	1 627.6	(190.5)	1 008.7	114 383.4
Other staff costs	4 325.6	(43.1)	(15.4)	698.1	639.6	4 965.2
Consultants and experts	220.4	(3.5)	(1.2)	—	(4.7)	215.7
Travel	2 125.8	—	24.1	—	24.1	2 149.9
Contractual services	21 000.4	(234.4)	(83.6)	1 530.1	1 212.1	22 212.5
General operating expenses	10 799.9	(117.8)	(42.1)	(384.7)	(544.6)	10 255.3
Hospitality	6.4	—	—	—	—	6.4
Supplies and materials	2 666.5	(32.6)	(11.5)	—	(44.1)	2 622.4
Furniture and equipment	3 598.3	(46.8)	(16.7)	—	(63.5)	3 534.8
Improvement of premises	454.3	(1.6)	(0.5)	299.8	297.7	752.0
Grants and contributions	1 430.3	—	—	976.0	976.0	2 406.3
Staff assessment	16 037.5	(20.3)	142.1	716.2	838.0	16 875.5
Total expenditure (gross)	**176 040.1**	**(928.5)**	**1 622.8**	**3 645.0**	**4 339.3**	**180 379.4**
Income						
Staff assessment	16 037.5	(20.3)	142.1	716.2	838.0	16 875.5
Total requirements (net)	**160 002.6**	**(908.2)**	**1 480.7**	**2 928.8**	**3 501.3**	**163 503.9**

Posts (decrease: $190,500)

9. The decrease under this heading is attributable to reduced requirements under common staff costs arising from lower actual common staff costs than projected ($2,795,700) offset by increased requirements under salaries ($2,605,200) owing to the lower than budgeted vacancy rate realized for the Professional category. The budgetary assumptions included a vacancy rate of 15.1 per cent for the Professional category and above and 8.9 per cent for the General Service and related categories. During 2004, the average vacancy rates experienced by the Registry were 12.2 per cent for the Professional category and 9.1 per cent for General Service category. For the period from January to August 2005, the average vacancy rates were 11.7 per cent for the Professional category and 9.5 per cent for the General Service category, resulting in increased requirements under this heading. At the time of the preparation of the present report, a total of 67 posts (22 Professional and 45 General Service) remained unencumbered, reflecting actual vacancy rates of 9.9 per cent for Professional posts and 7.8 per cent for General Service posts.

10. Provisions under staff assessment amount to $16,875,500, reflecting a net increase of $838,000, which is offset under income from staff assessment.

Other staff costs (increase: $698,100)

11. The increase in requirements is attributed to general temporary assistance with respect to additional support provided in respect of core judicial and legal activities, including language assistance provided to the Investigations and Prosecution Division of the Office of the Prosecutor; secretarial assistance provided to the judges; court reporters for the Court Management Section; transcript redactors and witness support assistants for the Witnesses and Victims Support Section; and library assistants for the Legal Library and Reference Unit ($498,100). The increased requirements also reflect the establishment of 32 additional General Service (Local level) positions required for strengthening the security and safety of the Tribunal's staff and premises ($200,000). It is recalled that the General Assembly, in its resolution 58/295, endorsed the recommendations of the Advisory Committee on Administrative and Budgetary Questions, including its recommendation that the requested provision for general temporary assistance be accommodated within the budget of the Tribunal and included in the performance report (A/58/758, para. 18).

Contractual services (increase: $1,530,100)

12. The net increase in resources primarily reflects additional requirements for defence counsel fees ($1,492,300) owing to the higher than estimated number of hours to be booked for the pre-trial and trial stages required in some of the multiple-accused cases. The increase also relates to higher than estimated external audit costs ($75,300) partially offset by decreased requirements under other contractual services ($37,500), including Internet services, medical consultants and contractual security services.

General operating expenses (decrease: $384,700)

13. The net decrease in resource requirements in this category results mainly from reductions under communication costs ($295,100) arising from cost-efficiency measures implemented by the Tribunal during the biennium 2004-2005, including streamlining of telephone and telecommunications usage and the introduction of an electronic telephone billing system. The decreased requirements also reflect lower than projected requirements under: (a) rental and maintenance of premises ($56,000); (b) miscellaneous services ($5,400); (c) freight-related costs ($36,500); and (d) third-party liability insurance ($16,300). The decrease is offset by increased requirements under rental and operation of a fixed-wing aircraft related to higher landing fees and ground handling charges at both the Kigali and Arusha airports ($18,700), utilities ($1,400), maintenance of furniture and equipment ($800) and bank charges ($3,700).

Improvement of premises (increase: $299,800)

14. The increase relates primarily to the implementation of projects for enhancing security arrangements at Tribunal headquarters and the United Nations Detention Facility. These projects include: (a) construction of concrete stubs, which are being installed along the perimeter fence of the Detention Facility to prevent direct

penetration by vehicles into the compound; (b) construction of high-speed bumps to deter any vehicular suicide attack along the main entrance to the Facility; (c) upgrading of the Arusha International Conference Centre to include the construction of concrete stub columns, the erection of barriers and motorized steel gates and the construction of speed bumps at main entry points, together with heightening of the main concrete wall along the main boulevard entrance; and (d) installation of a closed-circuit television surveillance system at headquarters. It is recalled that the General Assembly, in its resolution 58/295, endorsed the recommendations of the Advisory Committee on Administrative and Budgetary Questions with respect to strengthening the security and safety of United Nations operations, staff and premises. The Committee had recommended that the provision for alteration and improvement of existing premises and security structures for the Tribunal be accommodated within the budget of the Tribunal and included in the performance report (A/58/758, para. 28).

Grants and contributions (increase: $976,000)

15. The increase relates primarily to increased requirements for the coordination of United Nations security measures, including charges for malicious act insurance ($1,146,000). The increase is partially offset by reduced requirements ($170,000) for the operations of the United Nations medical clinic at Kigali following the downsizing of the Kigali office.

III. Conclusion

16. **The General Assembly is requested to take note of the present report and to approve the revised appropriation for the biennium 2004-2005 of $252,602,200 gross ($227,630,600 net) for the Special Account for the International Criminal Tribunal for Rwanda.**

Annex I

Budgetary assumptions

The following parameters were used in formulating the present proposed estimates for the final appropriation:

	Duty station											
	The Hague (euro to US$ 1)				*Arusha (Tanzania shilling to US$ 1)*				*Kigali (Rwanda franc to US$ 1)*			
	Estimates used for the revised appropriation		*Proposed estimates for the final appropriation*		*Estimates used for the revised appropriation*		*Proposed estimates for the final appropriation*		*Estimates used for the revised appropriation*		*Proposed estimates for the final appropriation*	
Budget parameters	*2004*	*2005*	*2004*	*2005*	*2004*	*2005*	*2004*	*2005*	*2004*	*2005*	*2004*	*2005*
Rate of exchange	0.82	0.82	0.81	0.80	1 094.38	1 094.38	1 093.46	1 117.83	575.92	575.92	574.43	558.00
Inflation rate (percentage)	1.4	1.5	1.2	1.6	9.8	4.4	5.4	4.0	10.9	7.0	9.5	9.0
Post adjustment multiplier (percentage)	44.3	45.0	45.4	46.3	30.8	35.3	30.8	35.9	30.7	36.7	30.8	35.4

Annex II

Trial activities during 2004-2005

1. From 1 July 2004 to 30 June 2005, trial chambers of the International Criminal Tribunal for Rwanda delivered three trial judgements involving three accused (Ndindabahizi, Rutaganira and Muhimana) and commenced five trials involving seven accused.

2. On 15 July 2004, Emmanuel Ndindabahizi, a former Minister of Finance, was unanimously convicted of genocide and crimes against humanity (extermination and murder) and sentenced to imprisonment for the remainder of his life. This trial lasted for 29 days and judgement was rendered ten and a half months after its commencement.

3. On 8 December 2004, Vincent Rutaganira, a *conseiller*, pleaded guilty to crimes against humanity (extermination). The Chamber accepted his guilty plea and on 14 March 2005 sentenced the accused to six years' imprisonment.

4. On 28 April 2005, Mikaeli Muhimana, a *conseiller*, was convicted of genocide and crimes against humanity (murder and rape) and sentenced to imprisonment for the remainder of his life. The trial in this case, which commenced on 29 March 2004, closed on 20 January 2005, following 34 trial days.

5. Consequently, 19 judgements involving 25 accused have been delivered since the first trial commenced in January 1997. This brings the total number of persons whose trials have either been completed or are in progress to 50.

6. In addition to the 25 accused whose trials were completed in this period, 25 detainees in the United Nations Detention Facility in Arusha were involved in nine trials. Five of those trials were multiple-accused cases: the Butare case (six accused), the Military I case (four accused), the Government case (four accused), the Military II case (four accused) and the Karemera et al. case (three accused). Four single-accused cases also commenced during this period (the Seromba, Simba, Muvunyi, Rwamakuba and Rutaganira cases). Judgement in the latter case was rendered on 14 March 2005 and judgement in the Simba case is expected later this year.

7. Sixteen detainees were awaiting the commencement of their trials as at 30 June 2005. Their trials will commence as soon as courtroom capacity allows. Fourteen indictees remained at large, with indictments against eight remaining suspects being submitted for confirmation during the same period.

8. A fourth courtroom was inaugurated on 1 March 2005, financed through voluntary contributions. As was the case previously, only three courtrooms were available for nine ongoing trials; this additional courtroom has facilitated steady progress in all ongoing cases and is an important element of the Tribunal's completion strategy.

9. The same period saw a significant increase in the workload of the Appeals Chamber. The Appeals Chamber delivered four judgements on appeals on the merits in respect of five persons between 1 July 2004 and 30 June 2005 (the Niyitegeka, Ntakirutimana, Semanza and Kajelijeli judgements). Appeals of trial judgements in a further six cases (involving 10 convicted persons), 28 interlocutory appeals and

one application for review of a trial judgement were also received by the Appeals Chamber during this period.

10. The Office of the Prosecutor, having reduced the number of future investigative targets to 26 in the period 2003-2004, further reduced them to 16 in 2004-2005. This reduction was done on the basis of a further review of the Office of the Prosecutor cases in December 2003 and February 2004, which indicated that, owing to the lack of sufficient evidence implicating them in criminal conduct, some of the targets would not be pursued further. The Prosecutor completed the investigation of the 16 targets by the end of 2004. During 2005, the Prosecutor indicted eight targets as a result of those investigations. There was insufficient evidence to implicate the other eight targets, and they were therefore not indicted. Out of the 40 suspects whose cases he identified for deferral to national jurisdictions for trial, the Prosecutor has transferred to the Government of Rwanda 25 dossiers of partly investigated cases of suspects who have not been indicted by the Tribunal. He intends to transfer 10 additional dossiers to the Government before the end of 2005. During the period 2004-2005, the Office of the Prosecutor presented the following trials/cases to the various trial chambers: Butare (six accused, ongoing), Military I (four accused, ongoing), Government II (four accused, ongoing), Government I (four accused, nullified in September 2004 and resumed in October 2005 as Karemera with three accused; now ongoing), Military II (four accused, ongoing), Gacumbitsi (one accused, completed), Ndindabahizi (one accused, completed), Muhimana (one accused, completed), Rutaganira (one accused, completed), Seromba (one accused, ongoing), Simba (one accused, awaiting judgement), Rwamakuba (one accused, ongoing), Mpambara (one accused, ongoing) and Zigiranyirazo (one accused, ongoing).

11. To date, the Tribunal has concluded agreements with six countries on enforcement of the sentences of the Tribunal. Three of them were concluded with African countries (Benin, Mali and Swaziland) and the other three with European countries (France, Italy and Sweden). Negotiations are under way with other States to secure similar agreements.

Annex III

Voluntary contributions and trust fund activities

1. The General Assembly, in its resolution 49/251 of 20 July 1995, invited Member States and other interested parties to make voluntary contributions to the Tribunal both in cash and in the form of services and supplies acceptable to the Secretary-General.

2. To date, cash contributions to the Voluntary Fund to support the activities of the International Criminal Tribunal for Rwanda amount to $10,230,665. The details are provided in the table below.

Cash contributions to the Voluntary Fund as at 31 October 2005

(United States dollars)

Contributor	*Total amount*
Belgium	2 705 450
Canada	734 850
Chile	1 000
Czech Republic	20 000
Denmark	43 452
Egypt	11 000
Finland	550 560
Greece	20 000
Ireland	237 704
Israel	7 500
Lebanon	3 000
Netherlands	2 995 531
New Zealand	34 792
Norway	349 983
Spain	150 000
Sweden	68 729
Switzerland	188 025
United Kingdom of Great Britain and Northern Ireland	572 000
United States of America	356 000
Holy See	3 000
European Community	1 107 370
Ford Foundation	20 000
Law Foundation of Toronto	10 719
Open Society Institute	40 000
Total	**10 230 665**

3. Projected expenditures for the biennium 2004-2005 are set out in the table below. The variance between the initial and revised estimates is due to the lower rate of implementation with regards to the outreach programme. The overall level of resources of the Fund as at 31 October 2005 was $2,741,100.

Projected expenditures by object of expenditure

(Thousands of United States dollars)

Object of expenditure	*2004-2005 estimate*	*2004-2005 revised estimate*	*Increase (decrease)*
Posts	—	—	—
Other staff costs	424.8	546.2	121.4
Consultants and experts	161.0	131.3	(29.7)
Travel	398.3	370.6	(27.7)
Contractual services	579.7	482.9	(96.8)
General operating expenses	44.7	54.0	9.3
Supplies and materials	290.4	261.4	(29.0)
Furniture and equipment	327.3	153.0	(174.3)
Improvement of premises	179.3	179.3	—
Fellowships, grants and contributions	436.4	434.9	(1.5)
Other	84.2	82.9	(1.3)
Total	**2 926.1**	**2 696.5**	**(229.6)**