



General Assembly

Distr.: General
10 May 2006

Original: English

Sixtieth session

Agenda item 135

**Financing of 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**

Revised estimates arising in respect of Security Council resolution 1660 (2006) on the appointment of reserve judges at the International Tribunal for the Former Yugoslavia

Report of the Secretary-General

Summary

By its resolution 1660 (2006) of 28 February 2006, the Security Council decided to amend articles 12 and 13 quater of the Statute of the International Tribunal for the Former Yugoslavia thereby authorizing the Secretary-General, at the request of the President of the International Tribunal, to appoint reserve judges from among the ad litem judges elected in accordance with article 13 ter, to be present at each stage of a trial to which they have been appointed and to replace a judge if that judge is unable to continue sitting.

In the light of the above decision, it is estimated that additional requirements in connection with the appointment of up to three reserve judges at the International Tribunal for the Former Yugoslavia for the biennium 2006-2007 would amount to \$896,600. Every effort will be made to meet these additional requirements within the current appropriation, and the actual expenditures will be reported in the context of the second performance report for the biennium 2006-2007.

I. Introduction

1. In his memorandum of 18 January 2006 to the Security Council Working Group on the Tribunals, the President of the International Tribunal for the Former Yugoslavia submitted for the consideration of the Working Group a proposal on the appointment of additional judges at the Tribunal and requested the Security Council to amend the Statute of the Tribunal so that the Secretary-General, at the request of the President, could authorize the appointment of reserve judges from among the ad litem judges elected in accordance with article 13 ter, to be present at each stage of a trial to which they have been appointed and to replace a judge if that judge is unable to continue sitting.

2. By its resolution 1660 (2006), the Security Council decided to amend articles 12 and 13 quater of the Statute of the International Tribunal for the Former Yugoslavia, thereby authorizing the Secretary-General, at the request of the President, to appoint reserve judges from among the ad litem judges to specific trials.

3. Pursuant to that decision, it is anticipated that during the biennium 2006-2007 up to three reserve judges will be appointed at the request of the President of the Tribunal to be present in court at each stage of the proceedings and to replace any of the other judges, should they be unable to continue sitting. The introduction of reserve judges will require additional resources in terms of compensation to judges, including salaries and allowances.

4. It is also noted that, by its resolution 60/243, the General Assembly decided to appropriate to the Special Account for the International Tribunal for the Former Yugoslavia a total amount of \$305,137,300 gross (\$278,559,400 net) for the biennium 2006-2007.

II. Proposals for the establishment of reserve judges

5. Under existing rule 15 bis of the Rules of Procedure and Evidence of the Tribunal, if two of the original judges assigned to a case are not in a position to be present during the entire proceedings, the trial must restart from the beginning. With the advent of the trials of multiple accused due to commence during 2006, it was determined that the potential risk to the Tribunal of having major and lengthy trials delayed owing to the unavailability of two judges would warrant the creation of a pool of reserve judges. The new reserve judges will be assigned to one of the multiple accused trials, be present at each stage of the proceedings and be ready to step in should one of the original judges not be able to finish the case, thus preventing disruption to the proceedings or a retrial. It was against that backdrop that Security Council resolution 1660 (2006) was adopted.

6. Following adoption of Security Council resolution 1660 (2006), by which articles 12 and 13 quater of the Statute of the International Tribunal for the Former Yugoslavia were amended, the Chambers shall be composed of: (a) 16 permanent independent judges, no two of whom may be nationals of the same State, and (b) a maximum at any one time of 12 ad litem independent judges appointed in accordance with article 13 ter, paragraph 2, of the Statute, no two of whom may be nationals of the same State. This represents an increase in the number of ad litem judges by three. Further, under the terms of paragraph 5 of article 12, the Secretary-

General may, at the request of the President of the International Tribunal, appoint, from among the ad litem judges elected in accordance with article 13 ter, reserve judges to be present at each stage of a trial to which they have been appointed and to replace a judge if that judge is unable to continue sitting.

7. In addition, with regard to the status of ad litem judges, the amended article 13 quater provides that an ad litem judge who is serving as a reserve judge shall, during such time as he or she so serves: (a) benefit from the same terms and conditions of service *mutatis mutandis* as the permanent judges of the International Tribunal; (b) enjoy the privileges and immunities, exemptions and facilities of a judge of the International Tribunal; and (c) enjoy the power to adjudicate in pre-trial proceedings in cases other than those that they have been appointed to try and for that purpose to enjoy, subject to paragraph 2 of article 13 quater, the same powers as permanent judges.

III. Additional resource requirements

8. In terms of the level of resources appropriated under the Chambers for the biennium 2006-2007, it would be recalled that under the terms set out under the then applicable article 12 of the Statute of the International Tribunal, entitled “Composition of chambers”, the Chambers should be composed of a total of 25 judges, including 16 permanent judges and 9 ad litem judges. Bearing in mind that two of the Appeals Judges are budgeted under the International Criminal Tribunal for Rwanda, the level of resources for the biennium 2006-2007 was formulated and subsequently appropriated for the remainder 23 judges.

Composition of the Chambers

	<i>Number of judges</i>		<i>Total</i>
	<i>Existing</i>	<i>S/RES/1660 (2006)</i>	
Permanent judges ^a	16	—	16
Ad litem judges	9	—	9
New reserve judges	—	3	3
Total judges	25	3	28

^a Includes two Appeals Judges budgeted under the International Criminal Tribunal for Rwanda.

9. The introduction of three reserve judges during the biennium 2006-2007 will require additional resources to cover compensation to judges. On 25 April 2006, Judge Antoine Mindua, of the Democratic Republic of the Congo, was sworn in as the first reserve judge in the history of the Tribunal. It is expected that the remaining two reserve judges will be appointed in July 2006.

10. The additional resource requirements for the three reserve judges would amount to \$896,600. The provision includes compensation to reserve judges as follows: (a) judges’ salaries (\$807,800) based upon 57 work months (one reserve judge as from April 2006 and the remaining two reserve judges from July 2006); and (b) common costs of judges (\$88,800) to cover relocation and installation

allowances for all three reserve judges. Regarding other requirements, including, inter alia, office space, equipment and legal and secretarial support for the reserve judges, the Tribunal anticipates that these requirements could be met from the Tribunal's existing resources.

IV. Conclusion

11. In implementing the decision contained in Security Council resolution 1660 (2006), it is estimated that for the biennium 2006-2007 additional resources in the amount of \$896,600 would be required for the appointment, at the request of the President of the International Tribunal for the Former Yugoslavia, of three reserve judges who will be present in court at each stage of the proceedings and will replace any of the other judges should they become unable to continue sitting. Every effort will be made to meet the additional requirements within the current appropriation, and the actual costs will be reported in the context of the second performance report for the biennium 2006-2007.

12. The General Assembly may wish to:

- (a) Take note of the present report;
 - (b) Request the Secretary-General to report on any additional requirements arising from the appointment of the three reserve judges in the context of the second performance report for the biennium 2006-2007.
-