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Fifth Committee**Summary record of the 35th meeting**

Held at Headquarters, New York, on Wednesday, 6 December 2000, at 3 p.m.

Chairman: Mr. Rosenthal (Guatemala)
*Chairman of the Advisory Committee on Administrative
and Budgetary Questions:* Mr. Mselle

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The meeting was called to order at 3.20 p.m.

Agenda item 127: 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 (A/54/120; A/55/5/Add.12, A/55/517 and Add.1, A/55/623 and A/55/642)

Agenda item 128: 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 (A/52/784; A/55/5/Add.11, A/55/512 and Corr.1 and Add.1, A/55/622 and A/55/643)

1. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions) introduced the reports of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) on the financing of the International Tribunal for the Former Yugoslavia (A/55/642) and on the financing of the International Criminal Tribunal for Rwanda (A/55/643). The resources proposed by the Secretary-General for the International Tribunal for the Former Yugoslavia for 2001 amounted to \$112.5 million, while his estimates for the International Criminal Tribunal for Rwanda for 2001 amounted to \$95.1 million. Those estimates reflected increases of 89 and 81 posts respectively. The estimates were the first to be produced since the issuance of the report of the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/54/634). The effect of the implementation of the Expert Group's recommendations had not yet been systematically evaluated. The Advisory Committee emphasized that a comprehensive report on the matter should be submitted to the General Assembly at its fifty-sixth session. It also reiterated its view that before requests were made for additional resources, the Tribunals should produce evidence of increased productivity and efficiency.

2. The International Criminal Tribunal for Rwanda must address more vigorously the continuing serious problem of filling vacant posts. In that connection, the Advisory Committee requested the modification of the current practice of giving one-year contracts to the Tribunal's staff. While some progress had been made, more needed to be done in both Tribunals to enhance the management of legal aid and to guard against unwarranted claims. It was not clear whether the International Criminal Tribunal for Rwanda had begun to think of an exit strategy; more resources might be required to expedite the work of the Tribunals in the context of a planned exit strategy, which would be less costly to Member States in the long term. The United Nations should begin to explore various options for dealing with the emerging problem of the enforcement of sentences, particularly with regard to the International Criminal Tribunal for Rwanda.

3. Regarding the International Tribunal for the Former Yugoslavia, the Advisory Committee recommended the appropriation of \$108.5 million and the approval of 66 of the 89 additional posts requested. As for the International Criminal Tribunal for Rwanda, it recommended the appropriation of \$93.5 million and the approval of 58 of the 81 new posts requested. Annex IX to the report of the Secretary-General on the financing of the International Criminal Tribunal for Rwanda (A/55/512) gave details of the estimated additional annual resource requirements for financing two additional appeals judges. Since the issuance of the Secretary-General's report, the Security Council had decided that those judges should be elected by the General Assembly and it was now unlikely that the appointment of the judges would take place before March 2001. The estimates presented in annex IX had therefore been adjusted to reflect the requirements for a nine-month, rather than a twelve-month, period, and the revised estimates were contained in document A/55/512/Add.1. The Advisory Committee recommended approval of the three additional posts proposed in that document. It further recommended that the additional requirements for furniture, construction and improvements, totalling \$200,000, should be absorbed. The additional cost resulting from the proposals in document A/55/512/Add.1 would thus amount to \$454,000.

4. Annex IX to the report of the Secretary-General on the financing of the International Tribunal for the Former Yugoslavia (A/55/517) contained proposals on

the financial implications of the introduction of ad litem judges. The Advisory Committee had decided to defer consideration of those estimates and the revised estimates contained in document A/55/517/Add.1 until the General Assembly had approved the conditions of service of the ad litem judges. It should be noted that the judges of the International Criminal Tribunal for Rwanda had not yet decided to support the appointment of ad litem judges (A/55/512, annex VII, recommendation 21).

5. **Mr. Lamek** (France), speaking on behalf of the European Union, the associated countries Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia, and, in addition, Liechtenstein, emphasized the importance of the timely issuance of budget proposals. The General Assembly, in its resolutions 54/239 and 54/240, had requested that future reports on the financing of the two Tribunals should be submitted by 1 October of the year in which they were to be considered.

6. The European Union was pleased to note that both Tribunals had been very active over the past year. It welcomed, in particular, the efforts made to implement the recommendations of the Expert Group and the measures taken to contain the growth of expenditure linked to legal aid and fees for defence counsel, although more could be done. It was important that the two Tribunals should make the best use of the resources available to them.

7. The European Union had noted with interest the report on the operation of the International Tribunal for the Former Yugoslavia submitted by the President on behalf of the judges of the Tribunal (A/55/382-S/2000/865) and the reforms proposed therein, which were aimed at enabling the Tribunal to complete its mandate within a reasonable time-frame. Since the Security Council had approved the necessary changes to the Statute of the Tribunal, those reforms should be implemented without delay. The report of the President of the Tribunal also contained a number of scenarios regarding the likely evolution of the work of the Tribunal in the medium and long term. Such an approach could easily be adopted by the International Criminal Tribunal for Rwanda. The action plan launched in early 2000 by the Registry of the Rwanda Tribunal to enhance judicial support for the Chambers was a step in that direction. He would be interested to know what results had been achieved. In general, the

European Union was convinced of the relevance and usefulness of planning in order to enhance the management and, above all, the predictability of the resources, especially the human resources, required by the two Tribunals. The possibility of biennializing the Tribunals' budgets merited further consideration. As the Advisory Committee had observed, that would have a positive impact on human resources management.

8. The European Union supported the recommendations contained in the reports of the Advisory Committee and agreed that both Tribunals should undertake a rigorous examination of the use of the resources already approved before making proposals for additional funds. It also endorsed the Advisory Committee's recommendation that no new posts should be established in units in which vacancy rates were already high. Regarding the frequent absence of judges, the European Union shared the Advisory Committee's view that judicial activities should have priority over public relations activities.

9. Any increase in the Tribunals' resources must be accompanied by improvements in their productivity and efficiency. The European Union welcomed the progress made over the past year, but considered that more could be done, particularly to enhance coordination among the various bodies, which must work together to make the Tribunals more efficient.

10. **Ms. Merchant** (Norway) said that her delegation strongly supported the work of the two Tribunals, which depended on the allocation of adequate resources. She noted with satisfaction that most of the recommendations of the Expert Group had been implemented and welcomed the inclusion in the relevant reports of summaries of the follow-up action taken to implement the relevant recommendations of the internal and external oversight bodies and the Advisory Committee. Regarding the comprehensive report to be submitted by the Secretary-General to the General Assembly at its fifty-sixth session on the results of the implementation of the recommendations of the Expert Group, her delegation agreed with the Advisory Committee that the report should be analytical and thematic and should indicate the outcome of implementing the recommendations, rather than merely citing a recommendation and indicating whether or not it had been implemented.

11. For planning and budgeting purposes, it was important to estimate what the future workload of the

Tribunals would be and when they were likely to complete their mandates. The proposal to biennialize the Tribunals' budgets was most relevant in that context. The high vacancy rates in both Tribunals were a cause for concern, and the continuing problem of retaining staff at the International Criminal Tribunal for Rwanda must be addressed urgently; in that connection, a review of the conditions of service at the Arusha duty station should be reviewed. Her delegation was concerned about the administrative difficulties encountered by the Rwanda Tribunal and was following closely the efforts to improve working conditions in Arusha and in the Kigali administrative office. It noted that the frequent absence of judges was affecting the speedy commencement and completion of trials of cases in which the travelling judges were involved.

12. In the light of the underexpenditure in 1999, the Advisory Committee's recommendations for the approval of appropriations for the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, representing reductions of \$4 million and \$1.5 million respectively, compared with the amounts proposed by the Secretary-General, appeared justified. However, her delegation would like to hear the Secretariat's views on the matter.

13. **Mr. Mutaboba** (Rwanda) asked whether the judges of the International Criminal Tribunal for Rwanda had offered any reasons for their opposition to the proposal to use ad litem judges.

14. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions) said that the reasons were set out in annex VII D to the report of the Secretary-General on the financing of the International Criminal Tribunal for Rwanda (A/55/512). The two Tribunals were separate bodies, and it was therefore reasonable that the judges should reach different conclusions regarding the implementation of the recommendations of the Expert Group.

15. **Mr. Yussuf** (United Republic of Tanzania) said that his delegation wished to have a list of all the staff members serving in the International Criminal Tribunal for Rwanda, indicating their nationalities.

16. **Mr. Sach** (Director of the Programme Planning and Budget Division), replying to the question posed by the representative of Norway, said that the Advisory

Committee's recommendations for approval of appropriations lower than the amounts requested by the Secretary-General had been based on a pattern of underexpenditure in the Tribunals which reflected the strength of the United States dollar and the slowness of recruitment. He trusted that, once recruitment was fully under way, requests for posts would be judged on their merits, rather than in the light of the historically high vacancy rates. With regard to the International Tribunal for the Former Yugoslavia, the Advisory Committee had proposed substantial reductions under contractual services. However, if arrests proceeded faster than expected, an additional provision would be required for detention facilities and defence counsel. The biennialization of the two Tribunals' budgets would be a positive move. The mandate of the International Tribunal for the Former Yugoslavia was open-ended. Information on the time frames within which the Tribunals might expect to complete their work would be provided in the context of the next annual budget submissions. The establishment of a pool of ad litem judges in the International Tribunal for the Former Yugoslavia was intended to expedite the work of that body. Accordingly, the Secretariat would proceed with the identification, nomination and election of such judges, despite the Advisory Committee's decision to defer consideration of the related supplementary resource requirements. However, no judges would be appointed until the General Assembly had taken action on the matter.

17. He would request the secretariat of the International Criminal Tribunal for Rwanda to make available the list of staff members requested by the representative of the United Republic of Tanzania.

Agenda item 115: Financial reports and audited financial statements, and reports of the Board of Auditors (*continued*) (A/C.5/55/L.12)

Draft resolution A/C.5/55/L.12

18. **Mr. Elgammal** (Egypt) introduced draft resolution A/C.5/55/L.12 on behalf of the Chairman.

19. *Draft resolution A/C.5/55/L.12 was adopted.*

The meeting rose at 4 p.m.