



# General Assembly

Seventy-fourth session

Official Records

Distr.: General  
21 February 2020

Original: English

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## Fifth Committee

### Summary record of the 15th meeting

Held at Headquarters, New York, on Wednesday, 11 December 2019, at 10 a.m.

*Chair:* Mr. Mavroyiannis. . . . . (Cyprus)  
*Chair of the Advisory Committee on Administrative  
and Budgetary Questions:* Mr. Terzi

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*The meeting was called to order at 10 a.m.*

**Agenda item 135: Proposed programme budget for 2020 (continued)**

*Report on the use of the commitment authority and request for a subvention to the Residual Special Court for Sierra Leone (A/74/7/Add.21 and A/74/352)*

1. **Mr. Ramanathan** (Controller), introducing the report of the Secretary-General on the use of the commitment authority and request for a subvention to the Residual Special Court for Sierra Leone (A/74/352), said that the report had been submitted pursuant to General Assembly resolution 73/279 A, by which the Assembly had authorized the Secretary-General to enter into commitments in an amount of \$2,537,000 to supplement the Court's voluntary financial resources for 2019. The report provided an overview of the Court's activities, financial situation, efficiency measures and future financing arrangements.

2. Despite the efforts of the Secretary-General, the Government of Sierra Leone, the Oversight Committee and the principals of the Court, the voluntary resources received were inadequate and there was no prospect of additional contributions. Given the lack of adequate and sustained voluntary contributions for the Court to fulfil its mandate, the Secretary-General was requesting the General Assembly to approve and appropriate an amount of \$2,899,500 as a subvention to the Court to fund its activities in 2020.

3. **Mr. Terzi** (Chair of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of the Advisory Committee (A/74/7/Add.21), said that the subvention from the regular budget was a bridging financing mechanism approved on the basis of set conditions for the purpose of supplementing insufficient voluntary contributions. The Advisory Committee emphasized the ongoing need for intensified fundraising efforts by the Secretary-General, including by broadening the Court's donor base, and welcomed the provision of in-kind contributions to the Court.

4. With regard to the resource requirement for 2020, the Advisory Committee recalled that the General Assembly had stressed the need for the Court to adopt a realistic approach to budgeting reflecting actual needs. The Advisory Committee noted that the Court had managed to implement its mandate in 2019 drawing on the approved commitment authority, and considered that it should be able to operate in 2020 on the basis of a subvention of the same amount as that for 2019.

5. **Mr. Katkhuda** (Observer for the State of Palestine), speaking on behalf of the Group of 77 and China, said that the Group strongly supported the work of the Court. Since the start of its operations in 2014, the Court had performed important residual functions of the Special Court for Sierra Leone, including supporting witness protection, providing assistance to national prosecuting authorities, supervising the enforcement of sentences, and preserving and managing archives. In addition, the Residual Special Court conducted ad hoc proceedings and had the power to prosecute the remaining fugitive or refer his case to a competent national jurisdiction. The Court must be provided with adequate resources.

6. Despite intensive fundraising efforts, the Court had not received sufficient voluntary contributions. With no prospects for predictable and reliable voluntary contributions in the near future, the effective implementation of the Court's mandate was at risk. While the Group supported the approval of the subvention requested by the Secretary-General, that was only a temporary measure. A sustainable long-term funding mechanism for the Court must be identified. The Group's preferred option was to finance the Court through assessed contributions from Member States.

7. The Group was encouraged by the Court's efforts to reduce expenditure with a view to increasing value for money, to make effective use of the commitment authority and to secure additional voluntary contributions. The Group expressed its appreciation for the continued support of the Government of Sierra Leone for the Court, as well as the invaluable contributions of other Member States and partners.

8. **Mr. Mmalane** (Botswana), speaking on behalf of the Group of African States, paid tribute to the memory of Sir Desmond de Silva, the former Prosecutor of the Special Court for Sierra Leone.

9. In the Agreement between the United Nations and the Government of Sierra Leone on the establishment of a Residual Special Court for Sierra Leone, the Parties had agreed that the Court should be funded through voluntary contributions from the international community. However, that funding arrangement posed serious challenges to the continued sustainability of the Court and threatened the effective implementation of its mandate. Despite intensive fundraising efforts, the Court had not received sufficient voluntary contributions for its operations in 2020, which underscored the unpredictability and unreliability of the current funding arrangement.

10. The Group shared the Secretary-General's concerns about the future financing of the Court. It was

worrying that the Court had not received sufficient voluntary contributions for its operations since 2015 and had had to rely on subventions from the General Assembly. The Group was committed to working with all stakeholders to establish a sustainable, predictable and reliable funding mechanism for the Court. It was worth noting that the efficiency measures implemented by the Court had resulted in a reduction of \$85,100 in the proposed budget for 2020 compared with the estimated requirements for 2019.

11. The preservation of the legacy of the Special Court for Sierra Leone was an important element of the work of the Residual Special Court. The residual functions it carried out included supervising the enforcement of sentences; reviewing convictions and acquittals; conducting contempt of court proceedings or referring them to national jurisdictions; providing witness and victim protection and support; and maintaining, preserving and managing the archives of the Special Court for Sierra Leone. The Residual Special Court was also intended to contribute to the development of international criminal justice. The Group welcomed the participation of the Court's judges in external activities as part of efforts to promote the legacy of the Special Court for Sierra Leone and increase the profile of the Residual Special Court, at no cost to the Court.

12. The physical archives of the Residual Special Court occupied 600 linear metres of paper records. Although the compilation and final review of the comprehensive archive index was labour intensive and remained a work in progress, significant progress had been made.

13. **Mr. Kabba** (Sierra Leone) said that the jurisprudence of the Special Court for Sierra Leone had been published by the judges of the Residual Special Court in October 2019, in a single volume entitled "Bearing the Greatest Responsibility: Select Jurisprudence of the Special Court for Sierra Leone". The critical residual functions performed by the Residual Special Court included supporting witness protection, supervising the enforcement of sentences, monitoring early conditional releases, responding to requests for information and evidence from national prosecuting authorities, and managing and preserving archives. In addition, the Court conducted ad hoc judicial and administrative proceedings from time to time. The Court's mandate was closely linked to continuing peace and stability in Sierra Leone and the subregion.

14. The funding of the Court through voluntary contributions from the international community posed serious challenges to the sustainability of the Court and

threatened the effective implementation of its mandate. Despite the fundraising efforts of the Government of Sierra Leone, the Secretary-General, the principals of the Court and the Oversight Committee, the Court had not secured sufficient voluntary contributions for its operations. He thanked the Netherlands, Rwanda, South Africa and the United Kingdom of Great Britain and Northern Ireland for their continuing in-kind contributions.

15. The subvention to the Court for 2019 had been approved thanks in part to the cost-saving measures recommended by the Advisory Committee and the requirement that the Secretary-General report on the use of the commitment authority. In that connection, he acknowledged the efforts to streamline the budget for 2020.

16. The Court needed a predictable and sustainable funding mechanism. The gains made in Sierra Leone could be undermined if the Court was unable to continue providing critical protection to witnesses owing to insufficient funding. The Court's work was central to his Government's peace consolidation efforts, particularly given that Sierra Leone was no longer on the agenda of the Peacebuilding Commission. His delegation therefore implored the Committee to approve the full amount of the subvention requested by the Secretary-General in order to enable the Court to continue carrying out its essential mandate in 2020.

### Organization of work

17. **The Chair** exhorted the Committee to conclude its discussions as swiftly as possible. As there were still a number of reports to be introduced, certain items might need to be taken up at the first part of the resumed session. The President of the General Assembly and senior Secretariat officials were extremely concerned that the Committee had yet to begin considering the programme budget for 2020. The absolute priority for the main part of the session was the adoption of the programme budget. Given the severe liquidity crisis already facing the United Nations, there would be serious practical complications if the adoption of the programme budget were further delayed.

18. **Mr. Ramanathan** (Controller) said that if the programme budget for 2020 was not approved by the end of December 2019, the Secretary-General would have no authority to enter into any commitments after 1 January 2020, which would mean that all regular budget operations would have to shut down. Moreover, any delay in the issuance of assessment letters would exacerbate the current liquidity crisis. As the Organization barely had sufficient cash reserves to

cover staff salaries and entitlements for the month of December; any delay in the payment of assessments in 2020 would affect its ability to pay staff salaries in January and would put the Organization's operations at risk.

*The meeting rose at 10.35 a.m.*