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Chair: Mr. Ružička (Slovakia)
Chair of the Advisory Committee on Administrative and Budgetary Questions: Mr. Ruiz Massieu

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The meeting was called to order at 3.10 p.m.

Agenda item 145: 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/69/597 and A/69/655)

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Agenda item 147: Financing of the International Residual Mechanism for Criminal Tribunals (A/69/598 and A/69/655)

1. **Mr. Ramanathan** (Deputy Controller), introducing the first performance reports on the International Criminal Tribunal for Rwanda (A/69/597), the International Tribunal for the Former Yugoslavia (A/69/599), and the International Residual Mechanism for Criminal Tribunals (A/69/598) for the biennium 2014-2015, said that the primary purpose of the reports was to identify adjustments required as at the end of the first year of the current biennium, owing to variations in the rates of inflation, exchange rates, standard costs, and vacancy rates, which had been estimated when calculating the initial appropriations.

2. The revised estimates for the International Criminal Tribunal for Rwanda amounted to \$94.9 million, reflecting an increase of \$1.3 million over the initial appropriation. That increase included \$199,900 for inflation, \$1,085,100 due to adjustments to standard costs, and \$1,915,400 due to variations in vacancy rates. The total increase in requirements of \$3,200,400 was offset by a decrease of \$1,912,500 thanks to favourable rates of exchange.

3. The revised estimates for the International Tribunal for the Former Yugoslavia amounted to \$201.3 million, reflecting a decrease of \$0.3 million from the initial appropriation. Requirements had decreased by \$2,587,600 and \$1,653,500 due to favourable exchange and inflation rates, respectively, which had offset increases of \$828,400 due to

adjustments to standard costs and \$3,064,800 due to variations in vacancy rates.

4. The revised estimates for the Residual Mechanism amounted to \$117.6 million, reflecting a decrease of \$2.7 million from the initial appropriation. Requirements had decreased by \$2,503,100 and \$823,500 due to favourable exchange and inflation rates, respectively, which more than offset the increases of \$135,000 due to adjustments to standard costs and \$446,800 due to variations in vacancy rates.

5. Accordingly, the General Assembly was requested to approve revised appropriations for the biennium 2014-2015 in the amount of \$94,883,600 for the Special Account for the International Criminal Tribunal for Rwanda; \$201,304,300 for the Special Account for the International Tribunal for the Former Yugoslavia; and \$117,570,000 for the Special Account for the Residual Mechanism.

6. **Mr. Ruiz Massieu** (Chair of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of the Advisory Committee (A/69/655), said that, with respect to the International Criminal Tribunal for Rwanda, the Advisory Committee recommended approval of the revised appropriation proposed by the Secretary-General in the amount of \$94,883,600 to the Special Account for the International Criminal Tribunal for Rwanda, reflecting an increase over the initial appropriation. The Advisory Committee also recommended approval of the Secretary-General's proposed revised appropriation in the amount of \$201,340,300 to the Special Account for the International Tribunal for the Former Yugoslavia, reflecting a decrease from the initial appropriation.

7. Lastly, with regard to the International Residual Mechanism for Criminal Tribunals, the Advisory Committee recommended that, instead of using the actual vacancy rate as at September 2014, as was proposed, the actual average vacancy rates in 2014 should be used, namely, 30.4 per cent for the Professional and higher categories and 28.1 per cent for General Service and related categories. Accordingly, the Advisory Committee recommended approval of a revised appropriation in the amount of \$115,521,800 for the Residual Mechanism, reflecting a decrease from the initial appropriation.

8. **Ms. Rios Requena** (Plurinational State of Bolivia), speaking on behalf of the Group of 77 and

China, said that, while the Board of Auditors had issued unqualified audit opinions on the financial statements for all three entities for the biennium ended 31 December 2013, the Group had noted the Board's observations in its reports on the International Criminal Tribunal for Rwanda (A/69/5/Add.13) and the International Tribunal for the Former Yugoslavia (A/69/5/Add.14) concerning a number of areas with scope for improvement, in particular the uncertainties of completing pending cases and handing over their mandates within the specified time frame; delays in the archiving of records; inadequate procurement management and contract management; weak access controls in and lack of adequate oversight of information and communications technology systems; and high turnover of staff, who lacked incentives to remain in posts which were about to be abolished. All of the Board's observations should be addressed, including those concerning the implementation of the International Public Sector Accounting Standards.

9. The Group had taken note of the general increases under adjustments to standard costs in respect of all three entities, which reflected adjustments related to payroll averages experienced during the biennium, primarily owing to an upward shift in the composition of staff in the General Service and related categories, and a slightly higher proportion of staff with dependent status. The Group remained concerned about the high vacancy rates at the Tribunals and the International Residual Mechanism for Criminal Tribunals and stressed the need to fill the vacant posts approved by the General Assembly.

10. With regard to the first performance report of the International Criminal Tribunal for Rwanda, the Group had noted the proposed revised appropriation of \$94.9 million, reflecting an increase in requirements of \$1.3 million as compared to the initial appropriation. Every effort should be made to ensure the timely completion of the Tribunal's mandate in accordance with the completion strategy and to ensure the smooth transition to the International Residual Mechanism.

11. The Group had noted the proposed revised appropriation of \$201.3 million for the International Tribunal for the Former Yugoslavia, reflecting a decrease in requirements of \$0.35 million as compared to the initial appropriation. The Tribunal should expedite its completion strategy, including by focusing on the shift to temporary staffing contracts during the

drawdown phase and the transition to the International Residual Mechanism.

12. The Group had also noted the proposed revised appropriation of \$117.6 million for the International Residual Mechanism, which reflected a decrease in requirements of \$2.7 million as compared to the initial appropriation. The Group had studied the comments made by the Advisory Committee with regard to vacancy rates for the Mechanism and would request further details during the informal consultations. In addition, it would seek an update on the status of the construction of the new facilities for the Mechanism in Arusha.

13. **Mr. Khalizov** (Russian Federation) said that his delegation had noted with concern that the revised estimates reflected a decrease of only 0.17 per cent in the resource requirements for the International Tribunal for the Former Yugoslavia for 2015 and an increase of 1.35 per cent in the requirements for the International Criminal Tribunal for Rwanda. The Committee should consider the proposed resource levels critically, bearing in mind the lack of serious progress in the Tribunals' work in recent years. That situation was becoming increasingly unacceptable, given the financial constraints that the Organization faced when implementing other mandates approved by Member States.

14. The Tribunals' funding should be reduced as their work came to an end and some of their functions were transferred to the Residual Mechanism. The resources of the Residual Mechanism should be used economically and there should be no duplication of functions or expenditures during the transfer process.

15. His delegation had many questions about the chronic problems related to budgetary discipline, transparency and accountability at the International Tribunal for the Former Yugoslavia. An independent, comprehensive assessment of the Tribunal's effectiveness should be carried out, including an evaluation of the usefulness of allocating the amount of budgetary resources requested. He trusted that his delegation's concerns, which had been raised previously, would be heeded.

Agenda item 132: Programme budget for the biennium 2014-2015 (*continued*)

Request for a subvention to the Extraordinary Chambers in the Courts of Cambodia (A/69/536 and A/69/652)

16. **Mr. Ramanathan** (Deputy Controller), introducing the report of the Secretary-General on the request for a subvention to the Extraordinary Chambers in the Courts of Cambodia (A/69/536), said that, pursuant to General Assembly resolution 68/247 B, the report provided details on the progress achieved by the Chambers since the Secretary-General's previous report (A/68/532) and described the Chambers' completion plan and road map, which had been formulated on the basis of a rigorous forecast of the workload associated with the timely judicial completion of the three remaining cases. The report also addressed mechanisms for the financing of the Chambers beyond 2015 and provided information on the use of the approved commitment authority, which required the Assembly's approval of an appropriation. The Assembly's approval was sought for a subvention of up to \$28.9 million for the period from 1 January to 31 December 2015 for both components of the Chambers.

17. The approved commitment authority of up to \$15.54 million for the international component for 2014 had been instrumental in securing staff contracts for one year, and the resulting contractual stability had facilitated the efficient discharge of the Chambers' judicial mandate. As at November 2014, only \$4.6 million of the commitment authority had been utilized. Projected requirements for December 2014 were in the amount of \$1.4 million, meaning that the maximum expected utilization of the commitment authority would be \$6 million. A firm pledge of \$1.3 million had been received and was expected before 31 December 2014, while a second donor contribution of \$4.7 million was currently under consideration and was expected to be endorsed before the end of the year. It therefore seemed likely that the commitment authority would not be utilized in 2014.

18. The Secretary-General was seeking a subvention of up to \$28.98 million for 2015, comprised of \$23.9 million for the international component and \$5 million for the national component, to enable the Extraordinary Chambers to carry out their mandate without the continuous threat of insufficient resources

adversely affecting programme delivery, while pledging to continue his fundraising efforts.

19. **Mr. Ruiz Massieu** (Chair of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of the Advisory Committee (A/69/652), said that since both the international and national components of the Extraordinary Chambers continued to be funded from voluntary sources, in accordance with General Assembly resolution 57/228 B, the Advisory Committee had not performed a detailed examination of the Chambers' staffing and budgetary requirements and had therefore not expressed any opinion on their resource requirements during its review.

20. The Advisory Committee recognized an overall improvement in the financial situation of the Extraordinary Chambers as a result of the General Assembly's approval of a commitment authority at the end of 2013 to supplement the voluntary financial resources of the international component. It also recognized that the contributions of the Government of Cambodia had improved the financial situation of the national component. At the same time, in view of the persistent funding challenges facing both components of the Extraordinary Chambers, the Advisory Committee stressed the need to intensify the fundraising efforts, including by broadening the donor base. Moreover, the achievement of the case completion plan remained dependent on sustainable funding for the remainder of the Chambers' existence.

21. The practice of redirecting voluntary funds from the international component to the national component could have a detrimental impact on the overall level of funding for the international component and on related fundraising efforts for both components. In view of the projected funding shortfall in the international component, the Advisory Committee had recommended approval of an appropriation in the amount of up to \$6.9 million in 2014, although that figure should be updated by the Secretariat in the light of the welcome news that the appropriation might not be needed. The Advisory Committee also recommended approval of an authorization for the Secretary-General to enter into commitments in an amount not to exceed \$12.1 million for 2015 as a bridging financing mechanism, pending receipt of voluntary contributions from donors.

22. As far as the Chambers' future financing arrangements were concerned and in view of the ongoing funding challenges, the Advisory Committee recommended that the General Assembly should consider the possibility of having the Secretary-General submit a fully-fledged budget proposal, separate from the proposed programme budget, for its consideration and approval. That would allow for more intergovernmental scrutiny of the resource requirements and proposed staffing table of the Extraordinary Chambers.

23. **Ms. Rios Requena** (Plurinational State of Bolivia), speaking on behalf of the Group of 77 and China, said that the Group attached great importance to the efficient and effective discharge of the mandate of the Extraordinary Chambers in the Courts of Cambodia by both components. Recalling the General Assembly's concern with regard to the adverse cash position of the Extraordinary Chambers and its difficult financial situation, and the high priority accorded to the work of the Extraordinary Chambers, the Group appreciated the Secretary-General's timely response to the Assembly's request for a report on the use of the commitment authority as well as information on a comprehensive examination of the future financing of the Extraordinary Chambers for 2015 and beyond.

24. The Group had taken note of the information related to the progress achieved by the Chambers to date; its completion plan and the related road map; the use of the approved commitment authority; and the mechanism for the future financing of the Chambers. The Group commended the Chambers and the Government of Cambodia for their continued commitment to implement the mandate, despite the challenging financial situation. It also welcomed the Secretary-General's efforts to address the issues facing the Chambers, including through bilateral discussions with the Prime Minister of Cambodia.

25. Welcoming the Secretary-General's request for a subvention of up to \$29 million for the period from 1 January to 31 December 2015, she said that the international community should make a collective effort, through the General Assembly, to address the considerable political and financial challenges the Chambers had faced in recent years. The Group was therefore prepared to endorse the Secretary-General's resource proposal in order to enable the Chambers to finalize their mandate.

26. **Mr. Tuy** (Cambodia) said that, while the report highlighted the positive progress made, it also described the challenges that were disrupting the work of the Chambers as a result of the serious funding shortfalls due to delays in the provision of funding pledged to the international component. The national component had also experienced shortfalls in funding to pay staff salaries, and a proposed walkout by national staff would bring the Chambers' judicial operations to a standstill. His delegation therefore supported the recommendations made by the Secretary-General to resolve the financial shortfalls of both the national and international components of the Chambers.

27. In the light of the limited funding for the national component, his delegation had sought additional support from donor countries. He thanked those countries for their generous contributions to the Extraordinary Chambers and expressed the hope that they would continue to provide support in 2015. His Government was also grateful for the fundraising efforts undertaken by the Special Expert to advise on United Nations Assistance to the Khmer Rouge Trials, in conjunction with the representative of the Cambodian Government.

28. The Secretary-General had held bilateral talks with the Prime Minister of Cambodia in November 2014 to address the Chambers' financial shortfall, during which the Prime Minister had informed the Secretary-General of the Government's decision to pay the national component staff salaries from October to December 2014, amounting to \$1.15 million. The Government would also continue to address the shortfall for the first two quarters of 2015.

29. His Government had paid its regular contribution of \$1.7 million for General Service costs and \$1.1 million for salaries for national component staff and judicial officers in the first quarter of 2014. In total, the Cambodian Government had provided some \$4 million in cash and in-kind support to the Chambers' budget for 2014, which was more than 60 per cent of the \$6.4 million budget of the national component. Since the Extraordinary Chambers began their work in 2006, his Government had contributed over \$11 million in cash and \$10 million in kind.

30. Cambodia remained committed to supporting the work of the Extraordinary Chambers, which in August 2014 had convicted former Khmer Rouge leaders Nuon

Chea and Khieu Samphan and sentenced them to life imprisonment, providing a lesson that would deter future generations in Cambodia and other countries from committing similar atrocities. Justice must be done and a message of peace passed on to future generations. It was therefore important that the General Assembly should consider approving the Secretary-General's request for a subvention for both the international and national components of the Chambers, in order to allow them to carry out their mandates without disruption.

31. **Ms. Van de Ven** (Australia) said that her country was a strong and long-standing supporter of the Extraordinary Chambers. It was a member and currently the Chair of the principal donors group, and had contributed a total of 26.2 million Australian dollars in voluntary contributions to the Extraordinary Chambers since 2003, including 3.25 million Australian dollars in 2014. That assistance was a key element of her country's support for international criminal justice and human rights.

32. Welcoming the Cambodian Government's ongoing commitment to and support for the Extraordinary Chambers, she said that the Chambers would not have been established had it not been for the leadership of the Cambodian Government and its call for international assistance to establish a tribunal to try the former Khmer Rouge leaders. The Chambers' work was vital to ensuring justice for the Cambodian people, who had endured unspeakable suffering at the hands of the Khmer Rouge during that dark period in the country's history that had resulted in the deaths of at least 1.6 million Cambodians. The trials would help to ensure that those responsible for serious international crimes were held to account.

33. The mixture of international and national staff was helping to transfer international best practice standards into the national justice system. Cambodians continued to take a keen interest in the Chambers' judicial work: over 4,000 victims had played an active role as civil parties in the proceedings, 240,000 Cambodians had visited the Extraordinary Chambers and millions more followed the proceedings via the media. The Cambodian people wanted to see justice done.

34. The Chambers continued to make significant progress in holding those responsible for the atrocities committed by the Khmer Rouge to account. The guilty

verdict in the case of Nuon Chea and Khieu Samphan, which was currently subject to appeal, represented a major milestone in the Chambers' work. Phase two of that case, which had begun on 17 October 2014, would cover some of the most serious charges heard by the Extraordinary Chambers to date, including genocide and other grave crimes committed on a national scale.

35. Representatives of the principal donors group, based in New York, had travelled to Phnom Penh in June 2014 to visit the Extraordinary Chambers for the first time, which had reinforced their views on the importance of the Chambers' work and its contribution to justice, reconciliation and capacity-building, particularly for the Cambodian people. Working closely with the United Nations and the Cambodian Government, the principal donors group had continued to support fundraising efforts in 2014 through active diplomacy to broaden the donor pool. Unfortunately, those fundraising efforts had not borne as much fruit as had been hoped.

36. The previous commitment authority had proved invaluable in supporting the stable and efficient functioning of the Chambers in 2014. While there was still a shortfall, she hoped that by the end of 2014 the international component would require only a small amount from the 2014 commitment authority. Nevertheless, it remained unclear whether there would be sufficient funds to cover the Chambers' budget for 2015. Her delegation therefore strongly supported the Secretary-General's request for a further subvention for the Chambers in 2015.

37. **Mr. Onuma** (Japan) said that his delegation attached great importance to the Extraordinary Chambers and had been an active contributor to their work. The Chambers were applying the finishing touches to the peace process in Cambodia, which his country had long been actively supporting. Japan therefore welcomed all of the progress achieved by the Chambers, including the delivery of the judgement in the case of Nuon Chea and Khieu Samphan, which showed that the Chambers were moving forward step by step to serve justice in Cambodia.

38. The Extraordinary Chambers faced serious financial difficulties which must be dealt with in order for them to continue carrying out their judicial activities. In that connection, his delegation had supported the proposal to authorize the Secretary-General to enter into commitments in an amount not to

exceed \$15.54 million to supplement the voluntary financial resources of the Chambers in 2014.

39. Welcoming the inclusion of projected timelines for the judicial completion of the current caseload, he said that the completion plan should be fully implemented and updated regularly in an effort to improve the efficiency and effectiveness of all judicial proceedings, while continuing to ensure fair and impartial trials and combat impunity. However, the current level of pledges for 2015 was a matter of deep concern. The amount pledged to date was not sufficient to meet the requirements of both the national and international components, despite the Secretariat's intensive fundraising efforts. He encouraged all Member States to provide voluntary contributions and requested the Secretariat to continue its fundraising efforts, in the light of the provisions of General Assembly resolution 57/228.

40. With respect to the Secretary-General's proposal for a subvention for the Extraordinary Chambers for 2015, his delegation was of the view that the Advisory Committee's recommendation that the Assembly should authorize the Secretary-General to enter into commitments not to exceed \$12.1 million would be a good starting point for the Committee's deliberations.

Programme budget implications of draft resolution A/C.3/69/L.32: Situation of human rights in Myanmar (A/C.5/69/11 and A/69/649)

Programme budget implications of draft resolution A/69/L.29: Oceans and the law of the sea (A/C.5/69/12 and A/69/656)

41. **Mr. Ramanathan** (Deputy Controller), introducing the statements submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly on the programme budget implications of draft resolution A/C.3/69/L.32 on the situation of human rights in Myanmar (A/C.5/69/11) and draft resolution A/69/L.29 on oceans and the law of the sea (A/C.5/69/12), said that, under the terms of paragraph 13 of draft resolution A/C.3/69/L.32, the General Assembly would request the Secretary-General, inter alia, to continue to provide his good offices and to pursue his discussions on human rights, democracy and reconciliation in Myanmar, involving all relevant stakeholders.

42. Should the General Assembly adopt the draft resolution, resource requirements amounting to

\$1,161,000 would be required for 2015 for the continuation of the efforts of the good offices of the Secretary-General relating to the situation in Myanmar. The requirements, which would provide for five general temporary assistance positions as well as other operational requirements, had been included in, and were being sought in the context of, the 2015 budget proposals in respect of special political missions.

43. Under the terms of paragraph 267 of draft resolution A/69/L.29, the General Assembly would recall its decision that the summary of the first global integrated marine assessment should be submitted by the Co-Chairs of the Ad Hoc Working Group of the Whole, to be issued as a document of the General Assembly for its final approval by the Assembly at its seventieth session. It was proposed that the related additional appropriation of \$161,800 under section 2, General Assembly and Economic and Social Council affairs and conference management, of the programme budget for the biennium 2014-2015 should be approved as a charge against the contingency fund.

44. **Mr. Ruiz Massieu** (Chair of the Advisory Committee on Administrative and Budgetary Questions), introducing the related reports of the Advisory Committee (A/69/649 and A/69/656), said that the Advisory Committee had no objection to the requested resource requirements of \$1.16 million related to the functions of the Special Adviser to the Secretary-General on Myanmar for 2015, and \$161,800 for processing a post-session document by the Department of General Assembly and Conference Management.

45. Noting the differences in the costs of processing official documents across the four main duty stations, New York, Geneva, Vienna and Nairobi, the Advisory Committee intended to examine the related costing model in greater detail in the context of its consideration of the proposed programme budget for 2016-2017.

46. The Advisory Committee recommended that the Fifth Committee should inform the General Assembly that, should it adopt draft resolution A/C.3/69/L.32, resource requirements amounting to \$1,161,000 would be required for the period from 1 January to 31 December 2015 for the continuation of the good offices efforts of the Secretary-General relating to the situation in Myanmar. Similarly, should the General Assembly adopt draft resolution A/69/L.29, additional

resources in the amount of \$161,800 would be required under section 2 of the programme budget for the biennium 2014-2015.

47. **Ms. Rios Requena** (Plurinational State of Bolivia), speaking on behalf of the Group of 77 and China, said that the Group fully supported the provision of the resources requested by the Secretary-General, as endorsed by the Advisory Committee, should the General Assembly decide to adopt draft resolutions A/C.3/69/L.62 and A/69/L.29. Adequate resources should be provided from the regular budget for the implementation of all mandates approved by intergovernmental bodies of the United Nations.

The meeting rose at 4.10 p.m.