



UN Secretariat Item Scan - Barcode - Sign

Page 138
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Mr. Corell
7/5/01

SC, FYA Frank
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Note to the Secretary-General

MAY - 4 2001
21-08240

The Special Court for Sierra Leone

Sierra Leone
OPRISF
OLA

1. We are now more than half way through the 60 day period of the appeal for funds for the Special Court for Sierra Leone. The Office of Legal Affairs and the Controller's Office are monitoring the situation through regular contacts with a Group of "Interested States". Two main issues are under consideration in the group of Interested States: the terms of reference of a Management Committee for the Special Court, and the size of the budget.

Management Committee

2. Both the Secretariat and member States agree that there must be a Management Committee which will act as an oversight group for the Special Court. The Secretariat envisages the Management Committee as the body responsible for the successful functioning and operation of the Court. It would accordingly be a self-appointed body constituted to assist the Secretary-General in the establishment and operation of the Special Court, oversee its non-judicial functions, review and approve its budget, and more importantly perhaps, undertake fund-raising activities or otherwise ensure that adequate funds are obtained. The Group of Interested States prefer a Management Committee having an advisory role, with responsibilities for policy direction and financial matters, but no responsibility for fund raising, although they would agree to assist the Secretary-General in doing so. In their view the ultimate responsibility for obtaining adequate funds lies with the Secretary-General.

The budget

3. With one exception (that of the United Kingdom), no indication of pledges or an intent to contribute funds, equipment or personnel has, as of yet, been expressed although a number of delegations have indicated their willingness to contribute "generously". The potential donors have made it clear that they consider the budgetary estimates provided by the Secretariat to be "unrealistic", and unlikely to attract the expected contributions. The chief argument which has been advanced is that the Security Council did not intend the Special Court for Sierra Leone to be a clone of the ICTY/ICTR and that they had expected the Secretariat to use a different (although unspecified) approach. For our part, we have explained that the budget estimates are based on certain assumptions as to the number of trials and the human

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resources necessary to achieve this goal based on the knowledge acquired through the experience of the ad-hoc tribunals. The Secretariat has nevertheless been requested to provide reduced estimates to accommodate a budgetary envelope in the region of \$15-20 millions, rather than the \$30-35 millions envisaged.

5. In the discussions in the group of Interested States, a number of options have been advanced as a means to streamline the process of establishing the Special Court in a timely and cost-effective manner:

* Reducing the budget estimates in order to assist potential donors structure their contributions.

* Reconsidering the applicability of UN Financial Regulations and Rules to the administration of the Trust Fund for the Special Court, and examining means of channelling contributions directly to the Special Court.

* *Entrusting UNOPS with the administration of the Special Court, recruitment of personnel and procurement of goods and services.*

5. In analyzing the various proposals we have concluded as follows. While some savings could be made at the margins of the budget estimates, a drastic reduction cannot be done in the abstract. The applicability of the UN Financial Regulations and Rules to a United Nations Trust Fund established by the Secretary-General and administered by the Controller is mandatory under the UN Rules. While an exemption of any one particular Rule is legally possible, a "wholesale" exemption of the entire UN financial regime would violate the letter and spirit of the UN Financial Regulations and Rules. As an "executing agency", UNOPS can undertake the recruitment of staff and procurement of goods and services, but in doing so, it would have to operate within a given budget and its own Financial Regulations and Rules, whatever they may be, which may not necessarily guarantee a more efficient or cost-effective operation of the Court.

6. In the meeting of "Interested States" on 2 May 2001, I reiterated the impossibility of administering a UN Trust Fund other than on the basis of the UN Financial Regulations and Rules, and reminded States of the Secretary-General's appeal for contributions which is still outstanding. I said that if the Interested States had any specific alternative proposals on how to structure the Special Court, the

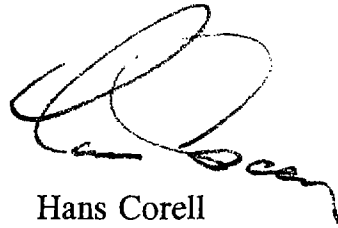
Secretariat would be willing to consider them, but I emphasized that we ourselves had examined the various possibilities and had concluded that there were no other viable alternatives.

7. With the approaching deadline for indications of willingness to contribute in funds, equipment and personnel, two options are open for the Secretariat:

(i) Await such indications, and report back to the Security Council on the results of the appeal;

(ii) Encourage States to indicate their contributions in specific amounts to enable the Secretariat on the basis of available funds to develop alternative modalities for the establishment, operation and management of the Special Court on a reduced budget.

8. In order to avoid a deadlock, I would seek your approval to pursue the second option at the next meeting of "Interested States" on May 10, 2001.



Hans Corell

4 May 2001

cc. Mr. Halbwachs
Mr. Prendergast
Mr. Guéhenno

*Agreed pursue the
second option to enable
us to report the Council
on prospects for making
and to consider other
alternative modalities - under
due consideration of
adequate contributions.*

Hans
7/15