THE SECRETARY-GENERAL

ICTR
OLA

19 August 2008

Dear Judge Arrey,

I have the pleasure to inform you that, in accordance with Article 12 *ter*, paragraph 2, of the Statute of the International Criminal Tribunal for Rwanda (the "Tribunal"), I have decided, upon the request of the President of the Tribunal, to appoint you, effective immediately, to serve in the Tribunal for the trial of the *Prosecutor v. Ephrem Setako* (Case No ICTR-2004-81) which is scheduled to commence on 26 August 2008, with the judgment expected in the early part of 2009.

I should recall that, in accordance with paragraph 1 (a) of Article 12 *quater* of the Statute of the International Tribunal, *ad litem* judges shall, during any period in which they are appointed to serve in the Tribunal, benefit from the same terms and conditions of service, *mutatis mutandis*, as the permanent Judges of the International Tribunal. Pursuant to paragraph 3 of Article 12 *bis* of the Statute of the International Tribunal, the terms and conditions of service of permanent judges are those of the judges of the International Tribunal for the former Yugoslavia (ICTY). Pursuant to paragraph 3 of Article 13 bis of the Statute of the ICTY, the terms and conditions of service of permanent judges of the ICTY are those of the judges of the International Court of Justice.

During such time as they may be appointed to serve in the Trial Chambers of the International Tribunal for specific trials, *ad litem* judges are accordingly required to serve on a full-time basis and may not, during that time, exercise any political or administrative function or engage in any other occupation of a professional nature.

Judge Florence Rita Arrey
International Criminal Tribunal
for Rwanda
Arusha

Fd-09505

I should also take this opportunity to note that, as an *ad litem* judge of the International Tribunal, you will be entitled only to the benefits stipulated in General Assembly resolution 55/249 of 12 April 2001 and in any subsequent relevant resolutions or decisions of the General Assembly. In accordance with General Assembly resolution 55/249, should the cumulative period of your service as an *ad litem* judge of the International Tribunal amount to three years or more, that will not result in any change in your entitlements and benefits and, in particular, will not give rise to any additional entitlements or benefits other than those that already exist and which will, in such an eventuality, be extended pro-rata by virtue of the extension of service.

For the avoidance of doubt, I should emphasize that the present appointment is additional to your appointment to serve in the cases of *The Prosecutor v. Simon Bikindi, The Prosecutor v. Tharcisse Renzaho,* and *The Prosecutor v. Hormisdas Nsengimana.* Your appointment to serve in those cases therefore remains unaffected.

Please accept, Judge Arrey, the assurances of my highest consideration.

Ki Moon Ban

BAN Ki-moon

United Nations Nations Unies

INTEROFFICE MEMORANDUM MEMORANDUM INTERIEUR

Scan memo
AUG 12
28-09505

TO: The Secretary-General
A:

ACTION
COPY

DATE: 12 August 2008

REFERENCE:

THROUGH: Vijay Nambiar
S/C DE: Chef de Cabinet

FROM: Maria Vicien-Milburn
DE: Director, General Legal Division
in charge of the Office of Legal Affairs

SUBJECT: **Appointment of an *ad litem* judge to a trial before the ICTR**
OBJET:

1. President Byron of the International Criminal Tribunal for Rwanda ("ICTR"), has requested by way of the attached letter dated 30 July 2008, that you appoint an *ad litem* judge to a case before the ICTR, *The Prosecutor v Ephrem Setako* effectively immediately. The *ad litem* judge concerned is Judge Florence Rita Arrey of the Republic of Cameroon. #28.03504

2. Judge Arrey has already been appointed to serve in the ICTR on three other trials. I understand from President Byron that two of these trials are in the judgment writing phase, with judgment expected to spill over into early 2009. The appointment of Judge Arrey to the *Ephrem Setako* case would be additional to, and overlap with, her existing appointments on the other three cases. The ICTR's Statute allows for this.

4. Under the Tribunal's Statute, it is for the President of the Tribunal to assess whether there is a need for an *ad litem* judge to be appointed to the Tribunal in order to augment its capacity to conduct trials. If he considers that there is such a need, he then identifies the particular *ad litem* judge from the pool that he would like to hear a particular case.

5. In making this assessment, the President is required by the Statute to bear in mind:

- the desirability of achieving, both among the judges as a whole and within the particular teams of judges sitting in specific cases, an appropriate balance of expertise in the fields of criminal law, general international law, international humanitarian law and human rights law;
- the desirability of achieving on the bench adequate representation of the principal legal systems of the world;
- the desirability of achieving equitable geographical distribution on the bench;
- the importance of achieving a fair representation of female and male judges;
- the votes the *ad litem* judges obtained during the elections in the General Assembly.

6. Upon receiving a request from the President for the appointment of a particular *ad litem* judge to a specific trial, it is for the Secretary-General to decide whether or not to accede to the President's request and to appoint the particular *ad litem* judge that he has requested.

7. Having reviewed the present request, it is our view that this request complies with Article 12 *ter*, paragraph 2, of the ICTR's Statute and that you may therefore properly proceed to appoint Judge Arrey to serve in the ICTR for the trial concerned.

8. You will recall that the terms of office of the ICTR judges were due to expire on 31 December 2008. On 28 July 2008, the General Assembly, further to a request from President Byron, endorsed the Security Council's recommendation to extend the terms of office of all ICTR Trial Chamber judges to 31 December 2009. A copy of the Security Council resolution is attached.

9. Accordingly, a letter appointing Judge Arrey to the *Ephrem Setako* case is attached for your consideration and signature.

10. President Byron informs me that the presentation of evidence in this trial is scheduled to commence on 25 August 2008. The present request is, therefore, a matter of urgency.

through OLA

International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda

UNITED NATIONS
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RECEIVED
AUG 12
28-09504

ACTION
COPY

The President
Le Président

30 July 2008

ICTR/PRES/0105/08

Dear Secretary-General,

I hereby apply, in accordance with Article 12 *ter* (2) of the Statute of the Tribunal, for the appointment of one *ad litem* judge, Judge Florence Rita Arrey from Cameroon, to the trial in the case of Ephrem Setako (Case No ICTR-04-81), with immediate effect.

Judge Arrey is currently assigned to sit in the trial of Hormisdas Nsengimana for which the closing arguments are scheduled to be heard in November 2008. Judgement drafting is projected to spill over into the beginning of 2009.

Judge Arrey is also engaged in the judgement writing in two other cases (Tharcisse Renzaho and Simon Bikindi). Judgement delivery in those cases is anticipated in the next months.

The presentation of Prosecution case against Ephrem Setako is scheduled to commence on 25 August 2008. According to the current projections, the presentation of the evidence will be completed in 2008. Judgement drafting is projected to spill over into the first half of 2009.

Considering the current workload before other sections of the Tribunal's Trial Chambers as well as the current judicial calendar projections, it is necessary to assign Judge Arrey to the *Setako* case. Her assignments can be undertaken simultaneously with her existing workload. The Trial Chamber will be composed of Judges Erik Møse, presiding, and Sergei Alekseevich Egorov, with who Judge Arrey already sits on the *Nsengimana* case.

Please be assured, Mr. Secretary-General, of my highest consideration.

Yours sincerely,

Judge Dennis Byron
President

H.E. Mr. Ban Ki-Moon
Secretary-General
United Nations
New York

Cc: Mr. Nicolas Michel, Under-Secretary-General, The Legal Counsel

United Nations S/RES/1824 (2008)

Security Council

Distr.: General
18 July 2008

Resolution 1824 (2008)

Adopted by the Security Council at its 5937th meeting, on 18 July 2008

The Security Council,

Taking note of the letter to the President of the Council from the Secretary-General dated 13 June 2008, attaching the letter to him from the President of the International Criminal Tribunal for Rwanda ("the Tribunal") dated 6 June 2008 (A/62/896-S/2008/436),

Recalling its resolutions 955 (1994) of 8 November 1994, 1165 (1998) of 30 April 1998, 1329 (2000) of 30 November 2000, 1411 (2002) of 17 May 2002, 1431 (2002) of 14 August 2002, 1449 (2002) of 13 December 2002,

Recalling in particular its resolutions 1503 (2003) of 28 August 2003 and 1534 (2004) of 26 March 2004, in which the Security Council calls on the Tribunal to take all possible measures to complete investigations by the end of 2004, to complete all trial activities at first instance by the end of 2008, and to complete all work in 2010,

Recalling that on 13 June 2006, the Security Council decided in resolution 1684 (2006) to extend the term of office of the eleven permanent judges of the Tribunal until 31 December 2008, and that on 13 October 2006, the Security Council decided in resolution 1717 (2006) to extend the term of office of the eighteen ad litem judges of the Tribunal until 31 December 2008,

Noting that two of the permanent judges and one of the ad litem judges currently serving at the Tribunal have indicated their intention to resign in 2008 upon the completion of their respective cases, and that at this stage it is not expected that their replacement will be necessary,

Noting the progress made by the Tribunal towards the completion of its trial work at the earliest date,

Noting the projections provided by the Tribunal as to the completion of all the remaining cases at trial stage before the end of December 2009,

Expressing its expectation that the extension of the terms of office of the judges concerned will enhance the effectiveness of trial proceedings and contribute towards ensuring the implementation of the Completion Strategy,

08-42946 (E)

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to extend the term of office of the following permanent judges at the Tribunal who are members of the Appeals Chamber until 31 December 2010, or until the completion of the cases before the Appeals Chamber if sooner:

– Mr. Mehmet Güney (Turkey)
– Ms. Andrésia Vaz (Senegal)

2. *Decides* to extend the term of office of the following permanent judges at the Tribunal who are members of the Trial Chambers until 31 December 2009, or until the completion of the cases to which they are assigned if sooner:

– Mr. Charles Michael Dennis Byron (Saint Kitts and Nevis)
– Mr. Asoka de Silva (Sri Lanka)
– Mr. Sergei Aleckseevich Egorov (Russian Federation)
– Ms. Khalida Rachid Khan (Pakistan)
– Mr. Erik Møse (Norway)
– Ms. Arlete Ramaroson (Madagascar)
– Mr. William Hussein Sekule (United Republic of Tanzania)

3. *Decides* to extend the term of office of the following ad litem judges, currently serving at the Tribunal, until 31 December 2009, or until the completion of the cases to which they are assigned if sooner:

– Ms. Florence Rita Arrey (Cameroon)
– Ms. Solomy Balungi Bossa (Uganda)
– Ms. Taghrid Hikmet (Jordan)
– Mr. Vagn Joensen (Denmark)
– Mr. Gberdao Gustave Kam (Burkina Faso)
– Mr. Lee Gacuiga Muthoga (Kenya)
– Mr. Seon Ki Park (Republic of Korea)
– Mr. Emile Francis Short (Ghana)

4. *Decides* to extend the term of office of the following ad litem judges, who have not yet been appointed to serve at the Tribunal, until 31 December 2009, or until the completion of any cases to which they may be assigned if sooner:

– Mr. Aydin Sefa Akay (Turkey)
– Ms. Karin Hökborg (Sweden)
– Ms. Flavia Lattanzi (Italy)
– Mr. Kenneth Machin (United Kingdom)
– Mr. Joseph Edward Chiondo Masanche (United Republic of Tanzania)
– Tan Sri Dato' Hj. Mohd. Azmi Dato' Hj. Kamaruddin (Malaysia)
– Mr. Mparany Mamy Richard Rajohnson (Madagascar)
– Mr. Albertus Henricus Johannes Swart (Netherlands)
– Ms. Aura E. Guerra de Villalaz (Panama)

5. *Decides* to amend article 11, paragraphs 1 and 2, of the Statute of the International Tribunal for Rwanda and to replace those paragraphs with the provisions set out in the annex to this resolution;

6. *Decides* to remain seized of the matter.

Annex

Article 11: Composition of the Chambers

1. The Chambers shall be composed of **a maximum of** sixteen permanent independent judges, no two of whom may be nationals of the same State, and a maximum at any one time of nine ad litem independent judges appointed in accordance with article 12 ter, paragraph 2, of the present Statute, no two of whom may be nationals of the same State.

2. **A maximum at any one time of** three permanent judges and six ad litem judges shall be members of each Trial Chamber. Each Trial Chamber to which ad litem judges are assigned may be divided into sections of three judges each, composed of both permanent and ad litem judges. A section of a Trial Chamber shall have the same powers and responsibilities as a Trial Chamber under the present Statute and shall render judgement in accordance with the same rules.