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President: Mr. Holkeri . . . . . (Finland)

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

Statement on the occasion of the Africa Industrialization Day

The President: Before turning to the items on our agenda, I should like to remind the General Assembly that today, 20 November, is Africa Industrialization Day.

Today, the first Africa Industrialization Day of the new millennium, is a landmark for measuring African industrial progress. This is an occasion to recognize the tireless efforts of African Governments and societies to create sustainable development and improved living conditions.

We all know that globalization provides opportunities and challenges for Africa, but perhaps in some instances late-comers have the advantage of being able to learn from best practices and tested strategies and to use environmentally friendly technologies. For this reason, the industrial development of developing countries may be faster and more stable than it was in those countries that experienced it earlier.

For African industry, the challenge of going global is a matter of improving competitiveness and productivity. I should like to remind Members of the positive growth rates and reforms in several African countries and the potential of its people. African Industrialization Day calls for further concerted efforts at the national, regional and international levels to transform the continent's natural resources into processed goods and to raise the overall growth rate of manufacturing.

In order to do this, among other things, Africa needs to learn from the latest technological wisdom offered by information and communication technologies in pursuit of development. These innovations should be adapted according to local conditions and needs. Simultaneously, there is a need for basic industries, which are the backbone of any industrialized economy. We need to be pragmatic and to maintain and ensure a balance between different sectors.

African industries need a well-trained workforce. African entrepreneurs need to be encouraged with different incentives relating to investment, enterprise start-up procedures and public investment in basic physical infrastructure. Social considerations and poverty eradication should not be forgotten during the process of industrialization.

With the support of the international community and multilateral agencies, African countries can strengthen their small and medium-sized industries, which form the major part of the African private sector. This is an undertaking that requires not only a strategic vision, but the full commitment of entire populations and the international community.

The capacity of developing countries, especially the least developed countries, must be our special focus in the new millennium, as agreed by the heads of State

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and Government in the Millennium Declaration. Next year, the Third United Nations Conference on the Least Developed Countries and the high-level segment of the Economic and Social Council provide an opportunity for all stakeholders to continue the dialogue and exchange of views on the important topics that we are debating today.

Agenda item 51

Question of the Falkland Islands (Malvinas)

The President: I should like to inform representatives that following consultations regarding agenda item 51 on the question of the Falkland Islands (Malvinas), and taking into account General Assembly decision 54/412 of 4 November 1999, it is proposed that the General Assembly decide to postpone consideration of this item and to include it in the provisional agenda of its fifty-sixth session.

May I take it therefore that the Assembly, taking into account decision 54/412, wishes to defer consultations of this item and to include it in the provisional agenda of the fifty-sixth session?

It was so decided.

The President: The General Assembly has thus concluded its consideration of agenda item 51.

Agenda item 53

Report 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

Note by the Secretary-General transmitting the fifth annual report of the International Criminal Tribunal (A/55/435)

The President: May I take it that the Assembly takes note of the fifth annual report of the International Criminal Tribunal for Rwanda?

It was so decided.

The President: I call on Ms. Navanethem Pillay, President of the International Criminal Tribunal for Rwanda.

Ms. Pillay: It is my honour to present to Members a report on the activities of the International Criminal Tribunal for Rwanda (ICTR) for the year 1999 to 2000. It is my hope that the report will bear out the Security Council's vision when it created the ICTR six years ago on 8 November 1994 for the purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in Rwanda in 1994, with the goal of achieving peace and reconciliation in Rwanda.

Through the creation of the two ad hoc Tribunals, the ICTR and the International Tribunal for the Former Yugoslavia (ITY), the United Nations has given expression to a truly global desire for justice and respect for the rule of law. As a result of the jurisprudence of these Tribunals, the concept of individual criminal responsibility at the international level is finally gaining world endorsement and international criminal justice has now become a reality. The establishment of an internationally recognized system of justice provides a new avenue of recourse in a world that desperately needs the rule of law as an alternative to the use of force.

In the Millennium Declaration issued by Member States, they resolved to strengthen the rule of law in international as in national affairs, and by signing and ratifying some 40 international instruments the Member States have reaffirmed, in the words of the Secretary-General, Mr. Kofi Annan,

> "the vital importance of international law which is the common language of our international community".

Our daily efforts at the International Criminal Tribunal for Rwanda (ICTR) in carrying out the complex and difficult task of dispensing justice expeditiously, but fairly, must be viewed in the light of the Member States' vision for the millennium. Accordingly, the jurisprudence that is emerging from the ad hoc Tribunals is making an important contribution towards realizing this vision.

Specifically, the jurisprudence of the ad hoc Tribunals provides precedent and impetus for the International Criminal Court and for the judicial tribunals being established by the United Nations for

Sierra Leone and Cambodia. Indeed it is the hope of the Judges that the Tribunals will exert in the months and years to come an even stronger legal and symbolic influence on emerging and existing national and international institutions based on the rule of law.

Now to the question of what the ICTR has achieved in the first year of its second mandate. In one year, since November 1999 when I last delivered my statement to the Assembly, the performance of the ICTR has improved, our work has accelerated and our output has multiplied. In the year under review the Trial Chambers of the ICTR have delivered three judgements involving convictions of genocide and crimes against humanity.

I am going to proceed to briefly give delegations an idea of the work this year. On 6 December 1999, Georges Rutaganda, a former businessman and second-vice president of the Interahamwe and, on 27 January 2000, Alfred Musema, a tea factory director, were convicted and sentenced to life imprisonment. Both convicted persons have lodged appeals against their respective judgements. On 1 June 2000, Georges Ruggiu, a Belgian national, upon his plea of guilty, was convicted of direct and public incitement to commit genocide and crimes against humanity and was sentenced to 12 years imprisonment on each of the counts, both sentences to run concurrently. The trial of Ignace Bagilishema, the mayor of Mbanza Commune, Kibuye Prefecture, is now complete and the judges are deliberating over the judgement.

For the period under review, the three Trial Chambers ruled on 223 pre-trial motions in the Butare and Cyangugu cases, the media cases, military cases, government cases and others involving approximately 33 indicted persons. The rights of the accused, guaranteed under article 20 of the ICTR's Statute, must be respected, and we must hear and respond to each of the motions, the motions filed by the prosecutor and defence counsel related to amendments to and objections to the indictments, the joinder or severance of trials, witness protection measures, disclosure of documents for trial and the assignment and withdrawal of counsel.

Initial appearance hearings were held for the entering of pleas in respect of new indictees, as well as those whose indictments were subsequently amended. The judges also conducted numerous status and pre-trial conferences to finalize all issues before proceeding to trial.

The ICTR Appeals Chamber has significantly alleviated the outstanding roll of appeals, some of which had caused a stay of trial proceedings. On 6 April 2000 the Appeals Chamber affirmed the conviction and sentence of 15 years imprisonment of Omar Serushago, and, on 19 October 2000, the Appeals Chamber affirmed the conviction and sentence of life imprisonment of the former Prime Minister of Rwanda, Jean Kambanda. The Appeals Chamber heard oral arguments in the appeals by Kayishema, Ruzindana and Akayesu at its session held in Arusha from 30 October to 2 November this year and is currently deliberating its judgements.

In all, 34 interlocutory appeals were lodged pertaining to the Tribunal's lack of jurisdiction, arrests, indictments issued and so on. Of these, 24 appeals have been finalized and four applications for review of the decisions of the Appeals Chamber were also lodged. The Appeals Chamber's review decision of 31 March 2000, in the case of *The Prosecutor v. Jean Bosco Barayagwiza*, underscored many of the challenges we face, including expeditious cooperation with Member States for the extradition of indicted suspects to the ICTR, the appointment of counsel of choice for indigent accused, an accused's right to be brought to trial without undue delay, and the impact of the discovery of additional facts relevant to the charges which were not known when the accused was initially indicted. These fundamental issues, among others addressed in the Appeals Chamber decision in Barayagwiza, not only provide authority and guidelines for the Trial Chambers, but form the basis for ground-breaking new law that will influence the development of international jurisprudence.

The first year of the second mandate can be characterized as a period of intensive judicial effort on the part of the Trial Chambers and the Appeals Chamber to clear the backlog of pre-trial motions and interlocutory appeals that were carried over from the previous mandate. The consequence of this year's pre-trial work is that we can plan and proceed with trials.

With regard to the utilization of courtrooms for the period under review, the Trial Chambers were seized of one trial and a large volume of pre-trial motions, as I mentioned. In the past, pre-trial motions were heard in court, with a full complement of court

staff being in attendance and counsel for the prosecution and defence participating in the proceedings. The judges have amended the Rules of Procedure and Evidence to allow for motions to be considered solely on the briefs filed by the parties, instead of their having to hear the motion in open court. As a result of this amended rule, pre-trial motions are now disposed of more expeditiously, since there is no longer a need to schedule hearings on these matters around the availability of defence counsel. This procedure substantially reduces the Tribunal's costs, particularly fees and disbursements paid to defence counsel. Most of the pre-trial motions that have been filed since those amended rules were decided on brief, instead of in hearings in court, thus reducing the use of the courtrooms for the period under review.

The use of courtrooms was further reduced when court dates were vacated due to trials not commencing as originally scheduled. This was because court documents were not translated on time and complete disclosure of trial materials was not made to the defence. One such case is the media case, involving three accused persons. This trial, which was originally scheduled for 29 May 2000, was moved to 5 June 2000, rescheduled for 18 September 2000, and finally began on 23 October 2000. The reason for all this was difficulties over the translation of court documents and the disclosure of supporting documents that were filed by the prosecutor.

These difficulties have to be more effectively addressed by the administration of the Tribunal. These matters are not within the control of the judges, yet they greatly affect our work.

In some instances, trials could not begin because of pending interlocutory appeals — for instance, in the case of Semanza.

During the past year, the nine trial and five appeals judges have worked closely together to envision solutions for the apparent delays in the commencement of trials. All 14 judges convened at the seventh, eighth and ninth plenary sessions, which were held at the seat of the ICTR, in Arusha, to discuss judicial and policy issues concerning the ICTR and to revise the ICTR Rules of Procedure and Evidence.

For the first time since the Tribunals have been in existence, a seminar of all judges from the two Tribunals was held in the United Kingdom from 29 September to 1 October 2000. I thank the Government of Great Britain for hosting the seminar and the Office of Legal Affairs at United Nations Headquarters for taking the initiative to organize the seminar. All in all, therefore, this first year of our second mandate has been a dynamic one for the ICTR.

I should now like to deal with the prospects for the year 2001. The positive consequence of the judicial, administrative and prosecutorial endeavours during the past year has been to prepare the ground for uninterrupted trials. Next year, all three Trial Chambers will hold simultaneous trials, often twin-tracking, with two trials per Chamber. Joint trials involving the media, Cyangugu and Semanza cases, which began this year, will continue into next year. New trials have been scheduled for early next year: the Ntakirutimana — (father and son) — trial is scheduled to commence on 23 April 2001; the Butare case, involving six accused, is scheduled to begin in April. With regard to the Government cases, three trials involving six Government ministers are scheduled to begin early next year. The military case, involving four accused, is expected to commence in June 2001.

We want to assure members that we are determined to do our utmost to complete the cases of the 35 persons awaiting trial within the period of the mandate. We cannot at this stage predict the number of new suspects that may be indicted — this is under consideration by the Prosecutor. Three new indictees have recently been transferred to the Tribunal by the Governments of Tanzania, France and the United Kingdom, and another person is due to arrive from Denmark this week. We thank the Governments of those Member States for their cooperation.

The Appeals Chamber has requested an additional two judges to enable it to meet the extra workload. At the plenary meeting of judges on 18 February 2000, the judges unanimously supported the recommendations of the Expert Group for the enlargement of the Appeals Chamber serving the ICTR and ICTY. It was agreed at the plenary that the two additional judges shall be drawn from the pool of existing ICTR judges. and they will serve in The Hague as members of the ICTR and ICTY Appeals Chamber.

Many of the logistical and administrative difficulties that were highlighted in the past as causes of delay in the progress of trials have been and are being addressed by the judges and the Registrar. The judges continue to stress that the focal point for the

administration of services and resources should be the judicial functions of the Tribunal. We have now reached a critical stage: trials will begin next year, and greater resources and proper personnel for translation services and for the preparation of judgments and court management are essential.

We are grateful to the Secretary-General, Mr. Kofi Annan, for his cooperation and assistance. In particular, we thank the Secretary-General for commissioning a report on the ICTR's court management services by a court consultant with 39 years of experience. In order to fulfil the projected judicial calendar, we need the requisite resources and administrative support that are suggested in this report. We look forward to the implementation of the recommendations in this report for the enhanced functioning of the ICTR.

In conclusion, on behalf of all of the personnel of the ICTR, I thank the Assembly for its interest and support. Many representatives of Member States have paid visits to the ICTR in Arusha, Tanzania. We welcome those visits and invite representatives to witness firsthand our efforts in creating a respected system of international criminal justice, breathing life into the Organization's vision and fulfilling its mandate.

Mr. Alabrune (France) (*spoke in French*): I have the honour to speak on behalf of the European Union. The Central and Eastern European countries associated with the European Union — Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovenia — and the associated countries Cyprus, Malta and Turkey, as well as the European Free Trade Association member of the European Economic Area — Iceland — align themselves with this statement.

Like the International Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda (ICTR) must judge crimes that are among the most serious to have ever been committed against human beings. The Tribunal was the first international jurisdiction to hand down convictions for genocide. The atrocities that led to those verdicts represent some of the darkest moments in human history. The verdicts themselves are therefore proof of the international community's intention to put an end to the impunity that too often in the past accompanied violations of international humanitarian law and serious human rights offences.

The European Union supports in particular the Tribunal's efforts to gather proof of violence of a sexual or sexist nature inflicted in connection with the events admitted to its competence. It is vital that the victims of these crimes be assured that they will benefit from counselling and support services and that their attackers will answer to the Tribunal.

The texts establishing the Tribunal state clearly that its goal is not only to put an end to impunity but also to prevent the recurrence of such atrocities. That goal should be pursued through a justice that is unflinching, respectful of the recognized principles of international penal law, and visible for all to see. The first verdicts to be handed down have shown that it is not possible for the perpetrators of crimes of genocide to escape from justice. The European Union notes in this regard the fact that the Prosecutor wishes to accord priority to crimes of genocide and complicity in genocide.

The fulfilment of these missions should also make a major contribution to the restoration of peace in the region, so tragically affected by the events of 1994. To this end, the Tribunal must meet numerous challenges as regards its workload and management.

The European Union notes with satisfaction that the creation of a third Chamber has contributed to speeding up procedures. It hails the progress made thanks to the modifications to the rules of procedure and evidence adopted in 1999. It encourages the Tribunal to make full use of its human and material resources and the Chambers to make full use of their rules of procedure, in order to enhance the efficiency of the judicial procedures of the Tribunal.

The European Union invites the ICTR, which works in close collaboration with the International Criminal Tribunal for the former Yugoslavia and shares the same Prosecutor and Appeals Chamber, to examine the fields in which improved coordination could impart even greater efficiency to the two institutions' procedures.

The European Union wishes to thank the President of the Tribunal, Ms. Pillay; the President of the Tribunal for the former Yugoslavia, Mr. Claude Jorda; and the Prosecutor, Ms. Carla Del Ponte, for their proposals aimed at improving the efficiency of

both international criminal tribunals. It hopes that the decisions that the Security Council might make on the proposed amendments to the Statute presented by the judges will help the Tribunal to continue working along these lines.

The European Union is aware of the difficulties faced by the Prosecutor's Office. It welcomes the energetic way in which the new Prosecutor, Ms. Carla Del Ponte, is approaching the tasks entrusted to her. It encourages the continuation of her efforts concerning the reform of the Kigali and Arusha offices.

Year after year, the Tribunal has encountered numerous administrative problems. While aware of the measures taken by the Registry to improve the Tribunal's management, the European Union notes nonetheless that very important matters, relating, for example, to financial oversight and to the responsibility of officials in regard to management, remain unresolved. This situation continues to be a source of very serious concern for us. Only the full implementation of the recommendations aimed at improving the Tribunal's operations will enable it to fulfil the important mission entrusted to it, under satisfactory conditions.

The European Union notes with satisfaction the support received by the ICTR from the many States that are contributing, in many ways, to the success of its mission. We would like also to thank all those States whose cooperation with the Tribunal has led to the arrest and detention of numerous suspects, including several former highly placed Rwandan officials.

The European Union welcomes the resumption of relations of trust and cooperation between the Tribunal and Rwanda, given concrete form by the appointment in 1999 of a Rwandan Government representative to the Tribunal, and by the visit to Kigali of Ms. Del Ponte in May 2000.

We are grateful also to the Government of the Tribunal's host country, the United Republic of Tanzania, for having amended its immigration procedures so as to facilitate the appearance not only of witnesses but also of the accused, and also for striving to preserve the anonymity of those people and to afford them protection when circumstances warrant.

The European Union renews its support for the Tribunal's information programme, which aims to disseminate knowledge about its activities. This programme should be pursued and developed so as to make better known — especially among those peoples that suffered directly from the atrocities — the efforts of the Tribunal and the international community not to let the heinous crimes committed in 1994 go unpunished.

The European Union invites all States to respond to the Secretary-General's appeal to United Nations Members to agree to the use of their prisons to detain those convicted by the Tribunal for the duration of their sentence. Mali was the first State to sign an agreement of this kind, and the European Union notes with satisfaction that several other United Nations Members have indicated their readiness to follow this example.

The European Union wishes to restate its commitment to the Tribunal and its work. We thank the Tribunal's judges and officers and in particular its President, Ms. Pillay, who is completing the second year of her mandate, for their contribution to the upholding of justice.

We also note the contribution of the work of the ICTR to the Preparatory Committee for the International Criminal Court. The practice and experience amassed by the ICTR provide a valuable source for determining the rules that will enable serious violations of international humanitarian law to be prosecuted and punished, regardless of where they are committed or of the identity of the accused party. The ICTR's experience has raised awareness of the importance of giving victims access to the Tribunal and of protecting them.

The ICTR is now entering its phase of maturity. The Tribunal's caseload and burden of responsibility are heavy and demanding, but, with the support of the international community, the Tribunal should be able to overcome these difficulties and thereby make the contribution asked of it in the affirmation of justice against the direst crimes and the consolidation of peace in the Great Lakes region.

Mr. Hønningstad (Norway): I would like to thank the President of the International Criminal Tribunal for Rwanda for her extensive statement. Norway welcomes the substantial achievements of the Rwanda Tribunal, as reflected in the various judgements recently passed. The International Criminal Tribunal for Rwanda recently confirmed the first ever conviction of a head of Government for the crime of

genocide, that of the former Rwandan Prime Minister, Jean Kambanda.

Precedent-setting cases of this kind shed light on how genocide actually occurred in Rwanda in 1994 and on the chain of events linked to such cases. Moreover, they represent important new building blocks in international jurisprudence with regard to the prosecution of the most serious international crimes. The experience obtained by the Rwanda Tribunal is also a stepping stone towards the establishment of the International Criminal Court.

The success of the Tribunal will be judged in part by its activity and by the manner in which the investigation, prosecution and proceedings are managed. It is therefore imperative that the Tribunal carry out these tasks in an efficient manner.

We have previously expressed concern about the administrative difficulties that the Tribunal has been confronted with and have followed with great attention efforts to improve the working conditions in Arusha and Kigali. Over the past year significant progress has been made. We feel encouraged by the steps that have been taken and the results that have been achieved so far. Among noteworthy reforms to enhance judicial support services to the Chambers is the automation of the judicial records in particular and court management services in general. We are hopeful that the institution of the court management coordinator concept, as well as the appointment by the Secretary-General of a court management consultant to assist the Tribunal temporarily in its court management operations, will improve efficiency. We are confident that these steps will contribute to an effective handling of cases without reducing in any way the procedural rights of either the accused or any other parties to the process. Nevertheless, there is still a potential for further administrative improvements in the Tribunal.

Norway remains a strong supporter of the Tribunal and appeals to other States to take all necessary legislative steps to ensure effective State cooperation with it. We note that the Tribunal has received valuable assistance from several countries, enabling the arrest of several indictees. In addition to legislation and compliance with the Tribunal's requests for assistance, concrete support to the Tribunal should be shown through financial and material contributions. Sufficient resources are necessary in order to enable the Tribunal to carry forward investigations and prosecutions in a proper and expedient manner and to increase its activity. The Tribunal deserves political, practical and financial support. Normative structures alone are not sufficient.

The Norwegian Government has declared its willingness to consider applications from the Tribunal concerning the enforcement of sentences and, subsequently, in conformity with our national law, to receive a limited number of convicted persons to serve their time in Norway. This is critical to the functioning of the Tribunal, and we encourage more States to prove their continued commitment to the work of the Tribunal through similar concrete action.

Mr. Mwakawago (United Republic of Tanzania): Once again, we are glad to address the General Assembly on the report of the International Criminal Tribunal for Rwanda. My delegation welcomes the report and commends the President of the Tribunal, Justice Navanethem Pillay, for her introductory remarks.

The fifth annual report of the Tribunal for Rwanda is a source of increasing encouragement regarding the mandate and work of the Tribunal. We are encouraged that the pace of judicial activities continues to increase. We are also gratified to note the growing number of States that are cooperating with the Tribunal and are transferring accused persons to the Tribunal, thereby facilitating the discharge of its mandate.

We also commend the Tribunal for its efforts aimed at producing a compendium of summaries of judgements and outstanding judicial decisions concluded by the Tribunal for publication as a document of the United Nations. We welcome this project and look forward to its outcome.

Justice delayed is justice denied. It is therefore a matter of concern that the large volume of motions and interlocutory appeals have significantly contributed to the delay in the commencement of trials. It is regrettable that five years after its inception, the Tribunal continues to spend some of its precious time in addressing challenges to its jurisdiction, in the form of interlocutory appeals and other motions. We therefore applaud the decisions of the seventh and eighth plenary sessions, which amended several rules of the Tribunal with a view to expediting and shortening trials. The positive steps taken by the plenary is a demonstration by the Justices of their

sensitivity to the goals of justice and reconciliation for Rwanda and its people.

My delegation supports the Tribunal's undertaking to improve the management of the funds allocated to the legal aid programme. It is important that programme resources indeed be deployed towards assisting accused persons who are truly indigent. The request by the Tribunal for assistance in establishing assets indigent accused persons may be holding in some jurisdictions is therefore worth supporting.

My Government recognizes the special significance of our hosting the Tribunal. We are especially sensitive to its role in the process of rendering justice and promoting national reconciliation and healing in Rwanda. It is in this regard that we have dedicated ourselves to supporting and strengthening our cooperation with the Tribunal.

As a host to the International Criminal Tribunal for Rwanda, Tanzania has a fundamental interest in the Tribunal's success. We are glad to note that the accommodation difficulties the Tribunal was facing have been resolved satisfactorily within the circumstances obtaining. The need for office space to accommodate the entire Tribunal staff within a single complex is a need that was equally shared by the Government. On behalf of my Government, I want to thank the Tribunal, and particularly the Registrar, Mr. Agwu Okali, for his continued understanding and cooperation.

The International Criminal Tribunal for Rwanda has surely turned a new page in the last few years. It is our hope that what has been achieved will continue to lay a strong framework for the Tribunal's efforts to render justice. The Rwanda Tribunal, like the International Criminal Tribunal for the Former Yugoslavia, is now functioning well. However, it is imperative that both Tribunals continue to be strengthened and obtain our firm support and that we enable them to discharge their mandates fully and expeditiously.

Mr. Mamba (Swaziland): Let me begin, first of all, by expressing, on behalf of my delegation, our warmest appreciation to the President of the Tribunal, Judge Pillay, for her comprehensive introduction of the report of the Tribunal for the period beginning July 1999 and ending June 2000, contained in document A/55/435, which presents an overview of the work of the Tribunal in the preceding year.

My delegation also welcomes the substantial achievements of the Tribunal, as reflected in its decisions during this reporting period. The recent three judgements rendered by the Tribunal demonstrate its will to continue to build upon its record, following the four historic judgements passed in 1999. In this connection, my delegation shares the view of the Secretary-General of the United Nations that,

> "These judgements must be viewed as a step towards transforming the aspirations of international criminal justice into reality, and contributing to the process of national reconciliation in Rwanda and to the restoration of peace in the region". *(A/55/435, para.1)*

Indeed, the judgements of the Tribunal will have a significant impact on the development of international humanitarian law, as reflected in the Tribunal's decision in the Akayesu case, in which it was called upon to interpret and apply the 1948 Convention for the Prevention and Punishment of the Crime of Genocide. Further, the Tribunal's experience in and contribution to international criminal justice will also have a positive impact on efforts aimed at establishing the International Criminal Court.

Notwithstanding the teething problems that the Tribunal experienced at the initial phase, its achievements thus far provide us with a clear indication that the Tribunal has finally come to grips with the practical expectations of the international community when it was established following the atrocities that took place in Rwanda in 1994. As a legal forum it is effectively fulfilling its responsibilities. We are confident that with time the Tribunal will eventually overcome the many challenges it continues to face, both in terms of its caseload and management. With the addition of the third Trial Chamber, as well as the increase in the number of judges, the backlog of cases of accused persons awaiting trial will, we believe, be handled in a speedier fashion.

We are grateful that the Tribunal, through its Witnesses and Victims Support Section, has intensified its post-trial activities in the countries of residence of witnesses who have appeared before the Tribunal, especially in improving their psychological rehabilitation. In so doing, it has successfully enlarged the network of countries willing to cooperate with the Tribunal in the area of witness management. Through such cooperation the Tribunal has enhanced witnesses'

travel arrangements to and from the seat of the Tribunal and has also enjoyed the support of regional agencies of the Office of the United Nations High Commissioner for Refugees in facilitating the movement and the protection of witnesses.

Further cooperation is needed to ensure that the Secretary-General's appeal to Member States to provide prisons for the incarceration of persons convicted by the Tribunal is met. In this connection, the Government of the Kingdom of Swaziland, responding to the Secretary-General's appeal, has become the third country to agree to receive persons convicted by the Tribunal for the purpose of serving their sentences. The agreement was signed in Mbabane on 30 August 2000 by the Minister of Foreign Affairs and Trade, on behalf of the Kingdom of Swaziland, and by the United Nations Assistant Secretary-General and Registrar of the Tribunal, on behalf of the United Nations. In this way, Swaziland has joined Mali and Benin as countries that have shown willingness to assure the enforcement of the Tribunal's sentences. This is critical to the functioning of the Tribunal, and we encourage more States to prove their continued support of the work of the Tribunal through similar action.

On yet another positive note, valuable assistance continues to be given to the Tribunal through contributions by a number of States to the Tribunal's Voluntary Trust Fund. The Tribunal has assured Member States that through the Trust Fund it will continue to fund established programmes initiated in previous years and will seek to provide financial support to new projects recommended by the Trust Fund Advisory Board. We would like to take this opportunity to thank those Member States for their contributions. With the cooperation of the international community, my delegation is convinced that the proceedings of the Tribunal will be accelerated and that it would be reasonably possible for it to conclude its work within the period of its mandate.

Mr. Mochochoko (Lesotho): It is a pleasure for my delegation to once again welcome the President of the International Criminal Tribunal for Rwanda, Justice Navanethem Pillay, to yet another session of the United Nations General Assembly, and to thank her for her lucid introduction of the Tribunal's fifth annual report, which highlights the activities of the different organs of the Tribunal during the period under review. We commend Judge Pillay for her continued leadership of the Tribunal, for her dedication to the cause of justice and for her contribution to the positive evolution of the Tribunal since its establishment. We support the call for the amendment of the Tribunal's Statute to provide for compensation for persons arrested, prosecuted or convicted wrongly.

We are happy to note that this has been both a busy and successful year for the Tribunal, and congratulate all Tribunal staff for their hard work. Despite their best efforts in trying circumstances, much work still needs to be done and many difficulties have yet to be resolved. We therefore encourage the Tribunal to continue its efforts to overcome these difficulties.

We see merit in the prosecution's strategy of joint trials, as well as in the Tribunal's amendments and streamlining of the rules in order to expedite pre-trial, trial and appeals proceedings. Efforts to harmonize the rules of both ad hoc Tribunals should also continue. In all these endeavours, respect for the rights of the accused should be paramount.

Efficient and effective judicial support services are crucial for the success of the work of the Chambers. Use of modern technology and automation of judicial records will no doubt enhance the work of the judicial support services. We are thus encouraged by the various court management reform efforts and in particular by the implementation of the tower records information management system, which has made documentation retrieval quicker and easier. The introduction of a court management coordinator should go a long way towards easing tensions by streamlining the conduct of work between the presidency and the Registry, thus enhancing the pace and quality of work.

The establishment of the International Criminal Tribunal for Rwanda (ICTR) by the Security Council in 1994 was yet further evidence of the erosion of the old notion that what goes on within a State is a matter of sovereignty and privacy, a matter that is of no relevance to international relations and thus of no concern to other States. By establishing the two ad hoc Tribunals for Yugoslavia and Rwanda in 1993 and 1994, respectively, the Council, and through it the international community, ushered in a new doctrine in defence of humanitarian values, the doctrine that "world order" entails not only political stability and general economic well-being, but, more important, democratic government, ethnic harmony and, above all, respect for human rights.

Having abandoned the people of Rwanda in time of need by failing to stop the genocide in that country in 1994, the international community's next alternative was to show its indignation over what had happened in Rwanda by setting in motion a process for investigating, prosecuting and punishing those responsible for the most serious crime of genocide. The international community thus bears the responsibility for the Tribunal's continued effectiveness, and it must fulfil this responsibility if the Tribunal is to succeed in the mission entrusted to it by the Security Council: prosecution to the full extent of the law of all those responsible for atrocities committed in Rwanda between January and December 1994.

There can be no doubt that the Tribunal has so far worked to overcome its teething problems and to fulfil its mandate. Even sceptics now agree that the Tribunal has evolved from its skimpy beginning, when the Security Council took the unprecedented but courageous step of establishing it in 1994. To date, the focus of prosecutions has been on those in power at the time of the genocide in Rwanda. More than 40 people have been indicted and detained, most of them high-ranking political, military and media leaders, such as the former Prime Minister and a number of cabinet ministers, as well as senior Government officials, a clear indication that the Rwanda genocide was planned and coordinated at the highest level of State machinery.

For those to whom the achievements of the Tribunal may still not be evident, let me note that its pioneering work started with the election of the first six judges in 1995 and the subsequent promulgation of the Tribunal's rules of procedure and evidence; the submission and confirmation of the first three indictments; the completion of the Tribunal's first court in 1996; the beginning of the first trial in 1997; the handing down of the first genocide conviction and the recognition, for the first time, of rape as a crime against humanity and a war crime; the first sentencing of a former head of Government; and, last but not least, the first indictment of a woman for rape.

The impact of these developments on the early establishment of a permanent international criminal court and their contribution to the jurisprudence of international criminal law cannot be overstated. Nowhere is this more evident than in the Tribunal's pioneering work on victims, in which we are beginning to witness a move from purely retributive justice — in which punishment of the offender was itself sufficient recognition of the victims' rights — to the incorporation of a new dimension of victims' rights, victims' participation as witnesses and reparations for victims.

These positive developments should, however, not lead to complacency, as much still needs to be done to bring to justice all those responsible for committing crimes in Rwanda. The people of Rwanda deserve no less than speedy, but fair and effective, trials of all those indicted before the Tribunal.

It should thus be a matter of concern for us all that the Tribunal continues to be plagued by inordinate delays in finalizing trials, most of which delays can be attributed to the obstructive and dilatory tactics employed to frustrate — by slowing the pace of trials — the Tribunal's efforts to make efficient use of judicial time. The dramatic shift from approximately 200 pre-trial motions over a two-year period to more than 200 interlocutory and pre-trial motions in just one year may be the single most significant factor contributing to trial delays. This apparent abuse of the court process cannot be allowed to continue, and thus it calls for the Tribunal to exert stringent control over proceedings, as well as for strict compliance with the rules. The finding by Trial Chamber III in the Kabiligi and Ntabakuze case that defence motions were frivolous, without merit and an abuse of court process should send a clear message to all those who believe that they can force the Tribunal into paralysis by inundating it with frivolous motions.

While we applaud this and encourage the Tribunal to scrupulously apply a zero-tolerance policy for any attempts to force it into paralysis, we are not unmindful of the paramount need and duty of counsel to defend the accused to the best of their ability and for the Tribunal to dispense justice and respect the rights of the accused. We have confidence in the abilities, experience, professionalism and integrity of the judges to uphold the highest standards of justice for all accused persons.

The fact that, out of a total of 53 persons indicted by the Tribunal, 45 of them have already been arrested in various countries of Africa and Europe is a clear indication of the support the Tribunal enjoys worldwide. As the Tribunal intensifies its efforts to finalize trials of those indicted and arrested, the focus of States' cooperation will have to shift from assisting in tracking down, arresting and transporting indictees

to assistance with the incarceration of convicted persons. We commend the Government of the Kingdom of Swaziland for being the latest addition to the list of countries that have agreed to receive convicted persons. We express the hope that many more African countries will rise to the challenge of contributing to the cause of justice in Rwanda by helping the Tribunal implement its policy that sentences should as far as possible be served in Africa.

We have read with great interest the report (A/54/634) of the Expert Group to review the effective operation and functioning of the ad hoc Tribunals for Yugoslavia and Rwanda. We have noted some of the Expert Group's interesting recommendations, and we look forward to exchanging views with other delegations on the recommendations, most of which deserve our full attention.

Mr. Hoffmann (South Africa): My delegation welcomes the fifth annual report of the International Criminal Tribunal for Rwanda (ICTR), transmitted by the Secretary-General to Member States in document A/55/435. My delegation is very pleased to speak on this agenda item, not only because of the importance we attach to the work of the International Criminal Tribunal for Rwanda in its pursuance of criminal justice, but also because we would like to pay tribute to one of our own — Judge Navanethem Pillay. We thank her for her leadership as President of the ICTR and for the sterling work she and her colleagues have done and will continue to do in rendering justice for the Rwanda genocide of 1994. This is clearly reflected in the report to which I referred and the statement on the activities of the ICTR for the year 1999-2000, which Judge Pillay presented to the General Assembly this morning.

I am also speaking in support of the people of Rwanda as they endeavour to overcome their difficult past. My delegation is certain that the establishment of the ICTR will assist the valiant efforts of the people of Rwanda to reconstruct their beloved country, to rebuild their communities and to help the healing process of the souls of all Rwandans, both the victims of the most grotesque genocide of our time and those guilty of that most heinous crime. We express the hope that out of the tragedy of this nation will emerge an outcome that will be a lesson to the rest of humanity, namely, how to use a catastrophe such as this one in bringing about reconciliation, unity, stability and development.

South Africa is pleased with the success that the Tribunal has achieved in the six years since its establishment. This includes the seven judgements for the crime of genocide — the first ever such judgements by any international court — which also include the first conviction and sentencing of a head of Government for the crime of genocide. We are particularly encouraged by the fact that during the past year, the performance of the Tribunal has improved and that the Trial Chambers have delivered three judgements, 223 pre-trial motions and 34 interlocutory appeals. The Appeals Chamber rendered 24 rulings on interlocutory appeals and two review decisions and confirmed one Trial Chamber judgement. We also note the intensive efforts on the part of the Trial Chambers and Appeals Chamber to clear the backlog of pre-trial motions and interlocutory appeals that were carried over from the previous mandate. In this regard, we are aware of and support the Judges' decision to amend the Rules of Procedure and Evidence to allow for motions to be considered solely on the briefs filed by the parties. Not only will this procedure ensure that pre-trial motions are dispersed with expeditiously, but it will also ensure significant cost reductions for the Tribunal. Furthermore, my delegation has taken note of the Prosecutor's new strategy of joint trials for individuals accused of involvement in the same offence and hopes that this new approach will assist the Tribunal in discharging its heavy caseload.

We are pleased to note that many of the administrative and logistical difficulties, which in the past have been cited as some of the causes hindering progress in finalizing trials, are being addressed. In this regard, we would like to acknowledge the reforms brought about under the Tribunal's management. We further welcome and endorse the recommendations made in the report on the Tribunal's court management services and encourage their speedy implementation. My delegation fully shares the view that adequate resources and judicial support services should be made available to the Tribunal to enhance its functioning and to enable it to fulfil its mandate.

South Africa's support for the ICTR is demonstrated by the cooperation and judicial assistance it has rendered to the Tribunal in the arrest and surrender by South Africa to the Tribunal of an individual indicted by the Tribunal in early 1999. We are also currently investigating the possibility of making available prison facilities for the incarceration

of persons convicted by the Tribunal. It is a positive development that the relations between the Tribunal and Rwanda have improved significantly over the past 3 years. In this context, we note the recent inauguration of the ICTR Information and Documentation Centre in Kigali, which will no doubt enhance awareness of and support for the judgements of the Tribunal inside Rwanda. It is our hope that these and other initiatives will contribute to national reconciliation in Rwanda by bringing home to the people of Rwanda the international community's commitment to rendering justice for the genocide of 1994.

In addressing the National Summit of Unity and Reconciliation in Kigali, Rwanda, on 18 October this year, our President, Thabo Mbeki, said,

> "The Rwanda experience should teach each and every one of us to work towards unity, to take individual and collective responsibility for building the kind of future which all our people on the continent need. I have a sense that because of your experience and our experience, these two countries and these two peoples have a particular responsibility to our continent. None of us on this continent suffered the terrible genocide that you did. Nobody else on the continent suffered the terrible disaster of apartheid. Therefore, we must succeed in overcoming the legacy which led to that genocide and all the things that led to the apartheid crime against humanity. And as we do those things together, Rwanda and South Africa will have something positive to bring to the rest of the word. That positive thing, among other things, would be that, regardless of the pain we have suffered, our own sense of humanity says that we should not seek to visit pain on any other people."

Mr. Mutaboba (Rwanda): Since we do not have 118 speakers, I should like to ask you, Mr. President, if I might speak a little longer than usual.

My delegation wishes first of all to thank the President of the International Tribunal, Justice Pillay, for her report. Our thanks also go to the Secretary-General for the continued efforts to get the International Criminal Tribunal for Rwanda (ICTR) working steadily and to improve it.

I should like to recall some of the reasons why the Government of Rwanda requested, and firmly supported, the establishment of an International Tribunal. First, the Rwandese Government wanted to involve the international community, which was also harmed by the genocide and by the grave and massive violations of international humanitarian law, and, by the same token, to enhance the exemplary nature of a justice that would be seen to be completely neutral and fair.

Secondly, the Government sensed that the Tribunal would be seen as a response to its appeal for an international presence to avoid any suspicion of its feared plan to organize speedy and vengeful justice.

Thirdly, the Government wanted to make it easier for all to get at those criminals who have found refuge in different countries.

Fourthly, the genocide committed in Rwanda was a crime against humanity and should be punished by the international community as a whole.

Finally, we believed that the Tribunal would help national reconciliation and the shaping of a new society based on social justice and respect for fundamental human rights by decisively bringing to justice those criminals who are scattered all over the world.

Rwanda is a society that is undoubtedly very vulnerable and sensitive to whatever is done by the ICTR. That is why our internal policies have a direct bearing on the activities of the International Criminal Tribunal for Rwanda, which was, above all, created because of the genocide against our people. We consider ourselves to be partners in the process of pursuing justice after the genocide.

It is against this background that we have followed, closely and with keen interest, the development of the Tribunal and take pleasure at this particular time in sharing with the Assembly what we think is in the best interest of international justice for the International Criminal Tribunal for Rwanda (ICTR). We also thank all those who took an interest and are ready to advise us today.

We can now point to successes by the ICTR in recent years. It took time for this to materialize but what is most important is for the Tribunal to finally improve its pace and register more successes. We are thankful to the authorities of the Tribunal for their deliberate efforts to improve their performance in recent days.

We thank the President of the Tribunal and her team for the efforts that, to some extent, finally addressed matters that had for years caused delays in the proceedings. We are aware of the complexities involved in meeting the need for justice that is not delayed but also does not violate anybody's rights. This balance becomes an even more difficult objective to achieve when some of the players show their interest in having trials delayed. We are aware of the fact that the ICTR has made several decisions to the effect that it can no longer entertain frivolous pre-trial motions intended to abuse the process. In those decisions, judges courageously ordered non-payment of fees to the defence counsels involved. This was accompanied by an amendment of the rules with the intention of ensuring fair trials and justice without delay. We have no hesitation in praising this development, although there is still a long way to go. No more leniency should be entertained for anyone who intends to paralyse the process of justice in the ICTR for whatever reasons. Stricter rules should be put in place to prevent such actions, whoever is involved. Speedy trials must remain on top of the list of priorities to make sure that justice is carried out during the lifetime of witnesses and all those concerned.

There is a need to create more chambers and recruit more judges. We also encourage arrangements whereby several suspects can be judged together. This is already applicable in the ICTR and will speed up trials, taking into account the fact that the genocide in Rwanda was the result of a conspiracy rather than merely individual acts.

For its part, Rwanda will continue to play its role, as it has done thus far, by facilitating the activities of the ICTR on our territory and according to the agreement in place. We have up to now received no complaint from the ICTR on non-cooperation with defence lawyers. We shall continue to cooperate with any defence lawyer who comes to Rwanda in connection with his or her assignments. We have and will continue to put in place additional administrative and security guarantees for defence lawyers whenever asked to do so. This is an assurance we gave the President of the Tribunal when she visited Rwanda recently and we avail ourselves of this opportunity to renew that assurance. We believe in adequate defence if justice that will stand the test of time is to be dispensed and that is what we strive for. We sincerely hope that judges will continue to visit Rwanda in order to increase their knowledge of what they are called upon to deal with.

To depart slightly from this, we humbly repeat an appeal we have been making to the authorities of the ICTR to address the indecency involved in the formation of some defence teams. The procedures in place have allowed some accomplices of the accused to make their way into the Tribunal in different capacities mostly as investigators. We mentioned this last year. This group also includes relatives of the very people accused. It is the ICTR that pays all of them. When the architects of the genocide were busy conspiring against their fellow citizens, I have the impression that nobody would have thought they were unconsciously implementing a project to create employment opportunities for their relatives. We are gravely concerned by this and we see no reason why it has persisted for so long, especially since the ICTR has the capacity and the means to obtain the necessary clearance for any of these candidates through its own machinery. Please note that the Government of Rwanda is not seeking to be involved in this process. The ICTR should not condone abuse of the right by the accused to have a defence team. It spoils the image of the Tribunal to have an employee in any capacity who should actually be in its custody. In addition, there are also non-Rwandan employees who, for reasons known to themselves, decide to abuse their presence in the Tribunal. This state of affairs has been communicated repeatedly to the authorities and at this stage we have no reason to believe that the authorities will not act appropriately and we hope that they will do so.

As stated before the Assembly last year, witnesses do need to be protected. This protection is not only physical but also psychological. We are concerned with the treatment of witnesses in some cases by defence lawyers who subject them to traumatizing questions. I cannot help but give an example to illustrate what otherwise could be taken as lightly. In one of the public sessions of the Tribunal, one witness said, "When Interahamwe came to kill us, they were singing", and, the witness went on, "let us exterminate them". During cross examination, the defence lawyer asked the witness to sing the song, even when the judges rightly objected to the question and instead asked the witness only to mention the words used in the song. The defence lawyer stubbornly insisted that he wanted to hear the melody of the song. In this case, the defence lawyer should have asked his

client to sing the song rather than asking the victim to do so. This means a lot to somebody who survived genocide. This is a cause for dismay on the part of witnesses who come forth and genuinely want to assist justice but instead become instruments of entertainment for some ruthless defence lawyers. This should stop and we hope the ICTR will do everything to do that.

Rwanda is also thankful to the Prosecutor, Madam Carla del Ponte, for her relentless efforts to improve the performance of her office. We know the state of the office she inherited. My delegation has no reservations putting on record that she has done commendable work. We fully support her in the process of cleaning her office by eliminating the incompetence of some of her staff. It is her right and she can go ahead. We anticipate different forms of arguments as a means of evading this process from those who feel targeted but we do not doubt the Prosecutor's courage. The Prosecutor needs experienced and competent staff. We are convinced that she cannot ignore this issue. We thank the Prosecutor for devoting enough time to the ICTR and for her personal participation in some trials.

We all know that the number of accused already apprehended is still very low. Many are still at large. But as we have said, we have enough confidence in the Prosecutor and we hope she will make additional efforts to apprehend other top suspects still at large because time is of the essence. Member States of the Organization have the duty and clear obligation under the conventions we have all signed and ratified on the issue of genocide and crimes against humanity to cooperate with the Tribunal in apprehending suspects and handing them over to the ICTR. My delegation is worried about the ongoing trend followed by some countries to opt for judging suspects in their respective jurisdictions. This practice is not to be dismissed outright, but, in the event the ICTR is interested in having those particular suspects, the countries concerned must respect the primacy of the ICTR as stipulated in its Statute.

We thank the Registry, and particularly the Registrar, Mr. Okali, for his performance since he assumed office. We also know of the problems he inherited in that office. We particularly thank him for bringing the Tribunal closer to the victims of genocide, and to the people of Rwanda in general.

The recent inauguration of a victims support project and the Information and Documentation Centre at Kigali highlighted the strong concern of the International Criminal Tribunal for Rwanda for the physical and psychological problems faced daily by those who survived the genocide. The efforts made to distort the rationale behind these initiatives by the Tribunal and to portray them as intending to serve political ends are dismaying and incorrect. The call for humanity and justice will definitely not allow that to happen.

The idea of victim-oriented justice has been recognized in the Statute of the permanent International Criminal Court through the provision of a trust fund for victims. The judges of the International Criminal Tribunal for the Former Yugoslavia have requested the Security Council to amend the Tribunal's Statute to allow for compensation to victims. It is our hope that the Tribunal for Rwanda will consider making a similar request in relation to its Statute, in recognition of the need for more complete justice that addresses the rights of victims without derogating from the rights of the defence.

The Government of Rwanda cannot but note the contrast between, on the one hand, the efforts made to support the defence of accused persons at the ICTR and to ensure their welfare and, on the other, the opposition that seems to be generated by any attempt to assist victims, even in the context of the Tribunal's immediate judicial work. The Tribunal has spent more than $500,000 from its regular budget for defence counsel services for one detainee alone whose case is now on appeal. However, a proposal to provide modest financial support to five non-governmental organizations for the provision of legal, psychological, medical and limited rehabilitation services to traumatized and endangered witnesses and potential witnesses in order to facilitate the judicial work of the Tribunal has been subjected to unfounded debates. We cannot understand this position against the interest of victims of the genocide, and I do not think anybody else could understand or condone it either.

The reasons and circumstances that were taken into consideration a few years ago in determining the location of the Tribunal are today not as tenable as they were then. Rwanda has demonstrated a capacity to date to dispense justice, although it has done so with very limited resources. Given the link between eradicating impunity at the national, regional and international

levels and the process of reconciliation in our country, my Government is of the view that the time has come to think of relocating the Tribunal to Rwanda. The purpose of that is to bring justice closer to Rwandan society.

It is also time to consider compensation for victims, and this can best be achieved if victims are represented in trials. Only the accused enjoy that representation today. Our hope is that this issue will be addressed alongside the similar consideration being given to this issue in the sister Tribunal for the Former Yugoslavia and the similar consideration being given there to the question of compensation for persons who may have been wrongly arrested or otherwise wronged by the ICTR. It is vital that logic and objective formulas underlie the determination of priorities in this matter, as far as the victims of genocide and massacres are concerned.

For the International Criminal Tribunal for Rwanda to successfully carry out its assignments it must be adequately funded. It is our hope that sources of funding will take that factor into consideration whenever the question of funding for the Tribunal is being considered.

Rwanda is respectful of the independence of the ICTR. Our observation is that the International Criminal Tribunal for Rwanda has managed to preserve its independence. Those who are accusing it of not being independent are simply trying to evade the process of justice. Once again, the call for humanity and justice will not allow that to happen. Some of the people who are accusing the Tribunal of being incapable of dispensing justice are the same ones who once gave themselves opportunities and powers to determine the fate of their fellow citizens. They are now attempting to create for themselves another opportunity, to determine the fate of the Tribunal. This is a mockery of human conscience, and no such opportunity can be available for them or for their supporters.

Rwanda is carrying the parallel, and heavier, burden of bringing to justice a bigger number of suspects of genocide and massacres. As we said earlier, we have been carrying out this process with very limited resources at our disposal. We are now introducing the system of participatory justice that is known locally known as *gachacha*. After numerous appeals for support from all the members of the Assembly, we thank you for giving us the benefit of the doubt, and we appeal for more technical and financial support. The ICTR is rich in expertise and useful ideas from different types of legal systems. We hope its President and her team will help us in this difficult but indispensable undertaking.

We wish once again to acknowledge the improved performance of the International Criminal Tribunal for Rwanda. The shortcomings that have been pointed out, although they are in no way unimportant and cannot be ignored, are issues that willing authorities can wipe out without undue delay so that they do not continue tarnishing the image of the Tribunal. We have every confidence in them. We took note of the shortcomings that were pointed out and took them as positive criticism. We are looking forward to better performance in the near future.

Mr. Adechi (Benin) (*spoke in French*): First of all, I would like to congratulate the President of the International Criminal Tribunal for Rwanda (ICTY), Judge Pillay, for her presentation of the fifth annual report of the Tribunal.

The Republic of Benin attaches the greatest importance to the values and principles on which democracy, respect for the rule of law and fundamental liberties are founded. It is for that reason that Benin offered to host the Fourth International Conference of New or Restored Democracies, which will be held in a few weeks in Cotonou. According to those values and democratic ideals, the human being is at the centre of all policies and actions of the Governments of our States. But democracy, the rule of law and development cannot be strengthened in an environment where justice is not guaranteed, protected and promoted. It is therefore quite appropriate that we recognize the quality of the report before us regarding the agenda item on the International Criminal Tribunal for Rwanda.

Through me, my Government would like to express its great appreciation for the work done by the International Criminal Tribunal for Rwanda and the pioneering role it is playing in the emergence of a jurisprudence of international criminal law. Its judgements have made it possible to establish the legal definition of the crime of genocide and complicity in that crime, as well an approach that may lead to including rape and sexual aggression under the crime

of genocide when those acts are committed with the deliberate intention of destroying a social group.

As the first international court to rule on the crime of genocide, the Tribunal has also helped draw attention to the problem of impunity and to the need to ensure a State based on the rule of law. The jurisprudence that it has established will undoubtedly have a decisive and positive impact on the social and political development of Africa. Let me also stress the Tribunal's innovation with respect to compensation for victims along with punishment for the guilty.

Benin welcomes the tangible improvements in the methodology of the Tribunal's management and activities, and pays tribute to the Registrar of the Tribunal, Mr. Agwu Ukiwe Okali, for his decisive contribution to the implementation of the reforms that have improved the situation. We urge him to continue in that direction.

We also hail the progress made in the Tribunal's legal work, including in the reduction of delays in judicial proceedings and in the trial of accused. Here, we call upon all States to provide political, material and moral support to the International Criminal Tribunal for Rwanda.

On 26 August 1999, Benin, for its part, signed an agreement with the United Nations, represented by the Registrar of the Tribunal, Mr. Agwu Ukiwe Okali, by whose terms persons convicted by the Tribunal may be brought to prisons in Benin to serve their sentences. In that way, my country is seeking to give concrete form to its support for the activities of the International Criminal Tribunal for Rwanda, to make it better known throughout Africa and to enable it thus to contribute to the consolidation of the rule of law.

Benin urges the Tribunal further to improve its relations with Rwanda, to facilitate the process of national reconciliation there. That is why we are encouraged by the opening of an Information and Documentation Centre at Kigali, which could provide added visibility for the Tribunal and could make public opinion more aware of its judgements. Along the same lines, we welcome the Registry initiative to provide assistance to victims and to witnesses, especially women who were victims of sexual violence during the genocide.

Let me conclude by saying that the International Criminal Tribunal for Rwanda has come a long way since 1995, especially in terms of developing law and rules. It has also made it possible to bring together legal principles from all over the world with respect to international humanitarian law, international criminal law and human rights. In that regard it is making a positive contribution to the codification of law and jurisprudence in the more general framework of discussions on the establishment of the International Criminal Court. It deserves praise for that.

We convey our thanks to the judges and the other members of the Tribunal for their decisive contribution to the affirmation of justice and to the strengthening of action to put an end to impunity.

Mr. Carp (United States of America): The United States would like to thank Judge Pillay for her outstanding introductory remarks. Our remarks will brief but, we hope, constructive.

We share the view of those who would have liked the International Criminal Tribunal for Rwanda to have achieved speedier results. However, we believe that one must recognize that the task and circumstances facing it were uniquely demanding and that the Tribunal was striving to meet the challenges. We remain concerned about some reports of less than outstanding management, but we are encouraged by some recent improvements.

Mr. Lelong (Haiti), Vice-President, took the Chair.

We note that the Tribunal is aware of the need to expedite its work and of the need to continue to strive for greater efficiency, and that it is making progress to that end. We applaud those efforts, and we urge the Tribunal to continue to seek ways and means to expedite its work so that delays are minimized and costs contained. We applaud the impressive apprehension rate, but we are troubled by the number of resignations in the Office of the Prosecutor.

Our compliments and our gratitude go to the President of the Tribunal, Judge Pillay, for her outstanding leadership.

Mr. Mbanefo (Nigeria): The Nigerian delegation wishes to thank Judge Navanethem Pillay, President of the International Criminal Tribunal for Rwanda (ICTR) for the report of the Tribunal to the General Assembly. I commend the team of dedicated judges and other officials of the Tribunal for their tireless efforts in carrying out their responsibilities.

The International Criminal Tribunal for Rwanda is a key institution in the development of a new major dimension of international relations: international criminal justice. The establishment of the court in 1994 was a robust response by the international community to violations of civilized standards of morality in the conduct of human affairs. The court was thus established to prosecute persons responsible for genocide, crimes against humanity and serious violations of international humanitarian law, with a view to ending the culture of impunity. Succinctly put, the essence of the establishment of the Tribunal was to dethrone impunity in Rwandese society and to replace it with accountability.

It is against that backdrop that the Nigerian delegation evaluates the Tribunal's achievements so far. On the judicial plane, my delegation notes with satisfaction the number of cases disposed of by the Tribunal. It has rendered seven judgments, including confirmation by the ICTR Appeals Chamber of the conviction and sentence of life imprisonment of the former Rwandan Prime Minister, Mr. Jean Kambanda, for genocide and crimes against humanity. We also appreciate the effort being made by the judges of the Tribunal to expedite trials.

In the administrative sphere, the court has been able to overcome its initial administrative and operational problems, thanks to the determined efforts of its current Registrar, Mr. Agwu Ukiwe Okali, aimed at refocusing the Tribunal's administrative and judicial support services with a view to achieving higher efficiency, transparency, and accountability.

Such administrative reforms and innovations, with marked improvement in the management of the Tribunal thus resulting in improved effectiveness of the judicial support functions, were recently reaffirmed by the report of the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda. The report, which was considered earlier this year by the Fifth Committee, stated:

> "it is also to be commended that in ICTR, following the appointment of a new Registrar in March 1997, the Office of Internal Oversight Services, in 1998, noted the improvement experienced in all areas of administration."

We therefore commend the Registrar and his team for demonstrating a high sense of responsibility. We also commend the Expert Group for its balanced report.

We commend the Registrar for his initiatives, which have made the Tribunal and its work better known, more relevant and widely appreciated in Rwanda, as well as in other neighbouring countries. These initiatives include the Tribunal's Outreach Programme to Rwanda, in the context of which ICTR's Information and Documentation Centre was recently inaugurated in Kigali, and the Support Programme to Witnesses and Potential Witnesses, whereby the Tribunal provides support to non-governmental organizations that are giving legal and psychological counselling and limited medical and rehabilitation assistance to witnesses at the Tribunal, particularly those who are victims of sexual violence. Of fundamental importance for the judicial work of the Tribunal, the Registrar has successfully negotiated agreements with a number of African States for the enforcement of the Tribunal's prison sentences. In our view, the International Criminal Tribunal for Rwanda is now well positioned to discharge its onerous responsibilities to the international community.

Nigeria believes that the work of the Tribunal is an important contribution towards the restoration of peace and stability in the Central African subregion in particular and in the African continent in general. Even on the international plane, the work of the Tribunal is intrinsically and inextricably linked with the objectives of the proposed International Criminal Court (ICC). The ICC, when it comes into existence, will, no doubt, benefit from the enormous judicial literature, especially in the area of precedents, already accumulated by the ICTR. Already, the pioneer work of the Registrar in the area of restitutive justice has found a prominent place in the provisions of the ICC Statute.

In conclusion, the International Criminal Tribunal for Rwanda needs the sustained support of the international community for the achievement of its objectives — the enthronement of culture, peace and accountability in Africa. The continued existence of the Tribunal is a reflection of the commitment of the international community to the principles of the rule of law as an indispensable foundation for a just society. We therefore urge the various actors associated with all aspects of the Tribunal's functions to work as a team to enable it to discharge its responsibilities in a way that

is creditable to humanity. Nigeria pledges its continued support for the Tribunal.

The Acting President *(spoke in French)***:** We have heard the last speaker in the debate on this item.

May I take it that it is the wish of the Assembly to conclude its consideration of agenda item 53?

It was so decided.

Agenda item 52

Report 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

Note by the Secretary-General transmitting the seventh annual report of the International Tribunal (A/55/273)

Letter from the Secretary-General addressed to the Presidents of the General Assembly and of the Security Council (A/55/382)

The Acting President *(spoke in French)***:** May I take it that the Assembly takes note of the seventh annual report of the International Tribunal?

It was so decided.

The Acting President *(spoke in French)*: I give the floor to Judge Claude Jorda, President of the International Tribunal.

Judge Jorda *(spoke in French)*: Like my predecessors, I am particularly touched by the honour that you pay to me in allowing me the opportunity to address this Assembly. This is a symbolic moment for me and, above all, one that I feel is decisive for the future of our institution. It is indeed a symbolic moment for me, because, almost one year ago to the day, I was elected President of the Tribunal by my peers and thereby invested with new responsibilities. These responsibilities bring me before this Assembly today in order to report on the activities that we have carried out over the past year.

Above all, this is a decisive moment for the future of the Tribunal, in particular because of the major political upheavals that have recently been witnessed in the Balkans. Last February, the people of Croatia chose a new Government, and thus demonstrated their resolve to break away from the years of war that they had endured. A few weeks ago, as we all remember, the people of the Federal Republic of Yugoslavia, in turn, elected a new President and thereby brought an end to the reign of Mr. Milosevic, who, as you know, was indicted by the Tribunal for crimes against humanity and war crimes over a year ago. Most recently, the Federal Republic of Yugoslavia re-assumed the seat it had previously held within this Assembly and once again took up its place within the community of nations, and we are all pleased at this development.

As a result, we may legitimately hope that the Balkan States — each one henceforth a full Member of the United Nations — will fully respect their international commitments and cooperate closely in the accomplishment of our mission, even if we know for now that consolidating democracy is their priority. Furthermore, our hopes of prosecuting high-ranking political and military officials indicted by the Tribunal have never been so high.

Yet, at this moment, as great as our hopes and ambitions may be, we are equally concerned that we may not be able to realize them with the necessary speed. Everybody knows that a return to lasting peace in the Balkans — threatened by exacerbated nationalism that remains a favourite fallback position — is dependent on the swift fulfilment of our mission. Likewise, everyone is aware of the fact that the credibility of international justice depends to a great extent on the accomplishment of our mission. This credibility must be established, now more than ever, at this juncture when States are due to ratify the treaty instituting the future International Criminal Court.

Allow me to share with the Assembly my thoughts on three major issues of concern arising out of the operations of the Tribunal, issues which run throughout the annual report which has been distributed.

First, although the Tribunal is now operating at maximum capacity, it is faced with an unprecedented workload, which is resulting in an ever-mounting judicial backlog. The Tribunal must complete the reforms it has undertaken this year.

Indeed, the Tribunal is operating at maximum capacity. In addition to the investigations which she

conducted in Bosnia and Herzegovina and in Croatia, the Prosecutor, Mrs. Carla Del Ponte — whose presence here I welcome — also opened many investigations into the crimes committed in Kosovo. With the assistance of several experts made available to the Tribunal by Member States, her Office has interviewed over 3,000 witnesses and carried out several thousand exhumations.

Moreover, in a single year the Trial Chambers have rendered three highly significant judgments in cases that were particularly lengthy and complex. In order to do so, the Chambers had to analyse several hundred witness statements and several thousand documents. At the same time, they rendered dozens of decisions in fields such as the protection of State secrets and the responsibility of political leaders — fields which, as everyone is aware, are particularly sensitive and whose relevance has been constantly recalled by recent events.

The Tribunal's Trial Chambers are currently sitting in continuous session in order to deal with 13 cases simultaneously, nine of which are at the pre-trial stage and four of which are at trial.

The Appeals Chamber — which was mentioned earlier in the report presented by my colleague, the President of the International Criminal Tribunal for Rwanda, because it also deals with decisions rendered by the Rwanda Tribunal — handed down three judgments on the merits and rendered over 15 interlocutory appeals. Its case law has seen major developments and has been consolidated on the fundamental points of humanitarian law and international criminal procedure.

Despite its considerable activity, the Tribunal's workload continues to grow. Several figures paint a particularly telling picture. Sixty-five persons have been indicted by the Tribunal, of whom 38 have been arrested and are now in detention in The Hague. According to our calculations — and assuming that all the accused are apprehended — unless changes are instituted within the Tribunal, their trials will not be completed before the year 2007, and even then, only in the Trial Chambers. This figure is all the more disquieting because it does not take into account the activity of the Appeals Chamber, which may soon be inundated by the increasing number of cases it will have to hear over the years. Nor do these figures take into consideration the estimates of the Prosecutor, who, by May of last year, had already announced her intention to open a further 36 investigations into 150 suspects, thereby bringing the total number of accused persons to over 200.

As a result, and on the basis of our own estimates, if there is no reform of the penal policy or of the rules of procedure, and if the organization of the Tribunal remains identical, then our mission will be accomplished only in 2016 — more than 15 years from now.

I cannot simply accept this situation without undertaking the necessary reforms. Nor can I agree — and here I speak not only as a judge but on behalf of my colleagues as well — to detainees being deprived of their freedom for several years without knowing their fate. It is therefore imperative that we complete the reforms upon which we embarked almost a year ago if we wish to accomplish our mission as quickly as possible.

May I recall that in this respect we began by implementing the recommendations of the Expert Group mandated by the Secretary-General. These recommendations, I must admit, have provided us with a fresh and external perspective on several aspects of the trials, notably the role of the defence and the place of the accused, as well as on the internal operations of the Tribunal. It is fair to say that we are already implementing all of these recommendations.

We have also begun to reflect in more general terms on the reforms to be implemented to ensure that all the accused who have already been, or will be, detained are tried in the weeks and months to come. We are well aware of the fact that in order to do so, it is not enough to increase the Tribunal's material and human resources. First and foremost, we must thoroughly rethink our structures and operational methods while bearing in mind that the proposed changes must be sufficiently flexible so as to be easily adaptable to the Tribunal's future needs without difficulty, needs which will inevitably be dictated by the indictments and arrests to come.

During this process of reflection, we have consequently considered several solutions and analysed their respective advantages and disadvantages. For instance — and this is a very topical issue — we considered the possibility of holding some trials away from the Tribunal, that is, trials by Member States, including those in the Balkans. This solution has its

merits: it would bring the Tribunal closer to the local populations and undoubtedly contribute to national reconciliation. However, in addition to the fact that this approach would not promote the development of a unified international criminal justice — something the Assembly had expressed a wish to see — we also believe that, from a political perspective in particular, it would be premature. We have therefore opted for a twofold solution, which should expedite proceedings without disrupting the current system or, of course, infringing upon the accused's fundamental rights.

First, this solution involves expediting the pretrial phase, greater responsibility for which would be conferred upon qualified legal officers, thus enabling the Judges to devote more of their time to actually trying the cases. It would also involve increasing the Tribunal's trial capacity — in the context of our limited resources, of course — by creating a pool of *ad litem* judges from the Member States who would be called upon to rule in specific cases when so required.

Such proposals, which call for an amendment to the Tribunal's Statute, are presently under review by the Security Council, which seems to be considering them in a favourable light. I should like warmly to thank the Member States of the Organization warmly for this.

However, bearing in mind that this twofold solution will be fully effective only if accompanied by other, internal, reforms, we are moving in new directions, which, let me reassure the Assembly, do not require any additional resources. We must increase the effectiveness of rules for administering and presenting evidence while also bolstering the judge's powers of control over the conduct of the proceedings, in order to expedite the trials. But for us to reach our goal, the three organs of the Tribunal must work more closely in order to fulfil its mandate. I shall return to this issue later.

Should these reforms be adopted and implemented, our limited mandate as an ad hoc Tribunal will be accomplished much sooner. If all the accused are arrested, we should be able to finish our work around 2007, rather than in 2016 — that is, nine years earlier.

I should now like to share with the Assembly my view on the second issue of concern. Despite its limited mandate, the Tribunal seems to be here to stay for some while. As an ad hoc institution, the Tribunal should accomplish the goal assigned to it by Security Council resolution 827 (1993) — that is, to restore peace and reconciliation in the Balkans by trying those guilty of crimes.

As such, the Tribunal should not outlast the fulfilment of its mission. I would even say that it must reach its goal within the shortest possible time. At stake is not only the right of the accused to be tried without undue delay, but also the reliability of the testimony.

With time, this testimony becomes too vague to be used as a basis for reaching a fair judgement. I would recall in this regard that it has been almost 10 years since the commission of the crimes whose perpetrators we are trying. However, above all and more fundamentally, at issue is the credibility of international justice. If we do not act rapidly, voices calling for reconciliation tailored to the circumstances, and thus fragile, rather than for the demanding and sometimes painful exercise of justice, will gradually make themselves heard. Only justice can guarantee long-lasting peace.

Paradoxically, the Tribunal seems to be evolving into an institution that expects to expand continually over time rather than to remain temporary. The figures that I previously cited clearly bear witness to this. I would repeat that, were we merely to continue operating at the current rate, it would take several years to fulfil our mandate. The Tribunal's personnel and budget, both continually growing, also attest to this. Almost 1,000 people are now employed at the Tribunal and its annual budget has risen to over $100 million.

How can we change this way of thinking? My colleagues and I are fully aware that our mission has an end and that we do not have unlimited means to achieve it. We must first rationalize the way we work and make better use of the resources that Member States give us. As I said a moment ago, this means reforming the operations and even the structures of the Tribunal. In a few weeks, I will also propose to my colleagues, the Prosecutor and the Registrar, further measures that will allow the Tribunal's three organs — the Chambers, the Prosecutor and the Registrar — to set together their longer-term judicial priorities and to cooperate more closely in meeting them as rapidly as possible.

My third and final issue of concern is, unfortunately, a recurrent one that has been addressed every year in the statements of my predecessors. The Tribunal is both independent of and dependent on the States of the international community. This point is all the more crucial given that we are frequently criticized for failing to be impartial and independent vis-à-vis the States whose nationals we are trying.

As members are well aware, the Tribunal is independent. It may be superfluous to recall here that the Statute provides the judges with all the guarantees of independence and impartiality that the exercise of their functions requires. The Statute also recognizes the Prosecutor's power to determine unfettered the penal policy she intends to pursue. These are fundamental principles upon which the credibility of the Tribunal hangs in the eyes of the Balkan peoples. We cannot claim to render them justice or to contribute to the restoration of peace in the former Yugoslavia unless we provide them with all the necessary assurances of neutrality.

Nevertheless, implementing the guarantees of independence and impartiality depends above all on the application of and respect for the legal decisions we make by the people on whom they are binding. We do not have our own police force to enforce our decisions. In other words, we are without the secular arm that we are all familiar with in our respective countries and which our national court systems possess. This demonstrates how entirely dependent we are on States' support in arresting the war criminals and gathering evidence.

In this regard, I must point out that the position of the Tribunal has greatly improved over the past year. Presently, 38 indictees are in detention in The Hague, 13 of whom were arrested during the year under consideration. The Prosecutor has also received a significant quantity of evidence that has enabled her to make significant progress in her investigations. This success is primarily the result of the increased cooperation of all States that, through international organizations, and more specifically the Stabilization Force and the Kosovo Force, are working closely with the Tribunal. It also stems from the ever-improving cooperation provided to us by States in the Balkans, notably the entities of the Republic of Bosnia and Herzegovina and, more recently, the Republic of Croatia.

This progress must not, however, make us forget that the highest ranking political and military officials indicted by the Tribunal remain at large as I speak. It is precisely these accused, major military leaders and high-ranking government officials, who must first and foremost answer for their acts before an international Tribunal that is the guarantor of the peace and security of mankind. If an international Tribunal has one given mission, it is clearly that of trying such accused, who, more than any others, actually endanger the international public order of which we are one of the guarantors.

Like my predecessors, I appeal to the Member States, and more particularly to the States created out of the former Yugoslavia, to ensure that all the accused in their territories are arrested and brought before the Tribunal. As I stated at the outset, the advent of democratic forces in Croatia and the Federal Republic of Yugoslavia is certainly a cause for hope that we welcome. In this respect, I am pleased to note the imminent re-opening of a Tribunal liaison office in Belgrade. I am also delighted that our outreach programme for the Balkans will now be able to benefit all the countries of the region. However, it should be clearly understood that, until these States have met all their international obligations, which derive from the United Nations Charter, they cannot claim to have reassumed fully their place within the community of nations. In the context of my statement, I am referring to cooperation with the International Criminal Tribunal for the Former Yugoslavia.

I shall conclude by recalling that history has taught us that, so long as the duty of rendering justice has not been truly discharged, the spectre of war can re-emerge, sometimes even several generations later. We are all accountable to these generations for the success or failure of our undertaking. Our success is especially important since that of the future International Criminal Court — which we all hope to see established and functioning as soon as possible — is to a great extent dependent upon it. Thus, we must not let slip through our fingers this unique and historic opportunity to demonstrate that the court which the United Nations has established can contribute to restoring a just and lasting peace in the regions battered by conflict.

Today, as always, the Tribunal knows that its voice is heard. On behalf of all its members, I wish to

express all my gratitude for the General Assembly's constant support.

Mr. Alabrune (France) (*spoke in French*): It is my honour to speak on behalf of the European Union. The countries of Central and Eastern Europe — Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovenia — the associated countries Cyprus, Malta and Turkey, as well as Iceland, as a country of the European Free Trade Association member of the European Economic Area, align themselves with this statement.

The creation of the International Criminal Tribunal for the Former Yugoslavia in 1993 marked decisive progress in the efforts to put an end to the impunity enjoyed by the perpetrators of the most serious crimes against international humanitarian law. Expectations at the time were great, but everyone realized that the task would not be easy.

The new report by the International Criminal Tribunal for the Former Yugoslavia — introduced by its President, Mr. Claude Jorda, whom we thank — bears witness to the Tribunal's unremitting efforts to live up to those expectations. All of the Tribunal's Chambers and the Appeals Chamber have worked sustainedly. The Tribunal continuously strives to improve its working methods in the light of experience acquired.

The European Union welcomes the progress achieved so far and encourages the Tribunal to move forward in this direction, taking particularly into account the report of the Group of Experts transmitted to the Secretary-General one year ago (*A/54/634*). It hopes that the decisions that the Security Council might make on the proposals presented by the judges to amend the statute will help the Tribunal in this respect. The efficacy and speed of the Tribunal are essential, both for protecting the rights of the accused and for bolstering the trust placed in the Tribunal by the international community.

Despite these achievements, however, the Tribunal is still a long way from having fulfilled its mission. As the President of the Tribunal pointed out earlier, many suspects remain at large or continue to exercise responsibilities in the countries of the former Yugoslavia. It is our continuing belief that the return of the rule of law and peace in the region depends on whether those suspected of very serious violations of international humanitarian law be brought to trial.

The European Union reiterates its appeal to all States and entities concerned to comply with their obligation to cooperate with the Tribunal. This call is addressed in particular to the Federal Republic of Yugoslavia. The European Union is encouraged in this regard by the recent decision to open an office of the Tribunal in Belgrade.

We note with satisfaction the advent of a better climate of cooperation with Croatia. This country has indeed signified its political willingness to cooperate with the Tribunal by revising its official stance on the Tribunal's competence, recognizing the official status of the local liaison office and agreeing to hand over a suspect to the Tribunal. The visits to Croatia in the first half of 2000 by the President of the Tribunal, Mr. Jorda, and the Chief Prosecutor, Ms. del Ponte, confirmed the new atmosphere of cooperation and understanding.

The European Union pays close attention to the protection of witnesses and victims who appear before the Tribunal. We especially welcome the witness support programme and the provision of counselling and support services for witnesses. It is essential for the smooth running of the Tribunal that witnesses should feel safe during their appearance before the Tribunal and should be protected after their testimony from possible attempts at revenge by the accused. Among the European Union's contributions to the Tribunal is its financial support for this programme, which it considers to be particularly worthwhile. Some member States have also expressed willingness to contribute to the resettlement of witnesses and their families whose safety is threatened.

The European Union also deems it important that a place should be recognized for victims in the proceedings of the two International Criminal Tribunals.

The Tribunal cannot operate satisfactorily without means of detention. States' assistance is requested in this regard. Numerous United Nations Member States, in particular members of the European Union, have already concluded agreements on penalty execution to this effect; others have expressed their readiness to do so.

The European Union reasserts its backing not only for the programme of news and dissemination of information on the Tribunal's activities but also, more broadly, for the publication of documents giving

information on the Tribunal's work. The programme should be pursued and encouraged, especially when targeted at the people living in the territories concerned. As a result of lack of information, or even misinformation by local authorities, these people are often unfavourably disposed towards the Tribunal's work and do not recognize the significance of its mandate.

We continue to hope that continuing in these efforts will lead to a better understanding throughout the region of the Tribunal's work. This should ease the task of Governments wishing to cooperate with the Tribunal.

We commend the Tribunal for the work it has accomplished, as recounted in its report. The number of trials, convictions and sentences testifies to the institution's fully operational character.

The European Union and the countries that align themselves with this statement also express their appreciation for the work performed by the Tribunal's judges and officers and, in particular, by its President and its Prosecutor.

We also thank the Tribunal's host country, the Kingdom of the Netherlands, for its role in sustaining and strengthening the Tribunal's activities, as well as all the Governments that have voluntarily contributed to its work.

Lastly, it is necessary to recall the pioneering role of the Tribunal in strengthening the demand for compliance with the most basic rules of international humanitarian law. Having served as a model for the International Criminal Tribunal for Rwanda, the International Criminal Tribunal for the former Yugoslavia contributed, along with the Tribunal for Rwanda, to the work that culminated in the Rome Statute of the International Criminal Court.

The Tribunal, since it makes such a contribution to the region's reconstruction and serves as a prototype for a new kind of court — one which ensures respect for international humanitarian law and the repression of criminal offences — deserves support and active cooperation from all Governments. The European Union, for its part, will continue to participate in efforts designed to facilitate the pursuit of the objectives assigned to the Tribunal.

Mr. Šimonović (Croatia): Seven years ago the International Criminal Tribunal for the former Yugoslavia (ICTY) was established by a decision of the Security Council. At the time, the situation in the former Yugoslavia was considered to be a threat to international peace and security: the war in Bosnia and Herzegovina was escalating, over a quarter of Croatia was occupied and war crimes were committed daily. Over the past seven years the political situation in the area has been evolving, and the ICTY has grown from a brave idea into, as President Jorda just described, a large and powerful institution with over a thousand employees and a yearly budget of over $100 million dollars.

The Tribunal was entrusted with the task of prosecuting perpetrators of crimes committed on the territory of the former Yugoslavia. Its main goals can be summarized as: prevention of future crimes, individualization of guilt for the crimes already committed — thereby avoiding collective guilt and negative ethnically based stereotypes — and the establishment of a reliable historical account of the tragic events, which would help countries to face their own responsibilities and facilitate the process of reconciliation. The fulfilment of all these objectives was deemed necessary for creating conditions for the sustainable normalization of relations among the countries in the region.

Unfortunately, the ICTY did not prevent crimes. The massacre in Srebrenica and the crimes in Kosovo happened long after its establishment. Guilt was only to some extent individualized through the indictments issued and trials conducted against reachable indictees. The flagrant disregard for the Tribunal by the Milosević regime and affiliated Bosnian Serb authorities contributed to a perception of collective guilt. However, the shortcomings mentioned cannot be attributed to the Tribunal alone. The lack of efficiency and the lack of success in prevention and in individualization of guilt can be attributed to a lack of international support and determination in bringing war criminals to justice.

The situation in the countries for which the ICTY was mandated has substantially changed recently. The security situation has improved and stability has increased. The recent political changes that occurred in the region have opened new opportunities for the faster fulfilment of the Tribunal's goals and purposes. The new Governments are in place in Croatia and the Federal Republic of Yugoslavia, and the elections were held in Bosnia and Herzegovina and in Kosovo. Even

though their potential has already been acknowledged, the democratic credentials of these Governments must be proved. Cooperation with the Tribunal has been identified as a condition for earning these credentials.

The cooperation of Croatia with the Tribunal has already been confirmed by the report under consideration, as well as by some statements made by the officials of the Tribunal to the Security Council throughout the reporting period. The recent admission of the Federal Republic of Yugoslavia to the United Nations and some announcements by its newly elected leadership raise hopes that the Federal Republic of Yugoslavia will live up to the obligations of United Nations membership, an indispensable part of which is cooperation with the Tribunal.

So far, the lack of cooperation on the part of the Federal Republic of Yugoslavia and some Bosnian Serb authorities, as well as the lack of efficient international enforcement mechanisms, has put countries and Governments that cooperate with the Tribunal in an embarrassing position. Moreover, this paradoxically exposed them to negative publicity. Rather then highlighting the fact that the Federal Republic of Yugoslavia rejected cooperation with the Tribunal, the media featured the faces and crimes of the Croats and Bosniacs who were transferred to The Hague by their own authorities. This imbalance distorts the overall perception of the crimes that have been committed, and thereby prevents the establishment of a reliable historical account. This situation is unacceptable for cooperative Governments and for public opinion in their countries.

The roots of the Federal Republic of Yugoslavia's aggression against Croatia and Bosnia and Herzegovina and incitement of the Croatian and Bosnian Serbs have not been established as a framework in which a number of individual war crimes have been perpetrated by all ethnic groups. The same defective approach is hampering the establishment of a clear difference between State-sponsored war crimes and savage acts committed by individuals. While a substantial part of the criticism should be directed elsewhere, there is absolutely no excuse for the fact that after seven years of its existence the ICTY has not issued an indictment against Milosevi for war crimes, crimes against humanity and genocide in Croatia and Bosnia and Herzegovina. The indictment that, it has been announced, will be issued in the coming months is long overdue and its issuance should be speeded up.

There is an increasing awareness that every war crime should be punished. In Croatia proceedings were recently begun against four Croatian nationals who allegedly committed crimes against Bosniacs in Ahmici, and against seven Croatian nationals who allegedly committed crimes against Serbs in Gospic. After the overthrow of Milosevi , the punishment of war criminals through cooperation with the ICTY and national courts is a challenge for the new Government of the Federal Republic of Yugoslavia. Taking into account the number of war crimes perpetrated by the Federal Republic of Yugoslavia's forces and by forces under its control, and the military and civilian involvement at the highest level, it is certainly a difficult task for which international support and determination are needed. Unless the Federal Republic of Yugoslavia extradites war criminals like Sljivancanin, Radic and Mrksic, it will continue to be associated with the crimes committed by them.

We must seize the momentum generated by the democratic changes that have occurred in the region and by the expressed readiness of the Governments to facilitate the speedy achievement of the goals and purposes of the Tribunal. Currently, the whole United Nations community is confronted by the sensitive task of determining the role of the ICTY in the new circumstances. The working group of the Security Council established to change and amend the ICTY's Statute should take into consideration the debate being held today in the General Assembly and not merely focus on the technical formulation of a few new paragraphs to be added to the Statute. The working group should provide a comprehensive vision of the future of the Tribunal.

How, then, to proceed? An improved security situation in South-East Europe and the amount of resources required for the operation of the Tribunal makes it plausible to consider an "exit strategy". This, however, should not be done at the expense of the achievement of the major ICTY objectives. Our previous analysis clearly indicates that the key to the success or failure of the Tribunal is bringing Milosevi , Karadzic and Mladic to justice, and this should be the Tribunal's first priority. All crimes should be processed according to their seriousness and then according to the time when they were committed. All perpetrators of war crimes must be punished, but not necessarily in The Hague or by the International Tribunal. In order to avoid another decade or two

decades of work by the Tribunal — the threatening possibility that was announced by President Jorda — national court processes should be encouraged. Also, additional proceedings against ICTY indictees could be undertaken by national courts when and where the situation permits, and with the ICTY playing a monitoring role for the purpose of objectivity.

After all, the whole idea of establishing the ICTY was to dispense justice internationally, before national courts were ready to do this work themselves, and not to substitute for them permanently. The sooner the national courts can do this work, the better. The Tribunal can entrust them with its cases on an individual, case-by-case basis.

Mr. Hпnningstad (Norway): Let me first thank the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) for his extensive statement. We are impressed by the achievements of the Yugoslavia Tribunal, as reflected in various judgements, as well as in the report before us. Recent judgements and indictments have shed light on various chains of events linked to the cycle of violence in the former Yugoslavia.

We are confident that the Tribunal will contribute to the long-term process of peace and reconciliation in the former Yugoslavia. We consider that combating impunity is crucial for long-term peace and reconciliation in the area.

The existence of a "watchdog" in the form of an international tribunal has become a widely recognized element for maintaining international peace and security in the area and of the process of rebuilding civil society under the rule of law. Regrettably, in a global context, the existence of international criminal justice is the exception rather than the rule. In this regard, the judgements of the Tribunal represent important new building blocks in international jurisprudence with regard to the prosecution of the most serious international crimes. The experience obtained so far through the work of the Tribunal is also a stepping stone towards the establishment of the International Criminal Court.

While recognizing the achievements of the Tribunal, we are continually reminded that the main perpetrators of atrocities committed in the former Yugoslavia still enjoy their freedom with a semblance of impunity. We wish therefore to emphasize that the international community must not waiver in its long-term commitments to fulfil the mandates of the former Yugoslavia Tribunal. No one should gamble on impunity for acts of genocide, other crimes against humanity or serious war crimes. The duty to cooperate with the Tribunal in accordance with the binding decisions of the Security Council is not negotiable.

My Prime Minister Mr. Stoltenberg's visit to the Tribunal on 15 November must be seen in this light. It is meant to carry a renewed message of the keen interest of the international community in combating impunity.

The Tribunal is an important element in preventing the recurrence of conflicts. It is critical to the success of the Tribunal that the population of the region be informed about its work and understands its significance. It is our hope and belief that this will happen, even if it happens gradually. An important initiative taken by the Tribunal in this regard was the establishment in late 1999 of the Outreach Programme, which provides accurate and topical information on the Tribunal and its activities to the population in the former Yugoslavia. As a token of Norwegian support for the Tribunal's activities, the Norwegian Prime Minister announced during his visit last week a contribution of $30,000 to the Tribunal's Voluntary Trust Fund, part of which will be earmarked for the Outreach Programme.

Being a strong supporter of the Tribunal, Norway joins those who have appealed to States to take all legislative steps necessary to ensure effective State cooperation with it. In addition to implementing legislation and ensuring compliance with the Tribunal's requests for assistance, concrete support to the Tribunal should be shown through financial and material support.

The Norwegian Government has also declared its willingness to consider applications from the Tribunal concerning the enforcement of sentences and, subsequently, in accordance with our national law, to receive a limited number of convicted persons to serve their time in Norway. We note with satisfaction that during the past year France and Spain have offered to make such assistance available. We encourage other States to prove their continued commitment to the work of the Tribunal through concrete actions.

The length of the proceedings is of concern to us. This is a real dilemma, as the need to guarantee fairness often conflicts with the need to ensure speedy

justice. Proposals on how to speed up cases before the Tribunal without affecting the procedural rights, either of the accused or of any other parties to the process, must be seriously considered.

We have therefore noted with great interest the useful conclusions and recommendations in the report submitted to the Secretary-General by the President of the Tribunal, Mr. Claude Jorda. Of particular interest, we note the setting up of a pool of ad litem judges and the increased utilization of senior legal officers in order to ensure greater efficiency. We also note the estimated time-reducing effect of the suggested reforms. We are looking forward to the conclusions of the Working Group set up by the Security Council to evaluate the President's report.

Mr. Nejad Hosseinian (Islamic Republic of Iran): At the outset, I would like to congratulate Judge Claude Jorda, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), for his concise introduction of the seventh annual report of the Tribunal to the General Assembly. I also wish to express our appreciation to the President and his colleagues of the Tribunal for their endeavours in fulfilling the important mandate entrusted to the Tribunal by the United Nations.

The United Nations landmark decision to establish an international tribunal in 1993 for the prosecution of persons that have committed war crimes and crimes against humanity in the territory of the former Yugoslavia continues to enjoy the unreserved support of the international community. Various activities carried out in the course of the past seven years, including inter alia, investigations, indictments, trials and sentences issued by the Tribunal, all testify to the fact that the international community has not overlooked the commission of the most heinous crimes in the territory of the former Yugoslavia and that criminals who have committed genocide, ethnic cleansing, rape and torture cannot escape justice. The enduring support rendered by the United Nations to the Tribunal is indeed a clear indication of the conviction of the community of nations that everlasting peace in the Balkans region can be achieved with justice, but not without it.

It is gratifying to note from the seventh report of the Tribunal to the General Assembly that it has profited from the experiences gained since its inception and has been able to firmly establish itself as a fully operational criminal court and to adopt appropriate measures to deal with the increase in its workload. We also note with appreciation that the Prosecutor of the Tribunal continued during the preceding year, to dispatch investigation teams to the region, including in particular to Kosovo, and has set up temporary operational bases in a number of places in order to interview witnesses and collect relevant evidence. We urge the Tribunal to continue to discharge fully the responsibilities bestowed upon it by the United Nations through the trial and sentencing of all those who have committed crimes under the jurisdiction of the Tribunal in the Balkans region.

The report before the Assembly suggests that cooperation between States and the Tribunal has improved greatly in the past year. It is undoubtedly a promising development that indicates the conviction of the States of the region that the trial of all criminals will help achieving enduring peace in the Balkans region. Thus, we urge all Balkan States to continue to cooperate fully with the Tribunal so that criminals cannot escape justice.

We have studied with interest the report of the Expert Group (A/54/634), which conducted a review of the effective operation and functioning of the Tribunal pursuant to a request made by the General Assembly. We have also taken note of the comments of the Tribunal on the recommendations of the Expert Group, which indicate that the majority of those recommendations have already been put into practice and that the remaining suggestions of the Expert Group are in different stages of review. Certainly, this exercise has contributed to the better functioning of the Tribunal with respect to speeding up the trial process and the optimal utilization of the resources at its disposal.

My delegation has carefully examined the forward-looking letter of the President of the Tribunal addressed to the Secretary-General on 12 May 2000. In that letter, Judge Jorda shares his assessment of the current situation regarding the conduct of trials before the Tribunal with the Member States of the United Nations. According to him, if the Tribunal maintains its current structure and continues to function in accordance with the existing procedure, it might remain operational until 2016, in order to complete the trials of those who are currently in different stages of proceedings and of those who, it is anticipated, will be brought before the Tribunal at later stages.

Judge Jorda's letter contains three practical proposals to address this situation: conferring certain powers of pre-trial Chambers on senior legal officers, creating a pool of ad hoc judges with which the Tribunal could establish new Chambers to supplement the existing ones, and the enlargement of the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. Although the adoption of the first proposal will not require the amendment of the statute of the Tribunal, implementation of the two other proposals would require that the statute be amended by the Security Council. Obviously, all three of the proposals will have financial implications.

We are aware that the Security Council has already established a working group to examine these proposals, and it is expected that the working group will submit its conclusions before the end of this year. However, I wish to share with the Assembly our feelings with regard to the proposals submitted by the President of the Tribunal. We remain convinced that the success of the Tribunal in fulfilling its mandate would help promote the rule of law and deter the recurrence of egregious crimes. The successful fulfilment of the mandate of the Tribunal would indeed be a triumph of human decency. Therefore, it is indispensable that the United Nations, as the founder of the Tribunal, and the Security Council in particular, vigorously support the Tribunal and provide it with all the necessary means so that it can fully accomplish this important mission. Let us make sure that the demand for international justice prevails over any other consideration.

Finally, I would like to take this opportunity to express our hope that the lessons learned by this relatively successful Tribunal be utilized to bring to justice the perpetrators of similar crimes committed elsewhere in the world. The widespread and systematic crimes committed by the occupying Power against the civilian population of Palestine in the occupied territories over the years, and in particular in recent weeks, in violation of the Fourth Geneva Convention, are no less appalling than those committed in the Balkans. Thus, the United Nations should not turn its back on the victims of inhuman crimes committed against peoples who are struggling to liberate their territories from foreign occupation. It should ponder ways and means of establishing a tribunal to bring to justice the perpetrators of these crimes as soon as possible, in order to deter further commission of such atrocities and to do justice in those areas where it is so very much in demand.

Mr. Uykur (Turkey): While aligning ourselves with the statement made on behalf of the European Union, we would like to highlight certain points on the item regarding the report of the International Criminal Tribunal for the Former Yugoslavia.

Ending a conflict and human suffering, and then achieving peace without sacrificing justice, is one of the most fundamental objectives of humanity. The conclusion of peace agreements to end a period of violence may stop the brutal acts, but curing the trauma caused by the same violence and preventing it from breeding further atrocities is not an easy task. Bringing to justice those responsible for the blatant acts of violence perpetrated against helpless people is one of the steps the international community should take in order to prove that violence cannot be committed with impunity. The International Criminal Tribunal for the Former Yugoslavia is the institution established for this purpose.

After its creation in 1993, the International Criminal Tribunal for the Former Yugoslavia, the first international criminal court in 50 years, faced a number of challenges. Following the initial institution-building phase, the Tribunal took steps to become an effective operating court, by coping with the length of trials, focusing on the principal perpetrators, especially in view of the limited resources, and implementing forensic investigations.

The support of the international community, in particular the cooperation of individual States with the Tribunal, remains of pivotal importance to its efficacy. We call upon all States to cooperate with the Tribunal by every means. In this regard, we call on all States to make available all relevant data and information they have concerning the trials, to seize evidence, to apprehend the indictees and transfer them to the Tribunal, to freeze the assets of the accused within their territories and to enforce the sentences if they have entered into an agreement in that regard.

The nature of cooperation between the Tribunal and States could take various forms. We note that seven States have already signed agreements on the enforcement of sentences. In one instance, the country

where the accused was first arrested has signed an ad hoc enforcement agreement. Some other States enacted implementation legislation.

In this regard, we would like to refer to the visit of Ms. Carla Del Ponte, Chief Prosecutor of the Tribunal, together with the Deputy Prosecutor and advisers, to Turkey on 6 and 7 March 2000. During her visit, the Prosecutor met with our Minister of Justice, as well as chief prosecutors and the Under-Secretary of the Foreign Ministry, and the ways and means of further cooperation between Turkey and the Tribunal were considered. Turkey, having so far supported the work of the Tribunal, is already in the process of preparing legislative regulations, and the visit of the Prosecutor was a most welcome opportunity to discuss methods of further cooperation. Turkey has always felt sympathy for those who were subjected to countless inhumane acts in the territory of the former Yugoslavia, and accordingly will continue to provide its full support for the legal process to bring the perpetrators to justice.

Because of its magnitude and the inaction of the international community in the face of it, we would like to highlight here one out of the many tragic events: the fall of Srebrenica. This has been the subject of an extensive report of the Secretary-General which reveals the brutal implementation of an ethnic cleansing plan. In about five days thousands were systematically murdered. The cruelty of this particular event and of others of a similar nature which occurred on the territory of the former Yugoslavia are beyond human comprehension.

We shall refrain from entering into the details of ongoing trials. However, we take note of the fact that the trial of at least one of the high-ranking officers accused in the Srebrenica massacre has been under way since March 2000. We expect that not only the most prominent figures, but every individual who bears a responsibility for these brutal acts, will be brought to justice. We are still dismayed by the fact that, while there exists a functioning Tribunal in The Hague that enjoys the support of the international community, the military and political leaders responsible for the grave violations of humanitarian law and the acts of ethnic cleansing in Bosnia and Herzegovina, Kosovo and other parts of the Balkans remain free.

In this respect, the cooperation of the countries of the region is crucial for the detention of the perpetrators. It is an unfortunate fact that the cooperation between certain countries in the region and the Tribunal is still problematic. It goes without saying that harbouring these criminals is in itself an act of complicity. We once again urge all States and entities, in particular those that continue to shield the criminals from punishment in their territories, to work with the Tribunal.

We want to hope that the establishment of regional outreach offices at Zagreb and Banja Luka — to provide accurate and timely information in local languages on the Tribunal's work — and the possible reopening of the Tribunal's office in Belgrade will contribute to the achievement of justice in the region.

On the other hand, the apprehension of the military and political leaders who were indicted and who are still at large remains equally crucial. It would be inadmissible to seek any kind of deal with the perpetrators of these violent acts or to withdraw the indictments for political gain. Justice is not a subject for negotiation. We are pleased to observe that the Tribunal has so far continued to take to this approach.

I would like to thank the President of the Tribunal, Judge Claude Jorda, for his enlightening presentation of the report of the Tribunal. We are glad that the developments during the period from 1 August 1999 to 31 July 2000 show that progress was made by the Tribunal in fulfilling its mandate. In this reporting period, the Trial Chambers rendered many decisions, three of which were final judgements. Six indictments were confirmed during this period, and 13 accused were transferred to the United Nations Detention Unit in The Hague. We commend the work conducted by the President, the Prosecutor and all of the judges and officers of the Tribunal.

The Tribunal was set up to try those responsible for violations of international humanitarian law in the territory of the former Yugoslavia since 1991, but the results of its work will have a far-reaching impact beyond any time-frame and beyond the region under its jurisdiction. It has contributed to the ideal of peacemaking, in terms of the moral support provided to those most affected by the violations of international humanitarian law. It has demonstrated that violence, even that perpetrated by high-ranking officials on a large scale, does not go unpunished, and has thus helped create a proper climate that is indispensable for any peace-building activity. The rule of law is an

essential component of any everlasting peace, and the Tribunal continues to have a crucial role in this respect.

Building a common future amid the agony resulting from a brutal conflict is not an easy undertaking. It is against this backdrop that cooperation by all with the Tribunal becomes essential, not only to secure justice, but also to help usher in a new era in which the sides will no longer feel the urge to demonize each other.

Mr. Tarabrin (Russian Federation) (*spoke in Russian*): The Russian Federation attaches great significance to the examination by the General Assembly of the activities 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 (ICTY). We are grateful for the information contained in the seventh annual report of the Tribunal for the Former Yugoslavia, submitted to the General Assembly by the President of the ICTY, Mr. Jorda, on 26 July this year.

We share the Judge's opinion that this international criminal justice body is at a turning point in its history and that its credibility and international support are at stake. When it created the Tribunal, the international community gave it an important role in settling the Yugoslav crisis and countering major violations of international humanitarian norms, by whomever they are committed. However, from the very beginning of its activities, the ICTY did not avoid politicization, bias and partisanship in its activities, particularly with respect to Yugoslavia. A clearly anti-Serb attitude was adopted, as is shown by the statistics: most of those accused by the Tribunal are Serbs. The Tribunal has often turned a blind eye to the failure of other parties to the conflict to observe international humanitarian norms. With regard to the supposed violations by Yugoslavia in Kosovo, the Prosecutor went beyond her powers and trespassed on the prerogatives of the Security Council.

Peaceful Yugoslav citizens died and civilian targets in Yugoslavia were destroyed by North Atlantic Treaty Organization (NATO) air strikes, but even when the Tribunal was faced with the obvious facts, it found no grounds to carry out an investigation, believing that the death of peaceful citizens was simply a matter of a few errors on the part of NATO.

We believe that the decision about whether to carry out an investigation should have been given more serious consideration and been based on more solid grounds; each fact should have been exhaustively investigated and the international community informed of the result.

We are seriously concerned that the activities of the Tribunal have begun to constitute a threat to the integrity of international law. In 1993, in adopting the Charter of the ICTY, the international community assumed that the Tribunal would strictly apply the existing humanitarian norms. In practice, however, the Yugoslavia Tribunal repeatedly makes corrections as it sees fit and applies its own interpretation.

We are not alone in this opinion. Speaking in this Hall a few weeks ago, the President of the International Court of Justice, Gilbert Guillaume, said that with regard to the case of Dusko Tadic, the ICTY distanced itself from the generally accepted interpretation of the law and made its own new interpretation of State responsibility under international law. According to Mr. Guillaume, such practices simply lead to anarchy in international law. We fully share the views of the President of the international community's highest international legal body in this respect.

We cannot agree with the practice, which is very doubtful from the point of view of international law, by which the Prosecutor prepares sealed indictments and transmits them not only to States, as prescribed by the Statute of the Tribunal, but to international bodies. In our opinion, the agreement between the ICTY and NATO, which contravenes the decisions of the Security Council and flies in the face of the mandate of the Stabilization Force (SFOR), sanctioned the special operations of NATO troops with a view to hunting down supposed criminals. The report under consideration states that sealed indictments facilitate arrests. However, it is well known that in the course of such special operations, there were violations by NATO troops of the borders of sovereign States, and the seizure of the suspects often proved fatal for them. The most recent of these tragic events took place very recently, in October this year, with the arrest by SFOR of Janko Janji. In this context, there is a valid question about the legitimacy of the international community's financing of these activities, which exceed the framework of the Tribunal's mandate and undermine trust in its impartiality. We believe that its budget of more than $100 million a year is excessive and believe

that it has too many staff. We do not think it reasonable for the ICTY to cost 10 times as much and to have a staffing level that is 15 times as high as that of the International Court of Justice, which is the highest legal body of the United Nations.

In this context, we would once again like to draw attention to the recommendations of the Advisory Committee on Administrative and Budgetary Questions on the need to organize and streamline the costs of the Tribunal.

The Yugoslav Tribunal was established under specific political and historical circumstances as a special measure to re-establish and maintain peace in the region. Today, the situation in the Balkans is very different.

Bearing in mind the latest developments in the region, we think it would be useful to conduct an exhaustive review of the activities of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and to take a close look at the scope of its task and for how long it is to work. In this context we think that the forecast that the ICTY will be needed for another 15 to 20 years and will cost another $l.5 to 2 billion to prosecute the guilty gives us serious grounds to think about the political need and financial effectiveness of this ad hoc body functioning for such a long time.

The Russian Federation supports the efforts of the United Nations to correct what is wrong and to overcome the organizational difficulties in the work of the Yugoslavia Tribunal. We have been attentively studying the proposals of the judges to make active use of senior lawyers in preliminary hearings, as well as the establishment of an *ad litem* pool of judges to speed up the work. At the same time, we think we should take a global approach to the analysis of the activities of the Tribunal and consider ways and means of improving the effectiveness of ICTY's work, particularly ways put forward in the report of the Group of Experts reviewing the effectiveness of the activities of the Yugoslav and Rwanda Tribunals, in addition to what is contained in other documents on this question. Russia is prepared to cooperate constructively in dealing with all these problems.

Mr. Carp (United States of America): The United States would like to thank Judge Jorda for his detailed, deeply felt, compassionate and fair introductory report. Again we will be brief.

We do not share the view that the Tribunal has been unduly politicized, much less that it is anti-Serbian. One must be careful to avoid charging as having bias institutions that are as clearly impartial as the International Criminal Tribunal for the Former Yugoslavia (ICTY).

That the situation in Belgrade has improved immeasurably is true and a source of great relief for us all. This, however, does not mean that the ICTY does not continue to have a vital *raison d'être* or that the time has come to begin focusing on its termination. Good work has been done by it and more remains to be done. No institution is perfect, but our view is that the ICTY and Judge Jorda deserve our respect and gratitude.

We are pleased to note that the Tribunal is seeking ways to improve further its functions. The proposal concerning *ad litem* judges seems to us a worthwhile means for expediting matters, both in the interest of justice and in the interest of fiscal efficiency.

The Secretariat's estimates of the cost of the changes seem about right. We expect that the Tribunal will remain vigilant as to cost-saving matters and cognizant of the potential applicability of cost-saving suggestions regarding the work and role of the *ad litem* judges. To the extent these changes can be effected within these figures, we strongly support them.

We further encourage the Security Council to respond affirmatively to the suggestions for amendments to the Statute proposed by the Tribunal.

The Acting President *(spoke in French):* I shall now call on those representatives who wish to speak in exercise of the right of reply.

May I remind members that, in accordance with General Assembly decision 34/401, statements in exercise of the right of reply are limited to 10 minutes for the first intervention and to five minutes for the second and should be made by delegations from their seats.

Mr. Shacham (Israel): The representative of the Islamic Republic of Iran has, unfortunately, used this debate on a most serious international issue to voice an extraneous attack against my country.

He has charged my country with criminal activity in regard to our reaction to Palestinian violence. This

oft-repeated charge that Israel has used excessive force is worse than a distortion. It is the opposite of the truth.

Virtually every day during the last few weeks Israeli soldiers and civilians have been confronted with dozens of organized violent and life-threatening attacks by Palestinians. These attacks have included gunfire directed at residential neighbourhoods, fire bombings, parcel and car bombs in crowded shopping areas, shootings against Israelis on the open road and violent riots.

Under these difficult conditions, the Israeli Defense Forces have been acting with the greatest possible restraint, doing their utmost to prevent injury and loss of life.

Let me stress, Israel has no interest in escalating the violence. To the contrary, Israel believes that it is imperative that the Palestinians stop the violence so that both parties can return to the negotiating table. Israel maintains that a just and sustainable solution can be found only through dialogue, not through armed confrontation. At the same time, the Israeli Defense Forces have a clear responsibility to protect Israeli and Palestinian civilians and security personnel. The Israeli Government regrets the loss of any life, whether Jewish or Arab. In the end, however, responsibility for these deaths lies with the Palestinian Authority, which has initiated the violence and so far refuses to implement its oft-declared ceasefire.

This point must be stressed today in light of this morning's heinous bombing of an Israeli school bus by Palestinians, killing two and seriously wounding ten, mostly schoolchildren and, of course, causing life-long scars for any who were in the bus.

Discrimination against and oppression of religious minorities is also a serious violation of international humanitarian law. The singling out of Jewish citizens on the basis of their faith and the deprivation of their most basic human rights has unfortunately become a common practice in the Islamic Republic of Iran. The deplorable Iranian incarceration of 13 of its Jewish citizens on trumped up espionage charges is a case in point.

The Government of Israel wishes to express its profound shock and concern following the harsh sentences passed on these unfortunate Jewish prisoners, who are innocent of any wrongdoing. These harsh verdicts will deprive innocent people of their freedom for many years. The almost two years of imprisonment that these Iranian Jews have already suffered constitute a grave injustice and a gross violation of human rights contravening the very essence of natural justice upheld by all civilized nations and the accepted rules of international law.

My country will continue to call upon the international community to continue working together with us and do their utmost to bring about the prompt release of these prisoners. Israel will not rest until all the prisoners are released.

Mr. Mirzaee-Yengejeh (Islamic Republic of Iran): With regard to the remarks made by the previous speaker, I would like to point out that atrocities committed by the occupier in the occupied territories in the Middle East — in particular in recent weeks — warrant requesting an international tribunal to be established to prosecute the perpetrators of heinous crimes.

The feelings of the international community with respect to the Israeli atrocities in the occupied territories are reflected in various resolutions that have been adopted by the General Assembly, as well as those adopted by other organs of the United Nations, particularly the Security Council. As an example, I would like to quote from the resolution recently adopted by tenth emergency special session of the General Assembly in which the Assembly condemns,

> "acts of violence, especially the excessive use of force by the Israeli forces against Palestinian civilians" (*resolution ES-10/7, para. 2*)

and demands that

> "Israel, the occupying Power, abide scrupulously by its legal obligations and its responsibilities under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, which is applicable to all territories occupied by Israel since 1967". (*ibid, para. 6*)

In a resolution adopted on 7 October 2000, the Security Council

> "*Condemns* acts of violence, especially the excessive use of force against Palestinians, resulting in injury and loss of human life" (*resolution 1322 (2000), para. 2*)

and

> "*Calls upon* Israel, the occupying Power, to abide scrupulously by its legal obligations and its responsibilities under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949". (*ibid, para. 3*)

Moreover, a resolution adopted in Geneva by the Commission on Human Rights, among other things, condemned Israel for widespread systematic and gross violations of human rights and set up an international commission of inquiry into the violence in the occupied territories.

It was in the light of the feelings of the international community, as duly reflected in these resolutions, that the Permanent Representative of the Islamic Republic of Iran proposed in an address to the Assembly that an international criminal tribunal be set up in order to prosecute the criminals in the occupied territories.

Mr. Shacham (Israel): I have already referred, in my last intervention, to the allegations made against my country by the representative of the Islamic Republic of Iran regarding crimes. I would add to that statement a note that I did not make regarding the application of the Fourth Geneva Convention.

Israel has stated on many occasions that the humanitarian provisions of the Fourth Geneva Convention of 1949 are indeed applied de facto to the West Bank and Gaza Strip territories; that despite the fact that pursuant to article 2 of the Convention its provisions apply *de jure* only to territory that has been occupied from a legitimate sovereign. As neither the West Bank nor the Gaza Strip were under the recognized sovereignty of a State prior to 1967, the Geneva Conventions do not as a matter of law apply to the West Bank and the Gaza Strip. Indeed, the agreements between Israel and the Palestinians do not refer to that territory as "occupied territory" and recognize that the West Bank and the Gaza Strip are properly to be regarded as disputed territory that is the subject of direct bilateral negotiations between the parties.

It should also be noted that article 6 of the Fourth Geneva Convention stipulates that the Convention ceases to apply to the extent that the functions of Government are no longer exercised by the occupying Power. Therefore, even according to those who argue that the Geneva Conventions apply *de jure* to the West Bank and Gaza Strip territory, that can surely no longer be the case in Palestinian cities, towns and villages, where, according to the Israeli-Palestinian Interim Agreements, a vast degree of governmental powers have already been transferred to the elected Palestinian Authority.

The Acting President (*spoke in French*): May I take it that the Assembly wishes to conclude its consideration of agenda item 52?

It was so decided.

The meeting rose at 1.30 p.m.