



Security Council

Sixty-seventh year

Provisional

6880th meeting

Wednesday, 5 December 2012, 3 p.m.

New York

<i>President:</i>	Mr. Loulichki	(Morocco)
<i>Members:</i>	Azerbaijan	Mr. Sharifov
	China	Ms. Guo Xiaomei
	Colombia	Mr. Alzate
	France	Mrs. Le Fraper du Hellen
	Germany	Mr. Wittig
	Guatemala	Mr. Rosenthal
	India	Mr. Hardeep Singh Puri
	Pakistan	Mr. Masood Khan
	Portugal	Mr. Moraes Cabral
	Russian Federation	Mr. Churkin
	South Africa	Mr. Laher
	Togo	Mr. M'Beou
	United Kingdom of Great Britain and Northern Ireland	Mr. Parham
	United States of America	Mr. DeLaurentis

Agenda

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

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 1994 and 31 December 1994

Report of the International Tribunal for the Former Yugoslavia (S/2012/592)

Report of the International Criminal Tribunal for Rwanda (S/2012/594)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-506.

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Letter dated 14 November 2012 from the President 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 1994 and 31 December 1994, addressed to the President of the Security Council (S/2012/836)

Letter dated 16 November 2012 from the President 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, addressed to the President of the Security Council (S/2012/847)

Letter dated 16 November 2012 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2012/849)

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

Adoption of the agenda

The agenda was adopted.

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The President (*spoke in Arabic*): Under rule 37 of the Council's provisional rules of procedure, I invite

the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia to participate in this meeting.

On behalf of the Council, I welcome the presence in the Security Council today of Mr. Aleksandar Vučić, First Deputy Prime Minister and Minister for Defence of the Republic of Serbia .

Under rule 39 of the Council's provisional rules of procedure, I invite the following briefers to participate in this meeting: Judge Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia and President of the International Residual Mechanism for Criminal Tribunals; Judge Vagn Joensen, President of the International Criminal Tribunal for Rwanda; Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia; and Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda and Prosecutor of the International Residual Mechanism for Criminal Tribunals.

The Security Council will now begin its consideration of the item on its agenda.

I wish to draw the attention of Council members to documents S/2012/592 and S/2012/594, which contain, respectively, the report of the International Criminal Tribunal for the Former Yugoslavia and the report of the International Criminal Tribunal for Rwanda. I also wish to draw Council members' attention to documents S/2012/836 and S/2012/847, which contain, respectively, a letter dated 14 November 2012 from the President of the International Criminal Tribunal for Rwanda and a letter dated 16 November 2012 from the President of the International Criminal Tribunal for the Former Yugoslavia, addressed to the President of the Security Council. In addition, I wish to draw the attention of Council members to document S/2012/849, which contains a letter dated 16 November 2012 from the President of the International Residual Mechanism for Criminal Tribunals, addressed to the President of the Security Council.

I now give the floor to Judge Meron.

Judge Meron: It is an honour to appear before the Security Council today both as the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and as the President of the International Residual Mechanism for Criminal Tribunals. I congratulate Ambassador Mohammed Loulichki of Morocco for his country's assumption of the presidency of the Security Council and wish him

much success in the management of the Council's activities during this very busy period.

As I just noted, I appear before the Council today in two capacities and I will accordingly give two reports — one on the progress made in relation to the completion strategy of the ICTY and the other on the launch of the Mechanism. Written reports concerning both institutions were presented to the Council last month (see S/2012/592 and S/2012/849, annex I). Accordingly, in my remarks today, I hope to highlight certain key issues, rather than repeat the contents of those reports in detail. However, before addressing specific successes and challenges faced by the Tribunal and the Mechanism, I would like to take this opportunity to express my deep appreciation for the efforts and dedication of the Security Council's Informal Working Group on International Tribunals, which operates under the able leadership of Guatemala. I would also like to recognize the guidance and considerable assistance provided to the ICTY and the Mechanism by the Office of Legal Affairs. The sustained support and invaluable advice provided by both of these bodies has been instrumental to the continuing progress of the ICTY and the Mechanism.

I now turn to the completion strategy of the ICTY.

As Council members will have seen in my written report (see S/2012/592), the Tribunal is making excellent progress in completing its work. At the trial level, the judgement in the *Haradinaj et al.* re-trial was issued just a few days ago, on 29 November. The *Tolimir* trial judgement is scheduled for delivery on 12 December, in keeping with previous estimates, and we still hope that the *Karadžić* trial will conclude by 31 December 2014. The first estimates for the *Hadžić* and *Mladić* cases forecast those trials finishing by 31 December 2015 and 31 July 2016, respectively.

There have also been some delays in certain trials. More specifically, we currently estimate that the trials of *Prlić et al.*, *Stanišić and Župljanin*, and *Stanišić and Simatović* will not be completed until March 2013, and the *Šešelj* trial is now expected to conclude no earlier than July 2013. Still, once the *Šešelj* trial judgement is delivered, all trials will have been completed save for those of the three late-arrested accused: Mr. Karadžić, Mr. Hadžić and Mr. Mladić.

With respect to appellate work, I note that the judgement in the *Gotovina and Markač* case was delivered on 16 November and that the judgement in

the *Lukić and Lukić* case was delivered yesterday, 4 December. It is anticipated that the judgement in the *Perišić* case, which was heard on 30 October, will be delivered early in 2013. Other appeals are progressing more or less as anticipated. The *Popović et al.* case is anticipated to be completed by July 2014, several months earlier than previously forecast, and the *Dorđević* appeal is on schedule to conclude by October 2013. The *Šainović et al.* appeal has suffered a delay of five months and is now anticipated to be completed by 31 December 2013.

In short, there have been significant advances in the estimated completion dates for several appellate cases, while almost all others are on track to meet previously reported forecasts.

At the same time, the Tribunal continues to face a myriad of challenges in meeting the estimated completion dates for some of its cases, and my written report details the reasons for delays in trials and on appeal that I have just mentioned. As President of the Tribunal for the second time, I am well aware of the frustrations that Council members may feel when faced with shifts in forecasted completion dates, particularly when updated forecasts fall short of expectations. I share that frustration. However, I must underscore that predicting the completion dates for trial and appellate proceedings is more akin to an art than to a science, and the forecasts the Tribunal provides must be understood in that context.

As Council members are all too aware, the Tribunal is situated far from where the conflicts took place in the former Yugoslavia. The geographical scope of the indictments and the number of charges alleged can surpass the most complex of national proceedings, and the number of crime sites and crimes alleged are often of unparalleled scale. The documentary and other evidence adduced to establish or defend against the charges at stake runs in most cases to tens of thousands of pages, and witnesses must be flown from various parts of the world to give evidence in the proceedings.

In this context, even the most robust management of cases cannot always guard against delays. Setbacks can arise from the departure of staff members who are experienced in the workings of the Tribunal and deeply familiar with the factual record of the particular cases, or when the accused or counsel become ill. Witnesses may refuse to appear to testify, embroiling the proceedings in ancillary contempt matters. States may be slow in cooperating with requests for material

due to insufficient legislative frameworks or claims of national security interests. The translation of materials into a language that the accused or counsel understands may take longer than anticipated. All the while, the Tribunal's cases are inevitably subject to the vagaries — the unexpected twists and turns — common to all criminal law proceedings.

These are daily challenges in the work of the Tribunal. I assure Council members, however, that they are challenges that are met with tenacity by the judges and staff of the Tribunal, whose commitment to ensuring the completion of the Tribunal's work in as timely a manner as possible is extraordinary and deserves the Council's recognition.

Indeed, despite some delays in the completion of the Tribunal's trials and appeals, there is no doubt that the work accomplished by the Tribunal so far, and the legacy that it will leave, are already of profound significance. The Tribunal has established a robust and authoritative body of jurisprudence on customary international humanitarian and criminal law, addressing everything from crimes of sexual violence, to international criminal procedure, to the erosion of the traditional distinction between the laws applicable to international and internal armed conflicts. In doing so, it has transformed the face of international justice forever, all the while paying full respect to the rights of the accused and the principle of legality. Indeed, the Tribunal has been instrumental in bringing about a new era of accountability and a new commitment to justice within the international community at large.

These accomplishments are priceless, and should not be forgotten. While frustrations may arise due to delays in the completion of trials and appeals, and while my colleagues and I will continue to seek out new ways to avoid further delays, I encourage Council members to view such challenges in their proper context and from the perspective of the Tribunal's broader achievements, the salutary effects of which will be felt for many years to come.

Before turning to my briefing on the Mechanism, I wish to raise two final issues with respect to the Tribunal.

First, I note that with the end of all but three trials in 2013, the focus of the Tribunal's work will have moved firmly to the Appeals Chamber. Indeed, during the critical period between January 2013 and December 2014, it is anticipated that the Appeals Chambers of

the ICTY and the International Criminal Tribunal for Rwanda (ICTR) will be seized with up to 16 appeals from judgement, as well as any number of additional interlocutory appeals and other requests.

This change in focus is hardly unexpected. In resolution 1877 (2009), the Council recognized that the workload of the Appeals Chamber was expected to increase upon completion of trial proceedings and accordingly amended the Tribunal's Statute to authorize the enlargement of the Appeals Chamber through the redeployment to the Appeals Chamber of up to four additional ICTR trial judges and up to four additional ICTY trial judges.

While I am very pleased to note that three ICTR trial judges have since been redeployed to the Appeals Chamber and that the fourth is expected by March 2013, unfortunately only one ICTY trial judge is now expected to be available for such redeployment, which will occur no earlier than July 2013 following the conclusion of the *Šešelj* trial. That is because all other available ICTY trial judges have been assigned to either the cases of two late-arrested accused, namely, Mr. Mladić and Mr. Hadžić, which are expected to go past 2014, or to the *Karadžić* case, which will not be completed until 31 December 2014 — the date by which the Security Council would like to see the Tribunal complete the bulk of its work. I also note that Judge Kevin Parker of Australia demitted from the Tribunal in 2011 and was not replaced because of our expectation that additional judges would be moved from the Trial Chamber to the Appeals Chamber. I am now concerned about the resulting situation, in view of the increasing workload of the Appeals Chamber. I am currently considering what actions, if any, to take in order to ensure that that does not impact the completion strategy.

Finally, I note that in my letter to the Secretary-General of 29 October 2012 I signalled the necessity of extending the terms of office of the Tribunal's permanent judges and certain ad litem judges. As set forth in that letter, which I trust has been shared with the members of the Council, the extensions requested vary in length according to the expected timelines of the cases to which each judge is assigned. Notably, no extensions are presently sought beyond 31 December 2014, although several cases — most notably the *Mladić* and *Hadžić* trials and possible appeals in some cases, as discussed in my written report to the Council — are expected to go beyond that date. Those cases obviously cannot be halted mid-stream. I will seek any relevant

extensions of the terms of the judges involved in those cases at a later date, but I wished to bring the matter to the attention of the Council now in the interests of transparency.

As the Council may appreciate, judges, in common with staff members, require certainty in the lengths of their mandates. That certainty is instrumental to the stability of the Tribunal and the retention of both judges and staff members. I would also underscore that a number of the Tribunal's judges are on leave from national jurisdictions. Those periods of leave are granted based on the terms of office approved by the Security Council. It is important for both the national jurisdictions and the judges themselves that they be able to plan based on realistic expectations of the lengths of trials and appeals. I would be extremely grateful to the Council for considering the Tribunal's extension request, which will greatly assist in achieving the Council's completion strategy. In view of the fact that the judges' current terms of service are due to expire at the end of this month, I would be most grateful to the Council for considering this matter expeditiously.

I would now like to turn to my report on the work of the Mechanism, which commenced operations at the Arusha branch on 1 July, in full conformity with resolution 1966 (2010).

Notwithstanding the short time between the appointment of its principals and the launch of its first branch, the Mechanism is fully functional. It has begun issuing orders and decisions in areas under its competence. It has taken over the provision of witness support and protection for those witnesses who have testified in completed ICTR cases, and assumed responsibility for the enforcement of ICTR sentences. It is engaged in monitoring the ICTR cases transferred to national jurisdictions for trial. It is also actively providing assistance to States for domestic investigations and prosecutions.

The Rules of Procedure and Evidence have been adopted, practice directions have been promulgated, and lines of communication and cooperation between the Mechanism, on the one hand, and the ICTY and ICTR, on the other, have been established. The Mechanism currently relies upon its predecessors for a wide range of administrative services and other support, but I can assure the Council that it will be ready to assume those functions and be fully self-sufficient when required to do so.

Preparations are well under way for the launch of the Mechanism's branch at The Hague. We have begun to consider the additional challenges that the Mechanism may inherit upon the eventual closure of the ICTY and ICTR, including the vital issue of ensuring the relocation of persons acquitted before the ICTR, should a solution not be found in the meantime. In sum, the Mechanism is already deeply engaged in fulfilling its mandate.

I am profoundly honoured to have been appointed President of this new institution. The Mechanism offers a unique opportunity to be involved in building an international criminal institution from the ground up. As I have undertaken this work, I have been guided by my experiences of over a decade at the ICTY and by the advice of the Mechanism's Registrar and a team of talented and committed staff. But I have also been guided by an awareness of what are often seen as failings of international criminal justice, namely, that international trials can be slow and costly. In overseeing the creation and operations of the Mechanism, I therefore feel a particular responsibility to demonstrate to the international community that fairness and efficiency are not mutually exclusive concepts. Making international criminal justice sustainable in the long run depends in great part upon demonstrating that it can be an efficient, effective and affordable proposition for the international community.

The Mechanism's other principals and I and the Mechanism's staff are committed to making the Mechanism a model institution. That approach is evident in much of what we have accomplished thus far. For example, last spring, I asked the judges of the Mechanism to cooperate in ensuring the efficient adoption of the Rules of Procedure by means of electronic communications, thereby avoiding both delays and the need to convene a costly plenary meeting. For similar reasons, I appointed my friend and colleague President Vagn Joensen of the ICTR as the Mechanism's duty judge at the Arusha branch. Because President Joensen wears two hats, as a judge of both the ICTR and the Mechanism, he brings his already considerable experience and understanding to bear on the issues before him. In addition, his work for the Mechanism is being performed at no cost to that institution.

Finally, in assigning judges to handle the appeal of Mr. Munyarugarama from a decision referring his case to Rwanda, I selected Mechanism judges who are

already serving judges of the ICTY or the ICTR, in order to benefit from their experience and avoid incurring unnecessary costs to the Mechanism. I anticipate adopting — to the extent possible — a similar approach in assigning the bench to hear any appeal that may arise from the ICTR's *Ngirabatware* trial judgement, which is expected shortly. That would be the first appeal from judgement conducted by the Mechanism.

In relation to appeals, I would note that all notices of appeal from ICTY judgements filed on or after the launch of The Hague branch of the Mechanism on 1 July 2013 will fall within the competence of the Mechanism. We can thus already anticipate that any appeals in the *Šešelj*, *Karadžić*, *Hadžić* and *Mladić* cases will come before the Mechanism. However, the ICTY Appeals Chamber will continue to operate in the meantime, hearing appeals in cases in which the notices of appeal are filed prior to 1 July 2013, potentially including appeals in the *Stanišić and Simatović*, *Haradinaj et al.*, *Tolimir*, *Stanišić and Župljanin*, and *Prlić et al.* cases. Any appeals in the cases of *Stanišić and Simatović* and *Haradinaj et al.* are predicted to be completed by the end of 2014. The appeals of *Tolimir* and *Stanišić and Župljanin* are anticipated to be completed in early 2015 and the *Prlić et al.* appeal in late 2016. That is a situation regarding which the Security Council has previously been apprised.

Although the lion's share of the Mechanism's judicial work will be in appeals, the Mechanism will nonetheless be prepared to conduct trials of the three fugitives indicted by the ICTR whose cases are still within the competence of the Mechanism: Messrs. Félicien Kabuga, Augustin Bizimana, and Protais Mpiranya. The arrest and trial of those three fugitives is a top priority for the Mechanism. While the Mechanism has sought and will continue to seek the cooperation of States, I call upon the members of the Council, in particular, to lead by example on that critically important issue.

In closing, I would like to express my appreciation to the members of the Council for their support of the Tribunal and the Mechanism, and to urge Council members to reflect on the achievements of the one and the potential of the other. The ICTY has already had a profound impact on the landscape of international criminal justice, and the Mechanism has the potential to build upon the achievements of its predecessors by creating a model institution that is effective and efficient and represents the international community's

strong commitment to the fight against impunity. I look forward to working with you to turn that potential into a reality.

The President (*spoke in Arabic*): I thank Judge Meron for his briefing.

I now give the floor to Judge Joensen.

Judge Joensen: I would like to begin by congratulating the Permanent Representative of Morocco, who is presiding over the Security Council in December, as well as the representatives of Argentina, Australia, Luxembourg, the Republic of Korea and Rwanda for their nations' election to the Security Council beginning in January 2013. I wish them all the best for successful tours of duty. I would also like to thank the representatives of Colombia, Germany, India, Portugal and South Africa for their nations' service to the Security Council as they near the completion of their terms and to express the appreciation of the entire Tribunal to all the Governments of the Security Council for their continued support as we draw ever closer to the completion of our work.

I am happy to report that the transition from the International Criminal Tribunal for Rwanda (ICTR) to the Arusha Branch of the International Residual Mechanism for Criminal Tribunals is now well under way and progressing according to plan since the Mechanism's opening on 1 July. With the transfer of nearly all judicial functions to the Mechanism and the imminent completion of the Tribunal's final genocide trial, the administrative energies of the Tribunal are increasingly spent on downsizing and providing the necessary support to the Mechanism in order for it to continue to progress toward full assumption of the residual functions of the Tribunal upon our closure. In the coming months, the major challenges will be the continued transition of the remaining functions to the Mechanism and the preparation of archives for handover amid the continued departure of key staff prior to the planned abolition of posts.

The Tribunal has continued to focus on reducing the judicial workload, having referred three additional cases to Rwanda during the current reporting period of 12 May to 5 November 2012. Those referrals reduced the Tribunal's workload to one trial judgement and have helped us to remain on track with the current Completion Strategy goals for a timely closure. Only one referral request, the *Munyagishari* case, awaits final conclusion. The Trial Chamber's decision to refer

that case to Rwanda is currently under appeal, with a decision in the matter expected to be rendered in early 2013.

During the reporting period, two trial judgements were delivered in the *Nzabonimana* and *Nizeyimana* cases. *Nizeyimana* was one of the fastest trials for its size, further showing that efforts to improve efficiency in recent years have had a positive impact, especially in single accused trials. One appeals judgement was delivered in the *Gatete* case in October 2012, marking the completion as projected of four appeals judgements concerning four persons in 2012.

Despite the continued premature departures of staff in Chambers, combined with unanticipated litigation challenging the ability of judgement drafting and trial teams to complete their work on time, all projections for trial and appeals work during the reporting period were met and the final genocide trial judgement in the *Ngirabatware* case will be rendered this month in line with the projection in our last report. The delivery of the *Ngirabatware* judgement, scheduled for 20 December 2012, will mark the end of substantive trials at the ICTR, and unless the decision to refer the *Munyagishari* case to Rwanda is reversed on appeal or arrests are made in the two contempt of court or false testimony cases, which would not go to the Mechanism, the ICTR will have only the pending appeals to finish. The remaining appeals remain projected to be completed by the end of 2014, with three appeals concerning seven persons to be delivered by the end of 2013 and the final four appeals concerning ten persons expected by the end of 2014.

I would like to take this opportunity to express my gratitude to the Council for adopting resolution 2054 (2012), which permitted me, as President, as well as the trial judges on the *Ngirabatware* case, to serve beyond the expiry of our terms of office in order to complete our remaining work. The swift action taken on that request helped ensure that the Tribunal will continue to meet its completion strategy targets.

As projected in my last report (see S/2012/349), all other trial judges demitted office by 30 June, with the exception of Judge Bakhtiyar Tuzmukhamedov, who was redeployed to the Appeals Chamber to further strengthen the complement of judges working towards timely completion of the remaining appeals. Two of the three judges on the *Ngirabatware* bench are expected to demit office once the written trial judgement is

filed, and the third, Judge Sekule, is expected to be redeployed to the Appeals Chamber at that time.

I recently submitted a request for extension of the terms of office of the ICTR appeals judges until the end of 2014 or until the completion of the cases to which they are or will be assigned, if sooner. The President of the International Tribunal for the Former Yugoslavia (ICTY) has filed a similar request with respect to the ICTY appeals judges who also sit on ICTR appeals. The ICTR request is based on the projected completion of our appeals work, which has remained on track despite delays in translation and recruitment of the additional judicial support staff necessary to handle the increased workload in the Appeals Chamber. The extension of the terms of these judges, as well as those of the ICTY appeals judges, is imperative for the timely completion of our remaining work.

Next, I turn to staffing. Staff recruitment, retention and separation continue to be a challenge as we progress through the completion process. Where recruitment is required, the Tribunal continues to have difficulty attracting suitably qualified candidates, given the limited contractual security that we, as a closing institution, can provide. The ICTR continues to experience difficulties in retaining experienced staff, due to the lack of financial incentives to stay with the Tribunal to complete their work and the few possibilities for upward mobility. Many staff members, therefore, have been leaving the Tribunal to accept offers of employment elsewhere, either within or outside the United Nations system. It is vital that we work to retain the necessary staff until the expiry of contracts in line with the downsizing plans in the remaining time, so that we may complete all the necessary work within the current projections.

The downsizing process continues apace, with an overall reduction of more than one third of the authorized 2010-2011 levels expected by the end of 2013. However, ensuring the existence of a fair and transparent decision-making process for the downsizing of posts has put additional strain on programme managers. Thus they are required to perform retention exercises in addition to their regular workload. Moreover, their workload is already greater, due to restructuring plans that require all retained staff to perform an increasing range of functions.

I again express the gratitude of the Tribunal to the Department of Management, especially the Office of the Controller and Human Resources Management,

which continue to provide the Tribunal with support for exploring and adopting additional measures and a common strategy to address the challenges of downsizing and separation of staff. I must also praise the Human Resources and Planning Section of the Tribunal, which continues to prepare staff for the transition to other jobs after the Tribunal amid an already increased workload in that Section due to retention and separation activities.

I now turn to the persistent problem of relocating persons who have been acquitted by the Tribunal. I am the third ICTR President to call on the Council to assist with our perilous problem of finding countries to receive acquitted persons. With the imminent completion of current trial activities, I continue to see as a cornerstone of my presidency that I should enhance my role in those efforts. I will continue to increasingly apply my energies to persuade Member States to assist with relocation.

There are five acquitted persons who remain in the safe houses in Arusha under the Tribunal's protection, one of whom has been in Arusha for more than six years since the confirmation of his acquittal by the Appeals Chamber. The resettlement of acquitted persons is considered a fundamental expression of the rule of law, and the ICTR is deeply concerned about the consequences of failing to fulfil that obligation and leaving relocation for the Residual Mechanism. I therefore continue to call on all members of the Council to do their part in helping to ensure that we uphold this fundamental right of freedom to live one's life after being acquitted by an international tribunal.

I will now provide further detail on the transition to the Arusha branch of the Residual Mechanism. As previously stated, the Arusha branch was launched on 1 July 2012 with the immediate transfer of most judicial and prosecutorial functions from the Tribunal to the Mechanism. Any appeals filed after 30 June are now the responsibility of the Mechanism. That includes any appeals that may be filed after the *Ngirabatware* trial judgement is rendered later this month.

The judicial function of monitoring cases referred to national courts is now also the responsibility of the Mechanism. However, the ICTR Registrar and I continue to oversee the administration of the monitoring of the already pending *Uwinkindi* case in Rwanda, in close consultation with the Mechanism. The ICTR and ICTY currently provide the administrative support for the Mechanism, and plans are in place to reduce the

reliance of the Arusha branch of the Mechanism on the Tribunals by the beginning of 2014, or earlier where possible.

In terms of preparing the ICTR archives for the custody of the Mechanism, much progress was made during the reporting period. In July 2012, the Secretary-General's bulletin on information sensitivity, access and handling of the records of the Tribunals (ST/SGB/2012/3) was promulgated, and the ICTR retention schedule was approved in August. By the end of 2012, the ICTR will be in a position to transfer 25 per cent of its hard-copy records to the custody of the Mechanism. The actual handover process for those records will begin as soon as renovations of the record repository are completed. The target date for the completion of the archive handover process is December 2014, bearing in mind that the records that are still in active use in support of ICTR functions cannot be transferred to the custody of the Mechanism until the ICTR officially hands over responsibility for the related functions.

As the work of the ICTR concludes, the Tribunal is striving with renewed vigour to preserve the efforts of the international community to help bring justice to Rwanda and build sustainable peace in the region. The Tribunal's activities geared towards seeking justice, national reconciliation and capacity-building remain strong, so that the ICTR can serve as an example for both creating and closing an international legal institution. Member States and Tribunal staff members have been indispensable in providing the support and hard work necessary for the ICTR to become a court that has not only challenged impunity but has also added a new dimension to international law.

After nearly two decades of work, the ICTR will shortly deliver judgement in its final genocide trial, marking the end of our work with respect to the trials of 93 persons indicted by the Tribunal. The 93 men and women indicted by the Tribunal stood accused of planning and executing one of the most brutal and efficient campaigns of targeted killing of civilians that the world has ever seen. Although the Tribunal did not manage to arrest all of those indicted, through the referral to Rwanda of six fugitive cases and handing over of responsibility for the tracking of the remaining three top-level fugitives to the Mechanism, the fight against impunity will continue unabated. The international community and Rwanda have made it clear through their continued intensive tracking efforts that although

the Tribunal will soon close, the remaining suspects who stand accused of some of the most heinous crimes known to man will not escape justice.

The world of international criminal justice has undergone an immense evolution in the 18 years since the ICTR began its work. In that short time, we have seen the creation of hybrid tribunals where nations may take a more active role in the prosecution of war crimes and crimes against humanity committed on their territories, a permanent International Criminal Court promising to prosecute all perpetrators of the most heinous crimes of concern to the international community, and vast advancement in national legislation enabling States to prosecute crimes they were previously unable to handle alone.

As the ICTR becomes the first ad hoc tribunal to complete its trials, we have faith that the Council's creation of the Mechanism for International Criminal Tribunals will continue the important work that was started by the ICTR and ICTY and further the evolution of global criminal justice. It has been and continues to be an honour and privilege to be a part of this important stage in history, and it has been a great honour for me to address the Council today.

The President (*spoke in Arabic*): I thank Judge Joensen for his briefing.

I now give the floor to Mr. Brammertz.

Mr. Brammertz: Thank you, Mr. President, for this opportunity to address the Council on our progress towards the completion of our mandate.

A major goal was met in the past reporting period with the commencement in October of the last trial in the International Tribunal for the Former Yugoslavia (ICTY), the *Hadžić* case. Goran Hadžić is accused of some of the first crimes committed in 1991 in the conflict in the former Yugoslavia. Extensive pre-trial preparation and timely disclosures to the defence have contributed to the expeditious conduct of the trial to date. The Prosecution currently expects to conclude its case in early summer 2013.

Important progress was also made in our three other remaining trials. The trial against Ratko Mladić has progressed steadily since commencement of the Prosecutor's evidence in chief in July. The Prosecution has implemented strategies to present its evidence efficiently so that, at its current rate, the prosecution case will also conclude in July 2013.

The *Karadžić* trial transitioned from the prosecution case to the defence case during the reporting period. At the conclusion of the prosecution case, the accused asked the Trial Chamber to find he had no case to answer. The Trial Chamber dismissed his motion on all counts, with the exception of the count related to genocide in municipalities throughout Bosnia and Herzegovina in 1992. Both parties' appeals against the decision have now been fully briefed and are pending adjudication by the Appeals Chamber.

The *Stanišić and Simatović* trial will conclude by the end of the year with the presentation of the parties' closing arguments.

As all other trials concluded during the reporting period, the Appeals Division is preparing for an influx of appellate work. By the end of this year one trial judgement will be issued, and a further three judgements involving multiple accused are scheduled for early 2013. During the reporting period, in addition to its appellate work, the Appeals Division provided substantial assistance to the Trial Division, which is reducing in size as posts are progressively abolished.

Day-to-day cooperation provided by the States of the former Yugoslavia to the Office of the Prosecutor is still crucial for the successful completion of our remaining trials and appeals. Croatia, Serbia and Bosnia and Herzegovina continue to respond to our requests for assistance in a timely manner, and they fully met our expectations during the reporting period. During my last trip to Serbia in October, the new Government assured me that it will maintain the previous positive level of cooperation.

Since our last report (S/2011/473), Serbia has also intensified its efforts to investigate support networks responsible for helping ICTY fugitives, including Mladić and Hadžić, evade justice for so many years.

Cooperation between Serbia and Bosnia and Herzegovina will also soon take a positive step forward. The legal barriers to the protocol on cooperation between their Prosecutors' Offices on the exchange of evidence and information in war crimes cases have been removed, and Serbia and Bosnia and Herzegovina will sign the protocol in the near future. If effectively implemented, it will offer practical solutions for improving investigative capacity and strengthening the professional interaction between the Prosecutors' Offices. We welcome that recent development and

encourage the parties to sign the protocol without further delay.

The success of the Tribunal will ultimately be measured by the success of the transition from our work to national war crimes prosecutions. Regrettably, national authorities continue to face difficulties in prosecuting war crimes cases, particularly in Bosnia and Herzegovina. In addition to the investigative materials transferred by my Office, Bosnia and Herzegovina has a backlog of hundreds of cases and no prospect of meeting its 2015 and 2017 war crimes strategy deadlines. One of the contributing problems is the limited capacity not only of the State-level courts but also of the entity-level courts that are increasingly taking over responsibility for those cases. Comprehensive measures must be taken to remedy the situation.

To assist in finding solutions, we have turned greater attention to building capacity in the region to prosecute war crimes cases. We continue to pursue our long-standing strategies for channeling expertise to the national authorities, including through our transition team and the integration of liaison prosecutors in our Office. We also continue to support the work of our international partners, including the European Union, the Organization for Security and Cooperation in Europe and the United Nations Development Programme, to train prosecutors in the region.

The commencement of the ICTY branch of the Residual Mechanism for Criminal Tribunals on 1 July 2013 rapidly draws near. My Office increasingly turns its attention to promoting a smooth transition to the Mechanism, and with regard to human resources issues, we very much support our colleague Prosecutor Jallow.

I do not want to conclude without mentioning the recent judgements in the cases of *Gotovina and Markač*, and *Haradinaj, Balaj and Brahimaj*, which resulted in a number of reactions about the Tribunal's capacity to promote justice in the former Yugoslavia. While the underlying reasons for the acquittals in those two cases are very different, there can be no doubt that serious crimes were documented in the course of the proceedings. The victims of those crimes have the right to justice. Therefore, I encourage the national authorities in the region to continue the fight against impunity within their jurisdictions, including through increasing regional cooperation. I assure those authorities that my Office will provide support to achieve those goals.

The President (*spoke in Arabic*): I thank Prosecutor Brammertz for his statement.

I now give the floor to Mr. Jallow.

Mr. Jallow: I am greatly honoured to brief the Council once again on the progress of the completion strategy of the International Criminal Tribunal for Rwanda (ICTR) and to present to you the first report on the work of the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals.

The trial phase of the Office of the Prosecutor of the ICTR has now concluded save for the receipt of judgement in the case of Augustin Ndirabatware, which is now scheduled to be delivered on 20 December 2012. With that will come the conclusion of the trial phase of the ICTR. Similarly, all trial-related activities, including the updating of the files of the fugitives, evidence preservation proceedings in respect of the three top-level fugitives, and litigation in respect of the referrals of cases to national jurisdictions, have also been concluded except in the case of *The Prosecutor v. Benard Munyagishari*, in which there is a pending appeal against the decision of the ICTR Referral Chamber to refer his case to Rwanda for trial.

Our focus at the Office of the Prosecutor of the ICTR for the past six months has been, and for the ensuing months will continue to be, on the prosecution and completion of appeals, the preparation of the Office's records for archiving and handover to the Residual Mechanism, and the completion of legacy, residual and closure issues, as well as providing support to the Office of the Prosecutor of the Arusha branch of the Mechanism.

The conclusion of trials has substantially increased the appellate workload of the Office of the Prosecutor, and currently we are litigating 31 appeals arising from nine cases. We nonetheless anticipate the timely conclusion of this appellate workload by 2014, within the time frame for the completion strategy of the ICTR set by the Security Council.

The preparation of the records of the Office of the Prosecutor for archiving by the Residual Mechanism has progressed during the past few months and has received a welcome boost with the promulgation of the of the Secretary-General's bulletin on archiving standards and retention schedules for the records of the Tribunals (ST/SGB/2012/3). The bulletin clears the way for the security classifications of the various records

held by the Office of the Prosecutor and the other organs of the Tribunal. In July this year, following the commencement of operations of the Arusha branch, I was able to hand over to the Registrar of the Mechanism the Office of the Prosecutor's records of some 27 cases for retention by the archives of the Mechanism. The remaining ICTR records will be handed over to the Mechanism as and when they are cleaned up, properly classified and packaged for secure storage, and when they are no longer required as working records by the ICTR.

These records and archives constitute an important legacy of the ICTR and the other Tribunals for future generations of researchers, historians, lawyers and judges, as well as for the communities that were directly affected by the situations under our mandate. So also are a number of other important legacy projects on which the ICTR has been working and which we plan to conclude before the expiry of the Tribunal's mandate.

In 2006, at their first colloquium held in Arusha, the Prosecutors of the International Tribunals, having regard to the fact that the legacy of the Tribunals lies not only in their jurisprudence, which is readily available, but also in the practices that the various Offices of the Prosecutor had developed in their operations, decided to implement a best practices project that would document the lessons learned from both successes and challenges in the investigation and prosecution of mass crimes.

I am pleased to report that with the financial support of the Government of Canada, the Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY), the ICTR, the Special Court for Sierra Leone, the Special Tribunal for Lebanon and the Extraordinary Chambers in the Courts of Cambodia, on the basis of their experience of the Tribunals, were able to finalize a joint compendium of lessons learned on the investigation and prosecution of international crimes and to launch the compendium on 1 November, at the annual conference of the International Association of Prosecutors. The compendium is available to national and international prosecutors and will, one hopes, provide some guidance on some of the many difficult aspects of the investigation and prosecution of mass crimes.

Further work on legacy projects of this nature will continue both jointly among the Prosecutors of the various Tribunals and by individual Tribunals. The Office of the Prosecutor of the ICTR has already made substantial progress in executing a number of projects

from a best practices and lessons learned perspective, including the tracking and arrest of fugitives and the recording of the course of the 1994 Rwandan genocide on the basis of facts established by the ICTR judicial process, as well as the challenges in the referral of cases to national jurisdictions for trial.

The latter project is intended to highlight the difficulties and challenges encountered in finding able and willing national jurisdictions for referral and the measures, *inter alia*, of law reform and capacity-building that have had to be undertaken in some national jurisdictions in collaboration with the ICTR to enable the States concerned to be legally eligible for receipt of those cases. We hope the project will provide useful lessons on the partnership between national and international jurisdictions and on the implementation of the principle of complementarity, whose effective application is so critical to the future of international criminal justice.

Similarly, we have also prepared two lessons learned manuals on the investigation and prosecution of sexual and gender-based violence, and on the management of victims and witnesses of sexual violence crimes in situations of armed conflict. Those two manuals, which are now being finalized, were subjected some two weeks ago to peer review at an international workshop organized by my Office in Kigali in collaboration with UN-Women, the Open Society Justice Initiative, the East African Community and the Government of Rwanda — to all of whom we are very grateful.

The manuals are based on the ICTR experience in this particular field. Crimes of sexual violence were so extensive in Rwanda during the genocide of 1994, and unfortunately they continue to feature significantly in many of the conflicts around the globe, making it one of the biggest human rights challenges facing the global community. We hope that our experience, captured in those manuals and in the very useful discussions at the workshop, will assist national and other international jurisdictions to ensure accountability for such crimes.

We are currently also working on a final report of the activities of the Office in time for the conclusion of our mandate. We expect it will indicate what has been undertaken and achieved, the challenges faced by the ICTR in the execution of its mandate and the lessons learned for the future of the struggle against impunity.

The reduction in the workload of our Office will result in the considerable downsizing of the Office this

year and early next year. The Prosecution Division in Arusha and the Investigation Section in Kigali will both close down by 31 December 2012 and their staff will be separated from the Tribunal. That will be accompanied by staff reductions in the Information and Evidence Support Section, the immediate Office of the Prosecutor and in the Appeals and Legal Advisory Division of the Office of the Prosecutor. Those staff reductions are in addition to staff separations effected earlier, at the end of June 2012.

Beyond the Office, there will also be significant reduction in staff resources Tribunal-wide. To all of our separating staff, we wish to record our appreciation for their commitment and diligence, which has enabled the ICTR to make significant progress in the discharge of its mandate and in bringing justice to the victims of the tragedy of 1994.

I now turn to the operations of the Office of the Prosecutor of the Arusha branch of the International Residual Mechanism for Criminal Tribunals.

The branch came into being on 1 July and has been in operation since then. The recruitment of core staff of the Office of the Prosecutor is ongoing, with 8 of the 14 core staff already in place. The staff component currently includes legal officers and investigators charged with tracking and related assignments. We expect the recruitment of core staff to be completed in the next few months, and we plan to commence the establishment of the roster of ad hoc staff soon after the new year in order to be able to proceed with trials without further delay in the event of any new arrests.

In order also to facilitate the work of the Office of the Prosecutor of the Mechanism, I have also designated several members of staff of the Office of the ICTR to double-hat by attending to the Residual Mechanism workload in addition to their normal ICTR duties.

I would like to record our appreciation of the Registrars and staff of the ICTR, the ICTY and the Residual Mechanism for their assistance, which has facilitated the commencement and continuity of operations of the Mechanism, in general, and of the Office of the Prosecutor, in particular. In consultation with my colleague at the ICTY, we have also commenced preparations for the recruitment of staff for the Hague branch of the Office of the Prosecutor in order to ensure that it, too, can start work effectively on 1 July 2013, as directed by the Council.

Since 1 July, the Office of the Prosecutor of the Mechanism branch has focused on tracking the top three fugitives — Félicien Kabuga, Protais Mpiranya and Augustin Bizimana — the servicing of foreign requests for assistance, the monitoring of cases referred to national jurisdictions for trial, and trial preparations for the possible arrest of the top three fugitives. Since 1 July, the Office of the Prosecutor of the Mechanism has dealt with 23 requests for assistance from 11 countries, in addition to hosting three national delegations in support of the ongoing national investigations or prosecutions. As more national jurisdictions take on their share of the responsibility for investigating and prosecuting persons suspected of having committed atrocities in Rwanda, that aspect of the workload of the Mechanism will continue and will probably increase. The service provided by the Office of the Prosecutor is crucial to empowering national systems and plays an effective role in combating impunity for mass crimes. It should continue to be supported.

In accordance with the ICTR rules, I have already appointed monitors to observe the proceedings in the two cases that have been referred to France and in the *Jean Uwinkindi* case, which has been referred to Rwanda for trial. The investigations of the cases in France are progressing. The trial of Uwinkindi, after the conclusion of the preliminary proceedings, is scheduled to commence in the Rwandan High Court on 14 January 2013.

I will also appoint a monitor in the *Bernard Munyagishari* case if and when the Appeals Chamber confirms the referral, as well as in respect of the cases of the fugitives referred to Rwanda as and when they are arrested and transferred to that jurisdiction for trial.

However, the biggest challenge that the Mechanism faces is the tracking, arrest and trial of the three fugitives reserved to its jurisdiction. The readiness of the Office of the Prosecutor of the Mechanism for the trials has been greatly enhanced by the rule 71 bis evidence hearings already undertaken and the general updating of the files carried out by the ICTR. Those files have now been handed over to the Mechanism Prosecutor. The trials, however, cannot proceed in absentia and the arrest of the suspects continues to pose a major challenge for international justice.

Tracking has been intensified in the past six months and will continue to be our priority. Our work in Kenya and Zimbabwe and with other countries and organizations in the region has been ongoing and

expanded to other countries and institutions outside Africa.

I had useful discussions in September with Government officials in Harare, Zimbabwe, on the case of the fugitive Protais Mpiranya. The investigations of the activities of the fugitive in Zimbabwe by Residual Mechanism investigators and Zimbabwe law enforcement officials is now ongoing. I have received assurances from Zimbabwean officials of the commitment of their Government to collaborate with the Mechanism in the search for the fugitive.

The cooperation of all States Members of the United Nations is absolutely essential for the tracking and arrests not only of those three fugitives but also of the eight others whose cases have been referred to Rwanda for trial. At the level of the ICTR and the Mechanism, we can track but have no powers of arrest. That is a responsibility reserved for Member States; hence, their legal duty to cooperate with the Tribunals in that respect. The Security Council should therefore continue to call on all Member States to discharge that legal responsibility of cooperation with the Tribunals.

For our part, we shall continue to make tracking the top priority of the Mechanism. Some two weeks ago, the Mechanism and the ICTR took time to review the current strategies and to explore new methods that may help the Mechanism to fulfil its mandate, including in the challenging area of tracking. As a result, we shall be looking at new ways of doing things and hope that they will be truly productive.

For the fugitives themselves, the clear message is that tracking will not cease. There is no time limit for the prosecution of the offences with which they are charged. The search for them will therefore continue until they are found and brought to justice, either before an international mechanism or an appropriate national jurisdiction to account for their deeds.

The President (*spoke in Arabic*): I thank Mr. Jallow for his briefing.

I shall now give the floor to members of the Security Council.

Mr. Rosenthal (Guatemala) (*spoke in Spanish*): My delegation would like to thank the Presidents and Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and of the International Criminal Tribunal for Rwanda (ICTR) for their briefings on the completion strategies of their respective Tribunals. My

delegation also wishes to pay tribute to the enormous commitment shown by the staff of both Tribunals to meet the goals of the completion strategies.

The work of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda is at a critical stage as they strive to complete their cases effectively, while steering the transition to the Residual Mechanism. We acknowledge the considerable achievements and progress of the Tribunals to comply fully with their mandates.

With regard to the International Criminal Tribunal for the Former Yugoslavia, we welcome the fact that all cases, except those held up through delayed arrest warrants, will be completed and most of the Tribunal's work will be on appeals. We note the recent decisions of the Tribunals, all of which we fully respect.

With regard to the International Criminal Tribunal for Rwanda, we are pleased that the trials are on schedule. We are concerned, however, by the fact that nine people are still fugitives from justice. The Rwanda Tribunal can complete its work successfully only if it receives the effective cooperation of every State. We call on all States, especially those of the Great Lakes region, to step up their cooperation with the Tribunal and to provide it with all necessary assistance in arresting and handing over the remaining fugitives. In addition, as we near the closure of the Tribunal, we are also concerned about the human rights of those who have been acquitted or have completed their sentences but have not been relocated. We urge States to cooperate with the International Tribunal and to provide it with all necessary assistance for the relocation of those people.

On the one hand, we welcome the fact that both Tribunals continue to take all possible measures to complete their proceedings expeditiously, while fully respecting due process. We also welcome their commitment to carrying out the completion strategies, despite their great burden of work. We remain concerned by the reports from both Tribunals about the difficulty of retaining personnel, which is one of the main obstacles to achieving the completion strategy goals.

My delegation recognizes the major contribution of the Tribunals to international justice and accountability for serious international crimes and to the re-establishment of the rule of law in the former Yugoslavia and Rwanda. It is an honour for Guatemala to chair the Informal Working Group on International

Tribunals. At this crucial juncture, we continue to lend our full support to the Tribunals and to the Residual Mechanism.

This year, 1 July was a landmark date for two reasons. First, it was the tenth anniversary of the entry into force of the Rome Statute of the International Criminal Court. The Tribunals were a source of inspiration for the establishment of the Court, the accounts of mass atrocities having called attention to the pressing need for a permanent court to put an end to impunity for what the international community considers the most serious crimes.

The second reason is that 1 July marked the commencement of operations of the International Residual Mechanism for Criminal Tribunals. That Mechanism ensures that there will be no gaps in the fight against impunity, given the great number of remaining tasks after the closures of the Tribunals, including witness protection, cooperation with national authorities, reviewing sentences and overseeing their execution.

We note the Residual Mechanism's forward progress, as related in the progress report from its President (S/2012/849, annex I). We approve the ongoing process whereby in 2013 the Mechanism will begin operations relating to cases in the former Yugoslavia. We welcome the fact that the Tribunals have worked together to ensure a gradual and efficient transition to the Residual Mechanism.

Lastly, after two decades we have a success story for international criminal justice — an achievement not only for the Tribunals but for our Organization and its Member States.

Mrs. Le Fraper du Hellen (France) (*spoke in French*): I thank President Meron of the International Tribunal for the Former Yugoslavia (ICTY) and President Joensen of the International Criminal Tribunal for Rwanda (ICTR) for their reports (S/2012/592 and S/2012/594) and Prosecutors Brammertz and Jallow for their briefings.

I will start by stressing the importance that France attaches to the work of the two Tribunals, the fight against impunity in general and the duty to remember. Facing vast challenges, including the difficulty of arresting suspects and the need to provide witness protection, often over the course of many years, the staff of the Tribunals have carried out long-term work, paving the way for the creation of the International

Criminal Court, which has permanent worldwide jurisdiction. We thank them.

With specific reference to the International Criminal Tribunal for Rwanda, we note that the completion of its work is on schedule, as promised. That is very positive. We also welcome the fact that the procedure followed by the Tribunal to preserve evidence, as called for in rule 71 bis of its Rules of Procedure and Evidence, is nearly complete. That will facilitate proceedings in the cases of the three high-ranking fugitives Augustin Bizimana, Félicien Kabuga and Protais Mpiranya, who will be tried under the International Residual Mechanism for Criminal Tribunals once they are apprehended.

We believe that the transfer of cases to national jurisdictions is an important part of the completion strategy for the International Criminal Tribunal for Rwanda. The President and the Prosecutor came to France to monitor the progress of the cases brought against Laurent Bucyibaruta and Wenceslas Munyeshyaka under French jurisdiction. The interim Registrar is in France this week. French authorities will fully attend to the Tribunal's concerns and requests regarding the proceedings.

The Tribunal continues to face difficulties, especially on the subject of cooperation. The President and the Prosecutor spoke to us about the matter of arresting of fugitives. It is the obligation of all countries to cooperate with the ICTR, as stipulated in the Council's resolutions. The Council should remind all States of that duty.

A second issue related to the cooperation with the Tribunal is the relocation of persons it acquits or who were convicted but have completed their sentences. France was the first to host several individuals in its territory at the request of the Tribunal. We support the Tribunals in urging more States to promptly accept in their territory the persons concerned.

I confirm that France supports the request made earlier today for an extension of the terms of judges.

As for the ICTY, it is currently dealing with very complex cases, which explains the delays in the calendar. Most complex are the *Šešelj*, *Hadžić*, *Mladić* and *Karadžić* cases. Of course, we hope that the Tribunal will complete its work as soon as possible, but nothing should detract from its ability to render justice in cases so serious. In the case of the ICTY, too, we support the requested extension of the judges' terms.

Judgements in international criminal justice are binding on all. It is not for States to debate them, but to implement them. That is as true for the ad hoc Tribunals as for the International Criminal Court. They are not an exercise in variable geometry.

There is also an obligation to honour victims. The ICTY rules in its judgements on the criminal responsibility of particular individuals, but its judgements also attest to the larger fact that in the former Yugoslavia heinous crimes were committed by all parties. The ICTY has categorized the Srebrenica massacres as genocide; disarmed soldiers were subject to illegal execution; there were campaigns of ethnic cleansing, and minorities suffered persecutions.

All cases of crimes against civilians or against combatants in violation of the Geneva Conventions must be pursued. The excuse that some of the crimes in question were committed only in reaction to attack is not acceptable. Victims deserve for those crimes to be recognized as such, for the perpetrators to be brought to justice, and for they themselves to receive appropriate reparation. The most recent judgements of the ICTY and the widely divergent reactions to its recent acquittals show that the Tribunal's work still elicits strong feeling in the region. The populations concerned must be made to trust that justice will be done for all victims.

As the international Tribunals are in the process of completing their work, the responsibility of the States of the region to be active in the fight against impunity is of the utmost importance. We were concerned that the report gives no sense that the countries of the region are mobilizing to pursue cases at the local level. Moreover, regional cooperation remains insufficient.

For France, as a member of the European Union, full cooperation with the International Tribunal for the Former Yugoslavia and regional cooperation remain major considerations, as well as essential obligations in the framework of the Stabilization and Association Process for candidate countries and potential candidates for accession.

In conclusion, I wish to thank the Ambassador of Guatemala, chair of the Informal Working Group on International Tribunals, his team, the representatives of the Tribunals and the Office of Legal Affairs of the Secretariat for their efforts to implement the transition pursuant to resolution 1966 (2010).

Mr. Churkin (Russian Federation) (*spoke in Russian*): Russian has always defended and will

continue to defend the interests of international justice, including fairness, impartiality and honesty.

Recent events concerning the International Tribunal for the Former Yugoslavia (ICTY), together with the report of the Tribunal (see S/2012/592) containing requests concerning the format and methods of the Tribunal's future work and its Residual Mechanism, are of deep concern to my delegation.

In its work, the ICTY has been neither fair nor effective. We perceive only an excessive self-regard. We were surprised at how blithely, even carelessly, a three-to-two voting result quashed a unanimous trial verdict, justified by many years of investigation, in the case of two Croatian generals who were indicted on charges of crimes against humanity, including war crimes, mass killings and the repression and deportation of the Serbian population. As a result, the question of the identity of the party guilty of hundreds of killings and the exile of a quarter of a million Serbs from their homes remains open. In that case, justice was not done. As was stated in the dissenting opinion of one of the judges, a reversal from a conviction to an acquittal is at odds with any notion of justice.

A similar assessment is merited by the acquittal in the case of *Prosecutor v. Ramush Haradinaj et al.* In that case, witnesses were subject to unabashed acts of blackmail and intimidation, all in an atmosphere of full impunity alongside a pandering international presence in Kosovo. The resulting killings and torture undoubtedly took place, yet there were no perpetrators. Both of the referenced verdicts of the ICTY discredit the idea of international criminal justice. Faith in the possibility of restoring peace through the dispensation of justice has been substantially undermined.

Such actions of the ICTY only generate mutual distrust among peoples across the former Yugoslavia. In that situation, a legitimate question arises: how to deal with the ongoing requests of the ICTY for indefinite extensions of the terms of its judges? Once again, no justification has been provided for the various scenarios put forth to convince us that the ICTY should once again extend its existence, in violation of resolution 1966 (2010).

An obvious example of the absurdity of such developments is the appeal in the case of *Prosecutor v. Jadranko Prlić et al.* Very recently here in the Council, the President of the ICTY assured us that the trial would be completed in 2016. Its completion has

now been delayed to 2017. It therefore turns out that the innovative technologies for litigation do not reduce but rather extend the existence of the ICTY. In that vein, we are convinced that if the ICTY so desired, it could draft a decision by which a legally correct method could be used to transfer the *Prlić* appeal to the Residual Mechanism.

Justification of our criticism is confirmed by data from the recent report of the United Nations Board of Auditors on the ICTY (A/67/5/Add.12), which is now being analysed by the Fifth Committee of the General Assembly. The Auditors have calculated that the average time of one trial in the Trial Chamber is four and a half years. That is unprecedented in criminal justice. In the light of recent events, there is no way that the Tribunal could be exonerated on the basis of its high standards of justice. The ICTY should take a lesson from its confrère, the International Criminal Tribunal for Rwanda (ICTR), which is now managing to wind up its work within the prescribed timetable. Its standards are just fine.

It is our firm intention to seek completion of the work of the ICTY in accordance with the deadlines set down in resolution 1966 (2010), focusing on the following measures. According to the report of the Board of Auditors, to date the ICTY has not provided a consolidated plan of action for finalizing its work under resolution 1966 (2010). That plan should be prepared as soon as possible and submitted to the Council.

Moreover, the Tribunal needs additional administrative support in the form of independent experts. As one possible option in that context, we note the experience of the Special Court for Sierra Leone which was assisted by an independent expert, Judge Antonio Cassese, who provided an alternative assessment of the situation of the Special Court and a number of useful recommendations for improving the quality of its work.

For the next six-month report to the Council, we call on the President of the ICTY to provide an extended individual timetable for the prosecution of each case, with a roster of daily activities. We will be prepared to consider extending the terms of permanent judges and ad litem judges only upon consideration of these timetables. We also intend to strictly link all decisions on the Tribunals' future budgets to the deadlines set in resolution 1966 (2010).

Mr. Wittig (Germany): I would like to start by reiterating Germany's full support for the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). Their contribution to the fight against impunity for serious international crimes is invaluable. We thank Presidents Meron and Joensen, as well as ICTY and ICTR Prosecutors Brammertz and Jallow, for their recent assessments. We commend their efforts to implement the completion strategies of both Tribunals.

Let me add that we welcome the progress made in ensuring a smooth transition to the International Residual Mechanism for Criminal Tribunals. We are fully aware of the challenges faced by both Tribunals during the transitional period.

Turning to the ICTR, the report of 5 November (see S/2012/836) clearly outlines successes and remaining challenges. We congratulate the ICTR on having concluded virtually all of its remaining work at trial level, with only one case remaining at the trial level and all appeals projected to be completed by the end of 2014.

We once again commend Rwanda for having strengthened its national legal system so as to allow the adjudication of cases transferred from the ICTR. We are also grateful to the Governments of both Benin and Mali, which have recently enabled the transfer of convicted persons to their respective territories for the serving of remaining sentences. And we reiterate our call on the international community, and in particular to concerned States of the region, to undertake serious efforts in order to bring the remaining nine fugitives to justice. Likewise, we encourage further efforts to solve the issue of the five acquitted persons who currently remain in Arusha under the protection of the ICTR.

The International Tribunal for the Former Yugoslavia has played a key role in strengthening the rule of law and promoting long-term stability and reconciliation in the Balkans. Moreover, it embodies a unique success story. With the arrests of the last three fugitives — Mladić, Hadžić and Karadžić — the ICTY has implemented its mandate to fight impunity and not to let the perpetrators of outrageous crimes escape justice.

The jurisprudence of the ICTY and of the ICTR is a source of inspiration for all national and international jurisdictions that will have to address such crimes. Their records show that international

criminal justice does exist; it prevails, and sooner or later those responsible for serious international crimes will be held accountable. And let me be clear. We owe the Tribunals full respect both for their status as independent criminal courts and for their judgements. Both Tribunals consistently uphold high standards of justice, as well as all principles relating to the right to a fair trial, including the right of appeal.

While we recognize that some recent judgements of the ICTY have been met with strong emotions, we call upon all to deal with such emotions in a responsible manner. Furthermore, statements questioning the impartiality of the ICTY only serve to undermine the mandate and authority of the Tribunal and are detrimental to the process of reconciliation in the region. This cannot be tolerated. Germany is committed to continuing its full support for the Tribunal and calls upon all States to cooperate with the Tribunal to the fullest extent.

As the ICTY nears the completion of its mandate, the authorities in Bosnia and Herzegovina, Croatia and Serbia must intensify their efforts to carry on the ICTY's work of prosecuting crimes. This includes cooperation both with the ICTY and between those three States. We are aware of the Prosecutor's continued concerns in this regard, and we are alarmed by the announcement made yesterday by Serbia, in a letter dated 4 December 2012 addressed to the Secretary-General, that it would reduce its cooperation with the ICTY to the technical level, despite the commitment expressed by the new Serbian Government in its recent meetings with the Prosecutor.

As Germany is nearing the end of its term as a non-permanent member of the Council, I would like to assure both the Council and the principals of both Tribunals of our ongoing and full support for their work in the future.

Ms. Guo Xiaomei (China) (*spoke in Chinese*): At the outset, I would like to thank President Meron, Prosecutor Brammertz, President Joensen and Prosecutor Jallow for their briefings on the work of the International Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and the International Residual Mechanism for Criminal Tribunals. I would like to make the following points.

First, since June the two Tribunals have overcome such difficulties as staff retention, worked hard to

implement the completion strategy, and made steady progress in their relevant work. The ICTR continues to successfully transfer cases to Rwanda. Other trials will be completed by the end of this year on schedule. The appeals are expected to be completed by the end of 2014. China appreciates this.

We note that, despite great effort on the part of the ICTY, many trials have been delayed. The trials and appeals cannot be completed within the time limit set by resolution 1966 (2010). We understand that there may be many different reasons for delays in cases, but we still expect the ICTY to further improve the efficiency and timeliness of its work. Moreover, China also notes the controversy caused by a recent appeal judgement of the ICTY. The ICTY should adhere to the principles of impartiality, independence and the rule of law in its work to ensure justice and make a positive contribution to maintaining regional stability and ethnic reconciliation in the former Yugoslavia.

Secondly, a branch of the Residual Mechanism for the ICTR began functioning officially on 1 July 2012. Right now, the ICTR is transitioning smoothly to the Residual Mechanism. Some traditional functions have been handed over. The Residual Mechanism has also submitted its first report to the Security Council (S/2012/849, annex I), which we welcome. Tracking and apprehending the three high-level fugitives from the ICTR is one of the challenges confronting the Rwanda branch of the Mechanism. We hope that this endeavour will achieve early progress. We encourage Kenya, Zimbabwe and other countries to cooperate with the Mechanism, and we thank them for their cooperation thus far. On 1 July 2013, the ICTY branch of the Residual Mechanism will also begin functioning. China hopes that the ICTY can, in accordance with the requirements laid out in Council resolutions, make appropriate arrangements for its work so as to ensure a smooth start to the functioning of the Residual Mechanism.

Thirdly, China appreciates the cooperation of Serbia, Croatia, Bosnia and Herzegovina and Rwanda with the two Tribunals and the Residual Mechanism. We call on those countries, where possible, to demonstrate political will and to work with the two Tribunals in enforcing judgements and relocating those acquitted. We also hope that, where possible, the two Tribunals can play a positive role in strengthening national capacity-building in the region.

Finally, I take this opportunity to thank Guatemala, as Chairman of the Informal Working Group on International Tribunals, and the United Nations Office of Legal Affairs for their work.

Mr. Parham (United Kingdom): I would like to begin by expressing the United Kingdom's continued support for the International Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and the International Residual Mechanism for Criminal Tribunals. Their work is essential in helping to tackle impunity and in delivering justice to the countless victims of atrocities in Rwanda and the former Yugoslavia. All States should respect that work and the independent and impartial way in which it is conducted. I would also like to express our thanks to President Meron, President Joensen, Prosecutor Brammertz and Prosecutor Jallow for their excellent reports and briefings.

Cooperation from all parties is essential to the effectiveness of the ICTY. The United Kingdom notes the new Serbian Government's assurances to the Prosecutor's Office of its continued cooperation, albeit at a technical level. Progress has been made. Crucial investigations into support networks that allowed Mladić and Hadžić to escape capture are advancing. This progress must continue. Anyone who has provided assistance to fugitives must be held accountable.

Croatian and Bosnian cooperation has also been positive. We expect this to continue over the coming months, and encourage the Croatian authorities to react with dignity and respect to the acquittals of Gotovina and Markač. These verdicts were reached through an impartial and independent judicial process. It is essential that all sides respect these verdicts.

We share the Prosecutor's concern about the ability of national institutions to prosecute war crimes effectively. Efforts to advance regional reconciliation and to promote the rule of law rely on the effectiveness of these institutions. We join the Prosecutor in calling on Croatia to focus on domestic prosecution of war crimes and deal with this legacy of the past urgently.

Bosnia and Herzegovina is also experiencing difficulties with domestic prosecutions, as we heard. Its adoption of the cooperation protocol will help tackle the backlog of cases and improve parallel investigations between Bosnia and Herzegovina and Serbia. We encourage Bosnian authorities to redouble their efforts to adopt the cooperation protocol.

We understand that staff retention difficulties are having an effect on the ICTY's ability to keep the Karadžić trial on schedule. Nevertheless, we urge the ICTY to take all necessary steps to minimize delays and complete the trial by 31 December 2014. The timely completion of all trials is essential for transitioning to the Residual Mechanism. With that in mind, we support the requested extensions of the judges in both Tribunals. Predictable continuity is required in the interests of both justice and effectiveness. Neither justice nor effectiveness will be served by micromanagement of the Tribunals by the Council.

We reached an important milestone with the start of the *Hadžić* trial. This demonstrates that, no matter how long it takes, anyone accused of serious international crimes will be held accountable and brought to justice.

Let me now turn to the ICTR. Nine fugitives remain at large. Apprehending these individuals is an urgent and immediate priority. Justice will not be served while these individuals evade justice. We encourage all Member States to provide their full, unequivocal support and cooperation to apprehend these fugitives and bring them to justice.

Close cooperation between the ICTR and the ICTY is increasingly important as the date of the ICTY's transition approaches. We welcome the fact that ICTR's transition to the Residual Mechanism is under way and that the transfer of judicial functions is almost complete. We encourage further cooperation.

Resettlement of acquitted individuals is a fundamental expression of the rule of law. Host States for the five acquitted individuals in Arusha have not yet been found, as we have heard. Resolving that matter is a priority. We encourage every effort to find a solution as soon as possible.

Regrettably, ICTR staff retention remains an issue and places strain on existing staff members. There is no easy solution to the ICTR turnover rate problem. We thus encourage the Tribunal to prioritize its resources to the best of its ability and to operate as effectively as possible. We are pleased that the judgement in the *Ngirabatware* case is expected this month. Ensuring that trials are completed on time is, of course, fundamental to the ICTR's completion strategy.

In establishing the Tribunals, the Security Council sent an important signal of its commitment to the fight against impunity. We and the victims of the atrocities owe a debt of gratitude to the Tribunals for what they

have achieved. We also owe our respect to the Tribunals as independent and painstaking instruments of justice. But, as we get closer to the fulfilment of the completion strategies, it is important to recognize that that is not the end. The pursuit of justice for all of the victims requires that every effort be made to advance domestic prosecutions and, in that way, to ensure that everyone who should be held accountable is indeed brought to book.

Mr. Moraes Cabral (Portugal): I thank the Presidents and Prosecutors of the Tribunals for their very comprehensive briefings. I would also wish to thank Ambassador Rosenthal and his team for the efficient leadership they have shown at the head of the Informal Working Group on International Tribunals.

The Tribunals face today a significant challenge. They have to complete their trial activity as planned and contribute to the development of the International Residual Mechanism, while facing, at the same time, an increasing problem of staff attrition. Under those difficult conditions, we must recognize the efforts by the Judges, Prosecutors and all the staff of the Tribunals in trying to keep on track the overall implementation of the completion strategies of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), as endorsed by the Security Council.

We appreciate the information provided by the President of the ICTY on the projected trial activity and the reasons for its adjustment. It is indeed very important that the Council remain fully apprised of relevant developments so as to allow it to promptly help overcome the difficulties encountered and ensure a smooth implementation of the completion strategy. We also welcome the fact that the ICTR trial work remains on track, that the last trial will be concluded before the end of 2012 and that all appeals are projected to be concluded by the end of 2014. On the other hand, while the ICTY still has to face significant work ahead, as clearly set forth in the report (see S/2012/592), it is important to note that all arrest warrants issued by the Tribunal have been executed and that the Tribunal and Prosecutor may now concentrate on the main trial activities.

As the reports of the Tribunals highlight, some other challenges remain. Let me underline four of them. First, on management and resources, both Tribunals share a grave concern resulting from staff attrition and its effect on the daily management and overall capacity

to fulfil the completion strategies endorsed by the Security Council. Despite a number of recently adopted Council resolutions referring to that issue, problems seem to persist in some cases. While commending the efforts that they have made in that regard, we encourage the Presidents of the Tribunals, together with the United Nations Secretariat, to continue to identify possible ways of further promoting better use of resources with a view to improving the management of the time devoted to the cases, while conforming in full, naturally, with the principles of justice.

Secondly, on outreach and capacity building activities, as the Tribunals enter the final stages of their work, the issue of national and regional ownership of the fight against impunity for the war crimes committed in Rwanda and the former Yugoslavia gains in relevance and importance. In that context, we welcome the continuing outreach efforts by the Tribunals as well as their capacity-building activities aimed at strengthening local judicial institutions and raising awareness among civil societies.

Thirdly, on cooperation both among States in the region and with the Office of the Prosecutor, an essential element of regional ownership is indeed the extent to which States in the region cooperate among themselves in criminal matters, including war crimes investigations and prosecutions. We should not forget that a significant number of cases concerning such crimes remain to be pursued domestically and that questions of the capacity of national institutions to conduct effective criminal prosecutions and the level of cooperation among States in the region are crucial in that regard. We encourage further necessary efforts to ensure a better cooperation in that area among relevant States. The cooperation of the States of the region with the Office of the Prosecutor is also crucial for the prompt and full implementation of the ICTY mandate. In that regard, we are very pleased to note the statement by the ICTY Prosecutor expressing his satisfaction in general with the cooperation provided by Serbia, Croatia and Bosnia and Herzegovina.

Fourthly, let me mention the situation of convicted and acquitted persons, as some previous speakers have done. As we approach the end of the Tribunals' work and project a number of convictions, we have to be prepared for an increasing number of Tribunal requests to be addressed to States to host convicted persons to serve their sentences and the need to find appropriate and prompt responses to those requests. In particular,

we reiterate, in that respect, the need to encourage definitive solutions to address the situation of those persons acquitted by the ICTR and those released after serving their sentences. Still today, they remain under protective measures in safe houses in Arusha because they can neither return safely to their communities nor find host countries willing to accept them. That is an unsustainable situation to which a solution must be found, and we call on the Tribunal to continue to exert all efforts necessary to overcome the current difficulties.

Finally, Portugal has always stood for fighting impunity and ensuring accountability for the most serious crimes without exception and wherever they take place. Accountability for such crimes is of utmost importance in order that countries that have been subjected to the scourge of war rebuild their societies in peace and security. It is an essential element for promoting national reconciliation, strengthening regional cooperation and allowing peoples to look confidently to the future. In the case of the Balkans, it also constitutes an essential step for the countries in the region to fully integrate themselves into a common European destiny and framework. The role played by both Tribunals, firmly rooted in a comprehensive normative framework established by the Council, has been fundamental to the attainment of those goals of the international community in full respect for the principles of justice. Moreover, the Tribunals play a crucial role in building a solid legacy for the benefit of other international and domestic tribunals, which Portugal would like to commend.

As it is the last time we participate as a member of the Council in these regular briefings, we wish to take this opportunity to thank the Presidents, Prosecutors and staff of the two Tribunals for their important work. Above and beyond the trial-related activities, they are also laying the groundwork for the future, well after the Tribunals close their doors, both by helping to launch the Residual Mechanism and, most importantly, by helping the countries of the respective regions to take over and continue the vital task of fighting impunity for the most serious crimes and fulfilling their people's legitimate aspirations for justice. For all the aforementioned reasons, Portugal wishes to express its recognition for the Tribunals' work and for their overall contribution to ensuring and promoting justice and reconciliation.

Mr. Sharifov (Azerbaijan): At the outset, I wish to thank the President for convening today's

meeting. We are also grateful to the Presidents and the Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their useful briefings and comprehensive assessments pursuant to resolution 1534 (2004). I would also like to take this opportunity to commend the work of the Informal Working Group on International Tribunals under the leadership of Ambassador Rosenthal of Guatemala.

Today's briefings have noted the developments that have taken place during the last six months, and we acknowledge the progress made in the implementation by both Tribunals of their respective mandates.

We commend the efforts undertaken by the Tribunals to complete the outstanding proceedings within the established timeframes, while fully respecting and safeguarding due process. We welcome the launch of the Arusha branch of the Residual Mechanism of the International Criminal Tribunals as an important step towards completing the work of the Tribunals and ending impunity.

We note the progress made in the transition of the Tribunals' functions to the Residual Mechanism. The ICTR appears to be on track, with the projected completion of its work on the trial level by the end of this year, and it has already completed the trials of almost all the remaining accused, with one remaining judgement to be delivered late this month.

The ICTY has also advanced on its path to transition and has to date transferred one Tribunal function to the Mechanism and concluded proceedings against 128 out of 161 indicted individuals. As the report notes, the ICTY anticipates concluding all trials in 2013, with the exception of three individuals whose arrest occurred later.

We also note the referral of cases and the transfer of accused persons by the Tribunals to national authorities in the context of the Tribunals' efforts to ensure a smooth transition to the Residual Mechanism. Such measures not only reduce the overall workload of the Tribunals, but also strengthen the capacities of national judicial systems and reinforce the rule of law at the national level.

The cooperation of States remains a critical pillar of the work of the Tribunals and constitutes an essential component of appropriate regional ownership. It is therefore important that States remain committed to meeting their relevant obligations towards the Tribunals

and that they continue to cooperate with them and to contribute to safeguarding and further developing their legacy.

The activity and jurisprudence of the Tribunals have helped to develop international law, in particular the law on war crimes and crimes against humanity, and have contributed to advancing the rule of law and the restoration of peace. Having said that, we wish to note several concerns in regard to recent decisions of the ICTY Appeals Chamber. Without commenting on the specifics of those decisions, it is nonetheless essential to recall the importance above all of the human rights doctrine, which is based on the need to respect human dignity and consequently to punish all those who seriously attack that dignity. Indeed, the establishment of the true and gross violations of human rights and of international humanitarian law, the provision of adequate and effective reparations to the victims, and institutional action to prevent the repetition of criminal offences are all necessary adjuncts to the true resolution of conflicts and imperative in regard to the effective and politically uncompromising system of international criminal justice.

We are confident that the rule of law will continue to be the guiding principle of the Tribunals.

Mr. M'Beou (Togo) (*spoke in French*): At the outset, I would like to thank the Presidents and Prosecutors of the two Tribunals and of the Residual Mechanism for presenting their reports (see S/2012/592 and S/2012/594).

The first conclusion we can draw from the reports is that the two Tribunals are complying with the procedures and timetables for the completion strategy under resolution 1503 (2003), except in cases where practical demands prevent them from doing so. Indeed, the reality of those positive results for the two Tribunals can be measured, on the one hand, by the extent of their activity since the reports of May 2012 (see S/2012/354 and S/2012/349) to fulfil their mandates and, on the other hand, by the significant progress made in implementing the completion strategy *per se*.

It should be noted that the two Tribunals have enjoyed varying degrees of success towards completing their mandates. The ICTY has no more fugitives, but some of its appeals proceedings will continue longer than foreseen. Various measures are being taken, however, to accelerate those proceedings in order to mitigate the effects of possible delays. With regard to the ICTR,

Togo welcomes the fact that, of the three cases whose verdicts were announced in the May report, two have been completed and the verdicts rendered. The only case still pending is currently awaiting drafting of the sentence, which will be delivered later this year, after which the ICTR will be able to close its trial activities.

For the appeals cases, we note that the commitment to handing down four verdicts in 2012 has been honoured, thereby confirming that the ICTR is firmly embarked on the path to completion. My country urges it to do the same with respect to its projected verdicts in the appeals of seven individuals in 2013 and 10 in 2014. We believe that the Council should take into account the insurmountable practical obstacles that led the ICTY to push back certain dates, and the impossibility of completing the appeals in other pending cases within the timeframe of 31 December 2014 established by resolution 1966 (2010).

Togo welcomes the progress made by both Tribunals with respect to transferring cases to national jurisdiction and notes that the decision to transfer to Rwandan jurisdiction an accused already under arrest is currently under appeal. The decision will be made in January 2013. We further note that the cases of six accused not yet arrested will be transferred to Rwandan jurisdiction, thereby guaranteeing that the closing of the ICTR will not spell impunity for individuals of middle or lower rank, whether or not they have been arrested.

Togo is also pleased to note that the ICTR has been able to deploy a monitoring mechanism in the context of the trial of a transferred accused. However, to the extent that the ICTR appears to have met with certain obstacles in concluding its negotiations with organizations that were supposed to play that role, it would be helpful for the Council to be better informed with respect to the effective composition and operation of that mechanism, as well as with respect to its authority to ensure respect for the rights of those being transferred for trial.

My country notes that hearings to preserve evidence under article 71 bis of the Rules of Procedure and Evidence of the ICTR have been held in two cases in which the accused are suspected of a high level of responsibility and that the evidence thus preserved will be able to be used at the appropriate time, with the right to rebuttal by the accused.

We further welcome the active role of both Tribunals with regard to the challenge of witness protection, which has taken a more dramatic turn with

the fear that the end of the Tribunals will also spell the end of their protection. We believe that the two Tribunals should be encouraged to make all necessary efforts to ensure that witnesses maintain their trust, without which other individuals will be reluctant to testify before the Residual Mechanism, with the risk that justice for the victims will not be done and that the rights of the defence will be compromised.

In addition, we hope that the Appeals Chamber will, without excessive delay, render its decision in the appeal filed by the individual acquitted by the ICTR, whose request for financial damages and relocation to a country of his choice was turned down by the Court in June .

With respect to the implementation of *sui generis* aspects of the completion strategy, Togo welcomes the rigor with which the three bodies — the Chambers, the Prosecution and the Registry — are attempting to resolve the difficult equation concerning the end of their mandates, which they are doing with success and within the prescribed timeframes, except for a few cases of delay.

In spite of everything, the facts show that the support of the Tribunals for the Residual Mechanism and the transfer of judicial and administrative functions of the Tribunals to the Mechanism is continuing without problems. While we note that the two Tribunals have assisted the Mechanism in establishing its regulatory framework for executing sentences, witness protection, the defence counsel commission and code of conduct issues, as well as guidelines for written depositions, Togo encourages them to also put their experience at the service of the Residual Mechanism to enable its effective implementation as well as in negotiating headquarters agreements for the two branches in Arusha and The Hague. We commend the efforts of the Office of the Prosecutor of the ICTR and the Residual Mechanism to follow up within the functions of the Mechanism on investigations and searches for accused persons who have not yet been arrested.

Considering the crucial importance of cooperation, we welcome the multifaceted and effective nature of the cooperation that exists between the two Tribunals and States and international organizations. In fact, the continued willingness of States to cooperate with the ICTR and ICTY and the Residual Mechanism is a major advantage, without which the fight against impunity could not succeed. It is therefore commendable that the two Tribunals continue to cooperate with States by

providing them with technical advice and information as they fight impunity.

In addition, Togo welcomes the fact that such cooperation helps to raise people's awareness of the importance of reaffirming the legacy of the two Tribunals as it promotes the transfer of know-how to other jurisdictions, as was recently the case when the ICTR sent experts to strengthen staffing capacity of the Court of the Economic Community of West African States in Abuja in connection with various aspects.

Mr. Alzate (Colombia) (*spoke in Spanish*): I would like to thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (ICTR) for the way in which their offices have carried out their duties with the aim of ensuring a good start for the functioning of the Residual Mechanism. I would also like to thank Ambassador Rosenthal and the delegation of Guatemala, whose work in leading the Informal Working Group on International Tribunals considerably facilitated the progress made in this area, as well as the interaction between the Mechanism principals and Council members.

My delegation is convinced that the two Tribunals and the Residual Mechanism will continue to provide an invaluable service to the cause of international justice and the maintenance of international peace and security. We believe that in the past six months in particular both the presidencies and the Prosecutors' Offices have worked extremely hard in order to comply with the Council's decisions on the finalizing of the responsibilities of the Tribunals's bodies and their rapid transfer to the Mechanism.

We commend the special diligence that the judges and the secretariat of the Mechanism have shown in adopting the regulatory frameworks for their activities, including the Rules of Procedure and Evidence and the various practice guidelines, which will provide an invaluable service to litigants. We also welcome the fact that the Arusha branch of the Mechanism began fully functioning on 1 July and that The Hague branch will do the same on 1 July next year. The reports we have received show that the former has already taken the opportunity to act in several areas of its mandate, including adopting judicial decisions, among which, in the first decision of its Appeals Chamber, were measures on protecting witnesses and victims and monitoring the carrying out of ICTR sentences.

My delegation believes that, given the developments experienced in Rwanda, the Mechanism has a particularly important role to play with regard to the monitoring of cases remanded to national jurisdictions, as was the case with the two cases referred to French courts in November 2007 and to one case referred to Rwanda, in which we expect the respective criminal proceedings to start in the next few months.

In resolution 2054 (2012), the Council highlighted the importance of ensuring proper follow-up on transferred cases and, above all, that of unfailingly respecting the rights of the accused being transferred. We believe that to be very important, particularly if we take into account the fact that one transfer is still in process and that in six of the cases where the accused are still at large it has already been decided to refer them to Rwandan tribunals. We trust that the States concerned will continue to provide the Arusha branch with all the necessary cooperation, since, as President Meron indicated, the effectiveness of the Mechanism, as was also the case with the two Tribunals, depends entirely on States' cooperation. It is also true that effective cooperation with Member States continues to be a key factor in enabling the Tribunals to complete their mandates.

In that regard, it is regrettable that we still have a situation where several of those accused by the Rwanda Tribunal have not yet been captured, although there is relatively precise information regarding their whereabouts. A particularly worrying situation is that of the three accused persons still under the jurisdiction of the Mechanism, who are apparently in the Great Lakes region and southern Africa. In our view, when it adopts its next resolution, the Council should reiterate and reinforce its appeal to all States to cooperate effectively with the Tribunal, and that in particular those whose duty it is to take steps to ensure the arrest and delivery of fugitives to the Tribunal should comply with their obligations based on the relevant decisions of the Council. In that context, we echo the appeals made by the Prosecutor of the Mechanism to various States in the region to show greater diligence and to cooperate with his Office in order to resolve this sensitive issue.

The Mechanism for International Criminal Tribunals is the principal tool through which the Security Council can continue to channel the will of the international community to put an end to impunity for heinous international crimes. We welcome the fact that the various bodies of the United Nations and the

Mechanism are taking the steps necessary to ensuring its smooth functioning. We should spare no effort to continue that work, and to that end we believe it is vital to respond to the request made by the Presidents of both Tribunals to extend the judges' terms in order to allow them to carry out each Tribunal's completion strategy.

Mr. Masood Khan (Pakistan): I join others in thanking Judge Meron of the International Criminal Tribunal for the Former Yugoslavia (ICTY), Judge Joensen of the International Criminal Tribunal for Rwanda (ICTR), Prosecutor Brammertz and Prosecutor Jallow for their comprehensive statements. Our thanks also go to Ambassador Rosenthal and his delegation for ably guiding the Informal Working Group.

Pakistan commends and supports the important work of the two Tribunals in delivering justice and ending impunity. During their proceedings, the Tribunals have developed a comprehensive corpus of precedents in international criminal law, and we welcome their contribution.

Two requests have been made to the Council. Judge Joensen has requested the extension of the terms of office of five permanent judges in order to meet the goals of the ICTR's completion strategy — including the completion of all appeals by the end of 2014 — and Judge Meron has requested the extension of the terms of office of ICTY judges. We are constructively engaged with the Working Group to consider those requests and to decide on an appropriate duration for the extension of the Judges' terms.

There has been progress in the completion strategies of the ICTR and ICTY during the period covered by the latest reports of the Presidents and Prosecutors of the two Tribunals (see S/2012/836 and S/2012/847). In the past six months, the Tribunals continued to conduct trial proceedings and appeal proceedings, draft judgements and refer cases to domestic jurisdictions. They also continued to contribute to procedural and evidentiary international criminal law in a professional manner and to implement various reforms to improve drafting of judgements, translation, outreach, and preservation of archives. The Tribunals' initiatives on assistance and support to victims, as well as legacy and capacity-building projects, are steps in the right direction.

The Tribunals have made efforts to transfer their functions to the International Residual Mechanism for Criminal Tribunals. We are glad to know that the necessary arrangements are almost complete,

as the ICTR transfers records and archives, as well as prosecutorial tasks, to the Mechanism. We hope that the ICTY will complete its preparations for the transfer of other functions to the Residual Mechanism by 1 July 2013, in accordance with Council resolution 1966 (2010).

The Tribunals need to show commitment to the timely conclusion of their proceedings and ensure full compliance with the requirements of due process. We recognize the difficulties in the assignment of work to judges and in staff management in the process of winding down the Tribunals' work. The recruitment of workers and retention of staff with institutional memory of cases pose major challenges to the work of Tribunals in the completion process.

Over time, decisions of the Tribunals have produced an impressive body of jurisprudence that can influence the fight against impunity and shape the future of global justice. It is therefore important to preserve the legacy of the Tribunals because of their contribution to the fields of international humanitarian law and legal doctrines.

Mr. DeLaurentis (United States of America): I would like to thank Presidents Meron and Joensen and Prosecutors Brammertz and Jallow for their briefings today and for their service.

As President Obama has said, "Preventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States of America". A key element of that endeavour is our commitment to seeking justice for the perpetrators of heinous crimes regardless of where or when they were committed. The system of international tribunals, which now includes the International Residual Mechanism for Criminal Tribunals as its newest member, is a critical institution in that process.

Since the last reports, much progress has been made. The Residual Mechanism has passed down its first decision — to transfer a case for trial in Rwanda — and opened its Arusha branch on schedule on 1 July 2012. The Hague branch of the Mechanism is slated to open in July 2013. As we commend the Tribunals for their historic contribution to justice and accountability, including the apprehension of all International Tribunal for the Former Yugoslavia (ICTY) fugitives, we also recognize the substantial work that remains at both Tribunals in concluding trials, downsizing staff and transferring remaining functions to the Mechanism.

The Tribunals still face significant challenges in completing their mandates, and we recognize the need for flexibility in assigning cases and determining the appeal and trial schedules.

In light of those tasks, we appreciate the ongoing efforts by the Tribunals to improve efficiency, share resources and economize on costs. Efficiencies instituted by the Mechanism, including having a single set of Principals — President, Prosecutor and Registrar — for both the Arusha branch and the branch in The Hague and having the Mechanism President preside over the Mechanism Appeals Chamber will ensure a more efficient use of resources.

We also welcome other cost-saving measures, such as allowing Judges to carry out their functions remotely where possible and the common use of certain administrative support services and other best practices. We look forward to other measures that economize on costs while maintaining the highest standards of justice.

Turning to the ICTY, we note the recent judgements of the Appeals and Trial Chambers and fully support the Tribunal and respect its rulings. The pace of work at the ICTY remains high, with 18 individuals on trial and 15 in appeal proceedings at the close of the reporting period. The last of the ICTY trials has begun, that of Goran Hadžić. We commend the ICTY for expediting trials such that it anticipates concluding all but three trials during 2013.

While the Tribunal has implemented several reforms to expedite trials and appeals, it was not able to redeploy four trial judges to the Appeals Chamber, as authorized by the Security Council in 2009, because they are still needed at trial. We look forward to the President's proposals as to how that situation can be remedied.

We recognize that staff retention will continue to be a problem as the Tribunal nears the end of its mandate, and we urge the General Assembly to reconsider proposals put forward earlier for a modest financial incentive to save funds through reduced staff turnover.

We also support the Tribunal's outreach programme, given the continued need for reconciliation in the States of the former Yugoslavia.

With regard to the International Tribunal for Rwanda (ICTR), we commend that Tribunal on the completion of numerous cases during the previous reporting period, including the completion of work

at the trial level with regard to 92 of the 93 accused. The Trial Chamber delivered two judgements, in the *Nzabonimana* and *Nizeyimana* cases, with a third trial judgement expected in December. The Appeals Chamber delivered four judgements in 2012. We welcome the Tribunal's projection that it will conclude all cases at the trial level by the end of 2012.

We continue to urge all United Nations Member States, in particular those in the Great Lakes region, to cooperate in the apprehension of the nine remaining fugitives from the ICTR. The United States continues to offer monetary rewards for information leading to the arrest or transfer of ICTR fugitives, whether those individuals will be prosecuted by the Mechanism or in Rwandan courts. Those who harbour fugitives obstruct justice and stand on the wrong side of history.

We also welcome Rwanda's commitment to adjudicating fairly the cases transferred from the ICTR to Rwanda. We commend the ICTR and the International Residual Mechanism for creating a robust monitoring mechanism for the transferred cases. We will be watching those cases to satisfy ourselves that the conditions for referral continue to be met ahead of the Mechanism's transfer of six more cases to the courts of Rwanda as and when fugitives are apprehended.

The ICTR and the Rwandan authorities have also shown close cooperation in holding skills-sharing workshops and capacity-building seminars, which will ensure fair proceedings at the national level. Strengthening national legal and justice institutions is one of the most important and lasting legacies of the international tribunals such as the ICTR.

The defendants convicted in the Tribunal proceedings have been found guilty of the most heinous crimes known to humankind. The legacy of the Tribunals, however, does not only consist of bringing individual perpetrators to justice. Thanks to the dedication of the Tribunals, these crimes have been etched in the ledger books of history, and the records and archives of these crimes will be accessible to future generations, providing a corrective against distortions of the historical narrative. The Tribunals have fostered respect for the rule of law, developed capacity at the national level, and enhanced reconciliation and peace. Those are long-term achievements that not only strengthen the societies affected by such heinous crimes, but help ensure that those crimes will not be repeated elsewhere. Our commitment to working with

the international community on behalf of this collective moral responsibility is unwavering.

Mr. Hardeep Singh Puri (India): Let me, at the outset, thank Judge Meron and Judge Joensen for their briefings and assessments of the work of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and the International Residual Mechanism for Criminal Tribunals. We also appreciate the briefings given by the Prosecutors of the two Tribunals. I also want to reiterate our appreciation for the work done by Ambassador Rosenthal.

We welcome the progress made by the two Tribunals in expediting their work. We are reassured by the assessment of Judge Meron and Judge Joensen that the preparations for the commencement and the functioning of the Residual Mechanism are on track. We have noted that the Arusha branch of the Residual Mechanism commenced its work on 1 July, and hope that the Hague branch of the Residual Mechanism will begin its work on 1 July 2013, as scheduled.

We appreciate the fact that Judge Meron has undertaken a variety of reforms to improve the functioning of various sections of the Tribunal. As a result, all trials will be completed by 2013, except a few which came before it later.

We are happy to note that the ICTR has completed work at the trial level with respect to 92 out of the 93 accused persons, and that the one remaining trial judgement will be delivered before the end of 2012. While appellate proceedings have been concluded in respect to 44 persons, the remaining appeals are projected to be completed by the end of 2014.

We also commend the efforts of the two Prosecutors to undertake outreach initiatives, including training aimed at strengthening the capacity of national systems to handle referred cases effectively.

We have listened carefully to the concerns raised by the Presidents of the two Tribunals in relation to their ability to keep pace with their work while adhering to expected timelines. The Judges have pointed out that trials and appeals continue to be affected by staffing shortages and the loss of highly efficient staff members. We share the concerns expressed by the Judges, especially on the need to retain adequate and experienced staff. Careful consideration should be given to the suggestions made by the Judges on how to

address those challenges. Any functional, operational or institutional issue in the implementation of the completion strategy or the Residual Mechanism should be addressed by the Council in consultation with the Informal Working Group on International Tribunals.

The Judges have also raised the issue concerning the relocation of acquitted persons and those who have already served their sentences. Some of them have been living in safe homes in Arusha for a long time. This is an important humanitarian issue and needs to be resolved soon.

We welcome the cooperation extended by all States concerned with the Tribunals, which is vital to ensuring the completion of the mandates of the Tribunals, as well as to the successful implementation of the completion strategy and the Residual Mechanism. We hope that the remaining three fugitives indicted by the ICTR will be located soon and surrendered to the Residual Mechanism to stand trial.

The two Tribunals should continue to implement their mandate strictly and in accordance with the principles of justice, impartiality and fairness. There should be no political consideration in their work.

In conclusion, while we believe that the support of the Security Council to the two Tribunals is crucial at this critical stage, we urge both Tribunals to take all necessary measures to keep the trial and appeal schedules on track. In that connection, we support the extension of the tenures of some of the judges, as requested by the Presidents of the two Tribunals. This will pave the way for the completion of trials and appeals of the remaining accused and a smooth transition to an efficient Residual Mechanism.

Mr. Laher (South Africa): South Africa wishes to extend our appreciation to the Principals of the Tribunals for their very useful briefings and for the important work that they are doing. We also express our appreciation to Ambassador Rosenthal and his delegation for their able chairing of the Informal Working Group on International Tribunals.

Allow us to extend particular gratitude to the President, Prosecutor and Registrar of the newly established Residual Mechanism, whose first report to the Council we received today (S/2012/849, annex I). We applaud their commitment, given that they have assumed their responsibilities under the Residual Mechanism while simultaneously serving as President

of the International Tribunal for the Former Yugoslavia (ICTY), Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) and Registrar of the ICTY, respectively.

When the ICTY and the ICTR were established by the Security Council, it was understood that, as ad hoc tribunals, their existence would not continue indefinitely. The establishment of the Residual Mechanism under resolution 1966 (2010) and the beginning of the operations of the Arusha branch in July 2012 are a reflection of the temporary nature of those Tribunals, coupled with the recognition of the need to prevent any impunity gaps that may arise from the abrupt conclusion of the work of the Tribunals. South Africa looks forward to the full realization of that dual objective once the Hague branch of the Residual Mechanism begins functioning.

My delegation wishes to pay tribute to both the ICTY and the ICTR for their immense contribution to the promotion of the rule of law and the fight against impunity, thereby significantly contributing to the development of international criminal law. Notable in the jurisprudential contribution of the Tribunals is the development of a set of criteria, including fair trial requirements for the transfer of trials to national jurisdictions. We are confident that those standards will contribute meaningfully to the development of the principle of complementarity to which South Africa attaches particular importance. Additionally, the two Tribunals have set a high standard for judicial independence while operating in a highly charged political environment.

The phasing out of the functions of the ICTR, which is now in its final phase, is indicative of the strides made towards its completion strategy. We look forward to the ICTR delivering its final judgement in the *Ngirabatware* case and we encourage the Tribunal, while adhering to due process standards, to expedite the appeals that are currently pending by 2014, as initially determined.

While the ICTY will continue its functions into 2013 and with the *Mladić*, *Hadžić* and *Karadžić* trials beyond 2013, we recognize the immense efforts of the Tribunal in securing cooperation and ensuring the arrests of all indictees. We encourage the ICTY, even with the constraints and challenges highlighted in the report (see S/2012/592), to proceed in finalizing the

remaining trials and appeals, as determined by the Council.

We have taken note of the activities of the Arusha branch of the Residual Mechanism and we commend the Residual Mechanism for its efficiency and cost-saving efforts. Those include the appointment of a judge already residing in Arusha to act as duty judge for the branch, the Prosecutor's decision to designate, as an interim measure, members of the ICTR Office of the Prosecutor to double hat in the Residual Mechanism, and the President's decision to preside over the appeal against a decision to transfer the *Munyarugarama* case to Rwanda. We have also noted, in that regard, the intention of the President to preside over any potential appeal in the *Ngirabatware* case and to appoint judges already residing in the Hague in that appeal.

We welcome such attention to efficiency and the economical use of resources, while also calling for burden-sharing in the management of judicial caseloads.

Consistent with its mandate under the statute, we encourage the Residual Mechanism to continue its effort to track fugitives and to secure the cooperation of States in the arrest of those individuals under ICTR arrest warrants. We are encouraged by the consultations between the Prosecutor and the States where those individuals are believed to be present. We urge States, in compliance with their obligations under the statute, to increase their efforts to secure the arrest of individuals with outstanding arrest warrants.

Finally, we wish to welcome the high level of cooperation among the ICTY, the ICTR and the Residual Mechanism, including through the sharing of resources. We encourage continued and, to the extent possible, increased cooperation to ensure a smooth transition, particularly as the ICTY and the ICTR wind down their functions.

The President (*spoke in Arabic*): I shall now make a statement in my capacity as the representative of Morocco.

At the outset, I would like to thank the Presidents of the International Tribunals for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), Judge Meron and Judge Joensen, as well as the Prosecutors, Mr. Brammertz and Mr. Jallow, for their very useful and thorough briefings. We would also like to express our thanks to and appreciation of the work of Ambassador Rosenthal as Chair of the Informal Working Group on International Tribunals.

We were pleased to note the efforts and the progress made by both Tribunals during the period under review in the reports (see S/2012/847 and S/2012/836) with regard to completing their work and to ensuring a smooth transition towards the International Residual Mechanism, which is to take over the residual functions of the Tribunals, as provided for in resolution 1966 (2010).

We also note the steps taken by both Tribunals to increase the pace of their work, while ensuring due process and fair trials. We therefore positively view the steps taken to set up the Arusha branch of the International Residual Mechanism as of 1 July. We support the progress to date in the transition of the functions of the ICTR into that Mechanism. That outcome would not have been possible without the preparatory steps undertaken, particularly with regard to human, logistical and legal resources, to launch the work of the International Residual Mechanism and for it to carry out its functions as soon as possible.

We appreciate the fact that the International Criminal Tribunal for Rwanda has been able to meet the schedule that it itself presented to the Council for dealing with outstanding issues, including a verdict on the only remaining case by the end of the year, and for completing the appeals phase by the end of 2014, to which it has committed.

The work of that Tribunal is coming to an end. We commend its commitment to achieving justice, reconciliation and national capacity-building in Rwanda and in the region, so that the national jurisdictions can complete some follow-up matters, in particular with regard to bringing fugitives to justice.

Regarding the Residual Mechanism branch for the International Criminal Tribunal for the Former Yugoslavia, we hope that its inauguration in The Hague will take place at the beginning of July 2013, as planned. We are aware of the difficulties in completing the trials of three indictees arrested long after the other accused persons. It is therefore vital to respect due process and for the Tribunal to take the necessary steps to speed up the verdicts and the implementation of the completion strategy. We hope that such measures by the Tribunal will help mitigate the unforeseen factors that led to certain changes in the earlier projections with regard to the verdicts in the remaining cases.

In conclusion, we are convinced that the ongoing dialogue among the two Tribunals, the United Nations

Office of Legal Affairs and the Security Council Informal Working Group on International Tribunals will help to overcome the practical and institutional difficulties facing the two Tribunals in this sensitive period of the completion of their work. The dialogue continues to be important to allow the Council to fully understand the developments and challenges facing the two Tribunals so as to enable it to receive more support for its mandate.

I now resume my functions as President of the Council.

I give the floor to His Excellency Mr. Aleksandar Vučić, First Deputy Prime Minister and Minister of Defence of Serbia.

Mr. Vučić (Serbia): Due to a lack of time, I will not read out all of my statement. I hope that members will receive it in its full written form.

First of all, I would like to point out that Serbia, its President and its Government are fully committed to peace and reconciliation in the region of the Western Balkans and that we are building a modern State, ruled by law, that promotes the fundamental principles of the United Nations, one of the key aspects of which is the implementation of international law and the pursuit of justice. It appears, from the statement of the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), that this meeting is one in a series of regular meetings and that everything is as before and is following the well-known and regular bureaucratic procedure. For my country, Serbia, this is not an ordinary meeting. It is an opportunity for us to state, loud and clear, that international law should apply to all evenly, rather than selectively and more to some than others. For Serbia, law and justice trump politics. However, we consider that law and justice have not always been the guiding principles of the ICTY.

I would like to bring to the attention of the Council the results that the Republic of Serbia has achieved in its cooperation with the International Criminal Tribunal for the Former Yugoslavia in preceding years, not only in the course of fulfilling its international obligations but also with respect to its goodwill to contribute to achieving international justice and reconciliation in the region.

With the arrest of Goran Hadžić in July 2011, the Republic of Serbia completed its cooperation with the ICTY in terms of handing over all fugitive indictees to the Tribunal. Among the 45 indictees that the Republic

of Serbia has transferred to the jurisdiction of the Tribunal were two former Presidents of the Republic, a former Prime Minister, a former Deputy Prime Minister, three former Chiefs of Staff, a former head of the State security service and numerous military and police generals.

With regard to cooperation on access to documents, archives and witnesses, I must say that the Republic of Serbia has replied to almost all the 3,200 requests for assistance received from the Office of the Prosecutor and the defence teams. Only newer requests are in the process of being met. Not a single request of the Office of the Prosecutor for assistance regarding access to the State archives has been denied.

The information presented clearly points out the commitment of the Republic of Serbia to determining the truth about the crimes perpetrated during the armed conflicts on the territory of the former Yugoslavia. That includes punishing those responsible for crimes regardless of their ethnicity or the ethnic origin of the victims.

Taking those words into account, our faith in international justice suffered the severest possible blow in the wake of the shameful judgement of acquittal rendered by the International Criminal Tribunal for the Former Yugoslavia's Appeals Chamber on 16 November, which absolved Ante Gotovina and Mladen Markač of responsibility for the crimes committed against the Serbian civilian population in the offensive by Croatian forces code-named Operation Storm. The judgement, which provoked understandable acrimony in many parts of the world — including reactions by both officials of the Republic of Serbia and, more importantly, the people of Serbia, as well as international experts — caused great damage, first and foremost to the families of the victims of the crimes committed during Operation Storm.

It is very relevant to raise some questions. Do Serbs, too, have a right to justice? Who is responsible for the numerous killings of Serbian civilians in Croatia and for the largest and most extensive ethnic cleansing on European soil since the Second World War?

The general attack on the Republic of Serbian Krajina began on 4 August 1995 at 5:06 a.m. with the indiscriminate bombing of military and civilian targets in Sectors North and South — the zones under the protection of United Nations forces. More than 250,000 Serbs were expelled or fled the territory of the Republic

of Serbian Krajina taken by the Croatian military. Representatives of the United Nations and the European Union Monitoring Mission in Zagreb witnessed numerous crimes against the Serbian population during Operation Storm, which is evidenced by reports sent to their superiors. The decision to forbid United Nations representatives from leaving their barracks at Knin to patrol the area at the beginning of Operation Storm leads us to believe that the decision was made to prevent them from witnessing the killing and expulsion of Serbs from the Republic of Serbian Krajina.

The international community was faced with the largest humanitarian catastrophe since the beginning of the conflicts in the former Yugoslavia, while United Nations staff reported that serious crimes were being committed against captured Serbian soldiers and civilians as well as reporting the removal of bodies and the destruction and looting of Serbs' property.

I would like to bring to the Council's attention some of the crimes and murders committed against the Serbian population by the forces under the command of Mladen Markač and Ante Gotovina. In Sector South, at about 10.00 a.m. the Seventh Brigade — the so-called Pumas — entered Knin and immediately blockaded United Nations forces with five tanks, and then proceeded to "mop the terrain" — meaning to liquidate the remaining Serbs. As a result, the lifeless bodies of dead civilians could be seen on 4 and 5 August 1995. They were removed by night on 5 and 6 August 1995.

On 4 August 1995, at 11.15 a.m., United Nations forces tried to force their way to a hospital in five armoured personnel carriers to evacuate the wounded. They were prevented from doing so by the Pumas. The "mopping" of the other parts of Sector South was carried out on 6, 7, 8, 9 and 10 August 1995, in an ongoing attempt to kill all remaining Serbs. Entire villages were looted and burned before the very eyes of the representatives of the United Nations. One example of those crimes is the town of Kistanje, which was burned, leaving no survivors. The same fate befell the village of Kosovo and the village of Parciće. On 10 August, United Nations forces found the decomposed bodies of seven Serbian civilians in the village of Uzdalje.

A 2.5-ton refrigerated truck and an ambulance were used to ferry the bodies of killed Serbian civilians to be buried in the local cemetery near the Knin church on 10 August. The operation was once again commanded by the Puma commander. United Nations staff members were prevented from testifying about the event.

The same types of crimes were committed in Sector North. Crimes against the Serbian population took place in other areas targeted by Operation Storm in the immediate aftermath of the operation. On 6 August 1995, Đuro Borojević, from the village of Borojević, in the municipality of Kostajnica, was killed in front of his house. His home was set on fire. Milos Borojević, born in 1948, from the same village was also killed. He was slaughtered and burned with his house.

Husband and wife Luka and Milica Dobre from the village of Prukljen were killed and burned with their house in the village of Josevci, in the municipality of Glina. When the old man's body was found he was decapitated and both his arms were cut off. The remains of at least four burned persons were found in a haystack. Two of them were identified as husband and wife Cvijo and Desanka Matijević.

Who killed those people? The question remains unanswered.

On 6 August, Mara Ugarković, 74 years old and bedridden, was burned in her home in the village of Komić, near Udbina. Petar Lavmić and his mother Sava and Mika Pavlica were also killed and burned. Boja Mirković was killed in the hamlet of Poljice. On 27 August in the village of Gosić, near Djevrška, eight civilians were killed, aged about 70, seven of them from the Borak family — Savo, Vasilj, Grozdana, Mania, Kola, Milka and Dusan. The eighth casualty was Joko Mazibrada. All of them were buried secretly at the Knin cemetery under serial numbers 550 to 557 without first or last names. The Ministry of the Interior of Croatia refused to give the bodies to the relatives, in an attempt to hide the crime.

Who killed those people?

In the report of the representatives of the Monitoring Mission of 6 September 1995 it is stated, inter alia, that United Nations military observers inspected about 10,000 houses in 140 small villages and found that 69 per cent had been partially or completely destroyed or burned. The report proceeds to describe the looting and burning of Serbian houses at Petrovac that took place at the beginning of September, a month after Operation Storm.

Those are just a few important pieces of information about the crimes committed against the Serbian people during Operation Storm.

I shall end my presentation by raising the question once again: If Gotovina and Markač are not guilty of the crime, who is? The question has not been answered by the Tribunal.

It is important to emphasize several striking facts and controversies related to the acquittal judgement. The judgement was rendered by three votes to two of the Appeals Chamber judges. The two dissenting judges explained their dissenting opinions in an unusually fierce tone. Judge Fausto Pocar, one of the dissenting judges and a former President of the Tribunal, emphasized that the verdict was contrary to any sense of justice, and he described it as grotesque. It is also surprising that the majority of the judges of the Appeals Chamber — which was established by the United Nations — have little confidence in the generals and other high-ranking United Nations Member State officials who were in the field under the United Nations flag at the time of the events that were the subject of the Trial Chamber's decision and who gave testimony about the events before the Trial Chamber. All those testimonies were dismissed in the Appeals judgement. In addition, both the former and present Prosecutor of the Tribunal expressed their disappointment in the judgement and emphasized that the verdict was unjust.

In assessing the effects of that judgement, we have to emphasize that, considering the results of the Tribunal's work, the Tribunal failed to sentence the perpetrators responsible for more than 1,500 Serbs from Croatia killed, for more than 250,000 Serbs from Croatia forced to leave their homes — expelled from their thresholds — and for various other crimes committed against the civilian population in Operation Storm, regardless of the fact that the Tribunal found in its judgements, with absolute certainty, that the crimes were committed during that period. I deeply thank Mr. Brammertz for confirming that today.

It should be emphasized that this is not the first time that the Tribunal has concluded in its practice that crimes took place but found that neither the indictees nor anyone else was responsible for the crimes that were perpetrated.

The second decision, a retrial by the Trial Chamber, acquitted of all charges Ramush Haradinaj, a former commander of the so-called Kosovo Liberation Army, Idriz Balaj and Lahi Brahimaj for crimes committed in the Jablanica camp in 1998 against ethnic Serbs and others in the Metohija area of the Serbian province of Kosovo and Metohija.

The judgement of acquittal in the proceedings *Prosecutor v. Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj*, which was rendered on the retrial based on the six counts of indictment for the crimes perpetrated in the Kosovo Liberation Army camp in Jablanica in Kosovo and Metohija in 1998 had similar effects. The Trial Chamber allowed the provisional release of Haradinaj and permitted him to engage in political activities, which represents a unique case in the Tribunal's practice, even though at the time the Tribunal must have been aware of the fact that there was a problem of witness protection in the case. The attitude of the staff of the United Nations Interim Administration Mission in Kosovo (UNMIK) towards the case and towards the accused Haradinaj was very strange as well. In spite of the obvious problems, UNMIK provided assurances for Haradinaj's provisional release, while the UNMIK Head at the time, Mr. Petersen, publicly declared Haradinaj his friend.

That decision added insult to injury, as it is well known that a significant number of eyewitnesses were killed under extremely suspicious circumstances or refused to testify after heavy pressure was placed on them. A few potential witnesses in the case died under controversial circumstances, while several of the key witnesses, according to the Office of the Prosecutor, refused to testify before the Tribunal out of fear for their personal safety. Despite the clear obligation to protect witnesses, the Tribunal failed to do so.

Let me now give just a few examples of crimes committed against the Serbian, non-Albanian and Albanian populations in the territory of Kosovo and Metohija under the command of Ramush Haradinaj. In 1998 and 1999, Ramush Haradinaj organized and carried out terrorist attacks against members of the Army of Yugoslavia and the Ministry of the Interior of the Republic of Serbia, including crimes against the Serbian population and non-loyal Albanians.

On 22 April 1998, Slobodan Radosevic, Milos Radunovic and Milica Radunovic from the village of Dasinovac, Municipality of Decane, were kidnapped. All of them were taken to the prison established by Ramush Haradinaj in the village of Glodjane, in the municipality of Decane, where they were abused. Radosevic was brought back to the village, where he was killed. Radunovic was also brought back to Dasinovac and killed and burned in his home, while Milica Radunovic was killed in the village of Glodjane

and thrown into Lake Radonjic. Haradinaj and Balaj are suspected of committing the crime.

On 18 June 1998, Vucic Vukovic, Novica Vujsic and Izet Gutic were kidnapped in the village of Glodjane and taken to the local prison, where they were killed after being tortured. Ramush Haradinaj is suspected of having committed the crime.

On 14 December 1998, six young men — Ivan Obradovic, Dragan Trifovic, Zoran Stanojevic, Svetislav Ristic, Vukosav Gvozdenovic and Ivan Radevic — were killed in a terrorist attack on the Panda Cafe in Peć. The perpetrators of the crime were under the command of Ramush Haradinaj. My question today is: Who is responsible for the deaths of those people?

Among 40 Serbian children who were killed, massacred or kidnapped in Kosovo and Metohija was also little Ana Takic from Prizren, six-years old, abducted with her 71-year old grandfather Veselin by a group of Albanians on 28 August 1999. In mid-September, Ana was found dead on the Prizren-Zur road. She had one of her arms cut off. Who killed little Ana and who is responsible for it?

The Sutakovic family — Nedeljko, his wife Dara and their three sons Aleksandar, Djordje and Radoman — from Djakovica were kidnapped on their way to the church in Djakovica, where they wanted to hide from Albanian terrorists. All of them are still missing and unaccounted for.

We have to emphasize the fact that when the results of the Tribunal's practice are summarized, it becomes clear that despite the hundreds of thousands of Serbian refugees, and thousands of dead and wounded, the Tribunal has sentenced only a few guards from the Celebici prison camp in Bosnia and two Kosovo Albanians who were direct perpetrators of lower rank.

We emphasize that Serbia has never asked for symmetry in relation to the Tribunal's indictments and judgements. However, that outcome makes a case for the claim that justice in the Tribunal's proceedings has been selective, and it is clear that selective justice cannot be regarded as justice. In conclusion, the result of the Tribunal's work in relation to justice served for the numerous Serbian victims of the armed conflicts that occurred in the territory of the former Yugoslavia can be described as grotesque — the exact same word that Judge Pocar used to describe the judgement entered by the Appeals Chamber in the case of *Prosecutor v. Ante Gotovina and Mladen Markač*.

The most important task before the Tribunal was to contribute to the reconciliation efforts in the Western Balkans. In its more than 10 years of existence, it has convicted a number of former Serbian political and military leaders for war crimes. At the same time, it has failed to convict a single senior official from Croatia or Bosnia, and failed to convict a single senior Kosovo Albanian official for war crimes or crimes against humanity.

In view of the recent judgement, the Serbian nation has therefore been singled out as the sole perpetrator of such acts and the sole people responsible for the terrible violence that engulfed the former Yugoslavia in the 1990s. That is manifestly not in conformity with the facts. The Tribunal has failed to deliver justice by failing to adequately apportion blame.

It is to be underlined that the wars in the former Yugoslavia were civil, ethnic and even religious. There was no innocence in the face of evil. All parties were warring parties, and there were victims and criminal acts on all sides.

We say all of this today before the Security Council not because we expect the judgements of the Tribunal so far can be altered, but because the Tribunal was established by the Security Council. We recall that the Tribunal was established for the purpose of bringing peace and maintaining peace and security in the territory of the former Yugoslavia. Today, almost 20 years after the establishment of the Tribunal, the question arises as to whether the Tribunal has succeeded in that intention.

The Government of the Republic of Serbia will continue to cooperate with the Tribunal at the technical level.

The Republic of Serbia believes that a full understanding of the work of the Tribunal and the consequences of its decisions need to be brought to light before the entire international community so that never again can evil deeds be amnestied or glorified by those who defend them. That will only serve to incentivize their repetition, the exact opposite of the Security Council's intent when it established the ICTY.

With regard to the activities of the Tribunal, I have to emphasize that the following issues are of the utmost importance for Serbia: the initiative to allow individuals convicted before the International Criminal Tribunal for the Former Yugoslavia to serve their prison sentences in the States that emerged in the territory of

the former Yugoslavia of which they are citizens, and the future of the archives of the Tribunal.

With regard to the initiative to allow individuals convicted before the ICTY to serve their prison sentences in the States that emerged in the territory of the former Yugoslavia of which they are citizens, I recall that the recommendation of the Secretary-General to the Security Council contained in paragraph 121 of his report dated 3 May 1993, in which he indicated that he

“is of the view that, given the nature of the crimes in question and the international character of the tribunal, the enforcement of sentences should take place outside the territory of the former Yugoslavia” (*S/25704, para. 121*),

remains in effect. Although that attitude could have been justified in 1993 during the armed conflict in the territory of the former Yugoslavia, it is clear that it has lost its validity and that the circumstances have changed.

I would like to emphasize that the primary motive of this initiative is the readiness of the Republic of Serbia to assume the responsibility of the prison sentences imposed on the citizens of the Republic of Serbia convicted before the Tribunal in The Hague. In addition, it should be emphasized that the purpose of the conviction, among others, includes the resocialization of the convicts. In that context, we consider it unlikely to expect that convictions will be effective in cases when convicts serve their sentences in remote countries, without knowing the language and where visits by family members are rare. We therefore strongly appeal to the Security Council to urgently and favourably consider that request.

Also, I would like to reiterate that Serbia is highly interested in the issue of the future of the Tribunal's archives. The official position of Serbia relative to that issue was provided to the Security Council in October 2008. Serbia is ready to actively participate in all future discussions regarding that matter and continue its cooperation with the Security Council Informal Working Group on International Tribunals in relation to those issues.

It is our belief that the accomplishment of the aforementioned aims is of exceptional importance, primarily in order to ensure that justice is done for the victims of the gruesome crimes that I have spoken about, but also for the future of the region of the Western Balkans. If the Security Council is serious

about furthering reconciliation in the Balkans, it is critical now to avoid any perception of impropriety or undue influence. That is why the Security Council must remain actively involved.

Serbia is on its road to Europe and is interested in cooperating with all peoples and countries of the region. It has undertaken to fulfil all of its international obligations. It conducts dialogue with Pristina under the oversight of the European Union, and the only thing that Serbia is asking for is justice — nothing more, nothing less.

Finally, it has been my honour to address the Council today.

The President (*spoke in Arabic*): I now give the floor to the representative of Croatia.

Mr. Vilošić (Croatia): Since this is the first time that my delegation takes the floor this month, I would like to congratulate you, Mr. President, on your assumption of the presidency of the Security Council. At the same time, I would like to thank Ambassador Hardeep Singh Puri and the Indian delegation for their excellent work last month.

Allow me to begin by welcoming Presidents Meron and Joensen, as well as Prosecutors Brammertz and Jallow, and by thanking them for the reports on the work of the Tribunals and on the progress and challenges in the implementation of the completion strategy.

The Republic of Croatia advocated the establishment of the Tribunal and its operation from the outset. Its establishment was a welcome and much-needed development that signaled the international community's opposition and response to the culture of impunity that had for centuries prevailed in matters concerning responsibility for crimes committed during war and armed conflict.

The main purpose of the Tribunal has been to prosecute persons responsible for serious violations of international humanitarian law and to contribute thereby to the restoration and maintenance of peace, as well as to the promotion of justice and reconciliation in the region.

Despite certain shortcomings, the Court has played an important role in enhancing the universality of justice. We sincerely hope that judicial proceedings against indicted individuals will be concluded in a short period of time, taking into account the deadlines

for completion of the work of the International Tribunal for the Former Yugoslavia (ICTY).

Prosecuting war crimes is a process that must continue. An important element of that process is confronting the past, however difficult it may be. The acceptance of the substantiated truth is a prerequisite to the process leading to reconciliation. We understand the possible frustration of those who developed their positions based on attempts to create a false sense of parity by equating criminal policy in se with individual crimes committed on the other side that did not have support in Government policy. However, we cannot accept reactions that are tantamount to questioning or even rejecting the decisions of the Tribunal and that contribute to creating an atmosphere that makes it difficult to continue the positive processes under way in the region. We are of the view that every responsible member of the international community should respect legal order and the commitments undertaken, whether they agree with them or not.

The initial purpose of the Tribunal can be achieved only by determining the truth. Part of the truth that the Tribunal confirmed in the recent judgements concerning retired Croatian generals is that Croatia was not involved in and did not conduct any joint criminal enterprise, and that it was not Government policy to plan or commit war crimes. On the other hand, the judgement did not state that there were no individual crimes, including war crimes, committed by the Croatian side. We are aware that on an individual level such crimes did occur, and this judgement does not by any means trivialize those crimes or negate the fact that they are unacceptable. The Republic of Croatia has prosecuted many individuals for such crimes, and I particularly stress that it will continue to do so. In doing this, we count on the cooperation of all interested States and organizations. Furthermore, we call upon other successor States of the former Yugoslavia to process war crimes committed by their own citizens.

An additional reason why Croatia supported the work of the Tribunal was its contribution to building sound foundations for post-war and future cooperation in the region. An independent outside judicial body that recognizes and sanctions individual responsibility for specific war crimes reduces the danger of mutual arbitrary accusations and retribution against whole nations and peoples in the region. The recent verdict in the case of the retired Croatian generals was met with criticism by Croatia's neighbour, Serbia. While

we fully cooperated with the Tribunal, the final verdict was reached by the Tribunal alone. Since the Tribunal was established by the Security Council, we feel that any grievance regarding the decisions of the Tribunal should be addressed by the founding body rather than by Croatia.

Croatia is deeply committed to the continuation of the process of reconciliation between the successor States to the former Yugoslavia, and fully supports regional cooperation in the area of war crimes. We are confident that such cooperation should be conducted pursuant to well-established principles of international criminal law, one of which is the principle of double jeopardy, and in full observance of respective national jurisdictions and competencies. In this context, we would like to recall that, in March 2012, Croatia presented Serbia with a draft bilateral agreement on the prosecution and punishment of war crimes. Croatia firmly believes that this type of proposed cooperation presents the best approach to solving war-crime issues, as opposed to the practice of one country claiming jurisdiction for war crimes that were not committed in its territory or by its citizens. However, we regret to inform the Council that we have not received any response from the Serbian side to date.

To conclude, in all the years that the Tribunal has operated, there have been instances in which the Republic of Croatia was unsatisfied, but it has always cooperated with the Prosecutor and the Tribunal. Regardless of the public perception of the Tribunal's decisions, we have always fully respected them. Finally, although the ICTY office is set to be closed, my country is determined to continue to cooperate until the final completion of the Tribunal's mandate. Croatia would also like to reiterate its commitment to the prosecution of war crimes.

The President (*spoke in Arabic*): I now give the floor to the representative of Bosnia and Herzegovina.

Ms. Čolaković (Bosnia and Herzegovina): The establishment of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and their legacy should serve as a message to future generations that no one is above the law and crimes such as those that claimed lives in the former Yugoslavia and Rwanda will not be tolerated anywhere. I thank the Presidents and Prosecutors for their comprehensive briefings today.

Moving on to the issue of the completion of the work of both Tribunals, we note the further efforts that the Tribunals have made recently, together with the additional reform of the Tribunals' procedures, focusing on enhancing productivity and maximizing efficiency, without sacrificing standards of due process. It is evident that they continue to face all the same challenges, which unavoidably have a substantial impact on the completion of their work and the fulfilment of the requirements necessary for transition to the Residual Mechanism.

We are hopeful that, in their final stages, the Tribunals will be able to swiftly overcome temporary delays in confirming their firm, final promises and that justice will be served on the perpetrators of atrocities. The victims and their families have waited long enough for the opportunity for redress and closure, and further delays only undermine such solemn promises. In that regard, the reassignment of judges, both permanent and ad litem, according to the current requirements of trial and appeal proceedings in the ICTY, was a positive and necessary step in order to increase their ability to effectively address simultaneous cases.

For those reasons, strengthening international criminal justice, ensuring accountability and not leaving room for impunity for registered crimes committed on the territory of the former Yugoslavia are some of the priorities of Bosnia and Herzegovina, and our commitment and dedication to them are strong and unwavering. In that regard, we note that the crimes committed, which were undoubtedly confirmed by the Tribunal in The Hague, should not remain unpunished. We note the assessments and concerns of the Prosecutors, and we are fully aware that there is a lot more to be done.

It is necessary to bear in mind, however, that Bosnia and Herzegovina bears the greatest burden of prosecutions for war crimes, and that since 2005 over 100 cases have been prosecuted successfully and all cases transferred pursuant to Rule 11 bis have been completed. The fact remains that my country is still faced with a difficult task, as some 1,300 cases remain to be processed. Furthermore, we fully agree that cooperation between the countries of the region is highly important, and that every effort should be devoted to its improvement through numerous bilateral agreements to address possible deficiencies.

Finally, I wish to reiterate that Bosnia and Herzegovina affirms its commitment to fulfilling its

obligations and ensuring accountability for all crimes committed. With the Mechanism ready to continue carrying out the functions of both Tribunals, we have ensured that the comprehensive corpus of precedents in international criminal law created by the Tribunals, their ground-breaking contribution to international jurisprudence and the international justice system, will be permanently preserved. It is our pledge to future generations, and our obligation to the victims and their immense pain and suffering, to ensure that for every crime committed and every victim, on every side, a perpetrator brought to justice.

The President: I now give the floor to the representative of Rwanda.

Mr. Gasana (Rwanda) (*spoke in French*): First, Mr. President, I would like to congratulate you on assuming this precious, even coveted seat on behalf of the good and beautiful Kingdom of Morocco. It is clear that the world will be in good hands in December, as it also was during the very busy month of November under the leadership of Ambassador Hardeep Singh Puri, whom I commend for his outstanding work.

(*spoke in English*)

My delegation wishes to thank the Presidents and Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their reports on the completion strategies of their respective Tribunals (S/2012/592 and S/2012/594).

My delegation commends the ICTR's achievements since its inception and hopes that it will complete its trials successfully, despite the challenges it faces relating to staff retention and recruitment. Indeed, it has so far delivered 54 first-instance judgements on 74 accused persons, and we look forward to a judgement in the case of Augustin Ndirakobuca, which is scheduled in just two weeks and will close the Tribunal's trials at first instance.

However, despite those encouraging steps towards the completion of the ICTR's work, much more needs to be done. In that regard, Rwanda urges the countries of the region and beyond to cooperate with the Tribunal in making additional efforts to track, arrest and transfer the remaining genocide fugitives, particularly those most wanted, such as Félicien Kabuga and Protais Mpiranya.

Earlier this year, Rwanda welcomed the decision of the Federal Court of Canada to extradite Léon Mugesera to Rwanda, a genocide suspect well known for his November 1992 hate speech against the Tutsi. However, many more genocide fugitives are living quietly in Europe and North America. We would encourage those countries concerned to arrest and/or extradite all genocide fugitives or suspects living on their soil instead of harbouring them and sometimes participating in their negative campaigns against our country.

As stated in the ICTR report, the Tribunal referred eight cases to Rwanda, among which were those of two apprehended fugitives, Jean Uwinkindi and Bernard Munyagishari. Although the appeal decision on the latter case is still pending, my delegation thanks the ICTR for this vote of confidence in Rwanda's justice system, and pledges its cooperation in completing those trials successfully.

In November 2007, the Tribunal also referred two other cases — those of Wenceslas Munyeshyaka and Laurent Bucyibaruta — to the national jurisdiction of France. However, five years after that referral, little has been done to try the accused, and Rwanda is concerned about that. We take note of the ICTR report, which states that “significant progress” was made in those cases during the reporting period. Nonetheless, we would like to see more details on the state of the proceedings in the next ICTR report, and we call on France to expedite those proceedings.

I would like to draw the Council's attention to paragraph 2 of article 25 of the Statute of the International Residual Mechanism of the Criminal Tribunals (resolution 1966 (2010), annex 1), which provides that

“the Mechanism shall have the power to supervise the enforcement of sentences pronounced by the ICTY, the ICTR or the Mechanism, including the implementation of sentence enforcement agreements entered into by the United Nations with Member States”.

In that regard, Rwanda, while deeply concerned about the political, security and humanitarian situation in Mali, is also alarmed by information according to which genocide convicts who were transferred to Mali to serve their sentences are leading lavish lives and running businesses. We have been informed that the 14 convicts, including former Prime Minister Jean

Kambanda, run businesses in Mali's capital, Bamako, and are allowed to leave their cells, unguarded, in order to visit their friends and families. We call on the Mechanism to investigate this serious matter and, if it is confirmed, to take appropriate measures to end the situation, including by reviewing the sentence enforcement agreement with Mali.

Rwanda commends the work being done by the ICTR to transfer its archives to the Mechanism, but, as the Council may know, our country is looking further ahead. We have always believed that the ICTR archives should remain the property of the United Nations, since genocide is a crime committed against humanity. At the same time, however, we also believe that the archives are an important part of the heritage of the Rwandan people, since genocide was committed by Rwandans against their fellow Rwandans and on Rwandan territory. That is why, on many occasions, my Government has requested that we host the United Nations archives in Kigali, upon completion of the work of the Mechanism.

That request was also recently supported by the East African Community, a subregional organization whose members are Burundi, Kenya, Rwanda, Uganda and Tanzania, which is the ICTR host country. Indeed, these records constitute an integral part of our history and are vital for the preservation of the memory and education of our younger generations. Locating the archives in Rwanda would ensure easy access for genocide survivors, researchers and the broader international community, with a view to achieving the mission of the United Nations to promote peace, prevent genocide and protect civilians under threat of extermination.

Eighteen years after a devastating genocide, Rwanda, with the support of the Security Council, has come a long way in delivering justice to victims and in promoting reconciliation in Rwanda. The community-based Gacaca jurisdictions were officially closed on 18 June, after trying more than 400,000 people and fostering truth and reconciliation.

With the upcoming closure of the ICTR, Rwanda will symbolically close a dark chapter in its history and will focus on the consolidation of peace, reconciliation and development

(spoke in French)

In conclusion, Rwanda wishes once again to pay tribute to the ICTR, which has largely been able to render justice to the people of Rwanda and to

humankind. We would also like to sincerely thank the Security Council for the work that has been accomplished in that regard, in particular through the Informal Working Group on International Tribunals, led by my dear friend, Ambassador Gert Rosenthal of Guatemala, to whom I also wish to pay tribute. Rwanda, which will become a Council member in a few weeks' time, will naturally work with the Council to ensure the successful completion of the work of the ICTR as

well as of the International Residual Mechanism for Criminal Tribunals.

The President (*spoke in Arabic*): There are no more names inscribed on the list of speakers. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 6.45 p.m.