United Nations A/56/PV.62

General Assembly

Fifty-sixth session

Official Records

62nd plenary meeting
Monday, 26 November 2001, 10 a.m.
New York

President: Mr. Han Seung-soo . . . . . (Republic of Korea)

In the absence of the President, Mr. Rosenthal (Guatemala), Vice-President, took the Chair.

The meeting was called to order at 10.10 a.m.

Tribute to the memory of His Majesty Sultan Salahuddin Abdul Aziz Shah, late King of Malaysia

The Acting President (*spoke in Spanish*): Before we take up the items on our agenda, it is my sad duty to pay tribute to the memory of the late King of Malaysia, His Majesty Sultan Salahuddin Abdul Aziz Shah, who passed away on Wednesday, 21 November 2001, in Kuala Lumpur.

On behalf of the General Assembly, I request the representative of Malaysia to convey our condolences to the Government and the people of Malaysia and to the bereaved family of His Majesty Sultan Salahuddin Abdul Aziz Shah.

I invite representatives to stand and observe a minute of silence in tribute to the memory of His Majesty Sultan Salahuddin Abdul Aziz Shah.

The members of the General Assembly observed a minute of silence.

The Acting President (*spoke in Spanish*): I give the floor to Mr. Semakula Kiwanuka, Permanent Representative of Uganda, who will speak on behalf of the Group of African States.

Mr. Semakula Kiwanuka (Uganda): It is with profound shock and deep sadness that I stand here, in my capacity as Chairman of the African Group for the month of November, and also in my personal capacity as Ambassador and Permanent Representative of Uganda to the United Nations, to express my heartfelt condolences on the death of His Majesty Sultan Salahuddin Abdul Aziz Shah, King of Malaysia, at the age of 74.

His Majesty was a modern King of the twentieth century, who broke with tradition and set aside protocol to reach out to the masses. He was a King with a social conscience and a deep love for his people. His experience as a former inspector of schools brought him face to face with the pressing need for education. He took a passionate interest in the education of children, especially in the rural areas, and Malaysia, which has distinguished itself in the field of human capacity-building today, owes a lot to His Majesty's leadership.

On this sad occasion, I convey once again, on behalf of the African Group at the United Nations, my deepest sympathy to the Government and the people of Malaysia and to the bereaved family on the loss of their King, who will be greatly missed for his wise leadership.

May the Good Lord rest his soul in eternal peace.

The Acting President (*spoke in Spanish*): I give the floor to Mr. Fayssal Mekdad, Deputy Permanent Representative of the Syrian Arab Republic, who will make a statement on behalf of the Group of Asian States.

01-65739 (E)

Mr. Mekdad (*spoke in Arabic*): We were shocked to hear of the death of the King of Malaysia, His Majesty Sultan Salahuddin Abdul Aziz Shah. His passing represents a great loss for the brotherly people of Malaysia and for all our countries, and it saddens me to express, on behalf of the member States of the Asian Group and on behalf of my own country — the Syrian Arab Republic — our deepest and most sincere condolences to the King's bereaved family, to the Government and the people of Malaysia, and to Ambassador Hasmy Agam, Permanent Representative of Malaysia to the United Nations, and all members of his Mission.

The late King was greatly admired by the people of his country for his distinctive qualities and leadership role. In addition to serving in a number of areas of public life, the King was for a long period the ruler of the important province of Silangore. His main accomplishment, of which he was very proud, was his work as a school inspector in his province. He attached particular interest to the education of children, particularly in the rural areas. Can there be a nobler cause than participating directly in teaching a whole new generation to enjoy learning and knowledge, thereby laying down the foundation for the comprehensive cultural renaissance that Malaysia has enjoyed at all levels?

History will record that, as a ruler, he broke with tradition and set aside protocol so that he could remain in direct contact with his people. That is why the people of Malaysia loved him and supported his efforts to achieve his goals. Indeed, his accomplishments led Malaysia to its current economic and social prosperity.

With the death of their King, Malaysians have lost a leader who was very close to his people and who for many years devoted all his energy to serve them.

We in the Group of Asian States at the United Nations have lost a very prominent Asian personality, one who effectively contributed to the achievement of a true renaissance in Malaysia, a country whose sacrifices and generosity have become an example to be emulated.

I wish once again to reiterate our condolences to the King's bereaved family and to the Government and people of Malaysia.

The Acting President (*spoke in Spanish*): I now give the floor to the representative of Hungary, who will speak on behalf of the Group of Eastern European States.

Mr. Posta (Hungary): In my capacity as Chairman of the Group of Eastern European States for the month of November, I would like, on behalf of the countries of the Group, to express our deepest sympathy to the Government and the people of Malaysia on the passing of His Majesty Sultan Salahuddin Abdul Aziz Shah, the late King of Malaysia. We are aware that the late King was known and respected by the people of Malaysia as a sociable and sensitive ruler deeply concerned about the welfare of his people. We share sentiments of sorrow and sadness with our Malaysian colleagues over this great loss. Let me express once again, on behalf of the Group of Eastern European States, our condolences to the people of Malaysia.

The Acting President (*spoke in Spanish*): I now give the floor to the representative of Iceland, who will speak on behalf of the Group of Western European and other States.

Mr. Ingólfsson (Iceland): On behalf of the countries members of the Group of Western European and other States, I am saddened to express our deepest condolences to Her Majesty Queen Tuanku Siti Aishah, to the royal family and to the Government and people of Malaysia. As the Sultan of Selangor for 41 years, and as King of Malaysia since September 1999, His Majesty Sultan Salahuddin Abdul Aziz Shah, who passed away last Wednesday, was much involved in efforts to improve the socio-economic welfare of his country and had earned the highest respect of his people. His efforts in promoting education, particularly in rural areas, contributed greatly to the welfare of his people. We pay tribute to the memory of a great statesman and the leader of a great country.

The Acting President (*spoke in Spanish*): I now give the floor to the representative of Uruguay, who will speak on behalf of the Group of Latin American and Caribbean States.

Mr. Paolillo (Uruguay) (*spoke in Spanish*): The Group of Latin American and Caribbean States would like to associate itself with the sentiments of sadness expressed in connection with the demise of His Majesty Sultan Salahuddin Abdul Aziz Shah. All of us in the international community share that sadness, not only at the loss of a great statesman such as the King was during his short reign, but also because of the

personal qualities he displayed throughout his very active political life and because of his very modern outlook on social issues, which won him the respect not only of his people but also of the international community. His Majesty was known as a very modest and generous person, as well as a statesman who remained open to one and all.

It is for all those reasons that I would like, on behalf of the Group of Latin American and Caribbean States, to associate myself with everything that has been said by the previous speakers. I would also like to express our deepest condolences to the Government and people of Malaysia.

The Acting President (*spoke in Spanish*): I now give the floor to the representative of the United States, who will speak on behalf of the host country.

Mr. Marsh (United States): It was with regret that the United States learned of the passing of His Majesty Sultan Salahuddin Abdul Aziz Shah. We extend our most sincere condolences to the people of Malaysia on the loss of their great leader.

The King most certainly lived in an era of critical importance for Malaysia. In his early years, he saw the tumult of the Second World War. He then played an active part in Malaysia's independence movement. As King he upheld the rich Muslim traditions of Malaysia with grace and reverence, while also dedicating himself to public service. The King was truly a citizen of the world. He studied abroad in his youth and travelled widely as an adult. It is highly fitting, then, that we should pay tribute to him in this Hall where the nations of the world are met together.

In closing, my delegation extends to Malaysia in its time of mourning the deepest sympathies of the people and Government of the United States.

The Acting President (*spoke in Spanish*): I now give the floor to the representative of Malaysia.

Mr. Hasmy (Malaysia): On behalf of the Government and people of Malaysia and on behalf of my delegation and myself, I should like to express my profound thanks and appreciation to you, Sir, and to the Chairmen of the regional groups for Africa, Asia, Eastern Europe, Latin America and the Caribbean and the Western European and other States, as well as to the host country, the United States, for having observed a minute of silence and for their expressions of condolences on the passing of His Majesty Sultan Salahuddin Abdul Aziz Shah, the eleventh King of Malaysia, on 21 November 2001. My delegation and I are deeply touched by, and profoundly grateful for, the tributes given to our late King as we Malaysians mourn his passing.

Our late beloved King had many wonderful qualities but was best known for his humility and friendliness to all the people he met. Whether with visiting heads of State or with the simple farmers whom he frequently visited, he was always humble, listening and asking questions with genuine warmth and courtesy.

In spite of his noble station in life, His Majesty was a simple man — approachable and without any air of superiority about him. While he was King, serving under Malaysia's unique system of rotational constitutional monarchy for fewer than three of the five years of his full term of office, Sultan Salahuddin Abdul Aziz Shah quickly endeared himself to the hearts of all Malaysians because of his unique ability to relate to people of all walks of life, irrespective of race or creed, and because of his genuine concern for their welfare.

During his long reign of 41 years as Sultan and head of the state of Selangor, His Majesty was a ruler who did not allow himself to be encumbered by pomp and ceremony. Many a time he dispensed with royal protocol in order to get closer to his people. He was always travelling to villages, far and near, especially in his younger days, on a bicycle, accompanied by a small group of aides — also on bicycles — and stopping to chat with simple folk about their problems. He was warm, easy-going and down to earth. However, on matters affecting the people's welfare, His Majesty was known to have been outspoken and straightforward in dealing with administrators and politicians alike, showing, as always, that he had the people's interests at heart. It is not surprising, therefore, that His Majesty was known as the ruler with the heart of the people. Without doubt, both as the Sultan of the state of Selangor and as the King of Malaysia, His Majesty played an important role, in more ways than one, in the process of nation-building, through his effort to bring development to the people and encourage them to embrace modernization, with all its opportunities and challenges. In so doing, His Majesty was able to make the smooth transition from a traditional ruler to that of the exemplary constitutional head of State and monarch that he was.

As a person, and as the constitutional head of the Islamic religion for the state of Selangor and, later, for the nation, His Majesty had a deep and abiding faith in Islam and its noble principles. He once said, "This life is a long journey towards Allah. In the next world is the eternal life".

May God Almighty bless his soul in that eternal life to which he has departed.

The Acting President (*spoke in Spanish*): Once again, I should like to convey our deepest condolences to the delegation of Malaysia.

Agenda item 50

Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Note by the Secretary-General transmitting the eighth annual report of the International Tribunal (A/56/352)

The Acting President (*spoke in Spanish*): May I take it that the Assembly takes note of the eighth annual report of the International Tribunal for the Former Yugoslavia?

It was so decided.

The Acting President (*spoke in Spanish*): I call on Mr. Claude Jorda, President of the International Tribunal for the Former Yugoslavia.

Mr. Jorda (*spoke in French*): It is a great honour for me to address the Assembly once again as I present the eighth annual report of the International Tribunal. I should like first of all to express my deep gratitude for the support that the Assembly has always afforded our institution.

It has already been two years since the judges demonstrated their confidence in me by electing me President of the International Tribunal. I am deeply honoured that they have done so again, and I will endeavour to prove myself worthy. As such, I am in a position to pursue the reform work initiated during the period of my previous mandate.

I would like to share with the Assembly my satisfaction with regard to the situation of the International Tribunal. It has changed for the better in the past two years. Many arrests have been carried out, a large number of judgements have been rendered and several new trials have opened. Furthermore, the reform process that we began in January 2000 has continued to expand and is starting to produce results.

Nonetheless, I remain concerned by two difficulties that I believe constitute obstacles to the establishment of a deep-rooted and lasting peace in the Balkans, which cannot be resolved without the active cooperation of the Assembly. The first problem, to which I called attention last year, is the result of the fact that many of the accused — high-ranking political and military figures — remain at large, even though it is alleged that, through their criminal actions, they seriously breached international law and order and consequently jeopardized peace and security in the Balkans. I believe that the second difficulty lies in the need to adapt the International Tribunal's mission in the light of the recent political upheavals — those in the former Yugoslavia, in particular with regard to the arrest of Slobodan Milosevic; and those on the international scene, in view of the tragic events of 11 September, which have made the fight against terrorism a new priority for the international community.

Before dealing with those two problems I should like, by way of introduction, to provide the Assembly with a brief overview of the current situation of the International Tribunal. I will then discuss the reforms which we undertook in order to try, within a reasonable time frame, all the accused currently in detention. After that, I will assess the status of cooperation between the International Tribunal and the Balkan States. Lastly, I will set out the International Tribunal's prospects for the years ahead and the principal directions I would like to take in order to bring the mission that the international community conferred on us to the swiftest possible conclusion.

First, the Tribunal is now operating at full capacity. Fifty accused people are now in detention in The Hague. As a result, there has been a significant increase in the activity of the Chambers. Indeed, over the past 12 months, the Trial Chambers have pronounced six judgements on the merits of 17 of the accused, and issued a great many decisions in proceedings that, as the Assembly knows, are long and complex. The Chambers analysed the testimony of several hundred witnesses and reviewed several

thousand documents. During the course of one case, for example, which lasted 20 months, the judges announced some 100 decisions, in addition to the final judgement. The Assembly should take note of that fact: the Tribunal's activities should not be measured only in terms of the final judgements that it renders.

In the Appeals Chamber, the judges issued some 30 interlocutory decisions and three judgements on the merits of seven accused people. Its case law has undergone major developments and has been consolidated on some of the fundamental points of international criminal procedure and humanitarian law. For its part, the Registry of the International Tribunal — the third organ of the Tribunal, after the Chambers and the Office of the Prosecutor — has performed its judicial management duties and made the best possible use of the funds the Assembly generously allocated to the Tribunal, without which it could not fulfil its mission. I should like to express my gratitude for that; I shall return to the issue of the budget at a later stage.

Secondly, the ever-improving international cooperation still has some way to go. This development is partly the result of the enhanced cooperation of all the Member States, which have participated to a greater degree in arresting the accused and gathering evidence. This affords me great satisfaction since, need I recall, the International Tribunal does not have its own police force to implement its decisions and must thus rely on the unfailing support of all the States represented here.

In this respect, some of the political changes which the Balkans have recently witnessed are encouraging. Indeed, the arrest and transfer of Slobodan Milošević to The Hague last June attests to the resolve of the authorities of Serbia better to comply with its international obligations arising out of Security Council resolution 827 (1993) and article 29 of the Statute of the International Tribunal. Likewise, the advent of a democratic force in the Republic of Croatia almost two years ago has led to enhanced cooperation between that State and the International Tribunal.

It nonetheless remains that this new resolve to extend cooperation — which, I would stress, is still too inconsistent — has yet to be proven with regard to all the accused. In the same vein, it must also be broadened in respect of the enforcement of sentences since, under the Statute, the Member States must receive the convicted persons. I will return to this in a moment.

Thirdly, the expanding reform process begun two years ago is starting to produce initial results. This year will undeniably have been marked by the implementation of the reforms initiated two years ago by the judges of the International Tribunal, with Members' assistance, in order to fulfil even more rapidly the mandate we received from the community of nations.

I would recall that the reforms include both external aspects, undoubtedly requiring further material and human resources from the United Nations, and internal aspects, which, I cannot stress too often, call for an in-depth rethinking of the structures and operating methods of the International Tribunal. In this regard, allow me to recall the three principal objectives sought by the reforms. In brief, they must first expedite the pre-trial phase. Next, they seek to increase the International Tribunal's trial capacity by providing it with a pool of ad litem judges to be called upon to hear specific cases. Lastly, they are intended to make the procedures more responsive to the International Tribunal's overriding need for expeditiousness, in particular by bolstering the judges' powers during the proceedings.

The reforms came into force pursuant, in particular, to Security Council resolution 1329 (2000). On 30 November 2000, the Security Council approved the creation of a pool of ad litem judges. Furthermore, so that the different organs of the International Tribunal — the Chambers, the Office of the Prosecutor and the Registry, as I said earlier — might coordinate more closely in setting the judicial priorities and so that resources might be better managed, a Coordination Council and a Management Committee were created in January 2001.

Other reforms, designed mainly to improve the operation of the two International Tribunals' Appeals Chambers, are currently being implemented. In broad terms, this means providing the Chambers with all the tools they need to cope with the considerable increase in their workload and, of course, to ensure that the case law of the two International Tribunals is more consistent.

Furthermore, I hope that the International Tribunal will soon have a genuine defence organ. Members may rest assured that a defence organ exists,

but ensuring that the trials are balanced has been one of the everyday concerns of the judges since the Tribunal was established. Beyond counsel actually being in court, which is already a reality, such balance requires that there be a defence counsel organization guaranteeing their independence and professional ethics. The bar should coming into being in 2002.

With the gradual adoption of these reforms, the International Tribunal's judicial activity has increased. The first six ad litem judges called to serve at the International Tribunal in early September 2001 immediately began to hear three new trials. Thus, for the first time in its history, the International Tribunal is conducting four trials at once. As of January 2002, three more ad litem judges will serve at the International Tribunal, bringing the total number of ad litem judges to nine. As I announced last year from this rostrum, the Trial Chambers will be holding six simultaneous trials on a daily basis, which will make it possible for the International Tribunal to double its trial capacity and to complete first instance proceedings in the year 2007, with the proviso, as I recalled earlier, that all the accused are arrested forthwith. However, as I have said and stress once again, the Tribunal must enjoy the necessary resources to that end, which may be somewhat difficult to secure in its forthcoming budget, which, as Members are aware, will for the first time cover a two-year period. I call on Members' support, now more than ever, so that we can hold those six trials simultaneously and thus reduce by half the time required to accomplish our mission.

I have spoken of a second difficulty with respect to adapting the Tribunal to the new international reality. Arresting all the accused and, in my opinion, reorienting the International Tribunal's judicial priorities should be tied in with the reform process. The hope of accomplishing our mission at the earliest opportunity, kindled by the implementation of the reforms I have just briefly described, must not lead us to forget that several of the accused, high-ranking political and military leaders, remain at large. Some, I would recall, reside with total impunity in the Federal Republic of Yugoslavia — a State represented here — while others have taken refuge in the territory of Republika Srpska, even though its authorities claim to wish to cooperate with the International Tribunal.

Yet, I recall, just as my predecessors have recalled in this very Hall, it is those individuals, who held high military or political office, who must first and foremost answer for their acts before the International Tribunal, which was set up, inter alia, as the guarantor of peace and security in the Balkans. Moreover, should they not all be arrested in the near future, it will clearly be impossible to accomplish the mission of the International Tribunal within the intended time frame.

However, this hope must not mask the fact that there have been significant political changes recently in the Balkans and on the international scene, as Members know better than I. These political changes call on us to reflect together on the future priorities to assign to the International Tribunal. Indeed, the States of the former Yugoslavia, now more inclined towards democratic openness than they once were, are claiming ever more insistently the legitimate right to try the criminals in their territory themselves. At the same time, they are even proposing to establish truth and reconciliation commissions.

Along with these changes in the Balkans, the fight against terrorism — now uppermost in the minds of the international community represented here — must prompt us in the Tribunal, now more than ever, to bring our mission to a swift close. This is especially true given that voices challenging the legitimacy and credibility of the Tribunal called to try crimes, some dating back over 10 years, are now beginning to make themselves heard in public opinion. In addition, with the establishment of the future International Criminal Court, States will certainly mobilize themselves further to ensure that we finish our mission as rapidly as possible so that they do not have to bear the enormous financial costs that the simultaneous operation of three international criminal courts represents.

The upheavals must prompt us to rethink, in concert, what judicial priorities to assign to the International Tribunal in the years to come. Admittedly, we can still introduce other reforms in order to further accelerate the trials, and I will actively devote myself to doing so during the current mandate, which begins today. However, it must be noted that the proceedings have already been substantially improved in all their aspects and can no longer be appreciably amended without calling into question the principal features of the international criminal trial established under the Statute.

From this perspective, I would like to reiterate the concerns of all the judges from both International Tribunals who, in the presence of the representative of the United Nations Secretary-General, met in Dublin this September and discussed the results of and prospects for their mission after eight years of activity. They undertook a critical review of the legal rules available to them for fulfilling their mission and debated whether the Tribunals should not focus even more — as called for by Security Council resolution 1329 (2000) — on prosecuting the crimes that constitute the most serious breaches of international public law and order — that is, principally those committed by major military leaders and high-ranking officials.

In this respect, I wish to pay special tribute to the selective prosecutorial policy of Mrs. Del Ponte, Prosecutor at the International Tribunal, who is with us today. She shares our core concerns in this matter and will undoubtedly so inform the Security Council in the near future, because, as you know, this is a matter within her competence.

We also believe it is appropriate to consider new ways to encourage the relocation of some cases — that is, to have the courts of the States of the former Yugoslavia conduct the trials. In addition to lightening the International Tribunal's workload, the referral of some cases to the national courts should make the trials more transparent to the local population and make a more effective contribution to reconciliation among the peoples of the Balkans.

Yet there can be no doubt that, should we choose to go farther down this path, we will be responsible for ensuring that these courts have the resources required for carrying out their mission of justice with absolute independence and impartiality and with due regard for the principles governing international humanitarian law and the protection of human rights. For this reason, it will be our duty to ensure that, with the gradual relocation of cases of lesser importance for the International Tribunal, war criminals do not enjoy impunity and trials are not trials in name only. Let us never forget the voice of the victims, who have thus far placed their trust in our Tribunal.

Therefore, it will fall to the international community to participate more actively and promptly in reconstructing the judicial systems of the countries created out of the former Yugoslavia. Indeed, any relocation process can occur only within a judicial system rebuilt on democratic foundations. That presupposes, among other things, the development of training programmes for local judges and, possibly, under arrangements to be worked out, the sending of international judges and observers.

From this same perspective and on behalf of the International Tribunal, I supported the establishment of the truth and reconciliation commission in Bosnia and Herzegovina — in my view, a mechanism complementary to the International Tribunal's action and, moreover, essential for the reconstruction of that country's national identity.

I shall conclude this presentation by noting that, at the outset of its third four-year mandate, the International Tribunal simply has to reflect more thoroughly on the meaning and scope of the mission it received from the Assembly. All of the judges and I have reflected on this, and I can assure Members that we are now more determined than ever to use all means — insofar as our procedural and organizational resources allow, of course — to meet the expectations of the international community and bring the end of our mission within sight. It should, however, be realized that the judges, on whose behalf I speak today, do not hold all the keys to doing so. Some of these keys, such as arrests and evidence, are in the hands of the States concerned; others are held by the Office of the Prosecutor and still others belong to international organizations.

Even so, I wish Members to know that we are ever mindful of the fact that, in fulfilling the mission the Assembly has conferred on us, the voice of the victims and reconciliation among peoples must guide our reflection, just as they must guide the Assembly's decisions. For while it is true that there can be no peace without justice, I will make my own the words of a great French contemporary philosopher who said that a society cannot live angry with itself forever. I would add that it is towards this goal that the International Tribunal, along with all its organs, is striving: to understand the past in order to better prepare the future.

Mr. Kolby (Norway): We are deeply impressed by the achievements and the high standards of the Tribunal for the Former Yugoslavia, as reflected in various judgements as well as in the report before us.

We thank the President of the Tribunal for the detailed annual report.

The Tribunal's work has become a widely recognized contribution to the search for truth and the fight against impunity as regards the most serious crimes. Thus it may assist in the process of rebuilding civil society under the rule of law. Regrettably, in a global context, the availability of international criminal justice is still the exception rather than the rule. In this regard, the judgements of the Tribunal represent important contributions to international jurisprudence with regard to the prosecution of the most serious international crimes.

Recent judgements and indictments have shed light on various chains of events linked to the cycle of violence in the former Yugoslavia. During the period under review, we have seen precedent-setting cases like the first convictions by the Tribunal in which rape and enslavement were declared crimes against humanity. The experience gained so far through the work of the Tribunal is also a stepping stone towards the forthcoming establishment of the International Criminal Court.

No one should gamble on impunity with regard to acts of genocide, other crimes against humanity or serious war crimes. In light of the still-high number of accused at large, we regretfully note that the rate of arrests by the Stabilisation Force (SFOR) dropped significantly during the period under review. The international community will not waver in its long-term commitment to the fulfilment of the mandate of the International Criminal Tribunal for the Former Yugoslavia.

State cooperation in the arrest of the accused remains a crucial factor in the operation of the Tribunal. The arrest and subsequent transfer of former President Slobodan Milošević to The Hague is a landmark in the field of international criminal justice. The transfer makes clear that no individual is above the law, regardless of his or her position. We applaud the responsible decision of the Yugoslav authorities to meet Yugoslavia's international obligations. It is a turning point that all authorities throughout the former Yugoslavia must now recognize. The duty to cooperate with the Tribunal, in accordance with the binding decisions of the Security Council, is not negotiable.

It is critical to the success of the Tribunal that the population in the region be informed about its work and understand its significance. It is our hope and belief that this is happening, albeit gradually. An important initiative taken by the Tribunal in this regard is the Outreach Programme, which provides accurate and topical information on the ICTY and its activities to the populations of the former Yugoslavia. Norway welcomes the expanded activities and continuous developments of the Outreach Programme. We support the proposal to make the ICTY Outreach Programme part of the main Tribunal budget for the period 2002 and 2003. We encourage all States to support actively the continuous work of bringing the judicial process closer to the public, so as to actively promote increased insight, which may be an important contribution to long-term peace and reconciliation in the area.

Norway further appeals to States that have not yet done so to take all the legislative steps necessary to ensure effective State cooperation with the Tribunal. In addition to implementing legislation and ensuring compliance with the Tribunal's requests for assistance, concrete support to the Tribunal should be shown through financial and material support.

The Norwegian Government has demonstrated its willingness to consider applications from the Tribunal concerning the enforcement of sentences and subsequently, in conformity with national laws, to receive a limited number of convicted persons to serve their sentence in Norway. We encourage other States to prove their continued commitment to the work of the Tribunal through concrete action in this crucial field.

We have previously stated our concern about the length of the proceedings. During the period under review, the Tribunal implemented far-reaching reforms regarding pre-trial activity, judges' powers at trial and Tribunal organization, leading to a remarkable increase in its judicial activity. We believe that the decisions by the Security Council to create a pool of 27 ad litem judges available to the Tribunal to draw upon, as well as to increase the number of judges in the Appeals Chamber, will further enable the judges to cope effectively with the significant increase in their workload.

However, the International Tribunal alone cannot carry out all the work required to restore and maintain peace in the former Yugoslavia. The Tribunal will not be able to try all the perpetrators of serious violations of humanitarian law committed during a conflict that lasted more than five years. The International Tribunal

can only try those who bear the greatest responsibility for the crimes committed.

In order to reconstruct a national identity in the region, it is essential that the domestic courts try the subordinates who carried out the orders. In the meantime, the Tribunal must give high priority to the timely fulfilment of its mandate with regard to investigation and prosecution of key persons responsible for atrocities. At the same time, we must allow for sufficient flexibility in order to ensure that no perpetrator of such crimes can gamble on impunity based on the provisional nature of the Tribunal.

Mr. Yahaya (Malaysia): Allow me at the outset to express my delegation's appreciation to Judge Claude Jorda, President of the International Tribunal for the Former Yugoslavia (ICTY), for introducing the report.

We are pleased to note that during the reporting period 13 indictments involving 69 indicted persons were registered. In addition, 49 persons were detained in The Hague. During the period under review, the Tribunal was involved in 17 cases and 41 appeals. The Tribunal also rendered three trial judgements and three appeals judgements. The statistics are testimony to the efficacy of the Tribunal in carrying out its very challenging mandate.

We are gratified that it has developed into a fully functioning institution, rendering judgements and setting important precedents of international, criminal and humanitarian law.

Malaysia is further gratified that the reform process of the Tribunal is well under way in all three of its organs. The creation of the Coordination Council and Management Committee in January 2001 should further enhance the Tribunal's capability. We are also pleased that the new six permanent judges and six ad litem judges have assumed their posts in the Tribunal. With 22 judges at its disposal, the Tribunal will be able to hear more cases, which, in return, will facilitate the expeditious implementation of its mandate.

We also wish to take this opportunity to express our profound appreciation to the outgoing judges for their outstanding service to the Tribunal on behalf of the international community and humanity in general. It is Malaysia's earnest hope that the reform process will address deficiencies in the system, which up to now has not been able to apprehend the major indicted war criminals still at large, particularly Radovan Karadzić and Ratko Mladić. It is our hope that the zealousness with which the major Powers are pursuing terrorist suspects in Afghanistan will also be matched by efforts to apprehend indicted war criminals in the Balkans.

The mandate of the Tribunal will not be considered complete without the apprehension and trial of such major characters. Their continued freedom and impunity will contribute to the climate of insecurity and will limit refugee return, particularly in minority areas. It will also question the seriousness of the international community in apprehending them and their ilk and will pose threats to the long-term future, peace and security of Bosnia and Herzegovina.

Bosnia and Herzegovina experienced one of the most traumatic humanitarian tragedies of the last century. In this regard, the work of the Tribunal in meting out justice to war criminals is not only important in itself; it is integral to the process of healing the wounds of violent conflict and bringing about reconciliation and lasting peace among the ethnic communities in that country. The success of its work would have a major impact on the restoration of stability in the Balkan region. Without doubt, the Srebrenica massacre of July 1995 was among the worst war crimes of the twentieth century. The Tribunal's decision in sentencing Mr. Radislav Krstić to 46 years in prison for the genocide committed in Srebrenica will contribute in some ways to lessening the pain suffered by the families of the 8,000 massacred among the Bosnian population there. My delegation hopes that this sentence will serve as a reminder that such heinous crimes will not be allowed to go unpunished.

The detention of Mr. Slobodan Milosevic is a major achievement in the work of the Tribunal. We note that he has now also been charged with 29 counts of crimes committed in Bosnia and Herzegovina between 1992 and 1995. We hope that the arrest and surrender of Mr. Milošević will mark the beginning of a new chapter of cooperation between the Government of the Federal Republic of Yugoslavia and the Tribunal.

However, my delegation remains seriously concerned that the 26 publicly indicted accused still remain at large, believed to be hiding mostly in the Republika Srpska and the Federal Republic of Yugoslavia.

We reiterate the importance of the Tribunal's receiving the necessary support and cooperation of all the parties concerned in the implementation of its mandate. We therefore urge the authorities in the Republika Srpska to demonstrate their full cooperation with the Tribunal in this regard.

The Bosnian and Kosovo conflicts were dark chapters in the history of the last century. These conflicts not only challenged the effectiveness and credibility of the United Nations, but they also exposed the dark side of humanity. The consequences of ethnic cleansing and crimes against humanity that were perpetuated in the Balkans must be reversed and justice be done — and done quickly. Such heinous crimes must not be tolerated and must never be allowed to happen again.

In reiterating our fullest support for the Tribunal, Malaysia calls once again on the international community to give its all-out support to the Tribunal in carrying out its mandate.

Mr. Maréchal (Belgium) (*spoke in French*): I have the honour to speak on behalf of the European Union. The countries of Central and Eastern Europe associated with the European Union — Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia, and the associated countries of Cyprus, Malta and Turkey, align themselves with this statement.

There is no doubt that the establishment of the International Criminal Tribunal for the former Yugoslavia in 1993 marked a significant step forward in international criminal law and has opened up an entirely new field of United Nations action. Although expectations were high, enormous practical and political difficulties stood in the way. Nor did some observers at the time hide their scepticism regarding the Tribunal's chances for success.

Today, thanks to the unremitting efforts of its staff and the determined support of the international community, the Tribunal is fully operational and has become a key factor in the pacification and stabilization of the Balkan region.

Its legitimacy is now universally recognized. The arrest and subsequent transfer to the Hague of former President Milošević is a major development in this area. They also betoken a spectacular advance in international law: the first time that a former Head of State will be judged by an international court. This is an eloquent reminder that there can be no impunity, even at the highest level of power, for those responsible for the most serious crimes against international humanitarian law.

By thus meeting its international obligations, the Federal Republic of Yugoslavia itself has opted for total reintegration into the international community. The European Union congratulates Yugoslavia on this historic decision and urges it to press firmly ahead towards full cooperation with the Tribunal. The new annual report submitted by its President, whom we thank, bears witness to the sustained activity of the Tribunal.

The European Union particularly welcomes the introduction of several reforms during the period under consideration. The addition of 27 ad litem judges, agreed by the Security Council last year, will double the capacity of the Chambers. The judges have already been elected, and six of them began their work in September of this year. It is indeed important that all defendants be able to be judged within a reasonable period of time. In order to achieve this target, the Tribunal must also constantly consider its efforts in order to improve its working methods in the light of experience gained. In this regard, the European Union notes with satisfaction the amendments made to the rules of procedure and evidence designed to speed up procedures before and during the court proceedings.

We also note the establishment of a Coordination Council and a Management Committee and trust that these measures will actually improve the administration of the Tribunal and the cohesion among its various components.

We also congratulate the Prosecutor on having undertaken the reorganization of her investigation services in the interests of enhanced performance and efficiency. In this connection, the Tribunal is certainly greatly dependent on the cooperation of the States. The Union welcomes the progress achieved in this area.

We have already acknowledged the cooperation of the Federal Republic of Yugoslavia in proceeding with the arrest and transfer of Slobodan Milošević. We are confident that such cooperation will continue to be exercised, and we trust that it will enable us to proceed swiftly with the arrest of the other accused persons in the Federal Republic of Yugoslavia. We call

particularly on the authorities of Montenegro to add their weight to these efforts.

We also congratulate Croatia on the new spirit of cooperation that it has shown and urge that country to step up cooperation still further.

In the case of Bosnia and Herzegovina, however, we continue to be concerned about the situation in the Republika Srpska. Despite the progress achieved, in particular with the adoption of a bill on cooperation with the Tribunal, actual results have yet to emerge, particularly, as indicated in the report, with regard to the arrest of accused persons known to be hiding in the Republika Srpska.

In order to facilitate and uphold cooperation with the Tribunal in the countries concerned, it is essential to continue the programme of information on the Tribunal's activities, particularly among the local populations.

The Union hopes that all of these measures will result in the acceleration of Tribunal proceedings in 2002, because, despite the remarkable work carried out thus far, much remains to be done — persons on remand or waiting trial, investigations yet to be conducted, arrests to be made. The Tribunal must spare no effort in seeking to complete its task as soon as possible.

We should remember that the Tribunal's task is to judge only those supremely responsible for the crimes committed on former Yugoslav soil. Crimes committed at the lower level will be increasingly matters for the national courts to judge.

I would not wish to end without thanking all the members of the Tribunal, the Chambers, the Court of Appeal, the Registry and the Prosecutor's Office for their action in this regard. Their contribution towards peace and security in the region by ushering in justice and facilitating reconciliation is a fundamental one. In many respects, their work is in itself an innovation, paving the way for the International Criminal Court, which we hope to see established before very long. They may rest assured of our total support.

Mr. Šahović (Yugoslavia) Allow me at the outset to thank the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), Judge Claude Jorda, for his statement and presentation of the Tribunal's annual report, which we have studied very carefully.

We are considering the current ICTY report against the background of a changed political environment in the region as a whole and in the Federal Republic of Yugoslavia in particular. The democratic transformation that has been under way in my country during the past year has created a new basis for cooperation with the Tribunal. Progress in that respect is evident, as acknowledged in the report.

In his recent address to the General Assembly, Foreign Minister Svilanović emphasized several pressing issues that are of crucial importance for the Federal Republic of Yugoslavia. One of them is cooperation with the Hague Tribunal. My country is well aware of its obligations in that respect, and it is committed to fulfil them. It is not an easy task, and it should be understood as a process — one, of course, that will have a conclusion. In this context, the Federal Government, as well as the Governments of both Republics, are making serious efforts and have taken a number of concrete measures to enhance cooperation.

Allow me to briefly mention some of them. The Prosecutor's Office was reopened in Belgrade a year ago. The staff of the Office has full freedom of movement and can discharge of their duties unimpeded, including interviews with victims and witnesses. Tribunal investigators participate in investigations related to mass grave exhumations in the territory of the Federal Republic of Yugoslavia. The Federal Republic of Yugoslavia has transferred to The Hague a number of its citizens; Slobodan Milošević was among them. Indictees from elsewhere in the region who resided in Yugoslavia were also transferred to The Hague. It is worth noting also that an increasing number of indictees voluntarily surrender to the Tribunal. Work on formulating an internal legal framework aimed at facilitating cooperation with the Tribunal is under way. Experts are drafting a law on cooperation with the Tribunal, based on international law and our internal legislation. Once finalized, this law will regulate the cooperation with the ICTY in a most comprehensive manner.

The Federal Republic of Yugoslavia has followed the proceedings of the Tribunal with great attention. We fully understand the complexity of the Tribunal's work. However, we have noted that some issues should be addressed in order to improve the proceedings and make them fully balanced. One of them is the frequent changing of the rules of procedure and evidence, which has occurred 20 times so far. Another is the practice of

issuing sealed indictments. Both lead to legal uncertainty. The latter, in our opinion, violates the transparency of proceedings as well.

There are other issues that we believe should be looked at. For example, the Federal Republic of Yugoslavia is of the view that the Statute of the Tribunal should be amended so as to compensate those indicted and detained, but subsequently found not guilty by the Tribunal. We also consider that those who voluntarily surrender to the Tribunal should be guaranteed provisional release pending trial — of course, if the appropriate guarantees are provided to the Tribunal.

On another issue related to the Tribunal's work, I would like to point out that the ICTY has agreed to carry out investigations of crimes committed in Kosovo and Metohija prior to 10 June 1999. However, many crimes have been committed against non-Albanians, particularly Serbs, since the arrival of KFOR and the United Nations Interim Administration Mission in Kosovo (UNMIK) to Kosovo and Metohija on that date. Efforts should be made to bring the perpetrators of these crimes to justice as well. This would be in full accordance with the principle that every crime should be prosecuted and punished, and would help resolve a number of complex problems that still exist in Kosovo and Metohija.

We believe that the positions of the Federal Republic of Yugoslavia on certain aspects of the ICTY's work — for example, those mentioned above — should be taken into account. This would greatly facilitate mutual cooperation and strengthen the argument that the Tribunal is an objective and impartial body whose efforts constitute an important element in overcoming all aspects of the crisis in the former Yugoslavia.

My Government would like to see all perpetrators of war crimes in the former Yugoslavia punished. Only in this way can we re-establish confidence, achieve reconciliation and bring stability to the region. In this context, we consider it exceptionally important — and we share the view expressed by the President of the Tribunal — that national courts be entrusted to try greater numbers of the cases that are under ICTY jurisdiction. Such a step would be in full accordance with the democratic changes that have taken place in the entire region.

It is our expectation that the resolve of all concerned to cooperate with the Tribunal, as well as the openness of the Tribunal to constructive proposals, will result in the successful fulfilment of its serious tasks. The Federal Republic of Yugoslavia will make an active and constructive contribution to that process.

Mr. Šimonović (Croatia): This eighth report of the International Criminal Tribunal for the Former Yugoslavia (ICTY), presented by its President, Judge Jorda, whom we thank, records a number of encouraging achievements. His address today is even more interesting in that it indicates guidelines for the future activities of the Tribunal, which we fully support.

The apprehension and trial of Milošević, finally, after all these years, fully justifies the establishment of the ICTY. Bringing Milošević, until recently President of Serbia and the Federal Republic of Yugoslavia, to trial for crimes committed while in office demonstrates that nobody is above the law or beyond the reach of international criminal justice. Furthermore, by extending the charges against Milošević to crimes committed in Croatia and Bosnia and Herzegovina, the Prosecutor has finally addressed the root causes of the conflict in the former Yugoslavia. The proceedings against Milošević will therefore be an important step towards the establishment of a reliable historical account, necessary for reconciliation among the nations and States of the region.

The indictment against Milošević for Croatia is well grounded and articulated, reflecting the Tribunal's meticulous work. My Government contributed to this indictment by submitting evidence and by cooperating with the Tribunal. We note with satisfaction that the Prosecutor established Milošević's responsibility for crimes committed by all military and paramilitary units under his de facto control. The Republic of Croatia has expressed the same legal position in its memorial submitted to the International Court of Justice in the proceedings against the Federal Republic of Yugoslavia for genocide. However, in this respect, it is somewhat disappointing that, although the ICTY's indictment against Milošević charges him, among other things, with the extermination of the non-Serbian population in Croatia on the basis of their nationality, the Prosecutor has stopped short of qualifying this as a crime of genocide. My Government welcomes the fact that Milošević's indictment for Bosnia includes charges for genocide perpetrated against Bosnian Croats and

Muslims, and hopes that during the process, the indictment of Milošević for crimes committed in Croatia will be extended to include genocide as well.

Encouraging as they are, these recent developments must not make us forget that some of the major military leaders and high-ranking officials responsible for the war and related crimes are still at large. As the beginning of the trial of Milošević for his crimes committed in Croatia approaches, it is very important that his accomplices mentioned in his indictment also be indicted and apprehended. Also, those previously indicted for the crimes committed in Vukovar — namely, Šljivančanin, Mrkšić and Radić — should be immediately apprehended and brought to trial. It is not only a matter of justice 10 years after the massacre in Vukovar, but also of obtaining their testimonies on the involvement of the previous Serbian leadership, especially Milošević, in various war crimes, crimes against humanity and genocide.

The same goes for the others: it is intolerable and embarrassing both for the victims and for the international community that notorious war criminals, such as Martić, Karadžić and Mladić, can still find safe haven. As for the States which still harbour them — and the President of the Tribunal, in his statement today, explicitly mentioned the Federal Republic of Yugoslavia and the Republika Srpska in that context — so long as they avoid extraditing them, they continue to be associated with their crimes.

We fully support the appeal made today by the President of the Tribunal that, owing to the changing situation in the region and in the world at large, fulfilment of the Tribunal's mandate should be speeded up and that we should reflect together on the priorities to assign to the Tribunal in the future.

We firmly believe that the Tribunal should follow the model of the Milošević case in its future proceedings. In that respect, it is very important to note two main features of that model: the high profile of the indicted and, besides his command responsibility, his individual criminal responsibility. In our view, all future processes before the ICTY should be reserved exclusively for high-level perpetrators whose charges also involve individual responsibility.

However, this in no way means that lower-echelon war criminals should be forgotten. We can achieve reconciliation only by prosecuting all who are responsible for war crimes, no matter what their affiliation or ethnic origin. The report of the President of the Tribunal has rightly acknowledged the critical role that domestic courts should have in this respect. The purpose of the ICTY is not to replace national justice systems permanently, but to encourage them to do their job and fully to respect the rule of law. As the improving security situation in South-East Europe allows the beginning of the phasing out of the Tribunal's activities, one of the first steps of the exit strategy should be a gradual shift of the workload from the international level to the national level. That does not refer only to new cases: as soon as national courts prove to be trustworthy — and I believe that Croatian courts already have done so — they should also be given the opportunity to take over the proceedings against those previously indicted by the Tribunal and whose prosecution is no longer a priority for the Tribunal.

The prosecution of all war criminals, irrespective of their religious, national or other affiliation, was duly recognized as a commitment of the Croatian Government at the beginning of its mandate. That commitment is being consistently carried out, both before the national courts and through cooperation with the Tribunal. During the last two years, cooperation with the Prosecutor's Office considerably advanced with respect to satisfying that Office's requests for assistance, access to classified documents and investigative collaboration in the field. A number of proceedings before Croatian courts were initiated or reopened, including some for crimes committed against the Serbian population.

Croatia invites other countries within the scope of the jurisdiction of the ICTY to contribute in the same way to the processes of reconciliation, long-term stability and cooperation. We commend the Government of Montenegro for facilitating the recent voluntary surrender to the Tribunal of the generals indicted for war crimes committed in Dubrovnik. The Government of Croatia is also willing to improve its cooperation with the new Governments in Serbia and the Federal Republic of Yugoslavia in many areas; the punishment of individual crimes should not stand in the way of these positive developments. In order to redirect our energies towards the future, those responsible for war crimes should be punished as soon as possible.

The establishment of the ICTY represented a major step in the process of the development of

international criminal jurisdiction. For the first time in history, the International Tribunal has prosecuted perpetrators of war crimes belonging to all parties to the conflict. However, being an ad hoc tribunal established by the Security Council for an individual situation, the ICTY necessarily has remained somewhat selective. The establishment of the permanent International Criminal Court, with ex ante jurisdiction, which is expected as early as next summer, will represent another major breakthrough. It will overcome both the deficiencies inherent in "victor's justice", and selective and retroactive ad hoc adjudication.

The International Criminal Court has a lot to learn from the ICTY, whose experiences had a precursory role in many respects. But the ICTY should also learn from its own experience and should be ready to evolve. For example, learning from the shortcomings of the ICTY, the International Criminal Court provides for compensation to wrongfully detained, prosecuted or convicted persons. We see no reason why that improved solution, rooted in international human rights law and corresponding to the practice of the most contemporary legal systems, including those of all the countries under ICTY jurisdiction, should not be introduced through the adequate amendment of the Statute or the Rules of Procedure. A similar well substantiated initiative was presented a year ago by the Tribunal's President and has been endorsed by a number of Governments, including mine, but without any practical impact. We also believe that the provision of compensation to war-crime victims, which my Government has supported and continues to support, requires our further consideration and efforts.

Finally, my Government welcomes the structural and procedural changes introduced over the past year aimed at ensuring that all the accused who have already been or who will be apprehended are tried without undue delay. We hope that those measures will prove effective in practice.

Mr. Kusljugic (Bosnia and Herzegovina): For a decade, Bosnia and Herzegovina was a global and regional problem frequently addressed in the United Nations. However, recent reports of the Special Representative of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina and the Federal Republic of Yugoslavia and reports of the Office of the United Nations High Commissioner for Refugees (UNHCR) regarding the process of return in Bosnia and Herzegovina, as well as the general opinion about the evident overall progress in my country expressed in bilateral meetings and in meetings with United Nations officials which our delegation held during the ministerial week of this session, have clearly shown that Bosnia and Herzegovina is no longer part of the problem in the Balkans, but is part of the solution in South-East Europe. More and more, Bosnia and Herzegovina is becoming a paradigm for dialogue among diverse elements. It is becoming a model of peaceful coexistence among different ethnic groups, confessions and cultures instead of the symbol of a clash among civilizations imposed by force. For the Government of Bosnia and Herzegovina, the priority for further action in the areas of institution-development, the improvement of human rights, and political and economic reform is the sustainability of the progress that has been achieved.

Today, when the report of the International Criminal Tribunal for the Former Yugoslavia (ICTY) is on the agenda of the General Assembly, I want to convey the opinion of my Government regarding the role which the ICTY has played in supporting the progress that has been achieved in Bosnia and Herzegovina as well our expectations for its future activities, which should contribute to the sustainability of the progress being made.

The Government of Bosnia and Herzegovina fully supports the efforts of the ICTY, not only in words but also in deeds, and considers that the Tribunal is playing an important role in the process of reconciliation and of the maintenance of peace and security both within the country and in the region as a whole. We acknowledge the achievements of the ICTY during the past year, especially the activities that resulted in the imprisonment of Slobodan Milošević at The Hague. We also emphasize the universal importance of the work of the ICTY, especially since the tragic events of 11 September, as a legal tool in the fight against war criminals: both terrorists and war criminals use barbaric acts against innocent civilians and against the values of our shared civilization to achieve their uncivilized objectives. We especially underline the role of the ICTY in the individualization of war crimes as a precondition for inter-ethnic reconciliation.

Taking into account that the year 2002 is critical for the sustainability of the progress initiated both in Bosnia and Herzegovina and in the region and noting the improved cooperation between the International

Tribunal and the States and entities in the region, my Government expects that the future activities of the ICTY will have a substantial effect on the following processes: the return of internally displaced persons and refugees both in Bosnia and Herzegovina and the region, inter-ethnic reconciliation, regional cooperation, institutional development and the rule of law, political and economic reforms and the integration into Europe of the countries in the region. It is obvious that the large number of individuals named in public indictments who still remain at large substantially obstructs the return process, inter-ethnic reconciliation and, in Bosnia and Herzegovina, the implementation of the Dayton Peace Agreement.

The statistically recorded accelerated rate at which the refugees are returning to areas where they are now an ethnic minority are taken as the best proof of Bosnia and Herzegovina's recovery.

However, more detailed analysis shows that the return is not equally distributed geographically. There are still localities in both the entities of Bosnia and Herzegovina, especially in its eastern parts, so-called black spots, where the return figures are very low. Further analysis shows that these areas are known to be safe havens for indicted war criminals alleged to have committed violations of international humanitarian law during 1992-1995: mass murder, ethnic cleansing, mass rape, even genocide. These areas are known to be the places where indicted war criminals, together with people who orchestrated the ethnic cleansing and with the war profiteers, remain in a position to influence political, administrative and economic processes. They have built a parallel system, and they substantially obstruct refugee return, both publicly and behind the scenes.

These facts are known to both the local authorities and international officials. We strongly believe that 2002 will be the year of decisive action, first, by the international organizations aiming to capture and imprison all indicted war criminals — not only well-known "big fish" like Karadžić and Mladić, but also numerous "small fish", local warlords.

The recorded accelerated rate of refugee return in Bosnia and Herzegovina will not be sustained until many more suspected war criminals appear before the ICTY or locally authorized courts. Taking into account the ICTY's lack of resources, the Government of Bosnia and Herzegovina supports and welcomes the initiative to establish a local judicial structure, under the auspices of the ICTY, for processing some of indicted war criminal cases, and suggests that the Court of Bosnia and Herzegovina, which was established by the High Representative's decision, could be the first judiciary institution for delegating such a task in Bosnia and Herzegovina.

It is obvious that only an integral, regional approach could further improve the refugee return process. We also strongly believe that the prosecution of the indicted war criminals requires a regional approach, and we call upon all the States in the region to improve cooperation regarding the exchange of information and coordination of police activities. We consider that close regional cooperation is necessary not only regarding anti-terrorist, anti-criminal and anti-corruption activities but also in an organized and systematic fight against war criminals fight. Considering the recent decision of NATO for the regionally based organization of its operations, we propose regional cooperation regarding these issues. We strongly believe that this approach will further strengthen overall regional cooperation, which is one of the priorities for Bosnia and Herzegovina.

War criminals, like terrorists, are symbols of the use of violence to achieve political goals; hence, they bring the risk of new conflicts in Bosnia and Herzegovina and are a source of continued instability in the region. They and the war profiteers are also symbols of a war economy based on crime and corruption. That is why they are called warlords. Their natural environment is a weak State, the rule of power, poverty and corrupted administration. That is why the indicted war criminals who remain at large seriously undermine Bosnia and Herzegovina's chances for implementing institutional, political and economic reforms, necessary to generate self-sustainable economic growth and to begin the process of integration with the rest of Europe.

In Bosnia and Herzegovina, all political parties claim that they support reforms and the European future of the country. The first test for all of them is their readiness to actively contribute to current and future efforts to trace and bring to justice — publicly or secretly — indicted war criminals. In Bosnia and Herzegovina and in the region there is no concept of "our heroes" and "their war criminals", there is simply "we" and "they". "We" want normal life in a normal, democratic, open society and prosperous country

integrated with the rest of Europe. “They”, the war criminals, want a weak, isolated State and a closed, undemocratic society. Their economy is based upon crime and corruption, deeply rooted in poverty, injustice and the rule of power. Their only interest is territorial and economic control within isolated ethnic areas.

The international community has to give the utmost priority to making their arrests happen. It is obvious that its assistance, even leading role, in this process is necessary. It is also its ethical and moral obligation. The anti-terrorist alliance has shown that it is possible to organize coordinated and unified action by the international community. Such a regionally focused action, which will accompany the ICTY work, coordinating local institutions and international organizations in the just fight against war criminals, is now more necessary than ever in South-Eastern Europe.

In Bosnia and Herzegovina, 2002 will be marked by two important events. First, the country will join the Council of Europe, taking responsibility for starting the necessary political, institutional and economic reforms. Secondly, for the first time since the war, the local election commission will organize general elections.

The activities of the ICTY, not only in Bosnia and Herzegovina but also in the region as a whole, will have, in our opinion, a substantial impact on both events. We emphasize that priority should be given to arresting war criminals already indicted, and related actions should be planned for the beginning of the year, not for the period of the election campaign. The leading role in these activities should be taken by the international organizations. The process of reorganizing the international presence in Bosnia and Herzegovina, planned for the beginning of the next year, should be used to clearly determine the responsibility among international organizations for taking such a role.

Finally, we call on all the States that have supported, politically and financially, the work of the ICTY to continue their contributions in the future, especially in view of the universal importance of its work after 11 September.

The Acting President (*spoke in Spanish*): We have thus concluded this stage of our consideration of agenda item 50.

Agenda item 51

Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Note by the Secretary-General transmitting the sixth annual report of the International Criminal Tribunal (A/56/351 and Corr.1)

The Acting President (*spoke in Spanish*): May I take it that the Assembly takes note of the sixth annual report of the International Criminal Tribunal for Rwanda (A/56/351 and Corr.1)?

It was so decided.

The Acting President (*spoke in Spanish*): I call on Ms. Navanethem Pillay, President of the International Criminal Tribunal for Rwanda.

Ms. Pillay: It is my honour to present to the Assembly a report of the activities of the International Criminal Tribunal for Rwanda (ICTR). A full and detailed report has been submitted to the Assembly for the period 1 July 2000 to 30 June 2001. I shall focus on several important areas of that report.

When I presented my report to the Assembly a year ago, in November 2000, I stated that judicial, administrative and prosecutorial steps had been undertaken during that year to prepare the ground for holding uninterrupted trials in the year 2001. Those endeavours included a change in management at the ICTR, the finalization of pre-trial litigation and disposal of the backlog of some 200 motions.

I am very pleased to report that, since my last address, there has been a significant increase in the number of trials. At this moment, seven trials involving 17 accused persons are in progress. All three Trial Chambers are engaged in simultaneous trials on a twin or multi-track system, with two of the Trial Chambers each conducting two trials, and the third Trial Chamber holding three trials. This is the result of the judicial pre-trial decisions and measures taken in previous years; we are now seeing the impact of this preparatory work on the ongoing trials.

I will briefly review the status of these trials to illustrate some of the factors that have caused delays in these proceedings, as well as some of the steps we have taken to expedite them. Three of these ongoing trials are joint trials of three to six accused persons, and, by virtue of their complexities and magnitude, will necessarily take a long time to be finalized. Nevertheless, during 2002 and 2003, the Assembly may expect judgements in the cases of a large number of accused.

Trial Chamber I commenced the Media trial of three accused persons and has heard 34 prosecution witnesses out of a list of 97. That list has, through the intervention of the Judges, been reduced to under 50, including four expert witnesses. One of the accused, Jean-Bosco Barayagwiza, elected from the beginning to boycott his trial. The Chamber has appointed Counsel to ensure that he is given a fair trial. The prosecution has not closed its case as yet, and we expect that the Media case will go on until December 2002.

The second case before Trial Chamber I is that of a father, Pastor Elizaphan Ntakirutimana, who was transferred to us from Texas, and his son. Prosecution witnesses have testified over a period of 27 days. We expect this to be a shorter case, to conclude by June 2002.

Trial Chamber II is conducting three trials simultaneously. They include the Butare trial, involving six accused, and two small trials involving Government Ministers. The two trials had commenced in March and April 2001, respectively, but, unfortunately, were brought to an abrupt end by the death of the Presiding Judge, the late Judge Laïty Kama of Senegal, on 7 May 2001. However, as a result of the expeditious election of two new Judges by the General Assembly on 24 April 2001 and the appointment of a third Judge by the Secretary-General on 31 May 2001, this Chamber was able to resume the trials without much delay. However, the heavy caseload of this Chamber means that it will not be able to undertake any new cases for the next two years.

Trial Chamber III is handling one major, joint trial involving three accused, and the Semanza case. In Semanza, they have heard 24 prosecution witnesses, including experts, over a period of 29 days. As a result of Chamber control, more than 16 witnesses were dropped by the prosecution. This case is expected to conclude in February 2002.

In the Cyangugu case, which is the joint trial, 40 prosecution witnesses were heard over 73 days, and here again, through the Judges' control, 16 witnesses were dropped from the prosecution list.

Since February this year, this third Trial Chamber has been getting the Military case of Colonel Théoneste Bagosora and three other accused persons ready for trial. A total of 27 pre-trial decisions have been rendered on this matter alone, each one, however, taking the case closer to trial stage. Given that this Chamber is about to conclude one of its two cases, it will begin the Military trial on 2 April 2002.

With regard to the judgements delivered by the ICTR during this year, on 7 June 2001 Trial Chamber I delivered the Tribunal's first judgement of acquittal, involving Bourgmestre Ignace Bagilishema. This judgment of acquittal has been appealed by the Prosecutor, hence the Chamber ordered his conditional release to France. The Appeals Chamber has rendered decisions in appeals involving five appellates. The Appeals Chamber confirmed the convictions and sentences of the Trial Chambers, although, in the Musema case, the rape conviction was quashed on the basis of additional evidence brought by the Appellant before the Appeals Chamber. The decisions of the Appeals Chamber are a significant endorsement of the fact that the trials conducted by the ICTR are fair and that the standard of proof beyond reasonable doubt to sustain a conviction is being observed.

The question has been asked by many here why the output of judgements is so low: a single judgement this year, and just eight in the four years since trials started in 1997. The fact is that only one case was ready for trial in autumn 1999. Other cases which were ready for trial by both prosecution and defence in 2000 are the ones that are ongoing now.

I shall explain briefly some of the difficulties obstructing expeditious trials and discuss some of the developments that have taken place and the efforts we have made to reduce delays and increase efficiency.

It is important to recall that judicial proceedings at the international level are far more complicated than judicial proceedings at the national level; unlike national courts, we are reliant on many factors beyond our control. Cases at the International Criminal

Tribunal for Rwanda are legally and factually complex because of the alleged rank, status and roles of the accused. In comparing the two Tribunals, it is important to recall that, in the case of the International Criminal Tribunal for Rwanda, the Prosecutor's strategy has, from the outset, focused on those suspects who are alleged to have been in the highest positions of leadership and authority and those who are alleged to have had the most prominent roles in the events in Rwanda in 1994. Consequently, the accused persons who have been indicted, some of whom are currently standing trial, include the former Prime Minister of Rwanda, Government ministers, high-ranking military officers, senior media personnel and other public figures.

Trials of accused who are alleged to have been the architects of killings are particularly complicated because command responsibility has to be established and a greater range of facts is at issue. Such trials at the International Criminal Tribunal for Rwanda therefore take longer than the trials of accused with lower levels of alleged responsibility.

Other factors that contribute to lengthy and protracted trials are the fact that voluminous documents need to be translated and disclosed to the parties and that the Prosecutor feels obliged to call a large number of witnesses so as to prove that genocide took place in the country. We also have to undertake the process of interpreting testimonies into three languages: Kinyarwanda, French and English. The ongoing investigations by the Prosecutor and the Defence, and the availability of witnesses and counsel are also factors.

It is important to note that, unlike in the case of national courts, witnesses and counsel are not geographically close to the ICTR and so are not within easy reach. Witnesses for both the prosecution and the defence are located in Rwanda and in countries all over the world — and they have to be persuaded to volunteer as witnesses. Negotiations have to be undertaken with the Governments of those countries for the travel of witnesses to the ICTR, as well as to ensure that protective measures are in place for the witnesses before they undertake to travel.

All of these factors are time consuming, and they often result in adjournments of the trials. Adding to these factors are the handicaps of functioning out of a hardship category "C" duty station. In the past year, we have lost six ICTR staff members as a result of illness or accidents. Simple communications that would take one hour in The Hague may take days, or even weeks, in Arusha. I ask the Assembly to bear in mind the reality with which we have to contend.

On the other hand, the judges have taken measures to expedite proceedings, and I should like to mention just a few of them. Some of them have already been mentioned by Judge Jorda with reference to the International Criminal Tribunal for the Former Yugoslavia. The Tribunals work closely together, and we follow the measures taken by the judges of both Tribunals. Most motions at the pre-trial stage are now heard on briefs. This saves court time and costs, such as those incurred by bringing lawyers to Arusha from the rest of the world. Motions are now dealt with by a single judge, not three judges. Long-term planning of court sessions is under way; this ensures the availability of counsel and witnesses. Greater control is exercised in the court room in order to minimize loss of time. One such measure is the reduction of witnesses and the duplication of evidence. In some cases, the judges have imposed sanctions for time-consuming tactics, for instance by denying costs for frivolous motions. I am also happy to note that the level of communication and cooperation between the various branches, such as the Chambers and the Registry, has improved. We now have precedential rulings and appeal decisions, which provide a guide and thus impede irrelevant motions.

Issues of efficiency were discussed at length by the judges of the two Tribunals at seminars at Ascot and Dublin. There was broad consensus among the judges that the delays experienced by both Tribunals needed to be addressed, and that there was a need for greater control over the presentation of evidence by the parties. We are now implementing greater controls with regard to such factors. These measures have already had an effect and they are among the reasons for the present significant acceleration of the pace of trial activities. However, there are limits as to what can be achieved with the present three Chambers and the current resources.

The Assembly may recall that, when I addressed it last year, I expressed our commitment to complete as many cases as possible of persons awaiting trial in our detention facility, within the present four-year mandate. As I have already mentioned, trials of 17 persons are under way. That leaves 26 detainees awaiting trial, of

whom four were transferred to us in the past three months. A further 22 suspects have been indicted and are still at large. If the present capacity of nine judges remained unchanged, the Tribunal will not be able to complete trials of the current detainees before the year 2007. The judges find this to be unacceptable, as some of the detainees have been awaiting the commencement of their trials for considerable periods of time. International standards require the accused to be tried without undue delay.

The difficulties are further compounded by the fact that the Prosecutor has informed me that she anticipates indicting up to 136 new accused by the year 2005. The Tribunal's capacity must be increased in order for us to try these cases in accordance with international fair trial standards.

It was for these reasons that, on 9 July 2001, I submitted a proposal to the Security Council for the creation of a pool of ad litem judges — a similar solution was found for the ICTY by the Security Council by virtue of resolution (1329) 2000. If the judicial capacity is increased with ad litem judges, and if the Prosecutor drastically revises her investigative programme, I believe that the ICTR can complete its work by 2007.

The request for ad litem judges made by the ICTR is currently under consideration by the Security Council. I hope that such a remedy will be provided for the ICTR, as it was for the ICTY when it faced a similar situation. The progress of trials since my request of 9 July 2001 enables me now to present an updated plan for the immediate use, once elected, of nine ad litem judges by two of the Trial Chambers, splitting into five sections. These five sections would be able to begin five new trials involving between 14 to 17 accused between April and June 2002.

We heard Judge Jorda, President of the ICTY, tell us that, since the granting of the increased judicial capacity by way of ad litem judges to the ICTY, they have been able to report a doubling of their capacity. This would also be the case for the ICTR. I therefor urge that the ICTR be given capacity and resources equal to those that have been and are being given to the other Tribunal.

Together with the judges of the ICTY, we have reflected on the lifespan of the Tribunals. We are concerned that the passage of time may affect the quality of the evidence and that long delays raise human rights concerns. We recognize that this is a political decision that can be taken only by the Security Council. The ICTR judges are of the opinion that the target date for completion of our mandate should be 2007 and we hope that we will get the support we need to make this possible. Meanwhile, like Judge Jorda, I would urge that other avenues of justice be pursued, such as the encouragement of trials at the national level in jurisdictions where suspects are located.

In conclusion, I wish to record the Tribunal's appreciation to States for their cooperation over arrests, transfers of indicted persons and travel of witnesses and in receiving acquitted and convicted persons. I particularly thank the Governments of Ireland for their contribution towards hosting the judges' seminar, the Republic of France for receiving and agreeing to monitor an acquitted person and the Republic of Mali for receiving convicted persons. I can inform the Assembly that five convicted persons, including Jean Kambanda, the former Prime Minister of the interim Government of Rwanda, will begin serving their sentences of imprisonment of 25 years to life in Mali from this month.

I am optimistic that many of the factors impeding our progress to date have been and are being addressed effectively. I wish to thank the Secretary-General for his continuing support in this regard. We need Members' further support. The ICTR and the ICTY are engaged in an historic endeavour and should both be supported — and equally supported. We have a long way to go in establishing the rule of international law to safeguard the principles of peace and justice, which are so fundamental. Despite the many setbacks and daily frustrations, we at the ICTR are making progress.

Mr. Maréchal (Belgium) (*spoke in French*): I am honoured to speak on behalf of the European Union. The countries of Central and Eastern Europe associated with the European Union — Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia — and the associated countries Cyprus, Malta and Turkey align themselves with this statement.

The International Criminal Tribunal for Rwanda, like that set up for the former Yugoslavia, continues to ensure that there is no escaping international criminal justice. In judgement after judgement, it hammers home the message that the most serious crimes against humanitarian international law, and in particular the

crime of genocide, will not go unpunished wherever they are committed. The 1994 atrocities in Rwanda constitute one of the darkest periods in the history of humanity. The key task of the Tribunal is the fight to see to it that they are not forgotten and that justice is done in such a way that will, we are convinced, help produce the national reconciliation that Rwanda vitally needs. The Union continues to give its fullest support to the Tribunal's efforts to that end.

The European Union thanks the President of the Tribunal for her very detailed annual report and briefing. The report rightly emphasizes the progress that has been made in the period under consideration.

As Members know, the Tribunal's beginnings were far from easy. It encountered numerous difficulties arising from a variety of internal and external causes. The Union has in the past expressed its concern at this situation, which, despite sizeable financial resources, has led to long delays in procedures. This undermines not only the right of those accused to a trial within a reasonable period, but also the legitimate desire of Rwanda and the international community to see justice done.

In the period under consideration, from July 2000 to June 2001, only one judgement was delivered at first instance, which is clearly insufficient. The Union is glad, however, to see that six other trials are under way, involving 15 persons in all. It would point out that, for the first time, all three courtrooms have been used simultaneously for proceedings. That is a sign of progress, which it is absolutely essential to maintain in the coming year.

The European Union also congratulates the judges for amending the rules of procedure and evidence, in response to the Expert Group's recommendations, in order to speed up procedures. It urges the Tribunal to continue its efforts constantly to improve its working methods in the light of experience acquired both at the trial stage and at the often crucial stage prior to proceedings.

Regarding the administration of the Tribunal, the Union has high hopes for the new Registrar and the new Chief of Administration. It has carefully noted the progress already achieved and hopes that concrete improvements will continue to be made during the coming year. It invites the Tribunal to follow the example of the Tribunal for the former Yugoslavia by set up a coordinating council and a management committee in order to improve its own management and the cohesiveness of its various elements.

The Union particularly welcomes the efforts under way to rationalize legal assistance for indigent accused. It is pleased to note that, following the recommendations in the enquiry report of the Office of Internal Oversight Services on the sharing of fees between defence counsels and indigent prisoners, measures have been taken to reduce the risk of abuse. The Union would like the Tribunal to continue to monitor this matter carefully.

We also support the efforts initiated by the Prosecutor to reorganize her Office. As indicated in the report, it is important to speed up investigations and above all to improve the quality of trial preparation in order to avoid problems that unduly delay the progress of proceedings.

The Union would also thank the Prosecutor for her planned investigation programme for the next few years. It appears to be a particularly ambitious programme. The Union is somewhat concerned to see that such a programme would increase the burden on the Tribunal to such an extent that it could not complete these trials before 2023, which, as the report quite rightly indicates, is unacceptable.

Therefore, the President has submitted a proposal for setting up a team of ad litem judges. It is up to the Security Council to decide on this proposal. Pending this decision, the Union wishes to stress the importance of making full use of the considerable resources already available to the Tribunal. Moreover, it would strongly emphasize that investigations must be primarily focused on those bearing most responsibility for the genocide, in particular its initiation and planning.

The cooperation of States with the International Criminal Tribunal for Rwanda has generally been excellent, particularly in Africa. The European Union would encourage all the countries concerned to continue along these lines.

The Union very much appreciates the fact that three countries have already concluded an agreement with the Tribunal on enforcement of sentences, and hopes that others will follow suit.

Finally, the European Union attaches great importance to the Tribunal's programme of information on its mandate and activities, intended in particular for

the Rwandan population. This is something which is absolutely vital if the objective of national reconciliation pursued by the Tribunal is to succeed.

The International Criminal Tribunal for Rwanda is showing encouraging signs of a resurgence of activity. It is our sincere hope that the various measures taken will give a considerable boost to its work and that this will be shown in the next annual report with figures to support it.

We thank all members of the Tribunal for so resolutely pursuing this objective. Their action to further the causes of justice, peace and national reconciliation is essential. Their pioneering work is paving the way for the establishment of the International Criminal Court in the very near future. They may rest assured of our wholehearted support.

Mr. Abdul Jabar (Malaysia): At the outset, my delegation wishes to express our appreciation to Judge Navanethem Pillay, President of the International Criminal Tribunal for Rwanda, for her presentation of the sixth annual report of the Tribunal, contained in document A/56/351. My delegation finds the comprehensive report to be extremely useful in understanding the nature and progress of the work of the Tribunal as well as the difficulties encountered by it.

Malaysia has always believed in the rule of law and in ensuring that justice is upheld to rid the world of impunity. We regard every member of the international community as having a role to play in ending flagrant violations of international humanitarian law and in contributing to the restoration and maintenance of peace where such violations occur. Those responsible for such violations must be brought to justice. The international community must send a clear signal to the perpetrators and victims that atrocities against mankind will not be tolerated.

The establishment of ad hoc international criminal tribunals by the United Nations to prosecute persons responsible for serious violations of international humanitarian law, such as the present International Criminal Tribunal for Rwanda, represents a major step in the development of international humanitarian law. The judgements by these Tribunals will contribute substantially to existing case law relating to atrocities, particularly genocide, and will further enshrine the principle of direct individual criminal responsibility under international law. In addition, the Tribunals contribute to the development of international justice by recognizing the imperative need for justice in international relations.

It is for these reasons that Malaysia has taken an interest in tribunals and courts of the same nature and contributed in whatever way it can to assist in their establishment. In this respect, we are proud that a distinguished Malaysian judge sat in the Appeals Chamber shared by the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. It is in support of such ad hoc tribunals that Malaysia has made a modest contribution of $50,000 toward the establishment of the Special Court for Sierra Leone.

My delegation is pleased to note that there is great improvement in the performance of the International Criminal Tribunal for Rwanda. We are pleased to note that as a result of the reforms it has undertaken, the Tribunal has accelerated its work and improved its procedures through amendments to the Rules of Procedure and Evidence. We are gratified that care was taken to ensure that such amendments would expedite trials without compromising fair trial procedure.

We also note that the Tribunal has initiated improvements to its internal organization, including its Court Management Section. In addition, the three Trial Chambers are now conducting trials on a twin- or multi-track basis. However, despite these improvements, it has been pointed out that the Tribunal will face great difficulty in handling its workload, which will increase drastically in the light of the Prosecutor's intention to prosecute 136 new suspects by 2005. This will involve 45 new trials.

My delegation believes that the creation of a pool of ad litem judges to serve in the Tribunal, as proposed by the President, would serve to enhance the judicial productivity of the Tribunal. This course of action would be necessary to address the anticipated increase in the workload of the Tribunal. The right of the accused to be tried without undue delay has to be preserved. As the adage goes, justice delayed is justice denied.

With regard to the Appeals Chamber, we commend the decision to streamline the procedure for the filing of written submissions and to regulate the size and format of the pleadings filed before the Appeals Chamber, which was intended to ensure that

the appeals process, especially as regards interlocutory appeals, would not impede ongoing trials. On the other hand, my delegation is concerned that the Appeals Chamber faces the problem of translations of its decisions and other documents — which have to be sent to Arusha for translation — as well as a number of staffing-related issues. We hope that these problems will be resolved as soon as possible if the Appeals Chamber is to dispose of matters before it expeditiously and cope with its increasing workload.

The Prosecutor of the International Criminal Tribunal for Rwanda, like the Prosecutor of the International Criminal Tribunal for the former Yugoslavia, does not possess any of the enforceable investigative powers normally available to national authorities in criminal investigations under national jurisdictions. Hence, the Prosecutor has to rely on the assistance, cooperation and goodwill of national authorities who will act on behalf of the Tribunal. Critics of the Tribunal who claim that investigations by the Prosecutor are conducted too slowly often overlook this fact. The nature of the crimes, the volume of evidence, the status of the accused and the type of trial are among the many issues that contribute to the complexity of investigations by the Prosecutor.

In this regard, my delegation appreciates the efforts by the Prosecutor to promote a close relationship between the Office of the Prosecutor and the authorities of Rwanda. We are pleased to note that through frequent interaction and a greater flow of information, the level of cooperation and coordination with State authorities, including States other than Rwanda, has been enhanced. We also welcome measures by the Prosecutor to reorganize the structure and control of investigations as well as improve the overall operations of the Investigations Division, as mentioned in the report. These measures will facilitate thoroughness in investigations and thereby contribute to the diligent prosecution of perpetrators in accordance with the highest international standards.

Although recruitment of staff for some sections of the Tribunal had been undertaken during the period under review, it is evident that certain core sections of the Tribunal are faced with the problem of staff shortage. The high attrition rate of the Tribunal further adds to this problem. My delegation wishes to stress that such basic needs of the Tribunal must be met in order for it to be able to carry out its tasks efficiently. Therefore, every effort should be undertaken to prevent this administrative impediment from hampering the progress of the important work of the Tribunal.

My delegation is encouraged by the efforts of the Tribunal to disseminate information concerning the mandate, organization and achievements of the Tribunal, both internationally and locally. The extensive use of all types of media, from print to electronic media, to generate interest and awareness of the work of the Tribunal is commendable. Initiatives under the Outreach Programme to Rwanda, such as its seminars, briefings, radio programmes on Radio Rwanda and the Tribunal's information centre in Kigali, are of particular importance to national reconciliation in Rwanda. The confidence of the people of Rwanda and its policy makers relevant to the Tribunal will generate the sense of certainty that justice has been done.

In conclusion, my delegation wishes to reiterate its strong support for the work of the Tribunal. We recognize that genuine reconciliation will take time, but at least in the meantime the International Criminal Tribunal of Rwanda will contribute to the process by enabling the perception of collective political responsibility for crimes to be replaced by a clear definition of individual criminal responsibility.

Mr. Mucyo (Rwanda) (*spoke in French*): Allow me at the outset to thank the President of the International Criminal Tribunal for Rwanda (ICTR) for her report. I also wish to thank the Prosecutor, as well as the Registrar, who are both present, for their work.

Following the terrible events experienced in Rwanda in 1994 — genocide and massacres — my country, with the support of the international community, has embarked on a path of national reconciliation and of bringing together all Rwandans to build and reconstruct our society on the basis of fraternity, solidarity and justice, respecting the fundamental rights of the individual.

In July 1994, the government of national unity had to face a very serious social, economic and political situation. In addition to the many victims of genocide and massacre, more than 2 million people had become refugees; thousands of others were displaced throughout the country, finding themselves homeless. Those tragic events destroyed the State structure and an already neglected judicial system. After July 1994, the joint efforts of all partners enabled the re-establishment of State administration, particularly the judicial system

and justice administration system. Considerable efforts have been made.

Several projects and activities are being carried out to promote and develop the rule of law and democracy. However, national reconciliation cannot be accomplished without justice. Justice will be what will enable the eradication of impunity, the re-establishment of social ties and the unity of all Rwandan people.

The trial of genocide suspects is vital, and that is why we commend the work of the ICTR. The mandate entrusted to the ICTR is a challenge. Through its action, the institution contributes to the emergence of the idea of international justice. The members of Governments of all countries know that in the future they will have to respond personally and criminally for acts they have covered up or encouraged, particularly the grave violation of international humanitarian law carried out on their territory or on the territory of neighbouring States.

Even if the number of judgements rendered today by the ICTR is still insufficient, the work accomplished by the Tribunal is encouraging. I wish to emphasize that the criticisms made with respect to this court must be considered as constructive assessments and not as the desire to denigrate the work of courageous people who are concerned with fulfilling the mission entrusted to them.

I take this opportunity offered to me to sincerely thank all the Member States of the United Nations that contribute to the operation of the ICTR, particularly the countries that have contributed to the arrest of genocide suspects, have facilitated the transfer of witnesses, or have contributed gifts to the Tribunal's trust funds. I also salute the States that have introduced in their legislation the possibility of pursuing crimes against humanity or war crimes, regardless of the country where they are committed.

Moreover, it is sad to note that certain Member States of the United Nations protect genocide suspects, including those sought by the Tribunal. Some of these suspects hold positions of authority within the institutions of these States. We urgently demand that the legal provisions of the ICTR related to this situation be respected. Thanks to the support of the international community, we hope that justice will be rendered, the accused will be tried and the victims will be compensated.

It will be very difficult to speak of justice and reconciliation without considering compensation for the victims. It is our duty and our obligation to push for the compensation of genocide survivors. We also strongly support the idea of seeing the victims and the genocide survivors to take a greater part in the cases before the ICTR, particularly the hope that the Tribunal will be able to have broad scope for victim compensation.

Today access to medicine for those detained for genocide at Arusha, accused, among other things, of having raped female victims, is guaranteed. As it is done for these people, favouring access to medicine for genocide victims is urgent.

Regarding the ICTR personnel, we encourage the idea of recruiting Rwandese for the institution, but at the same time, we call for greater vigilance in choosing recruits. The recent case of an employee who is under arrest and has been accused of having participated in the genocide, should provide lessons on matters relating to personnel recruitment for the ICTR. It is not just to hire a genocide suspect and pay him or her with money designated for justice.

We are aware that our obligation is to facilitate ICTR activities. However, we do not understand the persistent will to situate the Tribunal headquarters outside of Rwanda. Past reasons no longer seem pertinent.

The division of the ICTR court into three distant geographical centres: Arusha in Tanzania, the ICTR headquarters; Kigali in Rwanda, the site of the Office of the Prosecutor and of investigators; and The Hague in the Netherlands, site of the Office of the Prosecutor and seat of the Appeals Court. This separation gives rise to great costs and, above all, leads to the dilution of the effective authority of the various courts, not to mention the problem of witnesses — the transfer of witnesses — raised by the President, or the problem of protecting witnesses.

In addition to the achievements and efforts made at the international level, I would like to comment on the work that has been carried out inside the country. Domestically, our Government of National Unity has been faced with the problem of the high number of alleged *génocidaires* who are being held in jail, and also of the great number of orphans, widows and victims of mutilation in the genocide and the massacres. After the 1994 genocide, approximately

130,000 people accused of the crime of genocide or complicity in genocide were arrested. Still today, about 110,000 people are awaiting trial; 6,000 suspected *génocidaires* were already tried between December 1996 and June 2001.

In order to solve the problems involved in these numbers, we have embarked on a new experience by setting up the *gachacha* jurisdiction system, based on traditional Rwandan participative justice. Our unique experiment will undoubtedly contribute to international jurisprudence in cases of genocide or crimes against humanity. By implementing this process, we have already been able to set free several hundred accused persons. The *gachacha* system is inspired by our traditional conflict resolution system. Eyewitnesses to the genocide participate in the process. They relate the facts, uncover the truth and participate in the prosecution and sentencing of the persons accused.

The process of implementing this form of law started with the election of the judges in October 2001 in a climate of peace and democracy, which is very encouraging for the future of the process. Before the end of this year, various awareness campaigns will be carried out having to do with professional ethics, group management and communication techniques, and then the judges will be trained in order to help them carry out their onerous tasks.

At the same time, the Rwandan Government has decided to introduce community service into its legislative mechanism as an alternative to imprisonment. This reform would carry with it the double advantage of reducing the jail population in our country and facilitating the reintegration of released persons into society. In this very difficult context, we have concomitantly taken various measures to build cases, to hold the trials of those accused of crimes of genocide and crimes against humanity and to re-establish the normal functioning of ordinary justice. Our Government of National Unity has begun recruitment activities for magistrates and training courses for all judicial personnel.

The Rwandan administration cannot face the post-genocide situation alone. It seems important to help it to strengthen its management capacity and to develop new programmes in support of the judiciary. My country ardently hopes that the support it has received in the past and the alliances woven can be strengthened with time.

I ask the Assembly to help us to continue this judicial work. Please remember, beyond the divisions that were once unknown to us, in Rwanda a people was murdered, mothers were raped and children were slaughtered. In order that a people will never again be massacred in silence, help us pursue our work of justice.

I would like to conclude by welcoming the achievements of the International Criminal Tribunal for Rwanda, but its capacities must be reinforced, just as we have done in the case of the International Criminal Tribunal for the Former Yugoslavia.

Mr. Kolby (Norway): First of all, I would like to thank Judge Pillay for her report. Over the last year, Norway has noted with satisfaction the significant improvement in the performance of the Tribunal. The pace and volume of judicial work has increased substantially over the past several months. The measures implemented by the Tribunal to better streamline the conduct of business so that capacity is utilized to the fullest degree have yielded tangible results. It is our clear impression that capacity utilization of existing Chambers, prosecutorial and other functions, as well as of the Tribunal infrastructure at large, including courtrooms, has been significantly enhanced. We are gratified by the progress made.

We thank the President of the Tribunal for the detailed annual report that, in our view, rightly reflects the progress made during the period under review. So far the Trial Chambers have handed down judgments against nine individuals, with eight convictions and one acquittal. These verdicts represent important contributions to international jurisprudence with regard to the prosecution of the most serious international crimes. Furthermore, a number of decisions have settled procedural issues of principle relevant to the daily conduct of trials, which is expected to lead to a more efficient trial process in the future. The experience obtained by the International Criminal Tribunal for Rwanda (ICTR) is also a stepping stone towards the forthcoming establishment of the International Criminal Court.

Norway acknowledges the resource-consuming nature of trying the most serious international crimes. The number of witnesses, the demanding nature and complexity of cases and the frequency of the various kinds of appeals on issues of law contribute to

explaining why the turnover of cases is not comparable to the administration of justice in our national systems with regard to ordinary crimes.

The success of the Tribunal will, to a large degree, be judged by the manner in which the investigation, prosecution and proceedings are managed. It is therefore imperative that the Tribunal carry out these tasks efficiently so that detainees will not be subject to undue delays in the completion of their trials. Norway is committed to a timely fulfilment of the mandate entrusted to the ICTR.

Another important aspect related to the Tribunal's reputation and contribution to national reconciliation is the people of Rwanda's understanding of and confidence in the work of the Tribunal. In this respect, the proactive profile of the Outreach Programme is an essential complement to the main public information activities of the Tribunal. Norway welcomes the continuous development of and improvements in the Outreach Programme and encourages all States to actively support the continued work of bringing the judicial process and its results closer to the civilian population of Rwanda so as to actively promote increased insight, which may be an important contribution to long-term peace and reconciliation in the area.

We have previously expressed concern about the administrative difficulties with which the Tribunal has been confronted, and we have followed efforts to improve the working conditions in Arusha and Kigali with great attention. The judges of the ICTR have progressively improved their trial procedures to speed up cases. We are confident that this streamlining of internal court management procedures has in no way jeopardized the rights of the parties to a fair trial. However, in our view, no added efficiency of any significance can be achieved only through our continued focus on administrative improvements. We are therefore actively studying the recently submitted proposal to the Security Council from the President of the ICTR, which is referred to in the report before the Assembly, to create a pool of ad litem judges to assist the Tribunal in carrying out the remaining workload.

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

The Acting President (*spoke in Spanish*): The General Assembly has thus concluded this stage of its consideration of agenda item 51.

Agenda item 45

Question of the Falkland Islands (Malvinas)

The Acting President (*spoke in Spanish*): I should like to inform representatives that, following consultations regarding agenda item 45 on the question of the Falkland Islands (Malvinas), and taking into account General Assembly resolution 55/411 of 20 November 2000, it is proposed that the General Assembly decide to postpone consideration of this item and to include it in the provisional agenda of its fifty-seventh session.

May I take it therefore that the Assembly, taking into account decision 55/411, wishes to defer consideration of this item and to include it in the provisional agenda of the fifty-seventh session?

It was so decided.

The Acting President (*spoke in Spanish*): The General Assembly has thus concluded its consideration of agenda item 45.

Agenda item 17

Appointments to fill vacancies in subsidiary organs and other appointments

(a) Appointment of members of the Advisory Committee on Administrative and Budgetary Questions

Report of the Fifth Committee (A/56/625)

The Acting President (*spoke in Spanish*): The Fifth Committee recommends in paragraph 6 of its report, document A/56/625, that the General Assembly

appoint the following persons as members of the Advisory Committee on Administrative and Budgetary Questions for a three-year term of office beginning on 1 January 2002: Mr. Michiel Crom (Netherlands); Ms. Nazareth Incera (Costa Rica); Mr. Rajat Saha (India); Ms. Sun Minqin (China); Mr. Juichi Takahara (Japan); and Mr. Nicholas Thorne (United Kingdom of Great Britain and Northern Ireland).

May I take it that the Assembly appoints these persons?

It was so decided.

(b) Appointment of members of the Committee on Contributions

Report of the Fifth Committee (A/56/626)

The Acting President (*spoke in Spanish*): In paragraph 5 of the report, document A/86/626, the Fifth Committee recommends that the General Assembly appoint the following persons as members of the Committee on Contributions for a three-year term of office beginning on 1 January 2002: Mr. Henry Siegfried Fox (Australia); Mr. Bernardo Greiver (Uruguay); Mr. Hassan Mohammed Hassan (Nigeria); Mr. Eduardo Iglesias (Argentina); Mr. Omar Kadiri (Morocco); and Mr. Eduardo Manuel da Fonseca Fernandes Ramos (Portugal).

May I take it that it is the wish of the Assembly to appoint these persons?

It was so decided.

(c) Appointment of a member of the Board of Auditors

Report of the Fifth Committee (A/56/627)

The Acting President (*spoke in Spanish*): In paragraph 5 of its report, document A/56/627, the Fifth Committee recommends that the General Assembly appoint the Chairman of the Commission of Audit of the Philippines as a member of the Board of Auditors for a six-year term of office beginning on 1 July 2002.

May I take it that the Assembly wishes to appoint the Chairman of the Commission of Audit of the Philippines?

It was so decided.

(d) Confirmation of the appointment of members of the Investments Committee

Report of the Fifth Committee (A/56/628)

The Acting President (*spoke in Spanish*): The Fifth Committee recommends in paragraph 5 of its report, document A/55/628, that the General Assembly confirm the appointment by the Secretary-General of the following persons as members of the Investments Committee for a three-year term of office beginning on 1 January 2002: Mr. Emmanuel Noi Omaboe (Ghana); Mr. Yves Oltramare (Switzerland); Mr. Jürgen Reimnitz (Germany).

May I take it that it is the wish of the Assembly to confirm the appointment of these persons?

It was so decided.

(f) Appointment of members of the International Civil Service Commission

Report of the Fifth Committee (A/56/629)

The President (*spoke in Spanish*): In paragraph 5 of its report, document A/56/629, the Fifth Committee recommends that the General Assembly appoint the following persons as members of the International Civil Service Commission for a four-year term of office beginning 1 January 2002: Mr. Minoru Endo (Japan), Mr. João Augusto de Medicis (Brazil), Mr. Mario Bettati (France), Ms. Lucretia F. Myers (United States of America) and Mr. Alexis Stephanou (Greece).

May I take it that the General Assembly appoints those persons?

It was so decided.

The President (*spoke in Spanish*): The General Assembly has thus concluded this stage of its consideration of agenda item 17.

The meeting rose at 1.05 p.m.