United Nations S/2015/883

Security Council

Distr.: General
17 November 2015

Original: English

Letter dated 17 November 2015 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Residual Mechanism for Criminal Tribunals, pursuant to paragraph 16 of Security Council resolution 1966 (2010).

I would be grateful if the present letter and its annexes could be circulated among the members of the Security Council.

(*Signed*) Theodor **Meron**

15-20190 (E) 021215

Annex I

[Original: English and French]

Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, for the period from 16 May to 15 November 2015

1. The present report, the seventh in a series, is submitted pursuant to Security Council resolution 1966 (2010) of 22 December 2010, by which the Council established the International Residual Mechanism for Criminal Tribunals, and, in paragraph 16 of that resolution, requested the President and the Prosecutor of the Mechanism to submit reports every six months to the Council on the progress of the work of the Mechanism.[a]

I. Introduction

2. The Security Council, by its resolution 1966 (2010), established the International Residual Mechanism to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including the trial of fugitives who are among the most senior leaders suspected of being primarily responsible for crimes, after the closure of the two Tribunals.

3. The Security Council emphasized that the Mechanism should be a small, temporary and efficient structure and decided that the Mechanism would operate for an initial period of four years, and subsequently for periods of two years, following reviews of its progress, unless the Council decided otherwise.

4. In accordance with its mandate, and as set forth below, the Mechanism has assumed responsibility for many functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including with regard to a range of judicial activities, the enforcement of sentences, the resettlement of acquitted and released persons, the protection of victims and witnesses, and the management of archives. As the Tribunals complete their work and progressively downsize their operations, the Mechanism relies less on the support services of the two Tribunals and continues the process of establishing its own small self-standing administration. The Mechanism continues to work closely with Tribunal principals and staff to ensure a smooth transition of remaining functions and services and the harmonization and adoption of best practices.

II. Structure and organization of the mechanism

5. In accordance with its statute (see Security Council resolution 1966 (2010), annex 1), the Mechanism has a single set of principals (the President, the Prosecutor and the Registrar), who have responsibility over two branches, one located in Arusha and the other in The Hague. As mandated, the Mechanism commenced

[a] Unless otherwise specified, figures provided in the present report are accurate as at 13 November 2015.

operations at its Arusha branch on 1 July 2012, assuming functions inherited from the International Criminal Tribunal for Rwanda. The Hague branch commenced operations on 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia.

A. Organs and principals

6. Article 4 of the statute of the Mechanism provides that the Mechanism shall consist of three organs: (a) the Chambers; (b) the Prosecutor; and (c) the Registry, to provide administrative services for the Mechanism.

7. The President of the Mechanism is Judge Theodor Meron, the Prosecutor is Mr. Hassan Bubacar Jallow and the Registrar is Mr. John Hocking. All three principals were appointed in 2012 for terms of four years.

B. The branches

8. The Government of the United Republic of Tanzania continues to extend cooperation to the Mechanism in the implementation of the headquarters agreement for the Arusha branch, which entered into force on 1 April 2014 and also applies to the International Criminal Tribunal for Rwanda. The agreement between the United Nations and the Netherlands concerning the headquarters of the Mechanism was signed on 23 February 2015. Upon its entry into force, it will also apply to the International Tribunal for the Former Yugoslavia.

9. The Arusha branch is currently co-located with the International Criminal Tribunal for Rwanda. The new permanent premises of the Mechanism in Arusha are under construction, and progress continues to be made. The Government of the United Republic of Tanzania continues to be strongly supportive of and interested in the project. On 1 July 2015, the third anniversary of the opening of the Arusha branch, a cornerstone ceremony for the construction of the new premises was officiated by the President of the United Republic of Tanzania, Jakaya Mrisho Kikwete. The Government has completed the temporary access road to the site, and the permanent road is under construction. The provision of electricity and access to water supplies and telecommunication services are also under way.

10. The Arusha sub-office in Kigali continues to provide protection and support services to witnesses and to lead efforts in tracking the remaining fugitives. In addition, the sub-office continues to support the activities of the monitors of the International Criminal Tribunal for Rwanda cases referred to Rwanda, pursuant to article 6 of the statute of the Mechanism.

11. The Hague branch of the Mechanism is currently co-located with the International Tribunal for the Former Yugoslavia. The Mechanism has a strong preference for remaining at its current premises after the closure of the International Tribunal for the Former Yugoslavia. Technical discussions and negotiations with the authorities of the host State, the owners of the premises and possible co-tenants are ongoing.

C. Administration and staffing

12. During the biennium 2014-2015, administrative services, such as human resources, finance, budget, procurement, logistics, security and information technology services, were, to a large extent, provided to the Mechanism by both Tribunals, under the coordination of the Registry of the Mechanism.

13. Towards the end of the biennium 2014-2015, the ability of the Tribunals to provide such support will decrease as their downsizing progresses. As a result, the Tribunals and the Mechanism have agreed on the basic requirements for a small self-standing Mechanism administration, which were included in the 2014-2015 budget for the Mechanism, as approved by the General Assembly on 27 December 2013. The recruitment of administrative staff has been conducted in phases as the Tribunals downsize.

14. The transfer of administrative functions to the Mechanism began on 1 January 2014, with gradual implementation scheduled for the current and upcoming bienniums, in step with the downsizing of the Tribunals and efforts to ensure efficiency, accountability and consistency.

15. Security and general services continue to be provided by the Tribunals in the current biennium. With the closure of the International Criminal Tribunal for Rwanda at the end of 2015, staff to carry out security and general services have been requested in the 2016-2017 budget.

16. During the reporting period, and in accordance with the plan for the transfer of administrative functions, the Human Resources, Finance, Procurement, Information Technology, and General Services Sections of the International Tribunal for the Former Yugoslavia continued to perform their functions on behalf of the Tribunal and both branches of the Mechanism. They were supported by a limited but growing number of Mechanism administration staff.

17. Significant efforts were undertaken during the reporting period by the above-mentioned sections and by the Mechanism in order to ensure that all contractual arrangements and structures were in place at the Arusha branch of the Mechanism and to ensure the continued and uninterrupted provision of administrative services following the closure of the International Criminal Tribunal for Rwanda. Another important task undertaken during the reporting period involved preparations for the implementation of Umoja.

18. The recruitment of Mechanism staff is proceeding well, with a vacancy rate of only 5 per cent for its continuous posts. As at 2 November 2015, 120 of the 126 approved continuous posts for the biennium had been filled to carry out the continuous functions of the Mechanism (with one remaining position funded by the International Tribunal for the Former Yugoslavia). An additional 118 personnel are also serving in general temporary assistance positions to assist with ad hoc needs, including judicial work, litigation and transition issues. These positions are short term in nature, and the number may fluctuate depending upon the workload.

19. Continuous and general temporary assistance positions in the Mechanism include nationals of 63 States: Albania, Australia, Austria, Belgium, Benin, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Burundi, Cameroon, Canada, China, Colombia, Croatia, Cuba, Cyprus, Democratic Republic of the Congo, Denmark, Dominican Republic, Ethiopia, Fiji, France, Gambia, Germany,

Ghana, Greece, India, Indonesia, Ireland, Italy, Jamaica, Kenya, Latvia, Lebanon, Lesotho, Liberia, Malaysia, Mexico, Nepal, Netherlands, New Zealand, Niger, Nigeria, Pakistan, Poland, Republic of Korea, Romania, Russian Federation, Rwanda, Senegal, Serbia, Slovenia, Spain, Sudan, Sweden, the former Yugoslav Republic of Macedonia, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Zimbabwe.

20. Approximately 80 per cent of those recruited are current or former staff of the Tribunals. Fifty-six per cent of Professional staff are female, surpassing the gender parity goals of the Secretary-General. In addition, the Mechanism has in place focal points for gender issues; sexual exploitation and abuse; lesbian, gay, bisexual and transgender concerns; and diversity and inclusion issues.

D. Legal and regulatory framework

21. The Mechanism has established a structure to govern its activities and continues to develop rules, procedures and policies that harmonize and build upon the best practices of both Tribunals. In May 2015, the judges of the Mechanism adopted a code of professional conduct for the judges of the Mechanism. The Mechanism has also continued to develop and improve the procedures and policies that govern its administrative activities.

III. Judicial activities

22. During the reporting period, the Mechanism continued to engage in a wide variety of judicial work.

23. On 7 July 2015, the Appeals Chamber issued a decision on a request for review, pursuant to rule 146 of the Rules of Procedure and Evidence of the Mechanism, filed by Milan Lukić. On 8 July 2015, the Appeals Chamber issued a decision on a request for review filed by Sreten Lukić. On 13 July 2015, the Appeals Chamber issued a decision on a request for review and assignment of counsel filed by Eliézer Niyitegeka. On 22 October 2015, the Appeals Chamber issued a decision on an appeal by the Prosecution of a decision taken by the President in relation to the provisional release of Drago Nikolić. On 13 November 2015, the Appeals Chamber issued a decision on an appeal by Milan Lukić of the decision on his request for review and on a related motion filed by the Prosecution to strike the notice of appeal. The Appeals Chamber also issued several confidential orders and decisions related to these cases during the reporting period.

24. The Appeals Chamber is currently seized of a request for review filed by Ferdinand Nahimana on 3 June 2015 and of an appeal of a decision taken by a single judge filed by Jean de Dieu Kamuhanda on 1 October 2015. The briefing in these matters has been completed and they are currently under consideration.

25. On 22 October 2015, the Trial Chamber at the Arusha branch issued a decision dismissing a request filed by Jean Uwinkindi to revoke the referral of his case to Rwanda. The Trial Chamber has also issued 11 other decisions or orders on other matters related to the case.

26. The President of the Mechanism has, pursuant to his authority in the area of enforcement of sentences, issued five decisions in response to requests for early release and a number of other decisions and orders. He is currently seized of a number of other confidential enforcement matters. In reaching decisions on certain enforcement matters, the President consults the judges of the sentencing Chamber who are judges of the Mechanism, as applicable.

27. During the reporting period, the President also issued a number of additional decisions and orders. For example, on 26 June 2015, the President dismissed the request of Zoran Žigić for assistance regarding proceedings in Bosnia and Herzegovina.

28. As single judges, the judges in the branches in Arusha and The Hague also considered a range of motions addressing diverse matters, including requests to vary the protective measures of witnesses, and issued a number of public and confidential decisions and orders.

IV. Victims and witnesses

29. Pursuant to article 20 of the statute of the Mechanism and article 5 of the transitional arrangements (see Security Council resolution 1966 (2010), annex 2), the Mechanism is responsible for witness support and the protection of thousands of protected witnesses who have testified in cases completed by the two Tribunals.

30. The Witness Support and Protection Unit is fully operational at both branches of the Mechanism. In accordance with judicial protection orders and in close collaboration with domestic authorities and other United Nations entities, the Unit provides security for witnesses by undertaking threat assessments and coordinating responses to security requirements. In addition, it continues to ensure the safekeeping of confidential witness information and has processed requests for the rescission, variation or augmentation of witness protective measures, as required.

31. The Arusha branch also provides ongoing support services to witnesses. At the Kigali sub-office, for example, the Mechanism continues to provide medical and psychosocial services to witnesses residing in Rwanda, particularly for those experiencing psychotrauma or living with HIV/AIDS, many of whom contracted the virus as a result of crimes committed against them during the genocide.

32. The Hague branch continued implementing a pilot study, supported by the University of North Texas (United States of America) and partly financed by voluntary contributions, on the long-term impact that testifying before the International Tribunal for the Former Yugoslavia has on witnesses. In June 2015, an interim internal presentation revealed that the overall impact of giving testimony tended to be quite positive for witnesses. During the reporting period, an additional 40 interviews were completed, which means that the goal of conducting 300 witness interviews has been met. The finalization of the pilot study report is on track and the results are expected to be published and presented in early 2016. The Arusha branch is in the process of developing the scope and methodology of a similar study for International Criminal Tribunal for Rwanda witnesses, also in conjunction with the University of North Texas.

33. The witness protection teams at the two branches continue to exchange best practices for the development of policies and have established a common

information technology platform for their respective witness databases, which is expected to be implemented by the end of 2015. These efforts aim at maximizing operational efficiencies across both branches.

V. Fugitives and trial readiness

34. On 1 July 2012, in accordance with Security Council resolution 1966 (2010) and the statute of the Mechanism, the responsibility for tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda was transferred to the Mechanism. Specifically, the Council urged all States, particularly those where fugitives are suspected to be at large, to further intensify cooperation with, and render all necessary assistance to, the Mechanism in order to achieve the arrest and surrender of all remaining fugitives as soon as possible.

35. Nine indicted by the International Criminal Tribunal for Rwanda remain at large. The Mechanism retains jurisdiction over three of the nine: Félicien Kabuga, Augustin Bizimana and Protais Mpiranya. The cases of the other six fugitives have been referred to Rwanda. The arrest and prosecution of the nine remaining individuals remain a top priority for the Mechanism. The President and the Prosecutor, with the support of the Registrar, have agreed to work closely on the associated political issues.

36. In line with its commitment to efficiency, the Mechanism continues to ensure that it is prepared to conduct a trial or appeal when a fugitive is apprehended and/or when any ongoing proceedings of the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia result in an appeal or retrial. Pursuant to article 15 (4) of the statute, rosters of qualified potential staff have been populated for the expeditious recruitment of additional staff required to support these judicial functions. Relevant policies and procedures, including those related to the remuneration of defence counsel and self-represented accused, are being finalized.

VI. Detention facilities

37. As at 1 October 2015, the Mechanism assumed responsibility for the management and operations of the United Nations detention facility in Arusha. The transfer occurred seamlessly, without any disruption of services provided to the detainees. The Government of the United Republic of Tanzania has graciously extended to the Mechanism its long-standing cooperation with the International Criminal Tribunal for Rwanda in matters concerning detention. The Mechanism is grateful to the International Criminal Tribunal for Rwanda for its cooperation during this process. The United Nations detention facility houses 13 persons who are awaiting their final judgements or their transfer to enforcement States.

38. At the Hague branch, the Mechanism continued to rely during the reporting period on the provision of detention services by the International Tribunal for the Former Yugoslavia at the United Nations detention unit.

VII. Cases referred to national jurisdictions

39. Pursuant to article 6 (5) of its statute, the Mechanism is responsible for monitoring cases referred by the two Tribunals to national courts, with the assistance of international and regional organizations and bodies.

40. Two individuals indicted by the International Criminal Tribunal for Rwanda, Jean Uwinkindi and Bernard Munyagishari, have been apprehended and their cases referred to Rwanda for trial. As indicated in the previous report (S/2014/826), the trial in the *Uwinkindi* case has commenced and is ongoing (see also section III above). The *Munyagishari* case is in the pretrial phase. Two additional individuals indicted by the International Criminal Tribunal for Rwanda, Laurent Bucyibaruta and Wenceslas Munyeshyaka, have had their cases referred to France for trial. The *Bucyibaruta* case is still in the investigative phase. In October 2015, French investigative judges dismissed the *Munyeshyaka* case. That ruling is subject to appeal.

41. During the reporting period, the Mechanism monitored the cases referred to Rwanda with the assistance of five monitors from the Kenyan section of the International Commission of Jurists, pursuant to a memorandum of understanding concluded with the Mechanism on 15 January 2015. An interim monitor has been monitoring the two cases referred to France. The public monitoring reports in all four cases are available from the website of the Mechanism (www.unmict.org).

42. The Mechanism continues to monitor any change of status in the *Vladimir Kovačević* case, which was referred by the International Tribunal for the Former Yugoslavia to Serbia in March 2007.

VIII. Enforcement of sentences

43. In accordance with article 25 of the statute of the Mechanism, the President has assumed jurisdiction over enforcement issues related to the Mechanism and the two Tribunals, including the authority to designate the States in which convicted persons are to serve their sentence, to supervise the enforcement of sentences and to decide on requests for pardon or commutation of sentence.

44. The Mechanism relies on the cooperation of States for the enforcement of sentences. Sentences are served within the territory of States Members of the United Nations that have concluded enforcement-of-sentence agreements or indicated their willingness to accept convicted persons under any other arrangement. The agreements concluded by the United Nations for the two Tribunals remain in force for the Mechanism. Moreover, the Mechanism continues its efforts to secure additional agreements to increase its enforcement capacity for both branches and welcomes the cooperation of States in this regard.

45. As at 13 November 2015, 28 persons convicted by the International Criminal Tribunal for Rwanda are serving their sentences in either Mali (16) or Benin (12). Seven convicted persons are at the United Nations detention facility in Arusha, awaiting transfer to an enforcement State. The Mechanism has entered into agreements with the United Nations Development Programme (UNDP) offices in Mali and Benin with regard to the implementation of the existing agreements on the

enforcement of sentences. The Mechanism has completed negotiations for a similar agreement with the UNDP office in Senegal.

46. In addition, 17 persons convicted by the International Tribunal for the Former Yugoslavia are serving their sentences in nine States: Denmark (2), Estonia (3), Finland (1), France (1), Germany (5), Italy (1), Norway (1), Poland (2) and Sweden (1). Three convicted persons are at the United Nations detention unit in The Hague, awaiting transfer to an enforcement State.

47. After receiving the report of an independent prison management expert examining the conditions of detention in Benin and Mali, the Mechanism completed the implementation of the expert's recommendations in Benin and continues to make steady progress in Mali. The Mechanism is closely coordinating those efforts with the UNDP offices in both States. The Mechanism has also been working, in coordination with the national authorities, to address the recommendations of the relevant inspecting bodies charged with examining the conditions of detention in enforcement States.

48. Throughout the reporting period, the Mechanism continued to closely monitor the security situation in Mali and received advice and reports from the Department of Safety and Security of the Secretariat and the designated security official in Mali.

49. The International Criminal Tribunal for Rwanda is in the final stages of refurbishing eight cells at a prison in Senegal, which will enhance the sentence enforcement capacity of the Arusha branch of the Mechanism. The Mechanism is grateful to the Government of Senegal for providing the cells and to the International Criminal Tribunal for Rwanda for coordinating construction of the cells.

IX. Relocation of acquitted and released persons

50. Following the transfer of responsibility in efforts to assist with the relocation of the 11 individuals acquitted and released by the International Criminal Tribunal for Rwanda who remain in Arusha, the Mechanism assumed responsibility on 1 October 2015 for all remaining administrative and logistical functions related to the upkeep of those persons. The Mechanism has adopted a strategic plan, which builds on the valuable lessons learned by the International Criminal Tribunal for Rwanda, to guide its approach in the performance of the functions. The strategic plan includes a number of steps to support and expand efforts to find appropriate places for the relocation of individuals tried by the International Criminal Tribunal for Rwanda and subsequently acquitted and released, in order to limit the financial expenditure of the international community on their upkeep and to provide appropriate humanitarian assistance.

51. Given its mandate to operate as a small and lean institution, the Mechanism is limited in the amount of assistance it can provide to acquitted and released individuals and has benefited greatly from the close cooperation of the International Criminal Tribunal for Rwanda during the transitional period. The Mechanism would be particularly grateful to the Security Council and the international community if they could increase their support for relocation efforts in order to resolve this crucial humanitarian challenge.

X. Archives and records

52. In accordance with article 27 of its statute, the Mechanism has responsibility for the management, including preservation and access, of the archives of the Mechanism and the two Tribunals. Pursuant to article 27 (2) of the statute, the archives of the two Tribunals are to be co-located with the respective branches of the Mechanism.

53. The archives of the Tribunals include materials concerning investigations, indictments and court proceedings; work relating to the detention of accused persons, the protection of witnesses and the enforcement of sentences; and documents from States, other law enforcement authorities, international and non-governmental organizations, and the general public. The materials consist of documents, maps, photographs, audiovisual recordings and objects.

54. The Archives and Records Section of the Mechanism has been tasked with preserving these materials and facilitating the widest possible access to them, while ensuring the continued protection of confidential information, including information concerning protected witnesses.

55. During the reporting period, the Archives and Records Section continued to work in close cooperation with the Tribunals on the preparation and transfer of records and archives to the custody of the Mechanism. In Arusha, approximately 80 per cent of the physical records of long-term or permanent value designated for transfer to the Mechanism Registry have been received to date. This includes records in paper, audiovisual and artefact format. In addition, 8.3 terabytes of digital records have been transferred from the International Criminal Tribunal for Rwanda to the Mechanism.

56. In The Hague, substantial quantities of records are still being prepared for transfer and training of managers and staff is ongoing. On 1 September 2015, the Archives and Records Section assumed responsibility for the management of an additional temporary repository at the premises of the International Tribunal for the Former Yugoslavia in order to provide secure, short-term storage for physical records and archives.

57. The Archives and Records Section has developed preliminary plans for the move to the new premises in Arusha and has also identified the specifications for the services required for managing and maintaining the archives facility at the new premises. The Section is continuing to work on the development of a digital repository for the secure storage of digital records and archives.

58. In June 2015, the Mechanism subscribed to the Universal Declaration on Archives, reaffirming its commitment to best practices in the management of archives and the provision of access to them. The Archives and Records Section mounted the first public exhibitions of the archives of the International Tribunal for the Former Yugoslavia for International Archives Day in June 2015 and The Hague International Day in September 2015.

59. The Archives and Records Section also continues to lead or contribute to the development of policies, including a comprehensive access policy, and record-keeping systems for the Mechanism, including systems for the management of judicial and non-judicial records in the interest of enhancing operational efficiency and effectiveness.

XI. Cooperation of States

60. Pursuant to article 28 of the statute of the Mechanism, States are required to cooperate in relation to the investigation and prosecution of persons covered under the Statute, and with orders and requests for assistance in relation to cases before the Mechanism. The Mechanism, like the two Tribunals, is dependent upon the cooperation of States.

61. The arrest and surrender of the remaining fugitives are a priority of the Mechanism. As described above, the Mechanism requires the full cooperation of States in relation to the ongoing fugitive-tracking operations being conducted by the Prosecutor and follows the practice of the International Criminal Tribunal for Rwanda by calling for the assistance of relevant States in this respect. Also as described above, the Mechanism relies on the cooperation of States for the enforcement of sentences.

62. The Mechanism continued to promote communication and cooperation with the Governments of Rwanda and the States of the former Yugoslavia and to keep relevant officials in those States updated on the activities of the Mechanism and the transition of responsibilities from the Tribunals to the Mechanism. During the reporting period, the Mechanism continued to discuss areas of mutual interest with Rwandan authorities. Representatives of the Mechanism, including the President, also visited areas of the former Yugoslavia, engaging with Government officials, attending public events and meeting with victims groups.

XII. Assistance to national jurisdictions

63. The Mechanism routinely receives requests by national authorities, or parties to national proceedings, for assistance in relation to domestic proceedings concerning individuals allegedly implicated in the genocide in Rwanda or the conflicts in the former Yugoslavia. Furthermore, during the reporting period, the Mechanism received and considered requests to vary the protective measures for witnesses and for the disclosure of their testimony and evidence (see section III above). Comprehensive information and guidance for those who wish to request assistance is available from the Mechanism website.

64. The two branches continue to exchange best practices for the development of policies, training and a common information technology platform for their respective databases. These efforts will maximize operational efficiencies across both branches and ensure that the Mechanism provides effective assistance to national jurisdictions.

XIII. External relations

65. During the reporting period, a wide range of efforts were undertaken to increase the visibility of the Mechanism and to make its work more accessible to audiences worldwide. Principals and officials of the Mechanism provided briefings and held discussions with interested groups on the mandate and priorities of the Mechanism. A new leaflet on the Mechanism and an infographic were designed in order to illustrate the essential functions and mandate of the Mechanism, and

explanations about the Mechanism were incorporated into presentations for groups visiting The Hague. In addition, a question-and-answer section was created for the website, which includes video clips of the principals of the Mechanism explaining the role of their respective offices.

66. The popularity of the Mechanism website continued to grow significantly, with a 60 per cent increase in audience numbers over the reporting period. With more than 1,000 pages viewed every day, there have been approximately 185,000 page views since May 2015.

67. The Mechanism continued to provide library services to internal and external users. During the reporting period, over 1,200 persons, both internal and from various external organizations, visited and received presentations on the Mechanism library in Arusha. The library processed an average of 470 requests, including research requests and loans, on a monthly basis.

68. The fourth edition of the *International Criminal Tribunal for Rwanda Special Bibliography* is being prepared for issuance later in 2015. It will continue to add value to the legacy of the International Criminal Tribunal for Rwanda by assisting Mechanism staff and researchers in identifying relevant resources. The Mechanism is undertaking to organize a public information programme at the Arusha branch involving a series of lectures and round-table discussions with Tanzanian judges and law students.

69. In line with the double-hatting principle, the library of the International Tribunal for the Former Yugoslavia supported the work of the legal teams of the branch in The Hague and of external users by providing guidance on available material, pursuing interlibrary loans with other legal institutions based in The Hague and developing a procedure to facilitate out-of-hours requests. Overall, the library in The Hague processed approximately 150 search requests and loans per month.

70. The Communications Service contributed to the efforts undertaken by the Mechanism to search for fugitives by providing expert guidance to the fugitive-tracking team on the external communications aspects of the team’s work.

XIV. Conclusion

71. The Mechanism continues to adhere to the mandate established by the Security Council in its resolution 1966 (2010). In achieving its goals, the Mechanism has received support from the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, from the Office of Legal Affairs and the Department of Management of the Secretariat, from the United Republic of Tanzania, the Netherlands, Rwanda, States of the former Yugoslavia and individual States Members of the United Nations. Such support is crucial to the continued success of the Mechanism, which maintains its focus on carrying out its mandate in an efficient and cost-effective manner.

Annex II

[Original: English and French]

Progress report of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Justice Hassan Bubacar Jallow, for the period from 16 May 2015 to 15 November 2015

I. Activities of the Office of the Prosecutor of the International Residual Mechanism

A. Introduction

1. During the reporting period, the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals continued to discharge its mandate with respect to a variety of activities, including tracking fugitives, rendering assistance to national authorities, monitoring cases referred to national jurisdictions, maintaining the fugitive files in anticipation of arrest and conducting litigation before the Mechanism.

2. The reporting period also saw the continuation of systems and procedures established to streamline operations and ensure greater coordination between the two branches of the Office of the Prosecutor, recruitment processes for the ad hoc appeals teams and for establishing rosters, and preparation of the budget for the next biennium.

B. Arusha branch of the Office of the Prosecutor of the Mechanism

3. With the International Criminal Tribunal for Rwanda entering the last six months of its completion strategy, the Arusha branch of the Office of the Prosecutor focused its efforts on completing the takeover process of assuming full responsibility for all the remaining functions of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda.

1. Fugitive-tracking and trial readiness

4. The Office of the Prosecutor of the Mechanism, as a priority, continued to intensify its efforts in the Great Lakes and southern African regions to track down the three fugitives: Augustin Bizimana, Félicien Kabuga and Protais Mpiranya. In addition to strengthening the strategic and structural functionality of the investigators and developing new partnerships, the Office of the Prosecutor also geared its activities to ensure effective trial readiness with regard to the three files in the event of an arrest.

5. In the framework of the international fugitives initiative launched by the Prosecutor in Kigali on 24 July 2014, the Office of the Prosecutor continued disseminating information to the public and renewing the call for international cooperation in the tracking and arrest of the nine remaining fugitives. The use of social media, television and cultural and other communications tools has made the tracking of fugitives more appealing to the population of the subregion through a systemic three-way dissemination of the posters that continued to promote

awareness, understanding and action in targeted countries. The Rwandan authorities increased their resources in support of the dissemination of information to the public. The Office of the Prosecutor put in place a roster of potential staff in anticipation of the arrest and trial of the fugitives but a combination of factors continued to hinder their apprehension, including a lack of full cooperation from some States where the fugitives are believed to be hiding and a lack of access to areas that are not under the control of the Government in some States.

6. Other Member States continued to intensify their cooperation with the objective of apprehending and bringing to trial, within their national jurisdictions, the Rwandan suspects appearing on the International Criminal Police Organization (INTERPOL) list of wanted fugitives. The Office of the Prosecutor continued to strengthen its cooperation with diverse States and international organizations such as INTERPOL and its national offices and to provide continued mutual assistance and information to national prosecuting authorities, particularly in Rwanda and other countries of the Great Lakes and southern Africa regions. The Prosecutor is grateful for the continued support provided by INTERPOL, the United States Department of State through its War Crimes Rewards Program, Rwanda and other States cooperating in the tracking effort.

2. Appeal and post-appeal proceedings

7. During the reporting period, the Office of the Prosecutor was involved in substantial post-appeal litigation in nine cases, including requests filed by Jean de Dieu Kamuhanda, Ferdinand Nahimana, Eliézer Niyitegeka and Juvénal Kajelijeli.

3. Assistance to national jurisdictions

8. The Arusha branch of the Office of the Prosecutor of the Mechanism handled 20 requests for assistance from six Member States and international organizations. In addition, the Prosecutor continued to provide ongoing assistance to the Rwandan authorities in efforts to track and secure the arrest of the six fugitives whose cases had been referred to that country by the International Criminal Tribunal for Rwanda at the request of the Prosecutor under rule 11 bis. More recently, the Prosecutor has received other kinds of requests for assistance, such as requests to monitor proceedings in Rwanda in respect of genocide-related cases, in which the accused may be extradited to Rwanda from other countries. While the Prosecutor cannot provide such assistance because the requests may fall outside the mandate of the Office of the Prosecutor, it nevertheless indicates the increasing number and various kinds of requests for assistance that the Prosecutor is called upon to provide.

4. Preservation and management of records

9. During the reporting period, the Arusha branch of the Office of the Prosecutor of the Mechanism took custodial responsibility for additional prosecution and investigation records and material transferred by the Office of the Prosecutor of the International Criminal Tribunal for Rwanda, including 207 boxes of various records and 476 maps and sketches. The remaining items are scheduled to be transferred subsequent to the delivery of the *Butare* appeal judgement by the end of 2015. This will complete the takeover process of all the active records and evidence collection of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda by the Arusha branch. The electronic evidence database, the shared network drives and

equipment and the vault containing the physical evidence and material of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda are now managed by the staff of the Office of the Prosecutor of the Mechanism.

5. Monitoring of cases transferred to national jurisdictions

10. The Prosecutor continued to monitor progress in the referred cases of Wenceslas Munyeshyaka and Laurent Bucyibaruta, which were transferred to France in 2007, together with those of Jean Uwinkindi and Bernard Munyagishari, transferred to Rwanda in 2012 and 2013, respectively. The investigation phase of the *Munyeshyaka* case in France has now been concluded, and the public prosecutor for Paris has recommended a dismissal of the case (*non-lieu*), which was subsequently confirmed on 5 October 2015 by a ruling of the French *juge d'instruction*. Civil parties have appealed the ruling, and a decision is expected in the first quarter of 2016. In the *Bucyibaruta* case, investigations are scheduled to be completed by the first quarter of 2016 with a trial, if any, anticipated to commence by the end of 2016, in which case a final decision will not be expected before mid-2017.

11. Progress in the *Uwinkindi* trial before the High Court in Rwanda was temporarily delayed by the contested appointment of a new defence team. However, the trial resumed in September, and closing arguments were held on 12 November 2015. Judgement is scheduled to be delivered on 30 December 2015. The request by Mr. Uwinkindi for the revocation of his referral was dismissed by a Trial Chamber of the Mechanism on 22 October 2015. The *Munyagishari* case is still in the pretrial phase, and no commencement date has yet been scheduled.

6. Diplomatic and external relations

12. During the reporting period, as part of outreach and knowledge-sharing activities, the Prosecutor and his Arusha branch staff participated in international conferences and expert meetings in the region on issues such as international criminal justice; fighting impunity; and ensuring accountability for mass atrocity crimes. As part of the closing ceremony of the International Criminal Tribunal for Rwanda, to be held in Arusha on 1 December 2015, the Prosecutor of the Mechanism will be hosting a round-table discussion on the theme "High-level dialogue on promoting accountability at the national level for serious violations of international law". Participants will include representatives of national prosecuting authorities, prosecutors from international and hybrid tribunals, and academic experts in the relevant fields.

C. The Hague branch of the Office of the Prosecutor of the Mechanism

13. Most ad hoc appeals posts were filled, and a team has now been established to prosecute the anticipated appeals in the *Šešelj* and *Karadžić* cases of the International Tribunal for the Former Yugoslavia, which are before the Appeals Chamber of the Mechanism. In addition, strategies continue to be in place to make effective use of resources. The Hague branch of the Office of the Prosecutor of the Mechanism continued to work closely with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia to ensure a smooth transition of functions. Recruitment processes are ongoing for ad hoc posts at different levels.

1. Appeal and post-appeal proceedings

14. There were no substantive appeals in the reporting period. However, as with the Arusha branch, the branch in The Hague was also involved in substantial motion practice in 14 cases, including the cases of Radoslav Brdjanin, Milan Lukić and Drago Nikolić.

2. Assistance to national jurisdictions

15. The Hague branch continued to receive a high volume of requests for assistance. During the reporting period, it received 137 requests for assistance from four Member States and one international organization. Owing to the high number of requests for assistance, the branch continued to employ until July a staff member on a temporary contract to assist in responding to requests for assistance, used overtime to avoid the accumulation of too large a backlog and deployed ad hoc appeals staff members for the task. The liaison prosecutors embedded in the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia continued to make valuable contributions to the efficient handling of requests from Bosnia and Herzegovina, Croatia and Serbia. The Hague branch also provided support to visiting prosecutors from Serbia. In addition, the branch filed submissions in nine completed cases of the International Tribunal for the Former Yugoslavia in relation to variations in protective measures for the purpose of domestic proceedings.

3. Sentencing matters

16. The Hague branch responded to requests for information from the Registrar of the Mechanism concerning the administration of sentences for three convicted persons.

17. The Hague branch filed a motion for leave to respond to the request of Drago Nikolić for early release or sentence commutation on humanitarian grounds and appealed against the decision of the President of the Mechanism on granting him provisional release. The Appeals Chamber dismissed the appeal for lack of jurisdiction after Mr. Nikolić died while on provisional release. The Hague branch also responded to a convicted person's additional submissions regarding whether time spent on provisional release should be credited as time served and responded to another convicted person's request for change of State of sentence enforcement.

4. Preservation and management of records

18. The Hague branch continued to work with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia in preparing records from the latter to be handed over to the Office of the Prosecutor of the Mechanism. The Hague branch also continued to work on enhancing its records management system and procedures and to consult with the Mechanism's Archives and Records Section and Information Technology Services Section in order to adopt a system that will be compatible with future Mechanism archiving systems.

5. Diplomatic and external relations

19. In June and July 2015, the Prosecutor of the Mechanism and his staff at the branch in The Hague participated in a number of conferences on international criminal justice, including a conference on the issue of genocide, organized by

victim organizations in Bosnia and Herzegovina, and the annual conference of regional prosecutors from the former Yugoslavia hosted by the Croatian Attorney General's office in Brijuni. In July 2015, the Prosecutor participated in the twentieth anniversary commemoration of the Srebrenica genocide in Bosnia and Herzegovina. The Prosecutor also hosted the Chief Prosecutor of Bosnia and Herzegovina, along with the latter's delegation, at the Mechanism's branch in The Hague. The Serbian War Crimes Prosecutor has also visited the branch in The Hague to discuss operational matters. In addition, the Prosecutor of the Mechanism signed a memorandum of understanding with the Minister of Justice of Bosnia and Herzegovina regarding the framework for continued assistance by the Office of the Prosecutor of the Mechanism in facilitating access by the Ministry's Criminal Defence Section to material at the branch in The Hague.

20. In June 2015, staff of the branch in The Hague participated in capacity-building on international cooperation for practitioners in Montenegro and delivered a workshop in November 2015 to practitioners in Belgrade, Sarajevo and Zagreb on applications by domestic authorities for variations of protective measures of the International Tribunal for the Former Yugoslavia. In November 2015, staff also provided technical training and advice on case management to the Special Investigative Task Force of the European Union.