

## Thematic issues

### 36. Items relating to the International Tribunals

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

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

###### Deliberations of 2 June 2000 (4150th meeting)

At its 4150th meeting, on 2 June 2000, the Security Council heard a briefing by the Prosecutor 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 (International Tribunal for the Former Yugoslavia) and of the International 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 (International Tribunal for Rwanda), following which statements were made by most members of the Council,<sup>1</sup> as well as by the representative of Rwanda.

The Prosecutor of the International Tribunal for the Former Yugoslavia and of the International Tribunal for Rwanda, in her briefing, speaking on the International Tribunal for the Former Yugoslavia, reported that there had been literally no cooperation of Yugoslavia with her Office since the NATO air campaign against Yugoslavia in 1999. She pointed out that such a situation hampered her ability to conclude investigations involving Serbian victims. While lauding the cooperation of the new Government of Croatia with the Tribunal, she stated that she could not yet report that Croatia was in full compliance with its

obligations, owing to some outstanding issues. On another matter, she pointed out that the length of the proceedings of the Tribunal had become a problem, since its statute guaranteed all accused the right to be tried without undue delay. She therefore supported the proposals of the President of the International Tribunal for the Former Yugoslavia, to be presented to the Council shortly, to request additional resources to deal with the workload of the Tribunal in a timely manner.

On a different issue, she reported that the prosecution had assessed complaints and allegations that NATO might have committed crimes that fell within the jurisdiction of the Tribunal during its air campaign against Yugoslavia in 1999. She announced that after an examination of all facts and a detailed legal analysis, she had come to the conclusion that, although some mistakes had been made, there had been no deliberate targeting of civilians or of unlawful military targets and that there was no basis for opening an investigation into any of those allegations or other incidents related to the NATO bombings.

Speaking in respect of the International Tribunal for Rwanda, the Prosecutor reported that relations with the Government of Rwanda had improved after the reversal of a decision by the Appeals Chamber to release the accused in the Barayagwiza case, and that cooperation with the Government was now excellent. She reported on plans by the Government of Rwanda to introduce a traditional form of justice called *gachacha* to alleviate the overcrowding of prisons.<sup>2</sup>

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<sup>1</sup> The representatives of Namibia, Tunisia and Ukraine did not make statements at the meeting.

<sup>2</sup> S/PV.4150, pp. 2-6.

In their statements following the briefings, most speakers expressed their support for the work of the Tribunals, called for all States to cooperate with the Tribunals, especially the International Tribunal for the Former Yugoslavia and emphasized that the remaining fugitives, especially high-ranking political and military leaders must be arrested and handed over to the Tribunals. Some speakers also held that the work of the two Tribunals was of great importance for the future work of the International Court.<sup>3</sup>

The representative of the Russian Federation held that while his Government attached great importance to the work of the International Tribunal for Rwanda, it had not had a serious impact on the normalization of the political processes within Rwanda or on combating war crimes in other parts of the world. While he attributed the lack of speed and effectiveness in the work of the Tribunal partly to the lack of a proper level of cooperation from States, he also criticized its organizational structures and working methods. He supported the efforts of the United Nations to overcome those difficulties as well as the request to increase the number of judges. While expressing his Government's intention to cooperate with the International Tribunal for the Former Yugoslavia, he stated that the Russian Federation had some serious problems with the work of that organ. He expressed the view that the work of the Tribunal had been politicized, that its work was partial and biased, especially vis-à-vis Yugoslavia and that it had adopted a clear anti-Serbian stance. He expressed concern at the use of sealed indictments and the cooperation — not authorized by the Council — between the Tribunal and NATO; at the use of the Stabilization Force to arrest persons indicted by the Tribunal; and at the continuing unjustified increase in the budget of the Tribunal and the inflated staffing table. In addition, he expressed his belief that the decision to halt investigations into the NATO air strikes against Yugoslavia was premature. In concluding, he stated that his Government had come to consider the Tribunal less and less as an impartial judicial body.<sup>4</sup> In response, the Prosecutor of the Tribunals stated that she completely rejected the accusation of politicization, and expressed regret that she had not been able in the previous 10 months to establish contacts with the authorities of the Russian

Federation to discuss the work of the Tribunal.<sup>5</sup> The representative of China shared the view that the International Tribunal for the Former Yugoslavia should conduct investigations into allegations of serious violations of international humanitarian law during the bombings of Yugoslavia by NATO and emphasized that the decision to halt those investigations should be supported by convincing evidence.<sup>6</sup>

The representative of Rwanda underlined the willingness of his Government to cooperate with the International Tribunal for Rwanda. Nevertheless, he requested the recruitment of better qualified investigators to match the highly qualified defence lawyers. He also requested that more Rwandan nationals from a variety of social groups be recruited, and pointed out that of those recruited so far, including witnesses, many already had files opened on genocide charges, or were relatives or friends of persons indicted by the Tribunal.<sup>7</sup>

**Decision of 30 November 2000 (4240th meeting): resolution 1329 (2000)**

At its 4229th meeting, on 21 November 2000, the Council heard briefings by the President of the International Tribunal for the Former Yugoslavia, the President of the International Tribunal for Rwanda and the Prosecutor of the two Tribunals, following which statements were made by all members of the Council.

The President of the International Tribunal for the Former Yugoslavia, in his briefing, concentrated on the reform proposals that he had presented to the Council at the 4161st meeting. He expressed his gratitude that the Council had swiftly set up a working group to examine his proposals. He held that a consensus appeared possible and asked the Council to give priority to the issue. Speaking in respect of the cooperation of States with the Tribunal, he applauded progress made after increased cooperation by Bosnia and Herzegovina and Croatia, but expressed concern that the highest-ranking political and military officials indicted by the Tribunal remained at large. In that regard, he appealed to the Council to use all its influence over Member States, especially the successor States of the former Yugoslavia, to persuade them to

<sup>3</sup> Ibid., p. 8 (Argentina); and p. 13 (Netherlands, Canada).

<sup>4</sup> Ibid., pp. 14-15.

<sup>5</sup> Ibid., p. 22.

<sup>6</sup> Ibid., pp. 15-16.

<sup>7</sup> Ibid., pp. 19-20.

arrest and bring before the Tribunal all the accused in their territories.<sup>8</sup>

The President of the International Tribunal for Rwanda described a period of intensive judicial effort on the part of the Tribunal, which had cleared a backlog of pretrial proceedings and which would allow a number of trials to commence. She assured the Council that there was a reasonable possibility that the Tribunal would complete the cases of all 35 persons currently awaiting trial within the period of its mandate, but cautioned that it was impossible at this stage to predict the number of new suspects that might be indicted.<sup>9</sup>

The Prosecutor of the Tribunals, speaking in respect of the International Tribunal for Rwanda, stated that since the prosecution had now reached a sufficiently advanced stage in its information-gathering activities, a longer-term plan for investigations could be prepared and submitted to the President of the Tribunal as a basis for strategic forward planning with regard to the completion of the mandate of the Tribunal. She also emphasized that to make the work of the Tribunal more relevant to the people of Rwanda, she would ask the Trial Chambers to hold hearings in Rwanda instead of at the seat of the Tribunal in Arusha, and suggested that it might even be possible to contemplate moving the entire Tribunal to Rwanda. On a related issue, she regretted that the statute of the Tribunal made no provision for the participation of victims during trial and included only minimal provisions for compensation and restitution to victims. Since her Office had considerable success in tracing and freezing large amounts of money in the personal accounts of the accused, she held that the money could be applied by the Tribunal to the compensation of victims or towards the costs of the prosecution, and suggested to the Council to consider changing the statute in that regard. Speaking in respect of the International Tribunal for the Former Yugoslavia, she stated that cooperation with the Government of Croatia had made significant progress, but was undermined by obstruction on a few key issues, including those relating to the 1995 Croatian campaign against Serbs in Croatia, known as Operation Storm. On a different matter, she expressed concern over the slowing rate at which indicted persons were arrested and over the

results of the recent elections in Bosnia and Herzegovina, which, in her opinion, would not lead to any improvement in the cooperation of some local authorities with the Tribunal. In addition, she warned against too much optimism about increased cooperation of Yugoslavia with the Tribunal after the removal of President Slobodan Milošević from office, demanding that Milošević be brought to trial before the Tribunal. Referring to a number of passionate pleas her Office had received to investigate allegations of continuing ethnic cleansing against Serb and Roma populations in Kosovo after the deployment of the Kosovo Force (KFOR), she formally requested the Council to extend the jurisdiction of the Tribunal in that respect.<sup>10</sup>

In their statements following the briefings, most speakers expressed support for the reform proposals made by the Presidents of the two Tribunals, including the creation of a pool of ad litem judges and the addition of two judges to the Appeals Chamber. Some speakers emphasized that the selection of ad litem judges should be done by elections and should take into account the principle of equitable geographic distribution, as well as the representation of a variety of legal systems.<sup>11</sup>

The representative of the Russian Federation reiterated his serious concerns with regard to the work of the International Tribunal for the Former Yugoslavia, adding that the Tribunal had closed its eyes to cases of non-observance of international humanitarian law by other parties to the conflict, including the halting of the investigation into the NATO air strikes against Yugoslavia. He held that the Tribunal had repeatedly amended and interpreted the norms of international humanitarian law. In that regard, he questioned whether the international community should be financing the activities of the Tribunal that exceeded its mandate, called for an exhaustive review of its activities and insisted that it was time to establish more clearly the temporary nature of its jurisdiction. Nevertheless, he expressed support for the proposal to enhance the effectiveness of the Tribunal and create a pool of ad litem judges.<sup>12</sup> In response, the Prosecutor again rejected those accusations, as offensive and without foundation and again expressed her regret that

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<sup>8</sup> S/PV.4229, pp. 2-4.

<sup>9</sup> *Ibid.*, pp. 4-7.

<sup>10</sup> *Ibid.*, pp. 7-11.

<sup>11</sup> *Ibid.*, p. 22 (Jamaica); p. 24 (Ukraine); and p. 26 (Tunisia).

<sup>12</sup> S/PV.4229, pp. 18-20; see also S/PV.4150, pp. 14-15.

the Government of the Russian Federation had not responded to her requests to visit Moscow to discuss the work of the Tribunal.<sup>13</sup> The representative of China also reiterated his serious reservations about the decision to halt an investigation into allegations of serious violations of international humanitarian law during the bombings of Yugoslavia by NATO. He held that in view of the major political changes in the former Yugoslavia, the Council should determine the ending date of the temporal jurisdiction of the Tribunal, and suggested that cases concerning lower-level persons should, where conditions permitted, be transferred to national courts in the countries of the former Yugoslavia. He also suggested exploring the possibility of resorting to some sort of truth and reconciliation process.<sup>14</sup> However, other speakers cautioned about the proposal to set a time limit to the jurisdiction of the International Tribunal for the Former Yugoslavia.<sup>15</sup>

At its 4240th meeting, on 30 November 2000, the Council included in its agenda a letter dated 7 September 2000 from the Secretary-General addressed to the President of the Council,<sup>16</sup> transmitting a letter dated 12 May 2000 from the President of the International Tribunal for the Former Yugoslavia and a letter dated 14 June 2000 from the President of the International Tribunal for Rwanda.

The President (Netherlands) drew the attention of the Council to a draft resolution.<sup>17</sup> Before the vote, the President made a statement, as agreed among the members of the Council. He stated that during the consultation on the draft resolution it had become apparent that four urgent issues remained to be addressed by the informal working group of the Council on the Tribunals, namely, the issue of equitable geographical distribution; the issue of compensation of victims; the issue of persons unlawfully arrested or detained; and the issue of gender balance.

The draft resolution was then put to the vote; it was adopted unanimously and without debate as

<sup>13</sup> S/PV.4229, pp. 10-11; see also S/PV.4150, p. 22.

<sup>14</sup> S/PV.4229, pp. 21-22.

<sup>15</sup> *Ibid.*, p. 12 (United States); p. 14 (France); and p. 17 (United Kingdom).

<sup>16</sup> S/2000/865; see deliberations of 20 June 2000 (4161st meeting).

<sup>17</sup> S/2000/1131.

resolution 1329 (2000), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Decided to establish a pool of *ad litem* judges in the International Tribunal for the Former Yugoslavia and to enlarge the membership of the Appeals Chambers of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda, and to that end decided to amend articles 12, 13 and 14 of the statute of the International Tribunal for the Former Yugoslavia and to replace those articles with the provisions set out in annex I to the resolution, and decided also to amend articles 11, 12 and 13 of the statute of the International Tribunal for Rwanda and to replace those articles with the provisions set out in annex II to the resolution;

Decided also that two additional judges shall be elected as soon as possible as judges of the International Tribunal for Rwanda, and decided, without prejudice to article 12, paragraph 4, of the statute of that Tribunal, that, once elected, they should serve until the date of the expiry of the terms of office of the existing judges, and that for the purpose of that election the Council should, notwithstanding article 12, paragraph 2(c), of the statute, establish a list from the nominations received of not less than four and not more than six candidates;

Decided further that, once two judges had been elected, the President of the International Tribunal for Rwanda should take the necessary steps as soon as practicable to assign two of the judges elected or appointed in accordance with article 12 of the statute of the International Tribunal for Rwanda to be members of the Appeals Chambers of the Tribunals.

#### **Deliberations of 27 November 2001 (4429th meeting)**

At its 4429th meeting, the Council heard briefings by the President of the International Tribunal for the Former Yugoslavia, the President of the International Tribunal for Rwanda and the Prosecutor of the two Tribunals, following which statements were made by most members of the Council and by the representatives of Bosnia and Herzegovina, Rwanda and Yugoslavia.<sup>18</sup>

The President of the International Tribunal for the Former Yugoslavia, in his briefing, stressed that major reforms had been implemented, were successful in expediting proceedings and were leading to a substantial increase in the activities of the Tribunal. He held that those reforms would enable the Tribunal to complete the Trial Chamber proceedings in 2007-2008,

<sup>18</sup> The representatives of Bangladesh, Jamaica and the United States did not make statements at the meeting; Rwanda was represented by the Minister for Justice.

provided that indicted persons continued to be arrested at a sustained rate and that the necessary resources were granted to the Tribunal. Nevertheless, he suggested that lesser cases could be prosecuted by the States of the region, taking into account the political developments in the region, provided that their judicial systems would be reconstructed on democratic foundations.<sup>19</sup>

The President of the International Tribunal for Rwanda also reported on the reforms implemented, but emphasized that if the current capacity of judges remained unchanged, the Tribunal would not be able to complete the trials of the existing detainees before the year 2007. In addition, she pointed to the fact that the prosecution anticipated indicting up to 136 new persons by the year 2005. She drew the attention of the Council to a proposal she had submitted on 9 July 2001 for the creation of a pool of *ad litem* judges, similar to the solution found for the International Tribunal for the Former Yugoslavia, and projected that if the judicial capacity was increased accordingly and if the Prosecutor drastically revised her investigative programme, the International Tribunal for Rwanda could complete its work by 2007, rather than a previously projected date of 2023. She suggested that other avenues of justice be pursued as well, such as the encouragement of trials at the national level.<sup>20</sup>

The Prosecutor, in connection with the exit strategy of the Tribunals, outlined her future prosecution policy in order to give the Council an understanding of how much work the Tribunals would have to do before they could complete their respective mandates. She stated that she intended to focus on the leaders in both Rwanda and Yugoslavia, but stressed that local leaders had also played an important role as organizers and motivators of major crimes. She held that the figures she had given for the remaining investigations — 36 for the International Tribunal for the Former Yugoslavia and 136 for the International Tribunal for Rwanda — were only a fraction of the potential number of crimes or suspects. In respect of the International Tribunal for Rwanda, she estimated that the end of 2008 might be a realistic date for the end strategy for the trials in that Tribunal. In respect of the International Tribunal for the Former Yugoslavia, she held that the referral of some cases to national

courts in Yugoslavia was an interesting possibility, but that she would not be ready to hand over prosecution of cases to the national courts as they were operating at that time. As the majority of cases were from Bosnia and Herzegovina, she had suggested to the Government the idea of designing a special court that would have an international component, or of developing an existing State court to perform that special task, and that her Office stood ready to assist in the development process. On State cooperation, she expressed her disappointment at the non-apprehension of General Ante Gotovina in Croatia. She asked the Council to insist upon the arrest of Radovan Karadžić and Ratko Mladić, whose continuing liberty, in her view, was an affront to the authority of the Council and mocked the entire process of international criminal justice.<sup>21</sup>

The representative of Rwanda emphasized that it was essential to bring to trial those suspected of genocide and held that it was not the time to reduce the capacities of the International Tribunal for Rwanda, but to build them up. As to areas of improvements for the Tribunal, he suggested that the programme of information of the Tribunal could be improved, assistance to witnesses should be increased and access to AIDS medication should be provided for those who were victims of rape at the time of the genocide. In addition, he encouraged the recruitment of Rwandans for the Tribunal, but appealed for greater care in the choice of persons recruited to prevent the abusive sharing of fees among defence counsels and detainees and the hiring of individuals suspected of genocide. He urged for compensation of victims and for a fuller participation of victims in the activities of the Tribunal. He also argued for the seat of the Tribunal to be relocated to Rwanda.<sup>22</sup>

The representative of Yugoslavia held that his country was well aware of its international obligations and was committed to fulfilling them. He held that his country had adopted in the past year a constructive and cooperative approach towards the International Tribunal for the Former Yugoslavia and pointed to the transfer of Slobodan Milošević as an example of that. In addition, he referred to his remarks in the General Assembly the day before on improving the functioning of the Tribunal, in which he identified a number of issues to be addressed, *inter alia*, the use of sealed

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<sup>19</sup> S/PV.4429, pp. 3-6.

<sup>20</sup> *Ibid.*, pp. 6-9.

<sup>21</sup> *Ibid.*, pp. 9-14.

<sup>22</sup> *Ibid.*, pp. 14-15.



indictments; the frequent changing of the Tribunal's rules of procedure and evidence; and compensation for those who were acquitted.<sup>23</sup> He also expressed the view that the Tribunal should make a contribution in dealing with cases of crimes committed against Serbs and other non-Albanians in Kosovo and Metohija since the deployment of the United Nations Interim Administration Mission in Kosovo and KFOR in 1999.<sup>24</sup>

The representative of Bosnia and Herzegovina underlined the important role of the International Tribunal for the Former Yugoslavia in the process of reconciliation and the maintenance of peace and stability. He expressed his disappointment and serious concern that 26 publicly indicted war criminals still remained at large. He welcomed the initiative of the Tribunal to process some of the cases by the local judicial structures under the auspices of the Tribunal.<sup>25</sup>

Most speakers welcomed the improvement in the performance of the Tribunals, but expressed concern at the continuing heavy workload. Speakers generally agreed with the intention of the Prosecutor to concentrate on the main offenders with high-level responsibility and with the proposals to transfer cases of lesser offenders to local courts. Most speakers expressed a willingness to consider the proposal to establish a pool of ad litem judges for the International Tribunal for Rwanda. Nevertheless, several speakers expressed concern with the high number of future indictments envisaged by the Prosecutor.<sup>26</sup> In addition, the representatives of the Russian Federation and China emphasized that the Tribunals had been established as temporary judicial bodies and that they could not exist indefinitely.<sup>27</sup> The representative of the Russian Federation further emphasized that a final deadline for the jurisdiction of the International Tribunal for the Former Yugoslavia should be established. He stressed that the primary responsibility for punishing war criminals remained with States and that his delegation would strive for a more active involvement of the national court systems of the States of the former Yugoslavia and Rwanda.<sup>28</sup>

<sup>23</sup> A/56/PV.62, pp. 11-12.

<sup>24</sup> S/PV.4429, pp. 15-16.

<sup>25</sup> *Ibid.*, pp. 17-18.

<sup>26</sup> *Ibid.*, p. 20 (Ireland); p. 22 (Russian Federation); p. 23 (China); and p. 27 (France).

<sup>27</sup> *Ibid.*, p. 22 (Russian Federation); and p. 23 (China).

<sup>28</sup> *Ibid.*, p. 22.

#### **Decision of 17 May 2002 (4535th meeting): resolution 1411 (2002)**

At the 4535th meeting, on 17 May 2002, the President (Singapore) drew the attention of the Council to a draft resolution;<sup>29</sup> it was put to the vote and adopted unanimously and without a debate as resolution 1411 (2002), by which the Council, acting under Chapter VII of the Charter, inter alia:

Decided to amend article 12 of the statute of the International Tribunal for the Former Yugoslavia and to replace that article with the provisions set out in annex I to the resolution;

Decided also to amend article 11 of the statute of the International Tribunal for Rwanda and to replace that article with the provisions set out in annex II to the resolution.

#### **Decision of 18 December 2002 (4674th meeting): statement by the President**

At the 4674th meeting,<sup>30</sup> on 18 December 2002, the President (Colombia) made a statement on behalf of the Council,<sup>31</sup> by which the Council, inter alia:

Reaffirmed its support for the International Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia;

Recalled the mandatory obligations of all States, including the Governments of Rwanda and Yugoslavia, pursuant to its resolutions 827 (1993) and 955 (1994) and the statutes of the Tribunals, to cooperate fully with the Tribunals and their organs;

Stressed the importance it attached to full cooperation by all States, particularly those directly concerned, with the Tribunals;

Also stressed the importance of constructive dialogue between the Tribunals and the Governments concerned to resolve any outstanding issues affecting the work of the Tribunals, but insisted that such dialogue or lack of dialogue must not be used by States as an excuse for failure to discharge their obligations to cooperate fully with the Tribunals.

<sup>29</sup> S/2002/544.

<sup>30</sup> At its 4637th meeting, held in private on 29 October 2002, the Council heard briefings by the President of the International Tribunal for the Former Yugoslavia, the President of the International Criminal Tribunal for Rwanda and the Prosecutor of the two Tribunals.

<sup>31</sup> S/PRST/2002/39.

**Decision of 28 August 2003 (4817th meeting):  
resolution 1503 (2003)**

At the 4817th meeting,<sup>32</sup> on 28 August 2003, the President (Syrian Arab Republic) drew the attention of the members of the Council to a letter dated 28 July 2003 from the Secretary-General addressed to the President of the Council,<sup>33</sup> containing a proposed amendment to the statute of the International Tribunal for Rwanda for adoption by the General Assembly and the Council; and to a letter dated 5 August 2003 from the representative of Rwanda addressed to the President of the Council.<sup>34</sup> The Secretary-General, in his letter, reported that the term of office of the Prosecutor of the International Tribunal for the Former Yugoslavia and of the International Tribunal for Rwanda would come to an end on 14 September 2003. In that regard, he suggested that it was time to split the positions of the Prosecutor of the two Tribunals, previously held by the same person, so that they were occupied by two different people. In his letter, the representative of Rwanda transmitted a proposal for the appointment of a separate prosecutor for the International Tribunal for Rwanda, in which the Government of Rwanda welcomed the recommendation of the Secretary-General, urged the Council to approve the proposal and, reiterating various concerns about the work of the Tribunal, urged the Council also to consider other necessary reforms that would make the Tribunal more efficient and accountable.

The President then drew the attention of the Council to a draft resolution;<sup>35</sup> it was put to the vote and adopted unanimously and without debate as resolution 1503 (2003), by which the Council, acting under Chapter VII of the Charter, *inter alia*:

Requested the Presidents of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda and their Prosecutors, in their annual reports to the Council, to explain their plans to implement the completion strategies of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda;

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<sup>32</sup> At its 4806th meeting, held in private on 8 August 2003, the Council heard a statement by the Prosecutor of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda.

<sup>33</sup> S/2003/766.

<sup>34</sup> S/2003/794.

<sup>35</sup> S/2003/835.

Called upon the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda to take all possible measures to complete investigations by the end of 2004, to complete all trial activities at first instance by the end of 2008, and to complete all work in 2010 (the completion strategies);

Decided to amend article 15 of the statute of the International Tribunal for Rwanda and to replace that article with the provision set out in annex I to the resolution, and requested the Secretary-General to nominate a person to be the Prosecutor of the International Tribunal for Rwanda.

**Decisions of 4 September 2003 (4819th  
meeting): resolutions 1504 (2003) and  
1505 (2003)**

At the 4819th meeting, on 4 September 2003, the President (United Kingdom) drew the attention of the Council to two draft resolutions;<sup>36</sup> they were consecutively put to the vote and adopted as resolutions 1504 (2003) and 1505 (2003), by which, respectively, the Council appointed Carla del Ponte as Prosecutor of the International Tribunal for the Former Yugoslavia and Hassan Bubacar Jallow as Prosecutor of the International Tribunal for Rwanda, each for a four-year term with effect from 15 September 2003.

**Deliberations of 9 October 2003  
(4838th meeting)**

At its 4838th meeting, on 9 October 2003, the Council heard briefings by the President of the International Tribunal for the Former Yugoslavia, the President of the International Tribunal for Rwanda, the Prosecutor of the International Tribunal for the Former Yugoslavia and the Prosecutor of the International Tribunal for Rwanda. Following the briefings, statements were made by the representatives of Bosnia and Herzegovina, Cameroon, China, Croatia, France, Germany, Guinea, Mexico, Pakistan, the Russian Federation, Rwanda, Serbia and Montenegro and the United Kingdom

At the outset of the meeting, the President (United States) drew the attention of the Council to a note by the Secretary-General dated 20 August 2003, transmitting the tenth annual report of the International Tribunal for the Former Yugoslavia<sup>37</sup> and a letter dated 3 October 2003 from the Secretary-General addressed to the President of the Council, transmitting a letter

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<sup>36</sup> S/2003/846 and S/2003/847.

<sup>37</sup> S/2003/829 and Corr.1.

from the President of the International Tribunal for Rwanda enclosing a report on the completion strategy of the Tribunal.<sup>38</sup>

In the annual report of the International Tribunal for the Former Yugoslavia, the President of the Tribunal reported that the pace of activities had reached an all-time high. At the same time, the Tribunal had pressed forward with plans to bring its efforts to an orderly close in the foreseeable future and had continued internal reforms to improve the efficiency of proceedings. In the spring of 2003, the Tribunal had reached an agreement with the Office of the United Nations High Representative for Bosnia and Herzegovina concerning the establishment of a special chamber for prosecution of war crimes in the State Court of Bosnia and Herzegovina, which was projected to enable the Tribunal to begin transferring some cases of mid- and lower-level accused by the end of 2004 or early 2005. According to the report, the Prosecutor remained committed to ceasing investigations by the end of 2004. It was also reported that the invigorated law enforcement efforts of the Government of Serbia and Montenegro in the wake of the assassination of Prime Minister Zoran Djindjić had led to the arrest and transfer to the Tribunal of several important accused, but that nearly 20 indictees, including some high-ranking military and political officials, notably Radovan Karadžić and Ratko Mladić, remained at large.

In his report, the President of the International Tribunal for Rwanda projected, on the basis of experience gained in the conduct of trials to date and in the light of information supplied by the former Prosecutor regarding ongoing investigations and possible future indictments, how the Tribunal's trial activities were likely to evolve in the future. In view of resolution 1503 (2003) of 28 August 2003, in which the Council called on the Tribunals to take all possible measures to complete all trial activities at first instance by the end of the year 2008, the President of the International Tribunal for Rwanda projected that, if its judicial capacity were to remain unchanged, it would take until 2011 for the Tribunal to complete the trials of all of those persons who were currently being, or who might in the future be prosecuted before it. He therefore requested that the Council amend the statute of the International Tribunal for Rwanda so that the

Tribunal would be authorized to make use of up to nine ad litem judges at any one time, instead of the existing maximum of four, in which case the Tribunal would most probably be able to complete all trial activities at first instance by the target date of the end of 2008, or would at least be able to come very close to achieving that target. He recalled that with nine ad litem judges, the Tribunal would then enjoy the same judicial capacity for conducting trials at first instance as the International Tribunal for the Former Yugoslavia.

In his briefing, the President of the International Tribunal for the Former Yugoslavia noted that internal reforms, an increase in the number of guilty pleas and the advancement of a plan to create a special war crimes chamber in the State Court of Bosnia and Herzegovina had given the completion strategy a major boost. He emphasized that, despite those efforts, it was not possible to predict the completion date of judicial proceedings with scientific accuracy. While he believed that the trials of all individuals in custody would be completed within the 2008 deadline, he held that trying the cases of all fugitives, including those of highest priority, Radovan Karadžić and Ratko Mladić, would probably require trials at least through 2009. Emphasizing the prerogative as well as the intention of the Prosecutor to file new indictments, he maintained that new indictments would inevitably cause significant additional slippage in the target dates of the completion strategy, up to as much as two years beyond the estimated time for current trials. Nevertheless, he emphasized, that a strict application of the target dates for the completion strategy must not result in impunity, particularly for the most senior leaders, and that once indictments had been submitted and the legal process started, it would have to run its course.<sup>39</sup>

The President of the International Tribunal for Rwanda reported that the number of trials had doubled in the second mandate of the Tribunal. Nevertheless, with regard to the completion strategy, the President noted that with four ad litem judges, the Tribunal would not be in a position to bring to trial all of the indictees who were still at large and who might be indicted in the future until the target date of 2008. The Tribunal had therefore requested the Council to

<sup>38</sup> S/2003/946.

<sup>39</sup> S/PV.4838 and Corr.1, pp. 3-7.



increase the number of ad litem judges from four to nine, and to allow them to do pretrial work.<sup>40</sup>

The Prosecutor of the International Tribunal for the Former Yugoslavia assured the Council that the necessary measures were being taken to complete all remaining investigations by 2004, and expressed confidence that the remaining most senior leaders suspected of being responsible for crimes falling within the jurisdiction of the Tribunal would be indicted by that date. Other investigations that had not involved the most senior perpetrators had been suspended and were expected to be referred to domestic courts in Bosnia and Herzegovina, Croatia and Serbia and Montenegro. She suggested that after investigations were completed at the end of 2004, it would be possible to decide, in close cooperation with the President of the Tribunal, and on the basis of the guidance provided by the Council, which cases could responsibly be referred back to the domestic jurisdictions. Arguing that her investigations should not be stopped outright, she expressed her belief that referring cases already indicted by the Tribunal to the domestic jurisdictions offered better guarantees that those cases would actually be tried. She held that the completion strategy necessarily depended on full cooperation by the States of the former Yugoslavia and on reforms and support of national courts. She reported that Croatia, Serbia and Montenegro, the Republika Srpska and the Bosnian Croat party to the Federation of Bosnia and Herzegovina had not so far achieved full cooperation with the Tribunal.<sup>41</sup>

The Prosecutor of the International Tribunal for Rwanda reported that he had begun reviewing cases of all those awaiting trial to assess their level of responsibility, with a view to referring to national jurisdictions those cases in which the accused did not fall within the category of those bearing the greatest responsibility. He was convinced that States that had agreed to prosecute those cases would need assistance from the international community.<sup>42</sup>

In their comments following the briefing, most speakers welcomed the completion strategies of the Tribunals. Most speakers also welcomed the intended referral of lower-level cases to national jurisdictions, recognizing that the relevant States would need

assistance with regard to strengthening their judicial systems. Most speakers also expressed a willingness to consider the request by the International Tribunal for Rwanda to authorize the use of more ad litem judges. Several speakers pointed to the importance of cooperation of States with the International Tribunal for the Former Yugoslavia, and held that the fugitives Radovan Karadžić and Ratko Mladić needed to be brought to trial. The representative of Germany suggested that cases that could not be tried by the Tribunals within the given time frame could be referred to the International Court, a procedure that would be much more cost-efficient than extending the mandate of the Tribunals.<sup>43</sup>

The representative of Bosnia and Herzegovina noted progress in the restructuring of his country's court system, which would enable the International Tribunal for the Former Yugoslavia to begin transferring some cases of mid- and low-level accused by the end of the following year. He expected, nevertheless, that the apprehension and trial of the most notorious offenders would remain the continuing responsibility of the United Nations and the international community.<sup>44</sup>

The representative of Rwanda reiterated his Government's serious concerns with the functioning of the International Tribunal for Rwanda. In addition, he held that the Prosecutor had failed to indict and apprehend large numbers of prominent genocide suspects and recommended that the proposed completion strategy should urgently address that problem. He also pointed to the financial implications of the transfer of cases to the jurisdiction of Rwanda and recommended that the completion strategy should make provisions as to how the financial resources required to assist Rwanda would be raised.<sup>45</sup>

The representative of Serbia and Montenegro appreciated the assessment of the President of the International Tribunal for the Former Yugoslavia that the cooperation of his country with the Tribunal had improved, but acknowledged that more needed to be done. Referring to the assessment of the Prosecutor of the Tribunal, however, he pointed out that a former President, a former head of State Security and several

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<sup>40</sup> Ibid., pp. 7-9.

<sup>41</sup> Ibid., pp. 9-13.

<sup>42</sup> Ibid., pp. 13-16.

<sup>43</sup> Ibid., p. 17.

<sup>44</sup> Ibid., p. 23.

<sup>45</sup> Ibid., pp. 24-26.

army officers had surrendered voluntarily and that he could not understand the Prosecutor's suggestion that voluntary surrenders of the accused were somehow of lesser value than arrests.<sup>46</sup>

<sup>46</sup> Ibid., pp. 26-27.

The representative of Croatia held that with the exception of the Gotovina case, where the indicted person remained at large, Croatia had fulfilled all its obligations towards the Tribunal.<sup>47</sup>

<sup>47</sup> Ibid., p. 28.

## **B. 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**

### **Deliberations of 20 June 2000 (4161st meeting)**

At its 4161st meeting, on 20 June 2000, the Council heard a briefing by the President of the International Tribunal for the Former Yugoslavia, following which statements were made by most members of the Council.<sup>48</sup> The President (France) drew the attention of the Council to a letter dated 14 June 2000 from the Secretary-General addressed to the President of the Council,<sup>49</sup> transmitting the report of the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda,<sup>50</sup> as well as comments and observations of the two Tribunals and the comments of the Secretary-General on the report. The President also drew the attention of the Council to a letter dated 12 May 2000 from the President of the International Tribunal for the Former Yugoslavia addressed to the Secretary-General and a letter dated 14 June 2000 from the President of the International Tribunal for Rwanda.<sup>51</sup>

In his letter dated 14 June 2000, the President of the International Tribunal for the Former Yugoslavia reviewed the current situation regarding the conduct of trials before the Tribunal and projected ways in which the Tribunal's activities were likely to evolve in the future, on the basis of experience gained in the conduct of trials to that date and in the light of information supplied by the Prosecutor regarding probable future

indictments. The President concluded that, should the Tribunal maintain its current structure, it was likely to require a considerable period of time to complete all trials. The President therefore proposed to confer on senior legal officers of the Trial Chambers certain powers that were currently vested in the judges to take decisions regarding the conduct of the pretrial process, to create a pool of ad litem judges on which the Tribunal could draw when needed and to enlarge the Appeals Chambers of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda by the addition of two further judges, drawn from the Trial Chambers of the International Tribunal for Rwanda.

In his letter dated 12 May 2000, the President of the International Tribunal for Rwanda reported that the judges of the Tribunal had agreed to the recommendation to enlarge the Appeals Chamber and that they intended to address long-term plans of the Tribunal once they received the criminal prosecution projection from the Prosecutor.

At the meeting, the President of the International Tribunal for the Former Yugoslavia, in his briefing, stated that the political changes in the Balkan region, the ever more active cooperation with regard to arrests and the intention of the Prosecutor to make almost 200 new indictments would in the future lead to a heavy workload for the Tribunal. Referring to the already lengthy pretrial detentions, he expressed the view that the Tribunal owed the accused, the victims and the international community trials that were not only fair, but also expeditious. He projected that if no changes were made, the four-year mandate of the Tribunal would have to be extended at least three or four more times. He therefore believed that the solutions proposed in his report were flexible and pragmatic and

<sup>48</sup> The representative of Mali did not make a statement at the meeting.

<sup>49</sup> S/2000/597.

<sup>50</sup> Established pursuant to General Assembly resolutions 53/212 and 53/213 of 18 December 1998.

<sup>51</sup> Subsequently issued as S/2000/865, annexes I and II; see decision of 30 November 2000 (4240th meeting).

that the period of the mandate assigned to the Tribunal, insofar as first instance trials were concerned, could thereby be shortened to conclude at the end of 2007, instead of 2016. He stated that the proposed changes would require an amendment to its statute. He held that this opportunity could also be used to introduce into the statute several other modifications, including a recommendation by the Expert Group to reinforce the Appeals Chamber with two additional ad hoc judges, provision of compensation for persons unjustly detained or prosecuted and the suggestion by the Prosecutor to fund compensation for victims by the seizure of revenues of the convicted.<sup>52</sup>

In their statements following the briefing, most speakers welcomed the report by the President of the International Tribunal for the Former Yugoslavia and generally supported its recommendations, while reserving the right to examine them in more detail. The representative of Jamaica expressed concern that the practice of drawing judges for the Appeals Chamber from the Trial Chambers created a situation in which the Appeals Chamber might find it difficult to operate with impartiality.<sup>53</sup> The representative of the United States stated that it must be ensured that efforts to streamline the Tribunal would not complicate the ability of the Prosecutor to apprehend those at large.<sup>54</sup> The representative of the Russian Federation reiterated his serious reservations concerning the work of the International Tribunal for the Former Yugoslavia. He nevertheless expressed his readiness to consider the proposal of the President of the Tribunal, but emphasized that it needed to be addressed on the basis of a comprehensive analysis of the work of the Tribunal and bearing in mind the need to redress its deficiencies.<sup>55</sup> The representative of Canada categorically rejected claims that the work of the Tribunal was biased.<sup>56</sup> The representative of Ukraine expressed his concern at the absence of judges from Eastern Europe on the Tribunal.<sup>57</sup> The President, speaking in his national capacity as the representative of France, stated that his delegation had suggested that an informal working group be established to examine

the existing ideas and recommendations and to submit its conclusions to the Council in the near future.<sup>58</sup>

**Decision of 19 January 2001 (4260th meeting):  
letter from the President to the Secretary-  
General**

At its 4260th meeting, on 19 January 2001, the Council included in its agenda a letter dated 11 January 2001 from the Secretary-General addressed to the President of the Council,<sup>59</sup> by which the Secretary-General, pursuant to article 13 bis of the statute of the International Tribunal for the Former Yugoslavia, forwarded 24 nominations for permanent judges for the Tribunal that he had received from Member States. He noted in that connection that the number of candidates whose nominations he had received was short of the minimum number of 28 which, pursuant to the statute of the Tribunal, should appear on the list that the Council was to establish for transmission to the General Assembly.

At the meeting, the President (Singapore) drew the attention of the Council to a draft letter, prepared in reply to the above-mentioned letter, by which the Council would inform the Secretary-General of its decision to extend the deadline for nominations of judges of the Tribunal until 31 January 2001. The Council decided that the President should send the letter as drafted to the Secretary-General.<sup>60</sup>

**Decision of 8 February 2001 (4274th meeting):  
resolution 1340 (2001)**

At its 4274th meeting, on 8 February 2001, the Council included in its agenda the item entitled "Establishment of the list of candidates for permanent judges".

The President (Tunisia) drew the attention of the Council to a draft resolution;<sup>61</sup> it was then put to the vote and adopted unanimously and without debate as resolution 1340 (2001), by which the Council, *inter alia*, forwarded nominations to the General Assembly in accordance with article 13 bis, paragraph 1 (d), of the statute of the International Tribunal for the Former Yugoslavia.

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<sup>52</sup> S/PV.4161, pp. 2-7.

<sup>53</sup> *Ibid.*, p. 9.

<sup>54</sup> *Ibid.*, pp. 9-10.

<sup>55</sup> *Ibid.*, pp. 7-9.

<sup>56</sup> *Ibid.*, p. 12.

<sup>57</sup> *Ibid.*, p. 16.

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<sup>58</sup> *Ibid.*, p. 19.

<sup>59</sup> S/2001/61.

<sup>60</sup> S/2001/63.

<sup>61</sup> S/2001/108.

**Decision of 27 April 2001 (4316th meeting):  
resolution 1350 (2001)**

At its 4316th meeting, on 27 April 2001, the Council included in its agenda the item entitled "Establishment of the list of candidates for ad litem judges". The President (United Kingdom) drew the attention of the Council to a letter dated 19 April 2001 from the Secretary-General, addressed to the President of the Council,<sup>62</sup> by which the Secretary-General, pursuant to article 13 ter, paragraph 1 (c), of the statute of the International Tribunal for the Former Yugoslavia, forwarded to the Council 60 nominations received from Member States.

The President then drew the attention of the Council to a draft resolution;<sup>63</sup> it was put to the vote and adopted unanimously and without debate as resolution 1350 (2001), by which the Council, inter alia, forwarded nominations to the General Assembly in accordance with article 13 ter, paragraph 1 (d), of the statute of the International Tribunal for the Former Yugoslavia.

**Decision of 23 July 2002 (4582nd meeting):  
statement by the President**

At the 4582nd meeting,<sup>64</sup> on 23 July 2002, the President (United Kingdom) made a statement on behalf of the Council,<sup>65</sup> by which the Council, inter alia:

Welcomed the report on the judicial status of the International Tribunal for the Former Yugoslavia and the prospects for referring certain cases to national courts<sup>66</sup> submitted by the President of the Tribunal on 10 June 2002;

Recognized that the Tribunal should concentrate its work on the prosecution and trial of the civilian, military and

paramilitary leaders suspected of being responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991, rather than on minor actors;

Endorsed the broad strategy of the report for the transfer of cases involving intermediary and lower-level accused to competent national jurisdictions as likely to be in practice the best way of allowing the Tribunal to achieve its current objective of completing all trial activities at first instance by 2008.

**Decision of 19 May 2003 (4759th meeting):  
resolution 1481 (2003)**

At its 4759th meeting,<sup>67</sup> on 19 May 2003, the Council included in its agenda a letter dated 7 May 2003 from the Secretary-General addressed to the President of the Council,<sup>68</sup> transmitting a letter from the President of the International Tribunal for the Former Yugoslavia, in which he renewed a request to the Council by his predecessor to amend the statute of the Tribunal so that, during the period for which an ad litem judge was appointed to serve in the Tribunal for a trial, he or she could also adjudicate in pretrial proceedings in other cases, arguing that the restriction on the mandate of the ad litem judges prevented the Tribunal from making the most efficient use of their time.

The President then drew the attention of the Council to a draft resolution;<sup>69</sup> it was put to the vote and adopted unanimously and without debate as resolution 1481 (2003), by which the Council, acting under Chapter VII of the Charter, inter alia, decided to amend article 13 quater of the statute of the International Tribunal for the Former Yugoslavia and to replace that article with the provisions set out in the annex to the resolution.

<sup>62</sup> S/2001/391.

<sup>63</sup> S/2001/414.

<sup>64</sup> At its 4581st meeting, held in private on 23 July 2002, the Council heard a briefing by the President of the International Tribunal for the Former Yugoslavia.

<sup>65</sup> S/PRST/2002/21.

<sup>66</sup> S/2002/678.

<sup>67</sup> The President of the International Tribunal for the Former Yugoslavia was present at the meeting.

<sup>68</sup> S/2003/530.

<sup>69</sup> S/2003/546.

### C. International 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

#### **Decision of 30 March 2001 (4307th meeting): resolution 1347 (2001)**

At its 4307th meeting, on 30 March 2001, the Council included in its agenda the item entitled "Establishment of the list of candidates for Judges on the International Tribunal for Rwanda".

The President (Ukraine) then drew the attention of the Council to a draft resolution;<sup>70</sup> it was put to the vote and adopted unanimously and without debate as resolution 1347 (2001), by which the Council, inter alia, forwarded the following nominations to the General Assembly in accordance with article 12, paragraph 2 (d), of the statute of the International Tribunal for Rwanda: Mr. Mouinou Aminou (Benin), Mr. Frederick Mwela Chomba (Zambia), Mr. Winston Churchill Matanzima Maqutu (Lesotho), Mr. Harris Michael Mtegha (Malawi) and Ms. Arlette Ramaroson (Madagascar).

#### **Decision of 14 August 2002 (4601st meeting): resolution 1431 (2002)**

At the 4601st meeting, on 14 August 2002, the President (United States) drew the attention of the Council to three letters addressed to the President of the Council: a letter dated 26 July 2002 from the President of the International Tribunal for Rwanda;<sup>71</sup> a

letter dated 26 July 2002 from the representative of Rwanda;<sup>72</sup> and a letter dated 8 August 2002 from the President of the International Tribunal for Rwanda.<sup>73</sup>

At the same meeting, the President (United States) drew the attention of the Council to a draft resolution;<sup>74</sup> it was put to the vote and adopted unanimously and without debate as resolution 1431 (2002), by which the Council, acting under Chapter VII of the Charter, inter alia:

Decided to establish a pool of ad litem judges in the International Tribunal for Rwanda, and decided to amend articles 11, 12 and 13 of the statute of the Tribunal, and decided also to amend articles 13 bis and 14 of the statute of the International Tribunal for the Former Yugoslavia and to replace

Tribunal could fulfil its mandate.

<sup>72</sup> S/2002/842, reply of the Government of Rwanda to the report of the Prosecutor of the International Tribunal for Rwanda to the Council: (a) explaining to the members of the Council the shortcomings of the Tribunal, including inefficiency, corruption, nepotism, lack of protection of witnesses, harassment of witnesses, employing genocidaires as members of defence teams and investigators, mismanagement, slow pace of trials, insufficient staff and lack of competent staff, negligence and false allegations concerning the Government of Rwanda; and (b) recommending, inter alia, creation of an Office of the Prosecutor of the International Tribunal for Rwanda separate from that of the International Tribunal for the Former Yugoslavia; development of a plan to transfer the International Tribunal for Rwanda to Rwanda and, pending transfer, arrangements to conduct some trials in Rwanda; and the establishment of mechanisms for better treatment and protection of witnesses.

<sup>73</sup> S/2002/923, transmitting a note, jointly endorsed by the three organs of the Tribunal, on the reply of the Government of Rwanda to the report of the Prosecutor of the Tribunal, which provided, inter alia, a factual recapitulation of events that constituted a failure by the Government of Rwanda to issue travel documents for witnesses in a timely manner and clarifying, for information purposes only, statements in the reply of the Government of Rwanda on a number of issues concerning the functioning of the Tribunal.

<sup>74</sup> S/2002/922.

<sup>70</sup> S/2001/294.

<sup>71</sup> S/2002/847, referring to article 28 of the statute of the Tribunal, under which the President of the Tribunal has the discretion to formally bring to the attention of the Council concerns that might exist regarding the cooperation of States; drawing the attention of the Council to a report of 23 July 2002 from the Prosecutor concerning the lack of cooperation from Rwandan authorities, in particular the lack of availability of witnesses, which was likely to hamper the judicial work of the Tribunal, and to decisions of two Trial Chambers pointing out the failure of the Government of Rwanda to issue travel documents in a timely manner so that witnesses could appear before the Tribunal; and highlighting the need for the Council to use such measures as it thought appropriate to ensure that the



those articles with the provisions set out in annex II to the resolution;

Requested the Secretary-General to make practical arrangements for the election as soon as possible of 18 ad litem judges in accordance with article 12 ter of the statute of the International Tribunal for Rwanda.

**Decision of 11 October 2002 (4621st meeting): letter from the President to the Secretary-General**

At its 4621st meeting, on 11 October 2002, at which no statements were made, the Council included in its agenda a letter dated 26 September 2002 from the Secretary-General addressed to the President of the Council,<sup>75</sup> by which the Secretary-General, pursuant to article 12, paragraph 1 (c), of the statute of the International Tribunal for Rwanda, forwarded 17 nominations for permanent judges for the Tribunal received from Member States, and noted in that connection that the number of candidates whose nominations he had received was short of the minimum number of 22 which, pursuant to the statute of the Tribunal, should appear in the list that the Council was to establish for transmission to the General Assembly.

At the meeting, the President (Cameroon) drew the attention of the Council to a draft letter, prepared in reply to the above-mentioned letter, by which the Council informed the Secretary-General of its decision to extend the deadline for nominations of judges of the Tribunal until 15 November 2002. The Council decided that the President should send the letter as drafted.<sup>76</sup>

**Decision of 13 December 2002 (4666th meeting): resolution 1449 (2002)**

At its 4666th meeting, on 13 December 2002, the Council included in its agenda the item entitled "Establishment of the list of candidates for Judges on the International Tribunal for Rwanda". The Council extended an invitation to the representative of Rwanda to participate in the meeting.

The President (Colombia) drew the attention of the Council to a draft resolution;<sup>77</sup> it was put to the vote and adopted unanimously and without debate as resolution 1449 (2002), by which the Council, *inter alia*, forwarded to the General Assembly nominations

for permanent judges of the International Tribunal for Rwanda in accordance with article 12 bis, paragraph 1 (d), of the statute of the Tribunal.

**Decision of 28 March 2003 (4731st meeting): letter from the President to the Secretary-General**

At its 4731st meeting, on 28 March 2003, the Council included in its agenda a letter dated 6 March 2003 from the Secretary-General addressed to the President of the Council,<sup>78</sup> by which the Secretary-General, pursuant to article 12, paragraph 1 (c), of the statute of the International Tribunal for Rwanda, forwarded 26 nominations for permanent judges for that Tribunal received from Member States, and noted in that connection that the number of candidates whose nominations he had received was short of the minimum number of 36 which, pursuant to the statute of the Tribunal, should appear on the list which the Council was to establish for transmission to the General Assembly.

At the meeting, the President (Guinea) drew the attention of the Council to a draft letter, prepared in reply to the above-mentioned letter, by which the Council would inform the Secretary-General of its decision to extend the deadline for nominations of judges of the Tribunal until 15 April 2003.<sup>79</sup> The Council decided that the President should send the letter as drafted.

**Decision of 29 April 2003 (4745th meeting): resolution 1477 (2003)**

At its 4745th meeting, on 29 April 2003, the Council included in its agenda a letter dated 21 April 2003 from the Secretary-General addressed to the President of the Council,<sup>80</sup> by which the Secretary-General forwarded 35 nominations received pursuant to article 12, paragraph 1 (c), of the statute of the International Tribunal for Rwanda. He stated that the number of candidates received fell short of the minimum number of 36 that should appear on the list to be established by the Council for transmission to the General Assembly.

<sup>78</sup> S/2003/290.

<sup>79</sup> S/2003/382.

<sup>80</sup> S/2003/467

<sup>75</sup> S/2002/1106.

<sup>76</sup> S/2002/1131.

<sup>77</sup> S/2002/1356.

The President (Mexico) drew the attention of the Council to a draft resolution;<sup>81</sup> it was put to the vote and adopted unanimously and without debate as resolution 1477 (2003), by which the Council, *inter alia*, forwarded to the General Assembly nominations for *ad litem* judges of the International Tribunal for Rwanda in accordance with article 12 *ter*, paragraph 1 (d), of the statute of the Tribunal.

**Decision of 19 May 2003 (4760th meeting):  
resolution 1482 (2003)**

At its 4760th meeting, on 19 May 2003, the Council included in its agenda a letter dated 16 April 2003 from the Secretary-General addressed to the President of the Council,<sup>82</sup> transmitting a letter from the President of the International Tribunal for Rwanda in which she requested the extension of the term of office of four non-elected permanent judges to allow them to dispose of ongoing cases.

The President (Pakistan) then drew the attention of the Council to a draft resolution;<sup>83</sup> it was put to the vote and adopted unanimously and without debate as resolution 1482 (2003), by which the Council, *inter alia*:

Decided, in response to the request by the Secretary-General, that:

(a) Judge Dolenc, once replaced as a member of the Tribunal, finish the *Cyangugu* case which he had begun before expiry of his term of office;

(b) Judge Maqutu, once replaced as a member of the Tribunal, finish the *Kajelijeli* and *Kamuhanda* cases which he had begun before expiry of his term of office;

(c) Notwithstanding article 11, paragraph 1, of the statute of the Tribunal and on an exceptional basis, Judge Ostrovsky, once replaced as a member of the Tribunal, finish the *Cyangugu* case which he had begun before expiry of his term of office;

(d) Judge Pillay, once replaced as a member of the Tribunal, finish the *Media* case which she had begun before expiry of her term of office;

Took note, in that regard, of the intention of the Tribunal to finish the *Cyangugu* case before the end of February 2004 and the *Kajelijeli*, *Kamuhanda* and *Media* cases before the end of December 2003;

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<sup>81</sup> S/2003/505.

<sup>82</sup> S/2003/431.

<sup>83</sup> S/2003/549.

Requested the President of the Tribunal to provide it, by 1 August 2003, 15 November 2003 and 15 January 2004, respectively, with reports on the progress of the above-mentioned cases.

**Decisions of 27 October 2003 (4849th meeting):  
resolution 1512 (2003) and statement  
by the President**

At its 4849th meeting, on 27 October 2003, the Council included in its agenda a letter dated 12 September 2003 from the Secretary-General addressed to the President of the Council,<sup>84</sup> transmitting a letter from the President of the International Tribunal for Rwanda addressed to the Secretary-General, in which he requested that the Council amend the statute of the Tribunal so that, during the period during which an *ad litem* judge was appointed to serve on the Tribunal for a trial, he or she could also adjudicate in pretrial proceedings in other cases. The Secretary-General recalled that, earlier the same year, the Council had acceded to an identical proposal by the President of the International Tribunal for the Former Yugoslavia. The Council also included in its agenda a letter dated 3 October 2003 from the Secretary-General addressed to the President of the Council,<sup>85</sup> transmitting a letter from the President of the International Tribunal for Rwanda requesting an increase in the number of *ad litem* judges from four to nine and enclosing a report on the completion strategy of the Tribunal.

The President (United States) then drew the attention of the Council to a draft resolution;<sup>86</sup> it was put to the vote and adopted unanimously and without debate as resolution 1512 (2003), by which the Council, acting under Chapter VII of the Charter, *inter alia*, decided to amend articles 11 and 12 *quater* of the statute of the International Tribunal for Rwanda and to replace those articles with the provisions set out in the annex to the resolution.

At the same meeting, the President made a statement on behalf of the Council,<sup>87</sup> by which the Council, *inter alia*:

Noted the invitation of the General Assembly contained in paragraph 7 of resolution 57/289 that it address uncertainties

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<sup>84</sup> S/2003/879.

<sup>85</sup> S/2003/946.

<sup>86</sup> S/2003/1033.

<sup>87</sup> S/PRST/2003/18.

regarding the power of the International Tribunal for Rwanda under its statute to finance the upgrading of prison accommodations;

Confirmed that it was within the lawful powers of the Tribunal under its statute to fund the renovation and

refurbishment of prison facilities in States that had concluded agreements with the United Nations for the carrying out of prison sentences of the Tribunal. Such funds should be used to bring up to international minimum standards the prison accommodation to be occupied or used pursuant to those agreements.

### **37. Items relating to the maintenance of international peace and security**

#### **A. The responsibility of the Security Council in the maintenance of international peace and security**

##### **Decision of 6 December 2000 (4243rd meeting): statement by the President**

At its 4242nd meeting, on 6 December 2000, the Security Council was briefed by the Under-Secretary-General for Legal Affairs. Statements were made by a majority of members of the Council.<sup>1</sup>

In his briefing, the Under-Secretary-General highlighted the actions taken by the Council, the General Assembly and the Secretariat with regard to the significant developments in international law pertaining to acts of terrorism that had taken place in the previous decade. With regard to the Council, he recalled that the efforts undertaken by the Council began in 1992 and culminated in October 1999, with the adoption of resolution 1269 (1999) which, *inter alia*, called upon States to implement fully the anti-terrorism conventions and to consider adhering to those to which they were not parties. With regard to the Assembly, he referred in particular to the development of a legal framework of conventions, most notably the 1997 International Convention for the Suppression of Terrorist Bombings and the 1999 International Convention for the Suppression of the Financing of Terrorism. Recalling that, in September 2000, a Working Group of the Sixth Committee, on the basis of a draft text prepared by the representative of India, had embarked on the elaboration of a comprehensive convention on international terrorism, he pointed out that delegations expressed support for the work begun, although expressing divergent views on the elaboration of such a comprehensive convention. More specifically, he explained that some delegations believed that the instrument should be truly comprehensive in scope, containing a definition which

distinguished between terrorist acts and the legitimate struggle for national liberation and other forms of alien domination and foreign occupation, while others held that the future convention should complement and complete the existing sectoral anti-terrorism conventions rather than replace them. Turning to the role of the Secretariat, he mentioned, in particular, the submission of annual reports by the Secretary-General to the Assembly, including information on the status and implementation of existing multilateral, regional and bilateral agreements on terrorism, as well as on relevant incidents and criminal prosecutions, and recalled that the Secretary-General was also entrusted with the preparation of a compendium of national laws and regulations regarding the prevention and suppression of international terrorism. In concluding, the Under-Secretary-General stressed that the fight against terrorism required better international cooperation, acknowledging at the same time that obstacles were standing in the way of enhanced international cooperation, such as the definition of terrorism, the political element, the links between terrorist groups and organized crime groups, and the perceived relationship between religion and terrorism in some parts of the world.<sup>2</sup>

Recognizing that international terrorism posed a serious threat to peace and security, Council members commended the continuing efforts of the Organization, through the Council, the Assembly and the Secretariat, seriously to address such a threat and, in that regard, stressed the importance of a coordinated international approach. They welcomed, in particular, the adoption of the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism.

<sup>1</sup> The representative of Mali did not make a statement.

<sup>2</sup> S/PV.4242, pp. 2-8.