



# Security Council

Fifty-fifth year

*Provisional*

**4150**<sup>th</sup> meeting

Friday, 2 June 2000, 11.30 a.m.

New York

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<i>President:</i>	Mr. Levitte . . . . .	(France)
<i>Members:</i>	Argentina . . . . .	Mr. Listre
	Bangladesh . . . . .	Mr. Chowdhury
	Canada . . . . .	Mr. Fowler
	China . . . . .	Mr. Wang Yingfan
	Jamaica . . . . .	Miss Durrant
	Malaysia . . . . .	Mr. Hasmy
	Mali . . . . .	Mr. Ouane
	Namibia . . . . .	Mrs. Ashipala-Musavyi
	Netherlands . . . . .	Mr. van Walsum
	Russian Federation . . . . .	Mr. Gatilov
	Tunisia . . . . .	Mr. Jerandi
	Ukraine . . . . .	Mr. Yel'chenko
	United Kingdom of Great Britain and Northern Ireland . . . . .	Sir Jeremy Greenstock
	United States of America . . . . .	Mr. Holbrooke

## Agenda

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

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1991 and 31 December 1994

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*The meeting was called to order at 11.45 a.m.*

### **Expression of thanks to the retiring President**

**The President** (*spoke in French*): As this is the first meeting of the Security Council for the month of June, I should like to take this opportunity to pay a warm tribute, on behalf of the Council, to Ambassador Mr. Wang Yingfan, Permanent Representative of China to the United Nations. He represents one of the most outstanding civilizations of the world, and he has displayed talents that have impressed all the members of the Council. I am sure that I speak on everyone's behalf in expressing our appreciation to him for the quality, effectiveness, authority and readiness he displayed throughout the month of May, a particularly difficult month.

### **Adoption of the agenda**

*The agenda was adopted.*

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

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

**The President** (*spoke in French*): I should like to inform the Council that I have received a letter from the representative of Rwanda, in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

*At the invitation of the President, Mr. Mutaboba (Rwanda), took a seat at the Council table.*

**The President** (*spoke in French*): In accordance with the understanding reached in the Council's prior consultations, and in the absence of objection, I shall

take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rule of procedure to Ms. Carla Del Ponte, 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 since 1991 and of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994.

There being no objection, it is so decided.

I welcome Ms. Del Ponte and invite her to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

At this meeting, the Security Council will hear a briefing by the Prosecutor of the International Tribunals for the Former Yugoslavia and for Rwanda.

I call on Ms. Del Ponte, to whom I once again extend a warm welcome. The Council has extended Ms. Del Ponte an invitation under rule 39 of its provisional rules of procedure, in order to brief the Council.

**Ms. Del Ponte** (*spoke in French*): I would like to say a few words regarding the International Criminal Tribunal for the Former Yugoslavia (ICTY), and then, as I have had an opportunity to spend nine weeks in Arusha on three occasions, I will speak to members about the situation of the International Criminal Tribunal for Rwanda (ICTR).

*(spoke in English)*

I would now like to say a few words regarding the Tribunal for the Former Yugoslavia. Since I addressed the Council in November 1999, there have been a number of developments which may be of interest to Council members.

First, I would like to say something about the North Atlantic Treaty Organization (NATO). I know this is not a matter that concerns the Security Council. Nevertheless, I am sure that Council members are

aware that in recent months various complaints and a considerable body of information have been submitted to my Office concerning allegations that NATO, or more accurately, NATO personnel and leaders, may have committed crimes that fall within the jurisdiction of the Tribunal during the NATO air campaign against the Federal Republic of Yugoslavia last year.

Those allegations and supporting material have been submitted to my office from a number of sources, including lawyers acting on behalf of the Federal Republic of Yugoslavia and a Russian parliamentary commission. The Federal Republic of Yugoslavia submitted a substantial amount of material concerning particular incidents. In addition, a number of reports and commentaries on the bombing campaign have been published by human rights organizations and others.

Since the International Tribunal has jurisdiction over all potential war crimes in the former Yugoslavia, I considered that it was my obligation and responsibility as an independent prosecutor to assess the complaints and allegations. In 1999, my predecessor, Justice Arbour, established a working group within her office, comprising military lawyers, military analysts and other experts, to examine and assess all complaints and allegations and accompanying material. In addition, the team has assessed all new allegations and materials subsequent to their arrival in my office. Analysis of the material has, quite properly, taken some time, and has involved an examination of all facts and a detailed legal analysis of all aspects involving the Tribunal's jurisdiction.

I am now able to announce my conclusion, following a full consideration of my team's assessment of all complaints and allegations, that there is no basis for opening an investigation into any of those allegations or into other incidents related to the NATO bombing. Although some mistakes were made by NATO, I am very satisfied that there was no deliberate targeting of civilians or of unlawful military targets by NATO during the bombing campaign. I intend to release in the near future the details of my assessment and of the criteria applied. However, this is not the forum for going into those details. Nevertheless, I felt that it was important that I inform the Council of my conclusions today, since the NATO campaign is an important issue that has been causing considerable speculation and comment.

An important consequence of the NATO campaign should also be mentioned, namely the impact that it, together with the indictment of President Milosevic and other high-level Serbian officials, has had on the willingness of the authorities in Belgrade to cooperate with the Tribunal. Since these events, there has been literally no cooperation with my office. This severely hampers my ability to conclude my investigations involving Serbian victims, particularly where such victims are residing in the Federal Republic of Yugoslavia. My investigators are denied visas to enter the country to continue with our investigations. I too have applied for a visa to travel to Belgrade, but this has also been denied.

When allegations are made against the Tribunal that it is anti-Serb and that there is an imbalance in the indictments issued, the fact that I am unable to gain access to the victims and to the evidence makes such allegations rather hollow.

Coming now to the issue of cooperation by the Republic of Croatia with the Tribunal, I am pleased to say that the new Croatian Government is showing and demonstrating a willingness to cooperate fully with the Tribunal. This is certainly very encouraging and is leading to the point where full cooperation is very close. For example, over the past several months we have witnessed the surrender of Mladen Naletilic, also known as Tuta, to The Hague. Further, the Government recognizes the jurisdiction of the Tribunal and my right to investigate incidents which occurred within Croatia, such as Operation Storm in 1995. Also, the Government recently allowed a forensic investigation by my investigators to proceed, and they assisted the process. Finally, a formal agreement relating to the status of my office in Zagreb has been finalized.

This leaves one remaining area where the Republic of Croatia has been less than forthcoming in recent years in its cooperation with the Tribunal: namely my access to sensitive witnesses in Croatia, and access to documents held by, or under the control of, the Government. In this area, there is still some important ground to be covered, but I am pleased to report that progress is being made. I would hope to be in a position in the near future to report that the Republic of Croatia is in full compliance with its obligations to cooperate with the Tribunal. But we are not there yet.

The last matter about Yugoslavia that I would like to raise concerns an issue which is increasingly becoming a problem for the Tribunal, namely the length of our proceedings, both the length of the trials themselves and the overall period of detention facing most accused who are taken into the Tribunal's custody. Our trials are by their nature difficult and complex undertakings. The crimes are broad and the rights of the accused to a fair trial are jealously protected. The need to guarantee fairness often conflicts with the need to ensure speedy justice. We now have four cases at the trial stage in The Hague, and nine waiting to begin. It is true that the prosecution and the defence become engaged at an early stage in attempts to focus the areas of dispute between them, but we must not lose sight of the fact that our statute guarantees all accused the right to be tried without undue delay.

It is becoming increasingly clear that the existing trial chambers are finding it difficult to cope with the number of trials awaiting determination. Traditionally, in many national jurisdictions, there are two remedies which are relied upon to address this kind of situation: first, the release of accused on bail pending trial; and secondly, the appointment of more judges to cope with the judicial workload. In the case of the Tribunal, the question of releasing accused on bail, or provisional release as it is termed in the Tribunal, is not an available option in most instances, particularly in situations where the accused has been detained and surrendered by the Stabilization Force (SFOR). In my assessment, it is not satisfactory to release indicted accused into a community where there is no ability on the part of the Tribunal to enforce its own orders without the cooperation of all States of the former Yugoslavia. For example, it would be very easy for an indicted accused in the Republika Srpska to enter Serbia, where there is currently no reasonable prospect of his being arrested.

The President of the Tribunal, Judge Claude Jorda, is acutely aware of the situation and has recently written to the General Assembly and to the Security Council setting out his vision of the Tribunal's future. I understand that that document is still being translated and may not yet have reached members, but in it Mr. Jorda projects the likely workload of the trial chambers and gives the best available estimates of how long it will take the Tribunal to process the cases at our current level of resources. The results of the President's

analysis give cause for concern, and he proposes a twofold solution: the creation of a pool of *ad litem* judges upon which he could call as needed; and the delegation of much of the detailed pre-trial work to jurists acting on behalf of the trial chambers, thus releasing the judges to concentrate on the proceedings themselves. Those radical proposals have my support in principle. We must find a way to have fair trials within a reasonable time for all accused. This is, of course, a solution which rests largely in the hands of the General Assembly, but I felt it necessary to inform the Council of the problem in the hope that it will continue to lend its support to the Tribunal as it faces new challenges.

*(spoke in French)*

I wish now to speak of the situation relating to the International Criminal Tribunal for Rwanda. I believe members are aware of the 31 March 2000 decision of the Appeals Chamber in the Barayagwiza case, which reversed an earlier decision by the same Chamber. The new decision, by which the accused, Mr. Barayagwiza, will remain in detention and can be tried by the Arusha court, has naturally changed our cooperation relationship with the Government of Rwanda.

We were there three times, for three-week periods. We were, of course, working on investigations and conducting trials, but the visits also provided a good opportunity to meet with members of the Government, including President Kagame, the Minister of Justice, the Minister for Foreign Affairs and the Prosecutor-General.

I can assure the Council that cooperation with the Government of Rwanda is now excellent. Might I also say that the Rwandan Government, as a sign of friendship, gave me a permanent entry visa to Rwanda this time. Our Kigali Office has been focused on the investigations. For the trials that were to begin this month, we moved the trial teams to Arusha to follow closely all of the hearings, while restricting the field investigators to Kigali.

Regarding the work programme of the second half of this year, we now have 42 detainees in Arusha. Our programme envisages the arrest of 13 fugitives still at large. Some are in the Democratic Republic of the Congo. It would be a good idea for the United Nations mission to have a mandate similar to the one

given to the Stabilization Force to help us arrest these indictees.

Cooperation with African and European States is excellent. We have a tracking team that is conducting all the necessary investigations to locate fugitives; this is naturally being done in cooperation with the judicial authorities of the various countries. To date eight indictees have been sentenced. Of these eight, three pleaded guilty, including George Ruggiu, a Belgian journalist who was sentenced yesterday to 12 years in prison. Currently, there is only one trial under way, against Bagilishema, which means that there are four trials that have not yet been initiated. The reason why these trials have not yet been initiated is that the defence interjected 12 interlocutory appeals against the joinder of proceedings. I will explain: we asked to try the indictees in a single trial where they would have to answer for the same crimes and the same acts. This means that we will have a trial called the Government case, with eight former Ministers now detained in Arusha. There is the trial called the military case, which involves four high-ranking military officers. There is the media case, in which three journalists, a publisher and a radio station owner are involved. Two trials involve the Butare case, with six indictees, and the Cyanguu case, with four indictees. This means that there are 35 detainees waiting to be tried. We hope — and I am certain — that these trials will start this year, because the Appeals Chamber will issue its decisions, and this will make it possible to start the trials.

One of the problems we discovered during our recent mission is that in Rwanda there are still many common graves that have not yet been opened. I discussed this problem with President Kagame, and we agreed that, in cooperation with the Rwandan authorities, we will be opening all of these common graves, because I believe that to have 30 or 50 bodies, in latrines, as I found during my last visit, is totally unacceptable. It is not acceptable either from the point of view of criminal proceedings — because one must count those who were murdered — nor, furthermore, from the point of view — and here President Kagame agreed with me — of giving the victims the kind of burial a human being deserves. This means that my intention now is to use the forensic teams that we now have in Kosovo to open up these common graves at the end of October, when it will no longer be possible to work in Kosovo because of the climatic conditions, and

to send some of the forensic teams to Rwanda to help remove the bodies from the common graves.

I met with genocide survivor associations, and with the survivors themselves; naturally, the problem is still very serious from the point of view of the situation of these survivors. I will give just one example to show the social element also involved. A 27-year-old woman was raped five times. Of course, she was injured and still bears the marks of several wounds; she was saved because she was underneath the corpses, and the Red Cross discovered her still alive. She was saved. She had a child as result of being raped, but naturally she was rejected by her family, and now she is living alone in destitute conditions. Such were the meetings we had with some of the survivors. The situation is very, very serious in this sense.

The situation is also very serious from the point of view of the Rwandan detainees. I was able to visit two prisons with the Justice Minister of Rwanda. These prisons, with space for 2,000 detainees, are holding 8,000 people. This means that the detainees cannot even stretch out to sleep. Naturally, the Justice Minister is very concerned about this problem. They are now trying to introduce a form of justice called *gachacha*, which means sending the prisoners back to their villages for trial in the ancestral tradition. I think that this is actually the ideal solution, because it is objectively impossible to try all the detainees.

Turning now to our future strategy, our Office has identified 90 suspects who are being investigated, all responsible for genocide and other violations of international humanitarian law. One priority is cases of rape. What happened in Rwanda is unbelievable. We think that we can have indictments against those 90 accused people by the end of next year. We have also conducted financial investigations for Rwanda and for the former Yugoslavia. We do not have much staff to carry out these financial investigations. For Rwanda there are two people and for the former Yugoslavia just three. I will need bigger teams to do this, and I hope that in the next budget I will be getting new posts. This is a very important aspect of our activities. If we cut off the funding — that is, the bank accounts — of the indictees, not only will we make their escape more difficult, but the money, according to the Chamber judges' decision, will also be used to provide compensation to the victims.

This is extremely important for Rwanda. It would be regrettable were we unable to obtain such a decision from the judges. There is a problem, however. There is a loophole in our law. Our procedural rules do not provide access for confiscating sequestered funds. That is why we would request that a change be made in the rules.

I will not take up any more of the Council's time. I am available to answer any questions members may wish to pose.

**Mr. Hasmy** (Malaysia): Let me begin by thanking you, Sir, for committing this first meeting of the Council under your presidency to hearing a briefing by Ms. Carla Del Ponte, Prosecutor of the two International Criminal Tribunals for the Former Yugoslavia (ICTY) and for Rwanda (ICTR).

We warmly welcome the presence of Ms. Del Ponte in the Council for the second time since her appointment as Prosecutor. We thank her for the concise yet comprehensive briefing she has just given the Council on the two Tribunals, particularly on the ICTR, as she had promised the Council in her briefing last November.

We view the establishment of these two ad hoc Tribunals as important developments in the application of international law with respect to the prosecution of individuals accused of committing war crimes, genocide and crimes against humanity. When the Council established the two Tribunals, it embarked upon uncharted waters. In creating and supporting ICTY and ICTR, the United Nations has taken measures which are both noble and far-sighted. Although events in Kosovo and elsewhere have shown the continuing gap between aspirations and realities, history will record that the international community, through these ad hoc Tribunals, has sought to defend humanitarian values and contributed to the restoration and maintenance of peace in parts of the world that have been beset by unspeakable violence.

Malaysia is pleased to note that the two Tribunals have evolved into fully operational international criminal courts, providing fair trials to the accused while affording protection to the victims and witnesses. We commend the manner in which the Tribunals' victims and witnesses unit has handled the important issue of providing protective measures for witnesses appearing before the Tribunals, as well as counselling and support.

The cooperation of States is vitally important to the successful conduct of the work of the Tribunals. This is particularly true with respect to the execution of arrest warrants, provisional detention and transfer of suspects and accused persons to the seats of the Tribunals, given the fact that the Tribunals do not have a police force or jurisdiction independently to effect the apprehension of suspects. Clearly, the prompt and effective execution of arrest warrants issued by the Tribunals has been and will continue to be critical to the Tribunals' ability to function effectively.

We note that, in the case of the ICTR, States have been supportive of the Tribunal. This support has been clearly demonstrated by the arrests of Augustin Ndindiliyimana, former Chief of Staff of the Gendarmerie, in Belgium on 29 January 2000; of Lieutenant-Colonel Muvunyi in the United Kingdom on 5 February 2000; of two former high-ranking military officers of the Rwandan armed forces, Francois-Xavier Nzuwonemeye in France and Innocent Sagahutu in Denmark on 15 February 2000; and of Jean de Dieu Kamuhanda, former Minister for Culture and Higher Education in the interim Government of Rwanda in 1994, again in France on 7 March 2000; and by the transfer of Pastor Elizaphan Ntakirutimana by the United States to the United Nations detention facilities in Arusha on 24 March 2000.

Regrettably, this has not been quite the case in respect of the ICTY. In particular, we express our dismay at the continued non-cooperative attitude of the Federal Republic of Yugoslavia, as just stated by Ms. Del Ponte. We reiterate our serious concern that publicly indicted persons remain at large. My delegation calls upon those in a position to do so to exert more serious and determined efforts to apprehend and bring to justice these war criminals as soon as possible. Failure to do so would be sending the wrong message to those responsible for such heinous crimes. It would also, unfortunately, convey a lack of resolve or political will on the part of the international community to deal with these crimes. The continued presence of indicted persons in certain States and entities, enjoying freedom with virtual impunity, not only sends the wrong message, but also contributes to sustaining a climate of fear and insecurity that inhibits the return of refugees, particularly in minority areas. The arrest and prosecution of indicted war criminals are an issue not only of justice, but one which will contribute substantively to the process of healing and

reconciliation and to the attainment and consolidation of peace.

Malaysia continues to believe that the work of the Tribunals is a vitally important contribution not only to meting out justice, but also to the healing process in both regions, which would contribute in no small measure to strengthening the process of restoring peace, security and stability in the respective regions.

My delegation would like to ask the Prosecutor, at this stage of our observations, about the Tribunals' outreach programmes. We believe that these outreach programmes are important in increasing awareness of the role of the Tribunals in protecting and enhancing humanitarian values and should therefore continue.

The Tribunals deserve unqualified support from this Council in all aspects of their work. The Prosecutor of the Tribunals has just made a clear, strong and direct appeal to the Council for this support. This Council must respond appropriately to Ms. Del Ponte's appeal. The issue of indicted war criminals still at large and the lack of cooperation extended to the Tribunals in this regard must be seriously addressed by this Council and the rest of the international community.

**Sir Jeremy Greenstock** (United Kingdom): I warmly congratulate you, Sir, on your assumption of the presidency and share your tribute to your able predecessor.

It is very good to see Ms. Del Ponte back in the Council. We would like to pay tribute to the vigorous and professional way in which she is going about her very complex and important business. The United Kingdom is strongly committed to these two Tribunals. We have always supported and will continue to support fully the work of the Prosecutor in bringing to justice those responsible for the horrors in Rwanda and the former Yugoslavia.

We are pleased by the progress that has been made in recent months. We see many positive developments, such as the arrests in Europe of important military and political leaders who allegedly played key roles in the atrocities in Bosnia and Rwanda. There have been several important judgments in the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). The new Croatian Government has made significant moves towards

meeting its obligations to ICTY, and we are glad to see much improved relations between the ICTR and Rwanda, helped by Ms. Del Ponte's own appearance on a couple of occasions at the Tribunal in Arusha and her eventually managing to get into Rwanda with that visa. We thank her for that continued effort. It is right that the Rwanda Tribunal continues to receive high-level attention.

Nevertheless, there are too many indictees who remain at large, including senior ones. We want to see all States fulfilling their obligation under Security Council resolutions to arrest indictees when they are in their jurisdiction and we condemn Belgrade's continuing blatant refusal to implement mandatory Council resolutions which call for cooperation with the Yugoslav Tribunal. In Rwanda, it is all too clear from Ms. Del Ponte's briefing this morning that the country continues to face a very distressing situation.

As more arrests take place — and we welcome the signs from Ms. Del Ponte that more indictees are going to be pursued — it is important that both Tribunals be in a position to try the indictees expeditiously. We are concerned by the Prosecutor's report of continuing problems in reducing delays, and we understand why she is calling for more resources. We welcome the recent United Nations Expert Group's report, and efforts made by both Tribunals to implement their recommendations. We look forward to seeing further improvements in the Tribunals' efficiency. We also welcome the initiative by the ICTY judges in seeking to identify additional measures which can be taken to speed up the pre-trial and trial procedures. We look forward to seeing President Jorda's report on these aspects and to hearing the Secretary-General's views on the judges' ideas.

**The President** (*spoke in French*): I thank the representative of the United Kingdom for his kind words addressed to me.

**Mr. Listre** (Argentina) (*spoke in Spanish*): First of all, Mr. President, allow me to congratulate you, Sir, on your assumption of the presidency of the Council. Allow me also to endorse the words you addressed to the President for the month of May, Ambassador Wang Yingfan.

We thank Prosecutor Carla Del Ponte for the briefing she has just given us, which demonstrates again the scope of the challenges and demands facing

her Office. I wish to express my country's support for her exemplary work.

This is the second opportunity the Council has had to hear a report from Ms. Del Ponte, a little more than six months following the previous report. We believe that the regular receipt of reports is a useful resource for examining the position of the Council regarding the jurisdictional bodies that it has established. This approach must be pursued so that we can continue to benefit regularly from the experiences shared and the recommendations for finding solutions to the problems raised.

Argentina welcomed the establishment of the two tribunals. Despite the initial scepticism of some, today both institutions are operational and are showing that they can play an important role in our efforts to combat violence and impunity and in consolidating international peace and security. These institutions have proved to be an innovative tool for the international community, contributing to great advances in international law. It is obvious that the work of both Tribunals has great importance for the future work of the International Criminal Court. Each problem that the Tribunals face and each step forward or backward, undoubtedly will also be a valuable precedent for the Court. Their rules of procedure and evidence, for example, have been useful in preparing the rules of the Criminal Court, which are soon to be defined.

The Rwanda and Yugoslavia Tribunals and the Office of the Prosecutor have grown and matured and have further consolidated. They nevertheless continue to face a variety of problems that have been considered thoroughly and well in the complete report provided by the Expert Group assessing the functioning of both Tribunals, submitted last November to the General Assembly in document A/54/634. This is not the forum or the occasion to consider in detail those recommendations, but we cannot fail to note that the comments and suggestions clearly describe the various problems being faced.

Today, in the Security Council, we nonetheless must note with growing alarm that our main concern continues to be ensuring full cooperation from the Member States of the United Nations so that the decisions of these two Tribunals can be implemented. The reticence of Governments to provide support to the Tribunal is a negative signal that could undermine the

efforts of the international community. This negative stance is not new, and many of the statements heard in previous debates in the Council have sounded the alarm. Although some progress has been made since then, resistance and lack of cooperation are ongoing, and this is a matter of concern to us.

My delegation regrets that once again we have to appeal to States to cooperate with the Rwanda and Yugoslavia Tribunals. We particularly regret the attitude of the Federal Republic of Yugoslavia. On the other hand, we welcome the comments made by Ms. Del Ponte regarding the positive attitude of the new Government of Croatia and the cooperative attitude of the Government of Rwanda. This cooperation is not optional, to be carried out or not at one's own discretion. It is a legal obligation, imposed by the Security Council, and the very possibility of administering justice depends on it, since the Tribunals do not have their own coercive mechanism to enable them to make their decisions effective. Non-compliance with the obligation to cooperate is a violation of their statutes and undermines the objective for which the Tribunals were established. The Security Council must not remain silent in the face of this situation and it may well need to take decisions.

The Security Council must help the Tribunals and the Prosecutor to carry out their duties, as the main problems that they are facing continue to involve factors over which those bodies have little or no control. That is the responsibility of the Council, in particular on this occasion.

The consolidation phase is behind us. It is clear now that, before planning the creation of new tools or furthering institutional reform, we need to provide the means for them to carry out their tasks.

We are aware that the Tribunals need sufficient and appropriate human and material resources to carry out their work effectively at all stages. In this connection, we would like to ask what progress has been made regarding the vacancy rate in the Office of Prosecutor of the International Tribunal for Rwanda as compared to last year. What are the future perspectives and what are the results of the training programmes for new staff? We would also like to ask Ms. Del Ponte for a few additional comments on the effectiveness of the administrative support system, in particular as regards the Tribunal for Rwanda's coordination with the defence and the prosecution, on delays due to

translation problems, on availability of chambers and on the abundance of pre-trial judicial questions.

**The President** (*spoke in French*): I thank the representative of Argentina for his kind words addressed to me.

**Mr. Chowdhury** (Bangladesh): Let me begin by extending our warmest congratulations to you, Sir, on your assumption of the presidency of the Council. We are confident that you will bring new dynamism and vision to the Council in its discharge of its responsibilities.

Let me also pay tribute to Ambassador Wang Yingfan for steering the work of the Council with forbearance, determination and wisdom through an extraordinarily difficult month of May.

We join colleagues in expressing our high appreciation to Ms. Carla Del Ponte for her briefing. It was time for the Council to have such an update, the last one being in November, and to reflect in a comprehensive manner on different aspects of the responsibilities entrusted by the Council to the International Tribunals for the Former Yugoslavia and Rwanda.

The Prosecutors' responsibility is an onerous one. The Tribunals stand against impunity. We pay tribute to the Prosecutor and to her colleagues for their tireless efforts in making a historic contribution to humanity.

We are pleased to note that the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda have made progress, often under very difficult circumstances. Over the past few years, as the lists of detainees in each case show, many accused, including high-ranking officials, have been arrested, prosecuted and punished. The opening of new trials is evidence of this progress and dynamism.

Today we will limit our remarks to three issues.

The first is the question of the trial of the indictees. The international community must address the issue of apprehending high-ranking politicians and military officers indicted by the Tribunals. Several accused senior military and political figures remain at large. It is an outrage that some indictees have yet to be arrested, given that five years have elapsed since their indictment.

The second issue is the cooperation of the countries and regional arrangements concerned. The success of the Tribunals in both cases depends largely on the collaboration of the States concerned and of those in their respective regions. In the case of the International Criminal Tribunal for Rwanda, the cooperation extended to it by regional countries in Africa is very commendable. Such cooperation helped our efforts in the universal struggle against impunity, against genocide, and against crimes against humanity and war crimes.

In the case of the International Tribunal for the Former Yugoslavia, we are happy to note the increased collaboration with the Tribunal. We appreciate the cooperation extended to the North Atlantic Treaty Organization (NATO), the Stabilization Force (SFOR) and the Kosovo Force (KFOR) in arresting the accused and gathering evidence. In this regard, the cooperation extended to the Tribunal by the Governments of the Republic of Bosnia and Herzegovina and the Republic of Croatia, as we heard from the Prosecutor again this morning, deserves our special appreciation. We emphasize again the need for facilitation of access to the Prosecutor.

Thirdly, there is the question of resources. The significant growth of the number of detainees, trial and appeals speak to the pressing need to increase the resources for the two Tribunals. Judge Jorda pleaded the case in great detail before the recent Peace Implementation Council. In her briefing, Ms. Del Ponte this morning underlined this aspect very forcefully. No one would dispute the fact that the necessary means should be provided to the Tribunals to meet their requirements. The Voluntary Trust Fund has been of immense help in sustaining the work of the International Criminal Tribunal for Rwanda. We encourage all donors to continue to support the Tribunals.

We understand that a report has been sent to the Secretary-General on possible adjustments in procedure, for economy in terms of both time and budget. We request the Secretariat to attend to the matter in an expeditious manner and submit recommendations for decision.

The work of the International Tribunal for the Former Yugoslavia is critically important for healing the wounds and providing for lasting peace in the Balkans. The same is true with respect to the

contributions of the International Criminal Tribunal for Rwanda to a lasting peace in Rwanda and the subregion.

The Prosecutor's briefing is a solemn reminder of our collective responsibility for the onerous tasks entrusted to these two Tribunals. We must ensure that as, in the case of peacekeeping missions, the means are commensurate with the mandate.

**The President** (*spoke in French*): I thank the representative of Bangladesh for the kind words he addressed to me.

**Mr. Holbrooke** (United States of America): It is a great pleasure to see you, Sir, at the helm of this meeting, my old colleague from other days, now in your first presidency. I wish also to pay tribute to the extraordinarily strong leadership of Ambassador Wang Yingfan and the Chinese delegation during the tumultuous month of May, in which, if my memory is correct, four different conflicts erupted. It was not a normal month in the Security Council, and I hope that you will convey to Ambassador Wang Yingfan my Government's high admiration for the way he conducted our proceedings during this very difficult month. I hope that you will be able to have fewer than four wars this month, and I congratulate you on starting your term with a meeting of such importance on an issue of such enormous consequence.

I wish to acknowledge, in my delegation, seated behind me to the right, Secretary of State Albright's special representative on these issues, Ambassador David Sheffer, who has worked very closely with our special guest this morning and who will later in the day be available for private discussions with any members who wish to pursue some of these issues.

Finally, I wish to congratulate the Chief Prosecutor, Carla Del Ponte, for her excellent statement. I apologize for being late and having been unable to hear it in person, but I have read it and I think it contains many important statements concerning Yugoslavia, concerning the issue in general and, above all, concerning Rwanda.

The Prosecutor's presence here gives us a chance to reflect on this extremely important intersection of peacekeeping and justice. Let me start with an issue that is very much on all our minds these days — Sierra Leone — which is not currently in her jurisdiction. Her presence here reminds us of the importance of the issue

of the search for justice in regard to Sierra Leone. While she is here to talk about Rwanda and the former Yugoslavia, I think it is vitally important that we understand that the same issues apply in regard to the Revolutionary United Front (RUF) and its leader, Mr. Sankoh, and that there must be accountability, justice and reconciliation in Sierra Leone if we are to bring peace to the area. While I will leave the details for the proper venue of discussion, because they are exceedingly complicated, I can assure the Council that our Government will not be satisfied unless there is full accountability and justice as part of the process.

In Sierra Leone, a decision was made last year — a decision that can be subject to question, in retrospect — to elevate the pursuit of peace to a higher level than the pursuit of justice. The granting of amnesty to Foday Sankoh and his followers was accepted as a precondition by the Government of Sierra Leone and not as the result of a justice and reconciliation process. My friends in the Security Council, I think we have all seen the price of that decision, and I would simply say that I hope that we will find ways to do in Sierra Leone some degree of review, whether it is part of this Tribunal's extended mandate, or of another mandate, I just urge us not to forget this. I know that Ambassador Sheffer will be talking about this privately with many Council members later in the day.

South Africa, of course, is a perfect example of how to approach these issues. Its strong judicial system, its vibrant civil society movements and the vision of its leaders allowed South Africa to move beyond its past.

Let me turn to Rwanda, where we have seen the pursuit of justice on both an international and a domestic track. Both have had considerable administrative difficulties and delays, but with our support both are improving and must continue to bring to justice those responsible for genocide. The work of the Tribunal is indispensable, but it cannot be healed from the outside. Forgiveness and reconciliation must come from within.

The Government of Rwanda has a programme of justice known as *gacacha* — please forgive me, Ambassador Mutaboba, if I mispronounce the word. This system, which are all now familiar with, based on traditions of your country — and I speak directly to the Ambassador of Rwanda, who has played such a

positive role in helping us deal with his country's legacy — has taken justice out of the courtrooms of the former judicial system and given it to local communities and traditional leaders. I have read criticism of this in the Western press; I am not in a position to make a formal, detailed judgement on something so complicated; but none of us should impose our own values or cultural histories on other societies and traditions, provided that the basic human rights embodied in the United Nations Charter and the Universal Declaration of Human Rights are fulfilled. Every country in this Chamber has a different judicial system, and they should be respected.

In my Government's view, the current programme, along with international and domestic civil proceedings, is the best way to address this issue. On our two trips to Rwanda — mine in December and the one with my Security Council colleagues last month — it was clearly explained to us that the caseload could not be handled by the normal system, and we must take that into account. I noticed that President Kagame stressed the importance of this initiative in his inaugural address, and I hope the Rwandan Government will be able to give us a timetable for clearing this enormous backlog.

The pursuit of justice in the wake of the genocide in Rwanda is also tied up with the conflict in the Democratic Republic of the Congo. This is not, as some people claim, the only cause of the conflict, but it is not separate from the broader issues that have occupied this Council.

While you, Mr. President, and I and our colleagues from Mali, Namibia, the Netherlands, the United Kingdom and Tunisia were in Lusaka, we raised some of these questions with the Political Committee, especially problems posed by non-signatory armed groups in the Democratic Republic of the Congo. I am particularly grateful, Mr. President, that you have invited the Political Committee to meet with us here in New York on 15-16 June to continue the Lusaka peace process, insofar as the Security Council can contribute to it. I would say to our friends here in the audience who were not with us in Lusaka that Ambassador Levitte and I and our five colleagues consider the meetings on 15-16 June to be potentially as important as what we did in the last week of January here in this Chamber. We re-engaged the Security Council in moving the Lusaka peace process forward. We hope that all the appropriate participants will be here. They

all committed themselves to come when we were in Lusaka, but things being what they are, we need to pin this down.

We also attach high importance to the political dialogue preparatory meetings that will start in Benin next week. Once again, as this is the first time that I have had a chance to discuss this under the French presidency, I need to reaffirm how important it is that we all support the meetings on 15-16 June under Ambassador Levitte's presidency.

Going back to the primary subject here, I do not want to underestimate the destabilizing influence of UNITA and other armed groups operating in the territory of the Congo, but I want to use the visit of the Prosecutor of the International Criminal Tribunal to focus on the group with which she is primarily occupied. Again, Mr. President, I hope that you will use your role on 15-16 June to engage the Political Committee on this issue. I refer, of course, to the former Rwandan Armed Forces and the Interahamwe.

Our goal should be the transfer of all indictees to Arusha and the effective demilitarization, disarmament, resettlement and reintegration of the remaining personnel. This will involve the need for the Government of Rwanda to create and maintain conditions that are conducive to voluntary repatriation. It will also involve support from other regional Governments. We do not want to label all Rwandan exiles in the Democratic Republic of the Congo as *génocidaires*. But neither are we prepared to engage with group of exiles that is subordinate to or affiliated with the former Rwandan Armed Forces or the Interahamwe.

The presence of these odious elements operating freely within the Democratic Republic of the Congo does not, however, excuse the human rights violations that may have been caused by allies of the Rwandan army, perhaps elements of the Rwandan army itself and its Congolese allies. Still, it is difficult to imagine a settlement of the external dimensions of the crisis without a concerted regional effort that takes into account Rwanda's legitimate security concerns.

It is in the interest of peace in the Congo that this issue be settled. Extradition to the International Criminal Tribunal of all those under indictment is a requirement of all Member States, and the smooth effective running of the International Criminal Tribunal is a requirement of the United Nations system.

I was therefore particularly pleased to see that Chief Prosecutor Carla Del Ponte, in her speech, discussed improving the management systems, speeding up the trial process and the work that she and Mr. Jorda will do. An international tribunal of the sort we are talking about should not be subject to continual questions about its management practices. It undermines the credibility and effectiveness of the court. It raises questions about the use of United Nations monies, which I have had to deal with in another place, and they are very difficult.

The International Criminal Tribunal for Rwanda has — and I want to stress that it has produced a number of important results, and I think its work is accelerating — set some important international precedents. However, it must make better use of its resources while accelerating its work. I commend the Chief Prosecutor for her efforts to improve the operations of the Tribunal.

In conclusion, Mr. President, I thank you again for beginning your presidency with this important statement. I want to reaffirm the fact that our country has never wavered in its support of these efforts, even when deals were offered, and I want to conclude by saying that I fully share Chief Prosecutor's Del Ponte's view that men like Radovan Karadžić, Ratko Mladić and, indeed, Mr. Milosevic and the other people who have been indicted in Belgrade must be brought to justice if Europe is ever to see stability. Similarly, in the Great Lakes region, Rwanda's legitimate security concerns will not be dealt with until the Interahamwe *génocidaires* are taken care of in the appropriate fashion, and at that point, if not earlier, I hope that Rwanda will be able to take commensurate actions that allow us to move towards stability, particularly in the eastern part of the Congo.

Thank you, Mr. President. I look forward to a productive month and particularly to your potentially historic meetings on 16 June.

**The President** (*spoke in French*): I thank the representative of United States for his kind words addressed to me.

**Mr. van Walsum** (Netherlands) (*spoke in French*): I wish at the outset, Sir, to congratulate you and to say how pleased I am to see you presiding over the work of the Security Council for the month of June. I assure you and your delegation of the full cooperation of my delegation. I wish also to thank your

predecessor, Ambassador Wang Yingfan of China, for the considerate and effective manner in which he conducted the Council's business during the month of May.

(*spoke in English*)

We join other delegations in expressing our satisfaction at having Ms. Del Ponte in the Security Council for a second time. The first time we had that pleasure was just less than six months ago, and my delegation considers this an ideal frequency: a brief calculation shows that Ms. Del Ponte's third briefing will take place under the Dutch presidency, and we are looking forward to that.

During our meeting in November, my delegation expressed its concern at Croatia's failure to comply with the Prosecutor's request to hand over documents on Operations Flash and Storm. We now note with satisfaction that the new Croatian Government has adopted a totally different attitude and accepts the Tribunal's jurisdiction in this matter. We especially appreciate the openness and transparency with which the new Croatian Government approaches this matter, as witnessed by the excellent symposium which took place in Opatija on 8 and 9 May and which was attended by, among others, Judge Jorda and several other members of the International Criminal Tribunal. We understand that there are still some problems to be resolved and that the Prosecutor does not have the access to all sensitive witnesses and information that she needs. We hope that this will be resolved, because, obviously, it would not be very helpful if the Government of Croatia accepted the principle of jurisdiction but then still withheld the essential documents on technical grounds. But we have taken note of the optimism that the Prosecutor has expressed in that regard.

This, of course, means that all our focus shifts to the Federal Republic of Yugoslavia, if it was not there already. We must condemn Belgrade's lack of cooperation with the International Criminal Tribunal.

Last time Ms. Del Ponte visited us, she had not yet been to Rwanda, and she has now spent nine weeks in Arusha and in Rwanda. It is very gratifying to learn that relations between her office and Rwanda have so improved. We were pleased to learn of the conviction of Mr. Georges Ruggiu, especially since he had played an important role in the broadcasts of Radio Télévision Libre des Mille Collines, because during our recent

visit to Africa, the mission that visited the Democratic Republic of the Congo learned that poisonous hate broadcasts are certainly not a thing of the past. We think it is important that there be special focus on the role of Radio Télévision Libre des Mille Collines in this matter.

I have a technical question which is of interest to my delegation: perhaps the prosecutor can inform us where Mr. Ruggiu will serve his 12 years.

I would like next to comment on what the Prosecutor told us about *gachacha*. Ambassador Holbrooke too has commented on this. If I understood Ms. Del Ponte correctly, she described *gachacha* as an ideal solution in view of the impossibility of eliminating the backlog through normal court procedures. We would be inclined to come to the same conclusion: that it is the only way of solving the backlog problem. But I am not yet quite sure that we would describe it as an ideal solution. I would be very grateful if the Prosecutor could elaborate on this further. Obviously, it is an ideal solution if there is no other way to solve the backlog problem, but I would be grateful for further comments, because for us it is a very unfamiliar concept and we would like to have more information on it.

Finally, I would like to repeat what I said in November: in our view, the tribunals play an important role in that they serve as a trial ground where we are learning important lessons for later use in the establishment of the International Criminal Court. For that reason, I would like to say that I wholeheartedly agree with Ambassador Holbrooke, who referred to the situation in Sierra Leone. The most important lesson that the Security Council is learning these days is that impunity is not the right solution to any problem. That is also why my delegation sincerely hopes that the United States will overcome its hesitations with regard to the International Criminal Court.

**The President** (*spoke in French*): I thank the representative of the Netherlands for the kind words he addressed to me in his excellent French.

**Mr. Fowler** (Canada): As I had occasion to do earlier this morning, I extend a warm welcome to you, Sir, as you preside over the work of the Council for the month of June. Along with others, I wish that your month may be somewhat less interesting than the month of Ambassador Wang Yingfan, whom I certainly join others in congratulating, through Mr. Chen Xu, on

his exceptional management of the affairs of the Council during a truly troubling period. I was, of course, well aware of what the impact on April would have been had all that occurred then instead of in May, and I am very happy that it did not.

Turning to the matter at hand, Canada has long supported the work of the two ad hoc war crimes tribunals, and continues to do so steadfastly today. I am pleased to reiterate that firm support. We are therefore very happy to welcome Ms. Del Ponte back to the Council. Both tribunals play an essential role in the promotion of human security and create a positive and important precedent for the creation of a permanent international criminal court where, of course, as Ambassador van Walsum has just pointed out, important issues such as those that have arisen in Sierra Leone, as highlighted a moment ago by Ambassador Holbrooke, could be addressed in what we hope will be a timely and expeditious manner. Clear and consistent international support for the Tribunals, including full cooperation in Tribunal investigations, is crucial, we believe, if we are to end the cycle of impunity and violence. Justice is indeed an essential precondition for reconciliation.

While some of the most notorious alleged war criminals remain at large, we are nonetheless pleased with the tribunals' success in obtaining custody over some high-ranking accused persons. In that regard, it is, we believe, appropriate to recall the clear obligation of all Member States to assist the tribunals in the investigation, arrest and prosecution of all indictees.

With respect to the International Criminal Tribunal for the former Yugoslavia, we welcome this occasion to remind all parties that these obligations are an essential component of the full and effective implementation of Security Council resolution 1244 (1999). Operative paragraph 14 of resolution 1244 (1999) demands full cooperation by all concerned, including the international security presence, with the International Tribunal for the Former Yugoslavia.

Canada welcomes the recent visit by Republika Srpska Prime Minister Milorad Dodic to The Hague. We hope that this will be a further step towards full cooperation on the part of the Republika Srpska authorities, who have, of course, the primary responsibility for arresting indicted war criminals on their territory, including Radovan Karadzic.

Like Ambassador van Walsum, we are greatly encouraged by the cooperative attitude demonstrated by the new Croatian leadership in Zagreb. This continued cooperation at all levels of authority will be crucial in ensuring progress on such key issues as refugee return and reconciliation.

Canada's support of the two Tribunals has been wide-ranging. In addition to providing \$3.3 million to both Tribunals since their creation, over and above our assessed contributions, Canada has agreed to provide the International Criminal Tribunal for the Former Yugoslavia with 21 forensic experts from the Royal Canadian Mounted Police to assist with the exhumation and identification of bodies in Kosovo. We are also encouraged by the progress being made in the functioning of the International Criminal Tribunal for Rwanda. We commend the Prosecutor and the Government of Rwanda for their extensive efforts to enhance cooperation and are pleased that Ambassador Mutaboba is here with us today so that we can register this point directly with him.

We are pleased to hear of the Prosecutor's plan for future work, and we will give every consideration to her request for additional support to pursue the financial resources of accused persons.

**The President** (*spoke in French*): I thank the representative of Canada for his kind words addressed to me.

**Mr. Gatilov** (Russian Federation)(*spoke in Russian*): Like other delegations, we are happy to welcome you, Sir, as President of the Security Council for June, and we wish you every success in discharging the programme before us. We also are grateful to Ambassador Wang Yingfan of China for his able guidance of the Council's work last month, and we highly commend him.

We are grateful to the Prosecutor for the information about steps taken to improve the activities of the International Tribunals. We attach great importance to the work of the International Criminal Tribunal for Rwanda, which should become an important factor in restoring peace and tranquillity in Rwanda and in the region. However, we note that the activities of the ICTR attest to the fact that its organizational structures and working methods do not fully meet the goals for which the Security Council set up this international judicial organ. For more than six years now, it has been involved in prosecuting persons

responsible for genocide, war crimes or crimes against humanity, and, unfortunately, this has not had a serious impact either on the normalization of the political processes within Rwanda or on combating these crimes in other parts of the world. The lack of speed and effectiveness in the work and administration of the ICTR can be explained primarily by the lack of a proper level of cooperation from States, which is definitely one of the most important factors here.

However, we wish to draw the Council's attention to the report of the Expert Group to conduct a Review of the Effective Operation and Functioning of the ICTY and the ICTR, contained in document A/54/634, which talks about delays in carrying out justice, to a large extent because of the lack of due planning and the chaotic nature of the activities of the ICTR.

We note that there is some discrepancy between the Appeals Chamber and the Trial Chambers. There are gaps in the rules of procedure and rules of evidence, which results in some of the indictees in custody waiting more than a year for trial. Suspects whose provisional detention has been admitted to be too long and in violation of international standards have been released.

This was one of the Government of Rwanda's reasons for suspending cooperation with the ICTR and for delays in the judicial processes. The change of defence lawyers has become common practice in the activities of the ICTR. We think that the programme for protecting witnesses should be improved, too. We need an international, independent, impartial judge, as established by the Security Council in the statute of the ICTR. That plan is not yet fully working.

Russia supports the efforts of the United Nations to overcome these organizational, financial and personnel difficulties that are being experienced by the ICTR. We have demonstrated our positive attitude towards proposals to enhance the effectiveness of the Tribunal's work in order that it could in short order fulfil the mandate given to it by the Security Council and play its role in hastening an end to the culture of impunity. We would support the request to increase the number of judges and to have just one Trial Chamber. In our view, the international community should look forward to the creation of an additional Trial Chamber in order to improve the Tribunal's efficiency and to have greater balance, compared to the

International Criminal Tribunal for the Former Yugoslavia.

As we see it, for the normal functioning of this judicial body, we need primarily to continue to improve the procedures, working methods of work and structure of the Tribunal. These steps are being taken already; and here we need to give careful study to the recommendations of the Expert Group to which I referred and the comments made on those recommendations.

With regard to the activities of the ICTY, Russia intends to cooperate with it, pursuant to the mandate of the Tribunal, as enshrined in the well-known Security Council resolutions. However, we have some serious problems with the work of that organ, too; these relate primarily to the politicization of its work, partiality and bias, particularly vis-à-vis Yugoslavia.

Unfortunately, we now see that the methods and organization of work of the Yugoslav Tribunal are not appropriate to the task for which the Security Council established it. The truth is, the Yugoslav Tribunal is not helping to normalize the political process in the former Yugoslavia. Furthermore, the consequences of its activities have proven to be destructive to an overall settlement in the Balkans. A clear anti-Serb stance has been adopted and, as statistics have shown, 43 of the 59 indictees are Serbs. All the Tribunal's activities focus on prosecuting indicted Serb leaders, which only antagonizes Serbian society and complicates the peace process itself. The indictments are used to squeeze concessions from Serbian politicians and to ensure their obedience. This practice is unacceptable.

We are also concerned by the practice of handing down sealed indictments, which contravenes the Statute of the Tribunal; by the comprehensive hunting down of Serbian politicians and their arbitrary branding as war criminals; and by the illegal use of the Stabilization Force and the international security force, in contravention of their mandates and on the basis of the 1996 memorandum of understanding — unauthorized by the Security Council — between the Yugoslav Tribunal and the North Atlantic Treaty Organization (NATO), which actually sanctioned special operations to arrest indictees. We have addressed all of these issues in detail in the Security Council and we must continue to focus very serious attention on them.

We take note of the information provided by Ms. Del Ponte regarding the investigation of the illegal NATO aggression against the Federal Republic of Yugoslavia and the complaints against it. However, we believe that the decision to halt investigations into this to be premature, since more serious and fundamental grounds for such a decision are lacking. In any case, each fact must be carefully investigated and information relating to it should accordingly be given to the Security Council.

We are concerned by the continuing unjustified increase in the budget of the Yugoslav Tribunal, which currently stands above \$100 million, not counting significant voluntary contributions. We draw attention to the fact that the staffing table for that body is inflated. We feel that account must be taken of the recommendations and comments made by the Advisory Committee on Administrative and Budgetary Questions on the need to streamline and rationalize the cost of the Tribunal.

On the whole, we feel that the Security Council should continue carefully and thoroughly to examine the entire set of questions relating to the activities of the International Criminal Tribunal for the Former Yugoslavia, which, because of all the violations of its mandates that have occurred, we have unfortunately come to consider less and less as an impartial judicial body.

**The President** (*spoke in French*): I thank the representative of the Russian Federation for his kind words.

**Mr. Chen Xu** (China) (*spoke in Chinese*): At the outset, we welcome Ms. Del Ponte to the Security Council for the second time. We thank her for her briefing on the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and on her trip to Rwanda.

The cooperation of the countries concerned with the two Tribunals is extremely important to the Tribunals' work. We hope that the Tribunals will administer justice objectively and impartially in order to avoid becoming political tools. We fully share the view that the ICTY should conduct investigations into potential serious violations of international humanitarian law committed by the North Atlantic Treaty Organization (NATO) in its bombing campaign against the Federal Republic of Yugoslavia. According

to the Statute of the ICTY, these activities fall within the Tribunal's jurisdiction. A moment ago, Ms. Del Ponte said that there are no grounds for investigations into NATO's activities, but we believe that such a conclusion should be supported by convincing evidence.

We note the progress that the Rwanda Tribunal has made to date. Expeditious and fair trials of those accused of committing serious violations of international humanitarian law will not only redress the injustice done to the victims of these crimes, but also act as an effective deterrent to future recurrences of such crimes. We fully understand the difficulties and complexities that the ICTR has encountered in its work. As I said earlier, the ICTR cannot progress in its work without the active cooperation and assistance of the countries concerned. Particularly in the process of case investigations, the collection of evidence and the delivery and prosecution of suspects, the Tribunal should enhance its communications and consultations with the Governments of countries concerned and make every effort to maintain cooperative relationships with them. We hope that the work of the two Tribunals will help to promote national reconciliation and regional peace and stability.

In conclusion, I wish to thank you, Mr. President, and other members of the Council for your tribute to Ambassador Wang Yingfan and the Chinese delegation. I will certainly convey your sentiments to him. We believe that your outstanding talents and experience will surely guide the Security Council to a successful conclusion of its work this month. The Chinese delegation will fully cooperate with you to that end.

**The President** (*spoke in French*): I thank the representative of China for his kind words addressed to me.

**Miss Durrant** (Jamaica): Allow me to congratulate you, Sir, on your assumption of the presidency of the Council and to express the delegation of Jamaica's appreciation to your predecessor, the Permanent Representative of China, Ambassador Wang, for his effective leadership of the Council during the previous month.

My delegation joins in thanking the Prosecutor, Ms. Carla Del Ponte, for her very useful briefing on the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR).

We wish to express our support for the work of the Tribunals, as we believe that international cooperation is imperative, not only to send an unequivocal message to those who have committed these egregious criminal acts and are subject to the jurisdiction of the Tribunals, but also to those who continue to engage in violations of international humanitarian law anywhere in the world.

The message must be firm: that there will be no impunity for perpetrators of those criminal acts under any circumstances. It is important that those charged with crimes against humanity must include the leaders of groups which have engaged in actual acts of criminal conduct, whether they are civilian, military, or para-military. The establishment of the ICTR found further justification in the findings of the Carlsson report on the genocide in Rwanda, which was considered by this Council a few short months ago. The perpetrators of the crimes in Rwanda and in the former Yugoslavia must be brought to justice.

The effective functioning of the Tribunals depends on the full support of the international community. Where it is found that States failed to honour their obligations to cooperate with the Tribunals, the Council must act appropriately to enforce its mandate. We regret the reported lack of cooperation from the Federal Republic of Yugoslavia, but are pleased to note from the briefing of the Prosecutor that there has been improved cooperation from Croatia. We also wish to commend the cooperation that the Tribunals have received from African and European countries.

My delegation appreciates the efforts of the Tribunals to develop procedures to ensure fairness and impartiality, which will afford the accused a reasonable opportunity to mount a defence against charges. As the Tribunals seek to deliver high-quality justice with the proper dispatch in each of the cases brought before them, we appreciate that trials must be speedy and fair. In this regard, we note the recommendations of the Expert Group, in document A/54/634, and the comments of the Prosecutor on these recommendations, contained in A/54/850. Many of these recommendations are aimed at reducing the length of trials, and we note that while the pace of prosecution has picked up considerably, there remains much scope for the development of procedure and practice. Many of the recommendations of the Expert Group, however, fall within the purview of the Security Council and will

require some modification of the statutes of the Tribunals. We note in particular the recommendations regarding the need for more judges to deal with the increased workload and the proposed use of temporary ad hoc judges. In the case of Rwanda, we note the conclusion of the Expert Group in which the Prosecutor concurred that there is no compelling reason for the Security Council to provide an independent prosecutor for the ICTR.

My delegation believes that we must adhere to the adage that justice must not only be done, but also appear to be done. My delegation therefore agrees with the Prosecutor that the credibility of the Tribunals among the international community and the victims partly depends on whether their proceedings are seen to have a powerful impact in bringing home the responsibility of individuals for their horrendous crimes. By the same token, justice delayed is justice denied. A frequent criticism of the Tribunals is the long pre-trial delays after the indictee has been taken into custody. We realize that some delays may be directly related to dilatory tactics of defence counsel. It is therefore incumbent on the Trial Chambers to exercise control over the proceedings to ensure that the right of the accused is protected while at the same time carrying out its responsibility to bring closure to the proceedings within a reasonable time-frame. Improvement in pre-trial proceedings could also help expedite the actual trial process. It is also important that interlocutory appeals be disposed of expeditiously.

We also wish to emphasize the need for resources to expedite forensic work, and in this regard I have been pleased to note the decision announced by Canada to provide additional forensic support for the Tribunals.

My delegation fully supports the work of the Tribunals and believes that consideration should be given to expanding their jurisdiction to include financial investigations and forfeiture of funds for compensation to the victims. The work of the international Tribunals continues to be important to fill the void, pending the establishment of the International Criminal Court.

In conclusion, I wish to reiterate my delegation's support for the work of the Tribunals and the judges and the staff of the Tribunals, whose work is carried out under very difficult circumstances.

**The President** (*spoke in French*): I thank the Permanent Representative of Jamaica for her kind words addressed to me.

**Mr. Ouane** (Mali) (*spoke in French*): Mr. President, I would first like to say how pleased my delegation is to see you presiding over the work of the Security Council in this month of June 2000. You may rest assured that you will have the full cooperation of the delegation of Mali.

I also take pleasure in paying tribute to your predecessor, Ambassador Wang Yingfan, for his effective and dedicated guidance of our work in the past month.

My delegation thanks the French delegation for convening this meeting today, which provides a useful opportunity for members of the Security Council to have a direct dialogue with the Prosecutor of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda. I would like to thank Ms. Carla Del Ponte for her full and instructive briefing, and to join in the tribute paid to her and to all the staff of the Tribunals for their professionalism and commitment.

I would like to make the following comments. First, Mali fully supports the work of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda. These jurisdictions were established by the Security Council to express the will and determination of the international community to bring to justice the perpetrators of the most atrocious crimes that the world has ever known. In so doing, the Security Council set up a powerful mechanism to ensure that international humanitarian law is applied and respected. Indeed, through their work, the Tribunals are contributing to the establishment of the rule of law and putting an end to the cycle of violence and the culture of impunity.

Secondly, turning to the question of the functioning of the Tribunals, I would like to emphasize that my delegation considers that the Security Council should fully shoulder its responsibilities by providing all the required support. Similarly, it is important for the Council to examine further measures that could support the effectiveness of their activities, particularly the issue of resources and procedures, as recalled in a most timely manner by Ms. Carla Del Ponte in her briefing.

Thirdly, it also seems that the cooperation of the States is essential to the proper functioning of the Tribunals, which, as we are aware, do not have any coercive powers of their own. Notwithstanding that, this cooperation is mandatory, according to Security Council resolutions. As the Tribunals continue to carry out their tasks, the sentences that they are imposing indicate the urgent need for close cooperation, with regard to both the bringing to trial and the confinement of indictees. The provision by States to the Tribunals, particularly the Rwanda Tribunal, of prison facilities where the sentences can be served remains a cause of concern.

I wish to point out that, faced with this situation and responding favourably to the appeal made to States, my Government signed in 1999 a cooperation agreement with the International Criminal Tribunal for Rwanda, under whose provisions convicted persons can serve out their sentences in Mali. We invite other States to do the same.

In conclusion, we wish to reiterate our full support for the Prosecutor's efforts and to thank her once again for her professionalism and her commitment.

**The President** (*spoke in French*): I thank the representative of Mali for the kind words he addressed to me.

I shall now make a statement in my capacity as representative of France.

At the outset, Madam, let me say that seeing you at the helm of the two International Tribunals as their Prosecutor is for us a source of optimism. The manner in which you have carried out your work since your appointment and the determination you have shown in achieving the ambitious but realistic objectives that you have set for yourself make it clear to us that the Council made the right choice last year in appointing Ms. Louise Arbour's successor. I am pleased also to pay particular tribute to you for your efforts to bring together the various legal traditions, which will enhance the efficiency of the two International Tribunals. In the important and difficult task that you are undertaking, you can count on the full support of France and, if I may speak on behalf of the other delegations who took the floor before me, that of all of the members of the Council.

The Security Council cannot but support your work, because it was the Council itself that set up the International Tribunals, in the belief that the search for justice is inseparable from the maintenance of international peace and security. Your presence here today, Madam, at the first public meeting of the Council this month, which France strongly supported, symbolizes the importance of international justice. This will be further confirmed by the statement to be made on 21 June by the President of the International Tribunal for the Former Yugoslavia, Mr. Jorda.

The information that the Prosecutor has provided us on the International Criminal Tribunal for Rwanda is of particular interest to us. Recently the Council debated the lessons that the United Nations can draw from the tragedy that took place in Rwanda. The first lesson, which we learned in 1994, is that justice must be done. In this regard, we find the work of the International Criminal Tribunal for Rwanda exemplary, in particular because of the consistent penal policy carried out by the Prosecutor, which has resulted in the prosecution not of the perpetrators but of the leaders or their close advisers. The recent efforts of the Tribunal aimed at preparing for collective trials seem to us to be a step in the right direction. I would recall here that France has made a concrete contribution to the Tribunal by providing the equipment for the hearing rooms.

Regarding the former Yugoslavia, the substantive improvement in the relations between the Tribunal and the Zagreb authorities, to which the Prosecutor referred, is a noteworthy development. Of course, this development needs to be consolidated by concrete and close cooperation with the Tribunal, but the present trend should be encouraged. Unfortunately, this development sheds an even brighter light on the absence to date of any satisfactory cooperation with the Tribunal by the Federal Republic of Yugoslavia.

France, for its part, has endeavoured to assist the International Tribunal for the Former Yugoslavia in carrying out its work as well as possible, as soon as possible and as effectively as possible. It is in that spirit that we intend to continue consistently to support the work of the Prosecutor and the Tribunal. Also benefiting that work are the efforts being made by all components of the Stabilization Force to arrest individuals sought by the Tribunal, as certain recent arrests have shown.

I now resume my functions as President of the Security Council.

I call on the representative of Rwanda.

**Mr. Mutaboba** (Rwanda) (*spoke in French*): I should like to congratulate you, Sir, and to echo the sentiments of other speakers in saying how delighted we are to see you presiding over the work of the Council. We would like also to extend congratulations to your predecessor, the Ambassador of China, who did outstanding work. We hope that the work entrusted to you today will continue to be done, until its completion, following the approach that you have endorsed; it is an excellent approach. We reiterate our cooperation and support for you.

(*spoke in English*)

I wish to thank all of the members of the Council for their continued work in the search for peace and security in the world. We hope that work will go on improving day by day. The Council has the full support of my delegation now and in the years to come.

We have among us today an eminent personality who means a lot to Rwanda and to international justice. The Prosecutor for the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda symbolizes the search for justice and international peace, to which we all aspire. From the outset, let me express my Government's sincere thanks to Ms. Del Ponte for her visits and for the work she has done since she took office, especially from the day we and the rest of the world expressed dismay at deliberations by the Appeals Chamber in The Hague on releasing the infamous Barayagwiza without putting him on trial at that time.

You were not here yet, Mr. President, but your colleagues and I will tell you how much diplomatic activity there was in New York and outside United Nations Headquarters to address the issue of justice denied to genocide victims in the recent past. It is sad to recall that intimidation and all sorts of pressure came from this Council and the various capitals, aimed at bringing the Government of Rwanda to its knees, asking us to cooperate with the International Criminal Tribunal for Rwanda or else. That was the message. We politely listened to those threats, weighed the words and the truth embodied in them, and found that once again Rwanda was going to be failed forever. My Government and I stood firm, and, as always, we told

the Council the truth and only the truth. Thank God, the Council realized that we had a point, and Ms. Del Ponte understood us right away.

The personal and professional stand she took and the silence this Council subsequently kept went on to prove that no matter what suit we happen to be wearing, we remain human beings. We can be mistaken, and mistakes are made. We commend the efforts made by the Prosecutor and salute the results achieved thereafter, for the sake not only of Rwanda but also for the credibility of this body and what we all stand for: international peace and security through justice for all.

The International Criminal Tribunal for Rwanda has done a great deal, although there could be improvements, of course. It certainly could have done a lot more. We thank all present for what they have been able to do and urge them to do more now, instead of postponing it until later. That later may be too late. But, as I said before, it is never too late to do well and good.

The Prosecutor has done a tremendous job by visiting Rwanda and Arusha and remaining there longer than her predecessors did. This alone shows that she means business, and we thank her for that. It has made, and is making, a big difference. We encourage her to continue in that vein, and we will collaborate fully with her.

We are pleased to note that she has recruited a new chief investigator, whom we wish well. However, we would like to see better-qualified investigators recruited right away to match the highly qualified defence lawyers, who simply have a free ride over an underqualified prosecuting staff — though not always.

Talking of recruitment — and this has already been communicated to the Prosecutor's Office — we wish to see Rwandan nationals recruited from all walks of life and different social groups; this is a diplomatic way to say that so far those recruited are Rwandan refugees based in Europe and elsewhere, some of whom have already had files opened on genocide charges or are relatives and friends of those jailed in Arusha, especially the group of interpreters and witnesses. A translator can be a traitor. I have lots of examples, without any prejudice. We had a case of somebody who asked, "Can you translate *gukatajosi*?" This means to cut the throat or the neck of somebody. Somebody translated it as legitimate

defence. I have names but I cannot mention them because this is not the appropriate time or place to do it, and the Prosecutor has those examples, I am sure. We hope to see that reversed as swiftly as possible.

There is more to this. Those in jail have successfully managed to call for witnesses, not genuine independent witnesses, but their families and relatives who, once shipped out of Rwanda, go into exile and never go back to Rwanda. We have lots of cases of this group. Bound as we are to cooperate with the ICTR, we equally feel cheated, and a solution has to be found immediately. There also exist what are known as “tracking teams”. We welcome them. However, the ICTR has been taking people out of Rwanda, allegedly protecting them from revenge killings, and relocating them in other countries. Again, this is the same group of people: parents or relatives of those in jail in Arusha or elsewhere, in northern Europe, other parts of Europe or Canada. We have examples.

The ICTR staffing has new types of shortcomings: 1994 Rwandan refugees and former human rights monitors expelled from Rwanda for inciting hatred and for failing in the work they had to do. They are exclusively people who have their own bias against Rwanda and people inside Rwanda, dead or alive. This network of recruitment should be broken before things get worse. Once again, the Prosecutor is aware of this situation, and we hope members will urge and help her Office to change things, but we have to help her to do so.

Members recall witnesses who were killed after their return from Arusha. The families and relatives of those victims have not been compensated for the loss of their loved ones or relocated in the same way as the families of killers are systematically being taken out of Rwanda for alleged reasons of safety. There are double standards everywhere, and this is immoral, I think. That should be reversed, and protection for all and compensation should be the words on members’ lips and in their notebooks from now on, as was also suggested by Ms. Del Ponte. I hope that members’ regrets expressed after the Carlsson report will not fade away, so that each country will think about what to do for the victims of our failures.

The sentences rendered by the ICTR are also, interestingly, following a funny trend. When former Prime Minister Kambanda was judged, he was sentenced to life imprisonment, Serushago to 15 years,

and, yesterday or today, Ruggiu to 12 years. As the years go by, the sentences diminish and yet responsibilities remain blatantly the same. How can Ruggiu enjoy only a 12-year sentence after what he admitted he did and said? We should think twice.

Last but not least, while bearing in mind the neutrality of the judges, everyone wishes to jealously preserve, Rwanda included, how can one explain that no single judge from the ICTR has taken the liberty to visit Rwanda either individually or in a group to become acquainted with the place of the crimes on which the judges are deliberating? Can we be given a good reason why they have not visited the country? Do we have reasons why the ICTR does not have priests and nuns arrested? The ICTR knows of the one in France, the one in Italy who actually changed his name as a cover-up, the two nuns in Belgium, and lots more in Canada and elsewhere. We know them. We know where they are.

I could go on, but to conclude, the excellent relations existing between the ICTR and the Government of Rwanda should continue and require members’ support and understanding. The Prosecutor has done an excellent job in addressing real issues, and that is what we argue in favour of. We trust that she can devise ways to solve existing problems referred to earlier to make sure that we are all on the right track. But she needs members’ assistance, too. Justice does not discriminate. Discrimination should be tackled in dealing with recruitment and witnesses. This will help all of us work hand in hand and minimize failures that are still haunting us.

**The President** (*spoke in French*): I thank the representative of Rwanda for his kind words addressed to me.

I now call on Ms. Carla Del Ponte to respond to the various questions and comments addressed to her.

**Ms. Del Ponte** (*spoke in French*): I have listened very closely, and I would first like to thank the Security Council for the expressions of support, but also for the suggestions. I think it is important to be able to express our views. We should attempt to do that on a regular basis so that members can be kept abreast of what is going on, what we are doing and what our problems are, and naturally to give members an opportunity to express their views and tell us what they think would be useful in our work.

Regarding the question posed to me by Malaysia on the outreach programme, it is true that we have this programme more for Rwanda than for the International Tribunal for the Former Yugoslavia. That is up to the Registrar of the Tribunal. We have spoken about that here and of the question of financing; whether or not that programme is developed depends on the financial situation. We have thought about it and we are working on it; it is important that hearings and trials held, for example, in Arusha, be able to be held in Kigali. That is a type of outreach programme. That means that the people of Rwanda can attend some hearings. In this context, we are in touch with the Minister of Justice and the President of the High Court; there is a room I myself have visited, and with donations from States and from the European Union we are in the process of fixing it up and providing all the security needs so that we can hold hearings. I spoke about this with the President of the International Tribunal for the Former Yugoslavia, following the same principle of holding hearings on site. They agree in principle. There is the legal possibility of holding these hearings on site, but it should be known that it is up to the judge to take the decision.

Regarding the vacant posts in Rwanda Tribunal and the translation problems, it is true that we had a considerable problem regarding the vacant posts last year. We must not forget that working in Arusha or Kigali calls for a great sacrifice because the conditions are what they are. Therefore, it is not easy to find candidates for the posts in the Office of the Prosecutor in Arusha. We have received assistance from the United Nations Secretariat, which sent us a task force to review this problem, to try to identify candidates who might occupy these posts.

Things are much better now. The problem as such does not exist any longer, apart from the regular rotation of those posts. As members know, senior trial attorneys or prosecutors who remain for three or four years will really want to leave their posts. It is no longer a very difficult problem; it is more a normal question of rotating posts.

Georges Ruggiu has been convicted, although the representative of Rwanda has stated that the sentence was too short. I shall not comment on judicial decisions. For a prosecutor it is important that there be a conviction and that a sentence be imposed. As to the length of such sentences, the judges must apply the law in the light of all circumstances, which may be a

subjective analysis. It falls beyond the central task of a prosecutor, which is to see to it that the indictment is borne out and a sentence imposed. The principal is that the sentence is up to the judges. As to where the sentence will be served, two years have already been spent in detention, and because Mr. Ruggiu has Belgian and Italian nationality, he has requested that the remaining 10 years, or less depending on parole, be served in Italy. We have made contact with the Italian Government with a view to enabling him to serve his sentence in an Italian prison; these contacts are informal because it is for the Registrar to make such determinations about sentences.

Turning to the question of *gachacha*, I may have used unsuitable adjectives, but *gachacha* truly is the solution: I have seen many detainees who have spent four and a half or five years in detention without even hearing. That is a problem for Rwanda of which the Minister of Justice is keenly aware; we discuss it often. I should describe *gachacha* as a traditional form of justice; it takes place at the village level, in the community. In my view it is a kind of local justice and can even encourage reconciliation, because it is accepted either by inditees themselves or by those who are called upon to pass judgement upon them. The mechanism can seem rather complex to us. The Minister of Justice tells me that a bill on this matter is before Parliament and that he hopes it can be adopted within a few months, because the problem has become increasingly difficult.

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 Criminal Tribunal for Rwanda has the full support of the office of the Prosecutor. We are prepared to adopt any of the measures set out in that report, because we wholeheartedly agree with the report's suggestions. But I have to say that we have been told that there will be a problem of resources and financing. We are nonetheless awaiting these changes, which can only be for the better and will assist us in our work.

As to intervention by the North Atlantic Treaty Organization (NATO) in Kosovo, I can only report what the decision was, and it was correct to say that it is necessary to see what factors led to that decision. Before making this information available to the Security Council, I wish first to show those who submitted denunciations and possible suspects what

caused us to pursue the matter. The Council will then be able to examine the approximately 95 pages of material and see the law and the reasons for the decision that was taken.

Turning to recruitment, to which the representative of Rwanda referred. It is true that there are some problems in that area. Without trying to shirk my duties, I must note that this does not fall within the purview of the office of the Prosecutor, but rather that of the Registrar. I know that there are problems. Information is now coming to us from the Rwandan authorities, and we pass it on to the Registrar so that the problems can be resolved. The representative of Rwanda was right to say that this is a sensitive and possibly dangerous problem.

I was astonished when the representative of the Russian Federation said that our work had been politicized. I completely reject that accusation. I have been trying for 10 months to get in touch with Russian Federation authorities to explain our work and how we do it. Unfortunately, it has been impossible to establish such contacts. I therefore take this opportunity to ask

the representative of the Russian Federation to help establish such contacts to enable me finally to explain our work and to show that there is nothing political about it: there is law that must be applied; there are investigations that must be carried out; and no more.

I believe I have now responded to all the questions put to me. As has been noted, I will be returning approximately every six months, and I look forward to my next opportunity to address the Council.

**The President** (*spoke in French*): I thank the Prosecutor for her very clear, thorough and indeed powerful answers.

This regular dialogue with the Prosecutor and, through her, with the tribunals is extremely useful. I take it from Ambassador van Walsum's invitation that we will have the pleasure of welcoming you again in November, to which I look forward.

There are no further speakers for this meeting. The Security Council has thus concluded the present stage of its consideration of the item on the agenda. The Security Council will remain seized of the matter.

*The meeting rose at 2 p.m.*