



ICTR Newsletter

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United Nations International Criminal Tribunal for Rwanda

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Judge Dennis Byron's Address to the UN General Assembly



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On 13 October 2008 Judge Dennis Byron, President of the ICTR presented the 13th Annual Report of the ICTR before the United Nations General Assembly

Mr. President, Your Excellencies, Ladies and Gentlemen,

I am greatly honoured to address the distinguished members of the General Assembly. I would like to take this opportunity to extend my sincere congratulations to President Miguel d'Escoto Brockmann on your election as President of this Honourable Assembly and to wish you a successful and fulfilling tour of duty. I would be grateful, Sir, if you would permit me, with the greatest respect, to invite you to take a special interest in the Tribunal as timely action by the General Assembly is pivotal to the completion of its mandate within the projected time frames.

Approximately 14 years ago the International Community responded to the serious violations of international humanitarian law committed throughout Rwanda which resulted in the killings of more than 800,000 people and in other acts of violence, by establishing the International Criminal Tribunal for Rwanda. The Tribunal's mandate has been to contribute to the process of national reconciliation and to the restoration and maintenance of

peace in Rwanda and the Great Lakes region and to ensure that violations of international humanitarian law are halted and effectively redressed. I have found it remarkable that this political institution considered that the attainment of such a political objective could best be achieved through a judicial process. I am sure that there were those who had questions and doubts about the ability of a judicial institution to address such objective.

But, today, whatever system is employed to measure the success of the venture, there can be no doubt that peace has been restored and maintained in Rwanda, that there is a credible and ongoing process of national reconciliation, that many of the violations have been addressed and that some have been effectively redressed. Of course work remains to be done, and circumstances have given the Tribunal new tasks. But there can be no doubt that the Tribunal has been a central and stabilising instrument that has made major and lasting contributions to the establishment of international justice, peace and reconciliation that currently prevail in the region.

Among the most basic and most important of the Tribunal's achievements has been the accumulation of an indisputable historical record, including testimony of witnesses, testimony of victims, testimony of accused, documentary evidence, video recordings and audio recordings. This record was

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UPCOMING JUDGEMENTS:

Bikindi: 2 December 2008
Bagosora et al.: 18 December 2008
Zigiranyirazo: 18 December 2008

Please note that the dates may be subject to change



ICTR Judicial Activities

Judicial Calendar—16 October to 31 October 2008

Case	Bench	Prosecution	Defence (Lead Counsel only)	Party presenting his/here case	Courtroom
Ndindiliyimana et al. A. Ndindiliyimana F.-X. Nzuwonemeye I. Sagahutu A. Bizimungu	Judges De Silva (Pres.), Hikmet, Park	S. Jegede, TA M. Sefon, LA A. Tambadou, ATA F. Mushi, ATA	C. Black C. Taku F. Segatwa G. Saint-Laurent	Defence for Saguhutu (continued)	CR III
Karemera et al. E. Karemera M. Ngirumpatse J. Nzirorera	Judges Byron (Pres.), Kam, Joensen	D. Webster A. Frankson-Wallace I. Morley S. N'Dow G. Visser S. Ballah-Conteh T. Sendze D. Mbutu	D. Diagne P. Robinson F. Weyl	Status Conference	Laity Kama
Nyiramasuhuko et al. E. Ndayambaje J. Kanyabashi P. Nyiramasuhuko A. Ntahobali S. Nsabimana A. Nteziryayo	Judges Sekule (Pres.), Ramaroson, Bossa	A. Whest H. Makwaia A. Alexis-Windsor	P. Boulé M. Marchand N. Bergevin N. Marquis J. Kadji F. Pacere	Defence for Ndayambaje (continued)	CR II
Nshogoza	Judges Khan (Pres.), Muthoga, Short	R. Karagyesa R. Mathenga A. Seye D. Mabura	A. Turner	Status Conference	Laity Kama

Work of the Trial Chambers and the Appeals Chamber

Trial Chamber I

Ongoing trials

Setako

The Chamber is heavily involved in judgment writing (see below), and the case is scheduled to resume in early 2009, subject to courtroom availability. It is expected that the Prosecution case will require a session of no longer than three weeks to complete.

Nsengimana

The Chamber has concluded the hearing of evidence in this case. Closing arguments are scheduled for 20 and 21 November 2008.

Cases where judgement delivery is awaited

Bagosora et al

Deliberations in this case are ongoing. The judgement is scheduled to be delivered on 18 December 2008.

Renzaho

Deliberations in this case are ongoing. The Chamber will announce the date of judgment in due course.

Cases where referral to a domestic jurisdiction is pending

The Chamber is seized of a further referral request pursuant to Rule 11 *bis* for the referral of the case of **Jean-Baptiste Gatete** to a domestic jurisdiction, which will be decided when the Appeals Chamber has decided on all three transfer cases which are currently on appeal.

Trial Chamber II

Ongoing trials

Nyiramasuhuko et al. (Butare)

On 20 October 2008, Ndayambaje started his testimony. His testimony was interrupted on 28 October due to the illness of Accused Nteziryayo who could not be present in court. On 29 and 30 October, Prosecution Witness QA was recalled and further cross-examined. During this testimony, the Defence requested the Chamber to initiate Rule 91 proceedings against the witness for false testimony. One more factual witness for Ndayambaje remains to be heard. The remaining factual witness for Kanyabashi is scheduled to testify from 3 November. The Chamber has reiterated that the case must be closed by 14 November 2008. The Chamber is currently seized of a Prosecution Motion for site visit and of eight Defence



motions, including a motion for exclusion of evidence or recall of Prosecution witnesses.

Bizimungu et al.

Since the close of proceedings on 13 June 2008, the Chamber continues to deliberate on the remaining motions pending before it, including those concerning witness-related issues for the Prosper Mugiraneza defence case. The Chamber conducted a judicial visit of certain sites in Rwanda between 5 and 10 October 2008, and the Prosecution filed its closing brief on 1 October 2008. The Defence teams are scheduled to file their briefs between 10 and 21 November 2008. The Chamber will sit to hear the Parties' closing submissions during the week commencing 1 December 2008.

Military II

Proceedings resumed on 20 October 2008 for the commencement of the case of the fourth co-Accused, Innocent Sagahutu. So far, 11 witnesses have been called by the Defence for Sagahutu.

On 23 October 2008, the Chamber issued a Decision on the Prosecution's objections to Expert Witnesses Lugan and Strizek. On 24 October 2008, the Chamber granted in part a Prosecution Motion to vary the Chamber's Order of 22 September 2008 concerning the Prosecutor's Rule 68 Disclosure Obligations.

Cases where judgement delivery is awaited

Rukundo

The Chamber is currently engaged in the judgement drafting.

Trial Chamber III

Ongoing trials

Kalimanzira

The Defence case will commence on 17 November 2008, as scheduled.

Karemera et al.

On 28 October 2008, the Chamber held a Status Conference on the resumption of the trial proceedings. The Chief Medical Officer of the Tribunal reported on the health condition of Mathieu Ngirumpatse. She indicated that he was not fit to attend any trial proceedings for at least 6 months.

After some discussions with the parties, the Chamber adjourned the proceedings.

On 28 October 2008, the Chamber issued a scheduling order inviting the parties to file submissions as to a potential severance of Mathieu Ngirumpatse. After filing their written arguments, the parties will be heard on Thursday 6 November 2008 on this matter.

The Chamber has also issued a scheduling order inviting the parties to present, on Monday 3 November 2008, oral arguments on the possibility, due to exceptional circumstances, to hear the four Karemera Defence witnesses currently present in Arusha, despite the absence of Mr. Ngirumpatse. In this Scheduling Order, the Chamber notes the real

difficulties raised by two of these four witnesses as to their availability to testify at a later stage before the Tribunal. The Chamber also notes that the two other witnesses have expressed concerns as to their security which could affect their future availability to testify.

As a result of these hearings, the Chamber will decide on how to proceed further with the trial proceedings.

Nshogoza

The remaining obstacle to trial readiness concerning assignment of counsel to the Accused has now been resolved. After a pre-trial conference held on 22 and 30 October 2008, the Presiding Judge adjourned the case to 2 February 2009 for commencement of trial in order to provide the Defence with sufficient time for preparation.

Cases where referral to a domestic jurisdiction is pending

Kayishema

Fulgence Kayishema is an accused at large. The Chamber is currently seized with a Prosecution motion for the referral of his case to Rwanda. Following instructions of the Chamber of 2 May 2008, the Registrar has appointed Defence Counsel to represent the interests of the Accused in his absence. The request for referral will be decided upon when the Appeals Chamber has decided the three transfer cases which are currently on appeal.

Cases where judgement delivery is awaited

Bikindi

The Chamber heard the closing arguments on 26 May 2008. The Chamber is currently drafting the judgement which is scheduled to be delivered on 2 December 2008.

Zigiranyirazo

The Chamber heard the closing arguments on 28 and 29 May 2008. The Chamber is currently drafting the judgement which is scheduled to be delivered on 18 December 2008.

Appeals Chamber

The Appeals Chamber is seized of one appeal from judgement, in the *Karera* case, in which the hearing took place on 28 August 2008 in Arusha. Deliberations and judgement drafting are in progress.

The Appeals Chamber is also seized of an appeal by the Prosecutor against a decision denying his motion to refer the case of Ildephonse Hategekimana to Rwanda. The deliberations and briefing in this appeal are proceeding.

Further, the Appeals Chamber is seized of an appeal from Andre Ntagerura concerning State cooperation in which the briefing is now complete and deliberations are in progress.

In addition to these appeals, the Appeals Chamber is seized of an appeal from Georges Rutaganda



concerning access to protected materials, two motions seeking extension of the time-limits for filing the notices of appeal in the *Nchamihigo* case, and a request to extend the time-limit for the filing of an interlocutory appeal in the *Karemera et al.* case.

Procedure and Evidence and that the Trial Chamber did not err in concluding that, if his case were transferred to Rwanda, Gaspard Kanyarukiga might face difficulties in obtaining witnesses to the extent and in a manner that would ensure a fair trial.

On 30 October 2008, the Appeals Chamber decided the Prosecutor's appeal against a decision denying his motion to refer the case of Gaspard Kanyarukiga to Rwanda. The Appeals Chamber dismissed the appeal in its entirety and upheld the Trial Chamber's decision to deny the referral of the case to Rwanda. The Appeals Chamber, *inter alia*, held that the current penalty structure in Rwanda is not adequate for the purposes of transfer under Rule 11*bis* of the Rules of

Since the beginning of this year, the Appeals Chamber has delivered two Judgements, in the *Seromba* and *Muvunyi* cases; two decisions concerning referral, in the *Munyakazi* and *Kanyarukiga* cases; three interlocutory appeal decisions; and twenty decisions on requests for review, reconsideration, or other matters. It has also issued seventy-two preliminary decisions or orders.

Judicial Decisions of the ICTR from 1-31 October 2008

Date	Record Number	Title	TC
02/09/2008	ICTR-02-78-0136/2	KANYARUKIGA - DECISION RELATIVE A LA DEMANDE DE LA REPUBLIQUE DU RWANDA EN VUE D'OBTENIR L'AUTORISATION DE DEPOSER UN MEMOIRE D'AMICUS CURIAE	TC 1
02/09/2008	ICTR-02-78-0137/2	KANYARUKIGA - DECISION RELATIVE A LA REQUETE EN ADMISSION DE MOYENS DE PREUVE SUPPLEMENTAIRES DEPOSEE PAR LA DEFENSE LE 1er AOUT 2008	TC 1
02/09/2008	ICTR-02-78-0138/2	KANYARUKIGA - DECISION RELATIVE A LA REQUETE EN ADMISSION DE MOYENS DE PREUVE SUPPLEMENTAIRES DEPOSEE PAR LA DEFENSE LE 18 JUILLET 2008	TC 1
03/09/2008	ICTR-02-78-0139/2	KANYARUKIGA - RECTIFICATIF	TC 1
04/09/2008	ICTR-05-88-0084/2	KALIMANZIRA - DECISION RELATIVE A LA REQUETE DE LA DEFENSE AUX FINS D'OBTENIR L'AUTORISATION DE RENCONTRER MONSIEUR CALLIXTE KALIMANZIRA A L'UNDF LE SAMEDI 13 ET LE DIMANCHE 14 SEPTEMBER 2008	TC 3
15/09/2008	ICTR-01-69-0031/2	NSENGIMANA - DECISION RELATIVE A L'ADMISSION DE DECLARATIONS ECRITES	TC 1
01/10/2008	ICTR-99-50-2027	BIZIMUNGU ET AL - DECISION ON MUGIRANEZA'S MOTION TO ADMIT CHURCH RECORDS PURSUANT TO RULE 89(C)	TC 2
01/10/2008	ICTR-98-44-0357/1	KAREMERA ET AL - MEMOIRE POUR MATHIEU NGRUMPATSE CONSECUTIF A LA DECISION RELATIVE AUX REQUETES EN RECONSIDERATION ET EN EXTENSION DES DELAIS CONCERNANT LA PRESENTATION DE LA PREUVE DE MATHIEU (sic) NGRUMPATSE	TC 3
01/10/2008	ICTR-07-91-0054/2	NSHOGOZA - DECISION RELATIVE AUX REQUETES DE LA DEFENSE EN COMMUNICATION DE PIECES JUSTIFICATIVES ET EN INTERPRETATION DU DELAI DE TRENTE JOURS FIXE PAR L'ARTICLE 72 DU REGLEMENT	TC 3
01/10/2008	ICTR-07-91-0054/1	NSHOGOZA - DECISION ON DEFENCE MOTIONS FOR DISCLOSURE OF SUPPORTING MATERIALS; AND CLARIFICATION ON RULE 72 30-DAY PERIOD	TC 3
01/10/2008	ICTR-98-44-0357/3	KAREMERA ET AL - NGRUMPATSE'S BRIEF FOLLOWING THE DECISION ON THE MOTIONS FOR RECONSIDERATION AND FOR EXTENSION OF THE TIME LIMIT FOR PRESENTATION OF MATHIEU (sic) NGRUMPATSE'S CASE	TC 3
01/10/2008	ICTR-05-88-0090	KALIMANZIRA - CONSOLIDATED DECISION ON PROSECUTION MOTION TO REDUCE THE NUMBER OF DEFENCE WITNESSES TO TESTIFY AND ON DEFENCE MOTION TO ADD CALLIXTE KALIMANZIRA TO THE DEFENCE WITNESS LIST	TC 3
02/10/2008	ICTR-00-55B-0074	HATEGIKIMANA - DECISION ON REQUEST TO ADMIT ADDITIONAL EVIDENCE	AC
02/10/2008	ICTR-99-52-2321	BARAYAGWIZA - DECISION ON JEAN-BOSCO BARAYAGWIZA'S MOTION OF 15 SEPTEMBER 2008	AC
03/10/2008	ICTR-98-44-0360	KAREMERA ET AL - DECISION ON EDOUARD KAREMERA'S MOTION FOR EXTENSION OF TIME TO RESPONDE TO ELIEZER NIYITEGEKA'S APPEAL OF 2 JULY 2008	AC
08/10/2008	ICTR-97-36A-0081	MUNYAKAZI - DECISION ON THE PROSECUTION'S APPEAL AGAINST DECISION ON REFERRAL UNDER RULE 11BIS	TC 3



Date	Record Number	Title	TC
10/10/2008	ICTR-96-3-1346	RUTAGANDA - PROSECUTOR'S RESPONSE TO THE APPLICANT'S "APPEAL MOTION AGAINST THE TC DECISION ON REQUEST FOR CLOSED SESSION TESTIMONY AND SEALED EXHIBITS OF WITNESS AWE IN RENZAHO, DATED 3 APRIL 2008"	AC
13/10/2008	ICTR-99-50-2030	BARAYAGWIZA - THE REGISTRAR'S SUBMISSION IN REGARD TO THE AC'S "DECISION ON JEAN -BOSCO BARAYAGWIZA'S MOTION OF 15 SEPTEMBER 2008"	AC
13/10/2008	ICTR-99-52-2320	BARAYAGWIZA - THE REGISTRAR'S SUBMISSION IN REGARD TO THE AC'S "DECISION JEAN-BOSCO BARAYAGWIZA'S MOTION OF 15 SEPTEMBER 2008"	AC
13/10/2008	ICTR-01-70-0071	RUKUNDO - DECISION ON WITHDRAWAL OF THE ASSIGNMENT OF MS. ALLISON TURNER CO-COUNSEL FOR THE ACCUSED EMMANUEL RUKUNDO	TC 2
13/10/2008	ICTR-07-91-0059	NSHOGOZA - DECISION ON WITHDRAWAL OF THE ASSIGNMENT OF MR. PHILIPPE GRECIANO, COUNSEL FOR THE ACCUSED LEONIDAS NSHOGOZA	TC 3
13/10/2008	ICTR-07-91-0058	NSHOGOZA - DECISION ON MOTIONS REQUESTING ASSIGNMENT OF COUNSEL OF CHOICE	TC 3
15/10/2008	ICTR-00-55B-0076/1	HATEGEKIMANA - RAPPEL DE LA DEFENSE A FAIRE REPOSE, CONFORMEMENT AUX PRESCRITS DE LA DECISION DE LA CHAMBRE D'APPEL DU 23 JUILLET 08 INTITULEE <DECISION ON MOTION FOR TRANSLATIONS AND EXTENSION OF TIME> , A LA REQUETE DU RWANDA ...	AC
15/10/2008	ICTR-00-55B-0076/2	HATEGEKIMANA - DEFENCE REMINDER TO RESPOND-PURSUANT TO THE AC'S ORDERS IN THE 23 JULY 2008 DECISION ON MOTION FOR TRANSLATIONS AND EXTENSION OF TIME- TO RWANDA'S REQUEST FOR PERMISSION TO FILE AN AMICUS CURIAE BRIEF	AC
22/10/2008	ICTR-98-41-2243	BAGOSORA ET AL - DECISION ON DEFENCE MOTIONS CONCERNING APPEAL CHAMBER JURISPRUDENCE AFTER CLOSURE OF THE CASE	TC 1
22/10/2008	ICTR-98-41-2241	BAGOSORA ET AL - DECISION ON NTABAKUZE DEFENCE MOTIONS CONCERNING DISCLOSURE OF EXCULPATORY EVIDENCE	TC 1
22/10/2008	ICTR-98-41-2242	BAGOSORA ET AL - DECISION ON NTABAKUZE DEFENCE MOTIONS FOR THE ADMISSION OF ADDITIONAL EVIDENCE	TC 1
23/10/2008	ICTR-96-14-0462	NIYITEGEKA - DECISION ON ELIEZER NIYITEGEKA'S APPEAL CONCERNING ACCESS TO CONFIDENTIAL MATERIALS IN THE MUHIMANA AND KAREMERA ET AL CASES	AC
24/10/2008	ICTR-99-50-1840	BIZIMUNGU ET AL - DECISION ON JUSTIN MUGENZI'S MOTION FOR RELIEF FROM THE PAGE LIMITATION FINAL TRIAL BRIEFS	TC 2
24/10/2008	ICTR-00-56-0887	NDINDILYIMANA ET AL - DECISION ON THE PROSECUTION MOTION TO VARY THE CHAMBER'S ORDER CONCERNING THE PROSECUTOR'S RULE 68 DISCLOSURE OBLIGATIONS	TC 2
24/10/2008	ICTR-98-44-0472	KAREMERA ET AL - DECISION RELATIVE A LA REQUETE EN CERTIFICATION D'APPEL DE LA DECISION DU 17 SEPTEMBRE RELATIVE A LA PRESENTATION DE LA PREVUE DE MATHIEU NGIRUMPATSE	TC 3
24/10/2008	ICTR-98-44-0471	KAREMERA ET AL - DECISION RELATIVE A LA PROTECTION DES TEMOINS D'EDOUARD KAREMERA	TC 3
27/10/2008	ICTR-00-56-0952	NDINDILYIMANA ET AL - DECISION ON THE PROSECUTION'S OBJECTIONS TO EXPERT WITNESSES LUGAN AND STRIZEK (Rule 94 bis of the RPE)	TC 3
27/10/2008	ICTR-98-44-0485	KAREMERA ET AL - DECISION ON JOSEPH NZIRORERA'S MOTION TO DISMISS FOR ABUSE OF PROCESS: PAYMENTS TO PROSECUTION WITNESSES AND "REQUETE DE MATHIEU NGIRUMPATSE EN RETRAIT DE L'ACTE D'ACCUSATION"	TC 3
27/10/2008	ICTR-98-44-0497	KAREMERA ET AL - DECISION ON JOSEPH NZIRORERA'S MOTION TO ADMIT TESTIMONY OF COME BIZIMUNGU	TC 3
28/10/2008	ICTR-98-42-1476	NYIRAMASUHUHO ET AL - DECISION ON KANYABASHI'S AND NSABIMANA'S MOTION TO CROSS-EXAMINATION PROSECUTION WITNESS QA ADDITIONAL TOPICS	TC 2
28/10/2008	ICTR-99-52-2322	NAHIMANA ET AL - DECISION ON HASSAN NGEZE'S MOTIONS OF 8 AND 26 AUGUST 2008	AC
28/10/2008	ICTR-99-52-2323	NAHIMANA ET AL - DECISION ON HASSAN NGEZE'S MOTIONS OF 26 AND 28 AUGUST 2008	AC
29/10/2008	ICTR-01-74-0177	KARERA - DECISION ON THE APPELLANT'S REQUEST TO ADMIT ADDITIONAL EVIDENCE PURSUANT TO RULE 115 OF THE RULES OF PROCEDURE AND EVIDENCE	AC

Date	Record Number	Title	TC
29/10/2008	ICTR-01-74-0177	KARERA - DECISION ON THE APPELLANT'S REQUEST TO ADMIT ADDITIONAL EVIDENCE PURSUANT TO RULE 115 OF THE RULES OF PROCEDURE AND EVIDENCE	AC
29/10/2008	ICTR-01-74-0177	KARERA - DECISION ON THE APPELLANT'S REQUEST TO ADMIT ADDITIONAL EVIDENCE PURSUANT TO RULE 115 OF THE RULES OF PROCEDURE AND EVIDENCE	AC
29/10/2008	ICTR-01-74-0177	KARERA - DECISION ON THE APPELLANT'S REQUEST TO ADMIT ADDITIONAL EVIDENCE PURSUANT TO RULE 115 OF THE RULES OF PROCEDURE AND EVIDENCE	AC
29/10/2008	ICTR-01-74-0177	KARERA - DECISION ON THE APPELLANT'S REQUEST TO ADMIT ADDITIONAL EVIDENCE PURSUANT TO RULE 115 OF THE RULES OF PROCEDURE AND EVIDENCE	AC

Appeals Chamber Upholds Decision not to Transfer Munyakazi's Case to Rwanda



On 9 October 2008 the Appeals Chamber of the UN International Criminal Tribunal for Rwanda upheld the decision by the Trial Chamber of 28 May 2008 denying the application by the Prosecution for referral of Yussuf Munyakazi's case to Rwanda.

The Appeals Chamber composed of Judges Fausto Pocar, presiding, Mohamed Shahabuddeen, Mehmet Güney, Liu Daqun and Andréia Vaz however granted one ground of the appeal by finding that the Trial Chamber erred in upholding that Rwanda does not respect the independence of the judiciary and that the composition of the courts in Rwanda does not accord with the right to be tried by an independent Tribunal and the right to fair trial.

However, it dismissed the remaining grounds of appeal, which relate to fundamental matters concerning whether Munyakazi's right to obtain the attendance of, and to examine, Defence witnesses under the same conditions as witnesses called by the Prosecution, can be guaranteed at this time in Rwanda and whether the penalty structure in Rwanda is adequate for the purpose of transfer under Rule 11*bis* of the Rules. Consequently, despite granting one ground of the appeal, the Appeals Chamber found that the Trial Chamber did not err in denying the Prosecution's request to refer Munyakazi's case to Rwanda.

On 28 May 2008 the Trial Chamber denied the application for referral citing concerns about the sentence of life imprisonment in isolation which replaces the death penalty in the Rwandan law. The Trial Chamber was of the view that certain safeguards listed in the Decision should be put in place to make such a penalty conform with international human rights standards. The Trial Chamber further expressed serious concern about the fair trial right of the Accused, with specific reference to the independence of the tribunal that would try the case if referred, and the ability of the Accused to call witnesses in his defence and the witness protection program in place. The Trial Chamber was concerned that there is a lack of sufficient guarantees against outside pressure on the judiciary and that, based on the past actions of the

Government, the independence of the judiciary would not be respected.

Munyakazi, who was a businessman and farmer in Cyangugu Province, was jointly indicted in 1997, with Bagambiki and Imanishimwe. In 2000, the Trial Chamber granted the severance of his case, and the indictment was subsequently amended in 2002, charging the Accused for genocide and alternatively complicity in genocide, and extermination as a crime against humanity.

Ngirabatware Pleads Not Guilty



Augustin Ngirabatware on 10 October 2008 made his initial appearance before Judge Asoka de Silva of the UN International Criminal Tribunal for Rwanda and pleaded not guilty to ten counts charging him with genocide and serious violations of international

humanitarian law.

Ngirabatware (51), former Minister of Planning, is charged with genocide; conspiracy to commit genocide; complicity in genocide; direct and public incitement to commit genocide; crimes against humanity for murder, extermination, rape, inhumane acts; and serious violations of the Geneva Conventions and of Additional Protocol II.

According to the indictment, the accused is alleged to have conspired with others to work out a plan with the intent to exterminate the civilian Tutsi population and eliminate members of the opposition, so that they could remain in power.

The Prosecution stated that the components of this plan consisted of, among other things, recourse to hatred and ethnic violence, the training of and distribution of weapons to militiamen as well as preparation of lists of people to be eliminated. In executing the plan, the accused with others, organised, ordered and participated in the massacres perpetrated against the Tutsi population and moderate Hutu.

Ngirabatware was arrested in Frankfurt, Germany on 17 September 2007 and was transferred to the UN Detention Facility in Arusha, Tanzania on 8 October 2008.

Initially, Ngirabatware was jointly charged with Jean de Dieu Kamuhanda, former Minister of Higher Education and Scientific Research who, on 22 January 2004, was convicted and sentenced to imprisonment for the remainder of his life, following dismissal of his appeal on 19 September 2005.

The UN International Criminal Tribunal for Rwanda has expressed its gratitude to the German Government for the arrest, detention and smooth transfer of the accused person to Arusha.

The Legal Services and Internship Programme Unit

• Orientation Seminar

The Legal Services and Internship Programme Unit, headed by Dr. Ahmed Iyane Sow, on 18 September 2008, organized an Interns Orientation Seminar to welcome the new 43 Interns currently participating in the Internship Programme, and to offer them an overview of the activities and structure of the ICTR.

As it has become by now a well-established tradition, senior legal officers, trial attorneys and officials - from the Chambers, the OTP and the Registry - were invited to illustrate to the Interns a complete description of the ICTR mandate and its functioning.



The seminar was opened by Mr. Amoussouga, Chief of ERSPS and ICTR Spokesperson, who starting with an historical overview of the 1994 events in Rwanda, led the Interns through the history of the establishment of the ICTR, its work, achievements and most recent challenges. The Interns showed a considerable interest and submitted several questions. The speakers thanked them for their important contribution to the work of the Tribunal. As it has been emphasized by one of the speakers, Mr. Morley, this Internship Programme, recruiting the best students and most brilliant young professionals, might lead to the creation of a new army of young international criminal lawyers – committed to the fight against impunity - who hopefully will contribute to making the world a better place.

Protocol News

• VIPs Visit ICTR

On 3 and 4 November 2008, ICTR recorded an unprecedented rate of visits of High Commissioners

and Ambassadors accredited in Dar Es Salaam, and that of other dignitaries in the region. Indeed, the ICTR Group of Friends, led by the British High Commissioner and composed of the Ambassadors of Belgium, France and of the European Commission, paid a collective visit to the Tribunal. The Canadian High Commissioner, the German Ambassador as well as the Second Secretary of the Embassy of Finland, also visited the Tribunal individually. These VIPs paid courtesy calls to the three Principals of the Tribunal; the President, the Prosecutor and the Registrar, to learn about the latest developments in the work of the Tribunal, especially the ICTR Completion Strategy. Some of them recently posted in Dar es Salaam, received in addition, an in-depth briefing from the ICTR Spokesperson, Mr. Roland Amoussouga.

Furthermore, a four-member Delegation from the Tribunal of the SADC (Southern African Development Community), led by the President of the Tribunal, H E Justice Dr. Luis Antonio Mondlane, as well as a 14-member Delegation from the East African Court of Justice, made up essentially of Judges visited the ICTR. This significant visit, initiated and coordinated by the Deputy Registrar of the Court of Justice, Mrs. Geraldine Umugwaneza, gave an opportunity to these African Leaders to hear from the President and the Registrar of the ICTR about the accomplishments and the challenges facing the Institution at this particular stage of the end of its mandate.

• Visit of Delegates from the Commonwealth Judicial Education Institute (CJJI)

On 29 October 2008, at the invitation of the ICTR President, Judge Dennis Byron, about 40 Judges and other dignitaries of the Commonwealth Judiciary visited the Tribunal before heading for Lake Manyara for a three-day conference on “*Contemporary Challenges in Judicial Education Issues and Responses*”.

The countries represented were Australia, Canada, Mauritius, Nigeria, OECS (Organization of Eastern Caribbean States), Pakistan, Rwanda, South Africa, Swaziland, Tanzania, Uganda and Zambia.

The Protocol and External Relations Officer gave the Delegates a guided tour of ICTR facilities which culminated in a briefing by the ICTR Spokesperson in the Laity Kama courtroom. The Deputy Prosecutor also addressed them on behalf of the Prosecutor and the Registrar of the Tribunal. The highlight of the visit was the address by Judge Dennis Byron, in his capacity as President of the ICTR and of the CJJI on “*The Heritage of Human Rights Law from the International Criminal Tribunal Jurisprudence.*” The address was preceded by a video conference on Judicial Writing and also by a demonstration of the ICTR DVD- ROM on Basic Documents and Case Law by the Chief of the ICTR Library, Ms. Angeline Djampou

• Visit from University of Washington

Ten eminent experts and researchers from the

University of Washington, based in Seattle in the USA, visited the Tribunal from 1 October to 7 November 2008. They conducted research on the “*Multi-Lifespan Information System Research Initiative*” This initiative is a multi-lifespan information system design effort aimed at addressing unique technical and social challenges through its efforts to create an information system that serves the needs of an international audience who access the system through a multiplicity of information tools.

The researchers conducted filmed interviews with staff and officials in Arusha and Kigali.

News from Kigali

• ICTR Trains More Rwandese Legal Personnel

As part of the implementation of Umusanzu Extension Project, from September 28 – October 10, 2008, ICTR Staff members from Umusanzu Information Centre continued with the programme of conducting a series of training for Rwanda’s Provincial Legal Officers on Online Legal Information Research. Up to 60 participants including Judges, Prosecutors, Registrars and other Legal personnel from the Districts of Rusizi, Gasabo and Ngagatare located in the Western, Kigali City and the Eastern Provinces attended this exercise.

Umusanzu Extension Project, aims at improving communications and facilitates access to the jurisprudence of the International Criminal Tribunal for Rwanda (ICTR), and other legal materials for members of the Rwandan Judiciary working outside Kigali.



Participants from Rusizi Judiciary

The Project is being implemented by the ICTR in collaboration with the European Commission. Ten Mini-Information Centres have already been established.

The overall objective of the training seminar, like similar ones held before, was to equip the participants with the knowledge, skills and techniques that are necessary to conduct efficient information search on the internet. Specifically, the aim of the workshop was to enable the participants to become aware of the incalculable volume of free and subscription based information resources available on the internet and familiarize themselves with a wide variety of research tools that are available electronically.

This programme covered the third phase, following previous ones that involved six locations; Muhanga,

Nyamagabe, Karongi, Gicumbi, Musanze and Rubavu. The training was facilitated by Jonas Mutwaza of Umusanzu Library, accompanied by Kamanzi Innocent, the ERSPS Kigali Sub-Office Coordinator and Kamuru Charles, the Public Information Assistant in Kigali.

• UN DPI and ICTR Hold More Exhibitions in Rwanda: “*Lessons from Rwanda*” and “*the Activities of the ICTR*”

As part of the United Nations Outreach Programme and the ICTR Information dissemination campaign in Rwanda’s High Institutions of Learning, the ICTR in collaboration with the Department of Public Information in New York, from 14-24 October 2008 conducted exhibitions and post exhibition conferences at the Catholic University of Kabgayi and the Musanze Institution of Higher Education in the Southern and Northern Provinces respectively.

This exercise was carried out by staff members of the Tribunal’s Information Centre based in Kigali. This event focused on “*Lessons from Rwanda*” is contained in the United Nations Prevention of Genocide Initiative which is an information and educational outreach programme run by the United Nations Department of Public Information (DPI).

The exhibition consisted of ICTR information publications and a display of posters depicting the history of the Rwandan genocide, how it was planned, the key players, the role of the United Nations and examples of other similar catastrophies in other parts of the world.

The ICTR documentary “*Justice Today, Peace Tomorrow*” was also screened. All programmes were conducted in English, French and Kinyarwanda.

The exhibition follows similar ones held at the Kigali Independent University Campus at Rubavu, Western Rwanda, Nkumba Peace and Reconciliation Centre, Northern Rwanda and the National University of Rwanda in Southern Rwanda. The next exhibition is scheduled to take place at the Agricultural Technical University in Ngoma, Eastern Rwanda in early November this year.

• ICTR Heritage Project Team Visit Umusanzu Centre

A research team from the University of Washington on 13 October 2008 visited the Tribunal’s Information Centre and offices in Kigali. The group is undertaking the implementation of the *ICTR Information Heritage Project* that will aim at preserving the legacy of the ICTR.

The team was briefed about the ICTR Outreach Programme in Rwanda and the role the Centre is playing in trying to bridge the information gap between the Tribunal and the Rwandan population by organizing awareness-raising workshops, screening of ICTR documentaries and capacity building for legal professionals.

- **UN Day Celebrations in Kigali**



ICTR Staff Members, Kigali at UN Day Celebrations

The ICTR Chief of Division of Administrative Support Services, Ms Sarah Kilemi on 24 October 2008 joined the Tribunal's staff members in Kigali to celebrate the 63rd anniversary of the UN organization. The event took place at the Amahoro building compound.

The occasion was attended by staff members and the Tribunal's senior officers in Kigali.

The statement of the UN Secretary General, Mr. Ban Ki-Moon and the speech of the ICTR Registrar, Mr. Adama Dieng were read by the Chief of DASS. Ms Kilemi also viewed exhibitions on the "ICTR Achievements" and "Lessons from the Rwandan Genocide".



Sarah Kilemi at the Exhibition in Kigali with Charles Kamuru

News from The Hague

- **Activity of the Appeals Chamber**

The Appeals Chamber is seized of one appeal from judgement, in the *Karera* case, in which the hearing took place on 28 August 2008 in Arusha. Deliberations and judgement drafting are in progress. The Appeals Chamber is also seized of one appeal by the Prosecutor against a decision denying his motion to refer the case of Ildephonse Hategekimana to Rwanda. The deliberations and briefing in this appeal are proceeding. Further, the Appeals Chamber is seized of an appeal from Andre Ntagerura concerning State cooperation in which the briefing is now complete and deliberations are in progress. In addition to these appeals, the Appeals Chamber is seized of an appeal from Georges Rutaganda concerning access to protected materials and two motions seeking extension of the time-limits for filing the notices of appeal in the *Nchamihigo* case.

During October, the Appeals Chamber delivered two decisions concerning referral, in the *Munyakazi* and *Kanyarukiga* cases. It has also issued three decisions on requests for review, reconsideration, or other matters as well as five preliminary decisions or orders, including two decisions concerning requests for leave to admit additional evidence on appeal and a decision on request for leave to file an *amicus* brief.

To date, the Appeals Chamber has delivered twenty Appeal Judgements, concluding the appellate proceedings in respect of twenty-six persons.

- **Testimonies of witnesses by video-link**

Following the Orders of 16 July 2008, 17 July 2008, 22 August 2008 and 17 September 2008, issued by Trial Chamber II, composed of Judges Asoka de Silva (Presiding), Taghrid Hikmet and Seon Ki Park, the Other Registry Services Sub-Unit (ORSS-U) of the ICTR Office in The Hague has organised and covered, in coordination with the relevant Sections/Units of the ICTR and the ICTY, the hearing of testimonies by video-conference link of two witnesses in October 2008.

... from a Staff Member

- **Tips to protect electronic materials and your computer from virus infection**

Always take care of your electronic material. You would have spent hours and days to create documents which are very critical and important to your work. Normally one computer stores more than 4-5 years' work.

Due to virus infection or faulty program or computer crash, users' documents if lost are lost forever. Computer programs and applications can be reinstalled as and when required, but users' documents, in most circumstances, can never be recovered.

Recently a large number of computers, laptops and flash (USB) drives were reported to be infected with a virus. Once virus gets attached to Microsoft Word documents, and changes .doc to .scr file extension. This virus is fast spreading as users send emails with virus-infected-attachments.

To protect documents and computer from virus infection, users are advised to take few steps:

Regularly backup your materials. The system backup takes care of documents stored on network drive (like s: drive), however documents stored on the local drives of computer or laptop, the user should ensure that they take backup on a regular basis.

Your backup must contain following:

- Documents, photos, and media (music and video) files etc.
- Lotus Notes archives

- Internet favorites etc.

Do not ignore any virus alert. Always monitor your computer to ensure that it has the latest antivirus definition. You can check this with two clicks. On the task-bar:

- Click 'Start'
- Move mouse to All Programs -> Symantec Client Security and
- Click 'Symantec Antivirus'
- See the 'Virus Definition File' date.

Full Scan: Auto-Protect feature of Antivirus application (like Symantec) scans only files that are accessed or modified and alerts the user if it finds virus. It never detects virus in programs and documents that are not run or opened for very long. On a regular basis run 'Full Scan' on your computers for any virus.

Always run virus scan on flash (USB) drive when you plug it into the computer.

By regular backup and updating of antivirus definition and constant monitoring of virus alters, we can minimize virus infection and application or computer crash.

Hundreds of Arusha Students Join ICTR in Marking UN Day



On 24 October 2008 more than 700 students from Primary and Secondary schools in and around Arusha and some invited guests joined staff of the UN International Criminal Tribunal for Rwanda in celebrating the 63rd anniversary of the United Nations at the ICTR offices in Arusha.

The colourful UN Day event was graced by some traditional dances by Moivo and Uwasa groups from



Monduli Military Academy Brass Band

Arusha, the Monduli Military Academy Brass Band and speeches from the President of the Tribunal Judge Dennis Byron, the Registrar Mr. Adama Dieng and the President of the ICTR Staff Association Mr. Optatus Nchimbi.

President Judge Byron, noting the presence of the hundreds of students, pointed out the important role the youth are going to play in making the world a better and safer place in future.



The Registrar Mr Dieng read a message from the UN Secretary General underscoring the importance of the UN in delivering results for safer, healthier, and more prosperous world.



Mr. Nchimbi reiterated the commitment of staff of the Tribunal in ensuring a successful and fruitful completion of the mandate of the ICTR.



After the main event the students proceeded to Mbayuwayu Hall of the AICC where Mr. Roland Amoussouga, the ICTR Chief of External Relations and Strategic Planning, and Spokesperson briefed them on the work of the Tribunal in an engaging two-hour session. Each represented school was later presented with the ICTR documentary film.



The students enjoyed some refreshments before their departure.





Judge Dennis Byron Addresses the UN General Assembly

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invaluable to the Appeals Chamber when it discredited and rejected the theory that genocide and widespread or systematic attacks against civil population had not actually occurred in Rwanda in 1994. In a nutshell, the Tribunal has established an important judicially verified factual record of these atrocities. The importance and value of that record and the archival collections of the Tribunal to national, regional and international history should not be underestimated. They have and will continue to contribute to the peace and reconciliation process in Rwanda and in Great Lakes region and offer a guide for addressing similar violations of international humanitarian law in other areas of the world.

The Tribunal, and its twin sister ICTY, have been the modern pioneers of a credible international criminal justice system. They have contributed greatly to the development of substantive international criminal law and procedure. The 14 years of our activity have produced a substantial body of jurisprudence, including the definitions of the elements of the crime of genocide, crimes against humanity, war crimes, as well as forms of responsibility, such as superior responsibility. Other international tribunals and courts will have a well established foundation on which to build. The work of the Tribunal has transformed the resolutions, treaties and conventions emanating from the United Nations, into practical and effective tools to be used by the international criminal justice system in its efforts to end mass atrocities.

The Tribunal had also fostered national compliance with international obligations in the human rights sphere. For example, Rwanda has already abolished death penalty in order to facilitate the transfer of cases to its jurisdiction. The Trial Chamber's decision not to transfer the *Munyakazi* case to Rwanda was recently upheld by the Appeals Chamber. The reasons given in the appellate judgment could lead to even further reforms, including a clarification of the applicable punishment for those transferred to Rwanda, the exclusion of life imprisonment in solitary confinement and strengthening the witness protection program. The referral proceedings have also put the spotlight on other countries that need to adopt domestic legislation implementing the human rights treaties and conventions to which they are parties. The Tribunal's influence, therefore, extends well beyond the Great Lakes region, spreading what are arguably the highest ideals of this body—its international standards of human rights—transforming them from noble aspirations into enforceable legislation and impartial judicial processes.

The 13th Annual Report of the Tribunal's activities from 1 July 2007 to 30 June 2008 that I am honoured to present to your Excellencies today reflects these remarkable and ongoing achievements and the Tribunal's unwavering commitment to its mandate. During the reporting period, all sections of the Tribunal have worked vigorously, combining their efforts to complete their tasks at the earliest date possible, while

upholding due process and guaranteeing the right to a fair trial for all those who are accused.

Since July 2007 up to date, the Trial Chambers have issued more than 400 interlocutory and pre-trial decisions. It rendered judgements and sentences involving four accused. Decisions were delivered in five applications for referral of cases to national jurisdictions. Two were successfully referred, while in three other cases, the referral was denied. The evidence phase of trials involving seven accused has been completed. Currently, there are 13 accused awaiting judgement. Trials involving 15 accused are in progress. The cases of four detainees, including one case of contempt, are at the pre-trial stage. One accused, who has been recently transferred to the Tribunal, made his initial appearance last week pleading not guilty on all charges against him. And there is one awaiting retrial ordered by the Appeals Chamber this past August in its *Muvunyi* judgement. These figures show that by December 2009 the Trial Chambers will be required to deliver judgements against 34 accused. In addition, as a result of the recent Appeals Chamber's decision upholding the denial to transfer the case of Munyakazi to Rwanda, this case along with the cases of Kanyarukiga, Hategekimana and Gatete may now have to be added to the Tribunal's workload making the total for adjudication, 38 cases.

The Appeals Chamber has also continued to function effectively. It has delivered more than 80 interlocutory decisions and pre-appeal orders and decisions as well as judgements concerning three individuals. This brings to a total of 25 persons who have had their appeals completed. As a result, only one appeal is pending. I think that this honourable Assembly should take note that the appellate workload is likely to increase dramatically in the near future, and that the capacity of the Appeals Chamber may need to be enhanced to cope with it.

During the reporting period, the Prosecutor Hassan Jallow and his staff were at full stretch investigating and developing evidence for cases not yet in trial, presenting evidence in the cases before the Trial Chambers, and dealing with the matters before the Appeals Chamber. Prosecutor Jallow has continued to devote special efforts to secure the arrest of the remaining fugitives, two of whom have been arrested during the reporting period. His Office continued to work to find countries willing to receive cases for referral to national jurisdictions. It has been providing assistance in the two cases that have been successfully transferred. Two additional referrals are now pending before the Appeals Chamber, and two others are pending before Trial Chambers. The Office of the Prosecutor has also compiled a significant database of evidentiary material and is continuously assisting national jurisdictions in their investigations.

During the present reporting period, the Registry, headed by Mr. Adama Dieng, has continued to play a vital role by providing administrative and legal support to all the Tribunal's trials. In my last report, I explained that the Tribunal was experiencing difficulty due to the inability to offer long term appointments, which has



contributed to the current high staff turnover. The Registry continues its efforts to retain competent, knowledgeable and experienced staff members required for the successful completion of the Tribunal's mandate. To cushion the impact of the Tribunal's drawdown plan and address the exceptional situation that comes with it, the Tribunal has engaged the support of the Department of Management, especially at the Office of the Controller and Human Resources Management, to explore and adopt flexible exceptional measures and common strategy to address the challenges of downsizing and ensure that the Tribunal completes its work within the set timeframes. However, more needs to be done to address the issue of staff retention, and we will continue to count on your support.

During the reporting period, the Office of the Registrar has also continued to deploy vigorous and commendable diplomatic efforts in the relocation of acquitted persons. As a result, and thanks to the cooperation of Member States, one acquitted person has been relocated. Now only one acquitted person awaits relocation, and efforts are ongoing to find a suitable resolution.

Establishing peace, justice, security and reconciliation in the region remains a central activity of the Tribunal. As a key component of its mandate, the Tribunal provides support in Rwanda to the judiciary, to civil society and to academic institutions through its comprehensive capacity building and outreach programmes. The Registry in particular has continued to promote the Tribunal's work by carrying out a diverse range of public relations activities including training sessions and the production of documentaries and other publications, notably in Rwanda and Great Lakes Region.

The Tribunal has worked assiduously in compliance with the completion strategy. The task has been daunting. Yet, we have tackled the challenge with confidence and determination. However, there have been developments which added to the workload on which the time estimates were initially based. Because of the recent arrest of the three fugitives who have to be tried at the Tribunal, we are now planning trials for which provision had not previously been made. I would like to take this opportunity to call again on Member States to take more active steps in apprehending the remaining fugitives because the value of our achievements will be diminished unless all these arrests are secured. The inevitable result of these additional undertakings is the need for additional time to complete the proceedings. At the request of the Tribunal, following its presentation of evidence on the progress of its work and projections, the Security Council extended the terms of office of some Judges in July 2008. Your august honourable Assembly will have to decide on the proposed additional resources in support of the revised additional workload.

Mr. President, the Tribunal has set for itself a very high standard of performance. The workload for which we are planning is far higher than at any other period in its history. If one were to use the number of judgements delivered as a measurement standard, then the

Tribunal will produce, within the next 14 months, a quantum of work almost equivalent, and maybe exceeding, the quantum of work produced over the previous 14 years. Since 1998, 31 trial judgments involving 37 accused have been rendered. We are now planning to deliver judgments in respect of 38 accused in the next 14 months. It is true that many of these judgements will be delivered after trials that have taken several years to be completed. But the upcoming challenge for the Judges and the support staff is that the multi-track system devised to expedite the process requires that trial and judgement writing activities in every Trial Chamber will overlap during the coming period. This is no easy task. A workload of such magnitude over a short period will require the continued service of the staff whose experience, competence and dedication were essential to the achievements of which the Tribunal boasts.

Unfortunately, our very success in moving toward the timely completion of our task leads to the loss of staff whose services are indispensable to continued progress. Unless we can provide our staff with reasonable expectations of secure employment, we will deprive ourselves of the means to achieve the goals and the timetable to which we are committed.

For some time, the Tribunal has been discussing the importance of devising strategies for staff retention with this august Assembly. Now, the situation is even more critical than before. A continued loss of staff will make the task insurmountable. When it became apparent that there would be no financial incentives for staff retention, the Tribunal adopted a number of alternative strategies. At the present time, the most important requirement for the retention of the staff is the predictability of employment until the completion of our work. That is within the power of this Assembly to guarantee.

We have applied for a supplementary budget to retain staff required for the trials planned for 2009. A rapid adoption of a supplementary budget will provide the required predictability for our staff members and allow the Tribunal to move effectively and expeditiously towards a successful implementation of its completion strategy. Without this approval, comprehensive and efficient planning will be impossible.

I should point out that the need for a supplementary budget does not reflect any inefficiency on the part of the Tribunal. It reflects, rather, the fact that this Tribunal and others like it are in many ways unprecedented in the history of international jurisprudence. While it was obvious at the outset that funding would have to be provided for its operation, it may not have been obvious that any Tribunal designed to exist for a limited time will require budgetary adjustments as it approaches the conclusion of its mandate.

I stand before your honourable Assembly to reiterate that the Tribunal remains committed to its important mandate to bring those most responsible for the mass atrocity in Rwanda during 1994 to justice, to restore peace to the Great Lakes region and to facilitate reconciliation between the former combatants.



Finally, it would be remiss of me not to recall that the Tribunal is actively preparing for the period after the completion of its current trial work. Discussions and exchanges of views are underway with the Office of Legal Affairs and other stakeholders to determine the residual function needed to preserve the Tribunal's legacy, including such important issue as the enforcement of sentences, the protection of witnesses and the maintenance of archives in which so much history is reposed.

Excelsencies for your unfailing support to the Tribunal, which is paramount to the successful accomplishment of our vital mission. Approximately 14 years ago the International Community determined that international justice was an essential component of reconciliation and peace. We think the Members States were right. We must ensure that next generations will never forget our accomplishments and will pursue the fight against impunity of those who commit the most serious international crimes.

Honourable Members, I would like to thank Your

Thank you.
