



Separate Prosecutors?



United Nations Security Council in Session

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The United Nations Security Council met on Friday, 8 August 2003, to discuss the possible creation of separate Prosecutor's posts for the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY). Currently, Ms. Carla Del Ponte is the Prosecutor of both Tribunals.

Following the meeting – during which Ms. Del Ponte briefed Council members on the work of this Tribunal and the ICTY – the Security Council's current President, Ambassador Mikhail Wehbe, said a decision about separate Prosecutors had not yet been taken, but is expected soon.

Since this matter is before the Security Council, ICTR does not wish to make further comments on it until the Security Council has made its pronouncement.



Ms. Carla Del Ponte



ICTR Judicial Performance and Achievements from January 1997 to August 2003

The trials at ICTR started in January 1997, a few months after the arrival of the first accused. Until then, there was limited infrastructure, no court rooms and many problems. In spite of the challenges, the six judges elected for the first four years' mandate of the Tribunal (1995-1999) managed to deliver six judgements involving seven accused.

In 1999, judicial and administrative reforms were still needed. Since then, there have been large improvements. For quite a long time now, the Tribunal has been a very busy court, with the three Trial Chambers sitting lengthy hours, equipped with modern court facilities and assisted by a highly professional staff. In the course of the ICTR's second mandate from May 1999 to May 2003, the total judicial output of the Tribunal increased to 11 judgements involving 13 accused. At present, four cases are in deliberation. Consequently, by the end of 2003 the ICTR will have delivered 15 judgements involving 21 accused since the first trials started in 1997. In addition to these cases, two trials (Butare Case, Military Case) concerning ten accused are underway, and four new trials relating to ten accused are expected to start during the second half of 2003. The ICTR is therefore in the process of handling trials involving 20 accused. The case law of the ICTR has developed important new principles in international criminal and humanitarian law. Our web-site (<http://www.ictor.org>) provides up-dated information.

Summary of ICTR Judicial Performance Statistics

Out of 81 indicted persons, 66 suspects/accused persons have been apprehended.

Total Judgements so far rendered (since January 1997):

In 79 months (January 1997-August 2003) of judicial activities, the ICTR has rendered 11 decisions involving 13 accused persons. On average, one decision every 7 months.

One accused person died in ICTR custody while awaiting trial.

Total number of detainees currently in the United Nations Detention Facility (UNDF) in Arusha: 56.

Number of accused on trial: 19 detainees on 7 trials

Number of accused awaiting trial: 31 detainees

Former Official Function	On Trial	Awaiting Trial
Political Leaders	3	9
Military Leaders	6	7
Media Leaders	3	-
Senior Former Government Administrators	6	8
Religious Leaders	-	3
Others (Musician/Artist; Deputy Prosecutor/ Judiciary; Student/ Youth Leader; Militiaman-Leader-Businessman)	1	4
TOTAL	19	31

Convicted persons awaiting transfer to States of Sentence Enforcement: 2.

Number of accused persons awaiting ICTR Appeals Chamber's decisions: 4

Status of persons already tried: 13

- 4 Senior Former Government Administrators (including Burgomasters and Prefects)
- 2 Ministers of the Former Government (Former Prime Minister and Information Minister)
- 1 Journalist (an Italian-Belgian citizen, the only non Rwandan convict)
- 1 Medical Doctor
- 1 Director of Factory (Tea)
- 1 Clergyman
- 3 Businessmen

Scale of sentences handed down by ICTR:

- Life sentence: 6
- 25 years imprisonment: 3
- 15 years imprisonment: 1
- 12 years imprisonment: 1
- 10 years imprisonment: 1
- Acquittal: 1

Expected Judgements before the end of the Year 2003 or early 2004: The verdicts for eight (8) accused persons are expected.

Number of convicts already transferred to Mali where they are serving their sentences: 6

Number of persons arrested and released at the request of the Prosecutor: 2 indicted persons were arrested and then released following withdrawal of their indictments by the Prosecutor (Col. Rusatira and Major Ntuyahaga).

Number of persons arrested for mistaken identity: 1.

Judge Khalida Rachid Khan Sworn-In

Judge Khalida Rachid Khan (Pakistan) was sworn-in during a ceremony held in Arusha on 22 August 2003. She was appointed by the Secretary-General of the United Nations, Mr. Kofi Annan, on 7 July 2003. The ceremony was administered by the President of the Tribunal Judge Erik Møse, and witnessed by the Deputy Registrar of the Tribunal, Mr. Lovemore Munlo, on behalf of the Registrar, Mr Adama Dieng. Judges of the Trial Chambers attended the ceremony.



Judge Khan with Deputy Registrar, Mr. Munlo

Judge Rachid Khan becomes the fourth woman judge out of fourteen permanent judges of the Tribunal. The other three women judges are Judge Andréia Vaz (Senegal), Judge Arlette Ramaroson (Madagascar) and Judge Inés Mónica Weinberg de Roca (Argentina).

Judge Rachid Khan was born on 25 September 1949. She began her career in 1974 as a civil judge in Peshawar, Pakistan. In 1978, she was promoted as senior civil judge in Peshawar. From 1981 to 1982 she worked as special judge in anti-corruption and special judge in anti-smuggling, customs and taxation Peshawar and Hazara Division. She was later appointed Deputy Secretary in the Law Department of the Government of NWFP (North-West Frontier Province of Pakistan). In 1994, Judge Rachid Khan was elevated to the High Court of Peshawar, becoming the first Pakistani woman ever appointed to that position. She was also the first woman in Pakistan to be appointed as District and Sessions Judge.

Judge Rachid Khan obtained a Master's degree in Law in 1969 and a M.A. in Political sciences in 1973. She has also participated in a wide range of international conferences, meetings and forums. She is a member of the International Association of Women Judges, USA. Judge Rachid Khan has worked extensively to eradicate Child Labour in Pakistan and South Asia.

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Juvénal Rugambarara Transferred to Arusha

Juvénal Rugambarara, former Bourgmestre of Bicumbi commune, was transferred to the International Criminal Tribunal for Rwanda on 13 August 2003, following his arrest in Uganda by INTERPOL Kampala on 11 August 2003.



Juvénal Rugambarara

Appearing before Judge Jai Ram Reddy, *Rugambarara* pleaded not guilty to nine charges: genocide or in the alternative complicity to commit genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, three counts of crimes against humanity, and two counts of serious violations of the Geneva Conventions.

Rugambarara served as Bourgmestre of Bicumbi commune, Kigali Rural prefecture for the duration of the 1994 genocide. In that position, says the indictment, he ordered attacks against Tutsis, as well as participating personally in these attacks.

Rugambarara's transfer to Arusha brings to 56 the number of people currently in the ICTR's custody.

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Closing Remarks Presented in the Cyangugu Trial

The Prosecution, in its closing remarks on 11 August 2003, asked Trial Chamber III (before Judges George Lloyd Williams, presiding, Yakov Ostrovsky and Pavel Dolenc) to find the three accused in *Cyangugu* case guilty and sentence them to life imprisonment. The *Cyangugu* case is the joint trial of former Minister of Transport and Communication, *Ntagerura*, the former Prefect of Cyangugu, *Bagambiki* and the former military Commander of Karambo barracks in Cyangugu. *Leutenant Imanishimwe*. The three are accused of organizing and supervising massacres in Cyangugu during the 1994 genocide.

Trial Attorney Richard Karegyesa asked for the severest forms of consecutive sentences for each count that the accused may be found guilty of. He added that the accused had failed to protect the people they had sworn to protect. Instead they acted together to try and eliminate the Tutsi population in Cyangugu region. He said more than 100,000 people were massacred in the region in a span of only 23 days.

From 12 – 15 August 2003, the Defence team, in its closing remarks, called for the acquittal of the accused saying they were innocent of the crimes they were charged with. The trial began on 18 September 2000.

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Gacumbitsi Trial Makes Steady Progress

Since opening on 28 July 2003, the trial of *Sylvestre Gacumbitsi*, former Bourgmestre of Rusumo Commune, Kibungo Prefecture, has made strong progress. In the trial's first eight days, to 7 August 2003, the court heard nine Prosecution witnesses; this rapid rate is set to continue.



Sylvestre Gacumbitsi

Gacumbitsi is charged with genocide, or in the alternative complicity in genocide, and extermination, murder and rape as crimes against humanity. The accused's alleged responsibility, contends the Prosecution, stems from his mobilization of local authorities and political extremists in the Rusumo Commune in 1994. *Gacumbitsi* is also alleged to have collected and distributed

weapons for the extermination of Tutsis.

The *Gacumbitsi* trial is being heard by Trial Chamber III, composed of Judges Andréia Vaz, presiding, Jai Ram Reddy and Sergei Egorov.

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Ongoing Judicial Proceedings and Calendar for Remaining Part of this Year

From 18 to 22 August 2003, closing arguments took place in the Media Case: *Barayagwiza, Nahimana* and *Ngeze*.

From 1 September 2003, Trial Chamber I will continue its hearing of the *Military Trial*, the joint trial of *Colonel*



(Media) *Barayagwiza, Nahimana & Ngeze*

Bagosora, Lieutenant-Colonel Nsengiyumva, Major Ntabakuze and *Brigadier-General Kabiligi*.

Trial Chamber II heard closing arguments in the *Kamuhanda* Trial from 27 to 29 August 2003.



(Military) *Bagosora, Nsengiyumva, Ntabakuze & Kabiligi*.

Trial Chamber III, composed of Judges Lloyd George Williams, presiding, Yakov Ostrovsky and Pavel Dolenc heard closing arguments in the *Cyangugu* case, the joint trial of *Ntagerura, Bagambiki* and *Imanishimwe*. The arguments finished on 15 August 2003.

It is also expected that at least a further four trials will commence before the end of 2003 or in early 2004. It

is likely that the *Ndindabahizi* and the two so-called Government Trials (each involving four accused, namely: for Government 1: *Rwamakuba, Nzirorera, Ngirumpatse and Karemera*; for Government 2: *Mugiraneza, Mugenzi, Bizimungu and Bicamumpaka*) will commence soon. The exact dates for each of these cases have not yet been set.

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Resident Internal Auditor for the Tribunal

Since 16 June 2003, Mr. Gerald Kopil has assumed the position of Resident Internal Auditor for the Tribunal. His major role will be to express an independent opinion on the: a) adequacy of risk management, controls and governance; b) compliance with rules and regulations; c) economy, efficiency and effectiveness of all operations; and d) prudence and probity in the use of ICTR funds.

A native of Quebec, Canada, he is fluent in English, French, Spanish and Slovak. Mr. Kopil brings a wealth of knowledge and experience in auditing, investigation and management consulting work in over 40 countries worldwide.



Mr. Gerald Kopil

He holds a Bachelor of Commerce from the University of Ottawa, and a professional designation from the Certified General Accountants' Associations of Canada and Quebec. He is a Fellow of the Institute of Canadian Bankers, and a member of the Comprehensive Auditing Foundation and the Institute of Internal Auditors.

Prior to his appointment, Mr. Kopil worked at the Office of Audit and Performance Review at UNDP/UNFPA Headquarters. He was Chief Auditor of the World Conservation Union in Switzerland; and Head of the Management Audit Department of the University of the West Indies in Jamaica, Barbados and Trinidad. As Principal Auditor, he represented the Organization for Economic Cooperation and Development in Paris, France. He advised Central and Eastern European Countries and Interpol, on OECD financial rules and regulations, governance and audit oversight.

Earlier, he served as a Director of Audit at the Canadian International Development Agency, and also held positions with the Treasury Board of Canada, Bank of Nova Scotia and the Department of National Defense.

Establishment of Investigation Division Unit at the ICTR

The Office of Internal Oversight Services (OIOS) has established an Investigation Division Unit (ID/OIOS) at ICTR, Arusha. Two investigators, namely Ms Suzette Schultz and Ms Johanna Amutenya, with effect from 17 July 2003, have assumed the position of Resident Investigators.

Prior to their appointments with the ICTR, Ms Schultz was Deputy Prosecutor-General, Namibia; Senior Control Public Prosecutor of Windhoek, Gobabis, Okahandja, Rehoboth, Windhoek Magistrate's Courts as well as Windhoek Regional Courts. She practiced as Legal Practitioner with Lorentz and Bone, Windhoek. Ms Amutenya was State Advocate at the Office of the Prosecutor-General, Ministry of Justice, Namibia.

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ICTR Senior Managers Knowledge/Information Management Workshop

The Court Management Section organised a workshop for senior managers on the principles of knowledge and information management on 6th and 7th August. The workshop was organised in the framework of the completion strategy of the ICTR. The standardization of practices throughout the ICTR was the goal of the workshop. The retention or otherwise of the component parts of the information legacy of the ICTR is an important aspect of the completion strategy. In his opening remarks the Deputy Registrar, Mr. Munlo, emphasized the importance of addressing this issue now.



Some of the participants in the workshop

Mr. Brad Abbott, information management consultant of Infocore from South Africa, and Mr. Patrick Ngulube from

Zimbabwe, senior lecturer of the University of Natal facilitated the proceedings. The two-day workshop focused on the development of a practical management methodology, which would draw upon the existing expertise of staff within the ICTR. Most time was spent by participants brainstorming issues surrounding what should be done to ensure the correct types of information are in fact maintained in such a manner to ensure their long-term accessibility once the ICTR had completed its mandate. The issue of defining the term 'information' was a contentious starting point.

It was decided that all information and not just the judicial aspects should be dealt with in a systematic and proactive way. The United Nations already has available systems that allow for the disposal of various types of administrative records. These disposal authorities will be applied at the ICTR. In addition, there is in place an authority allows for the permanent maintenance of all judicial records.

Several principles were agreed upon by the workshop participants. It was agreed that the formation of an Information Management Steering Committee [IMSC] would be the best way to move forward. The IMSC will not necessarily be a permanent body but will convene on an ad-hoc basis to manage the development, dissemination and application of the IM policies as formulated.

Other points that were raised by the workshop were:

- The current internal access mechanism to general information, which would benefit from an Intranet based delivery tool
- That the judicial legacy of the ICTR should be widely distributed to increase access once the ICTR had completed its mandate

The IMSC would formally define the term "information" in relation to the ICTR activities and develop policies in the following areas:

- E-mail retention and information security
- Application of UN and specific ICTR disposal schedules, including mechanisms of transfer of judicial and administrative records to UN HQ archives
- Information management sensitisation to new staff in the framework of the ICTR formal induction program
- An access policy needs to be developed in conjunction with UN HQ archives on future access to sensitive records

The IMSC will investigate rationalisation of information management systems currently in place and make recommendations on possible expansion of these technological systems. Court Management Section will be leading the process but will be inclusive of all organs of the ICTR and report back to management and staff on a regular basis.

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Visit of the Chief of DASS to Kigali

The Chief of the Division of Administrative Support Services, Ms. Michelle Lee visited ICTR Kigali during the week of 11-15 August. She says that her visit was very timely and useful. It provided her with first-hand information about the operations of ICTR in Kigali and the opportunity to meet with staff members at large.



From left to right: Ms. Phyllis Grobl, President Arusha Staff Association, Ms. Adedeji Olamide, OIC, Administration, Kigali, Ms. Michelle Lee, Chief DASS Arusha, Mr. Mohammed Ayat, President Kigali Staff Association and Mr. Remi Abdulrahman, Chief of Security, Kigali

During her visit she held group and individual meetings with various administrative unit chiefs to understand the problems they are facing in providing support to ICTR Kigali Office. She received briefings from the Chief of the Investigation Section and Legal Advisers regarding their operational needs. She also had a chance to meet with the Kigali Staff Association Executive Committee and to be apprised of their concerns.

Ms. Lee says that her visit has reinforced her conviction that **"together we will make it better"**. She emphasizes that *"the administrative staff in Arusha and Kigali must work together as a team to improve efficiency and in carrying out our duties we must always bear in mind that our 166 international and 81 local staff in Kigali is very much part of the ICTR family"*.

Rwandan Judicial Officials to Visit the ICTR

A group of twenty Rwandan Judicial Officials will visit the ICTR in September this year to gain first-hand knowledge of the Tribunal's work and achievements. During the visit, the Officials will also further their understanding of the relationship between the ICTR and the Rwandan judicial system.

The visit, set to take place in mid- to late September, will also provide both the visitors and the Tribunal with an important opportunity to increase information sharing and mutual understanding between Rwanda and the ICTR.

It is expected that the Officials will meet with counterparts at the Tribunal, and observe the ICTR's trial process and daily activities.

USAID Financing Tribunal Coverage in Rwanda

The United States Agency for International Development (USAID) has signed an agreement with the Rwandan Ministry of Justice, whereby USAID will finance the presence in Arusha of a Rwandan reporter, Justin Mugabo for another year. The support is in the form of paying for his accommodation and food while in Arusha.

According to Mr. Kim Pease, the USAID Programme Support Officer in Kigali, Rwanda, the agreement signed earlier in August will enable the journalist to stay for one year in Arusha to cover the work of the Tribunal for the Rwandan print and electronic media.

The Chief of External Relations and Strategic Planning Section of the Tribunal Mr. Roland Amoussouga, who is also the Tribunal's Spokesperson, welcomed the agreement saying that the ICTR recognizes that the presence of Rwandan journalists at the Tribunal was crucial to increasing awareness among Rwandan audiences of the importance and relevance of its work in promoting the culture of accountability, peace and national reconciliation.

He said that the USAID support was highly appreciated and that the Tribunal would provide the journalist with an enabling working environment.

Visit of Street Children to the ICTR

"Pretty much all the honest truth-telling there is in the world is done by children", Oliver W. Holmes.

Since the early 1990's, Tanzania has witnessed a visible increase in the number of children living and working on the



The children in the lobby of the Tribunal

street. On Thursday 14th August 2003, thirty street children ranging in age from six to twenty visited the ICTR. As they arrived, they gathered in the lobby to have their picture taken; the visit somehow started out “fun” for them. They had the opportunity to participate in different activities such as watching the video “*Justice Today Peace Tomorrow*”, a briefing by Mr. D. Mpumilwa in Swahili as well as attending a Court session in Trial Chamber II.

After learning about how the ICTR works and its goals, they began asking questions on how to live their own lives. Most

of the advice they had was for them to avoid being trapped in a cycle of violence, abuse and confrontation which hence increases crime. The children were impressed when they visited the Court Room. They initially had the impression “they were in the movies”.

Overall the kids had a joyous time. That day, it seems the street children were impatient till they got to the ICTR and all looked their best for the event. It was also an occasion which exerted a positive influence on the lives of those who participated.

**MESSAGE FROM THE EXTERNAL RELATIONS AND STRATEGIC PLANNING SECTION,
IMMEDIATE OFFICE OF THE REGISTRAR**

It is with profound sadness that the ICTR has learned about the untimely demise of Mr. Sergio Vieira de Mello, "which is a bitter blow for the United Nations", according to the Secretary-General.

The ICTR wishes to offer its condolences to all the staff members and the families of the victims.

Below is the statement of the Secretary-General, Message of Condolences of the Registrar to the Secretary-General and the families of the victims, and the address of President Erik Møse to the ICTR staff members at a Solemn Gathering in commemoration of the victims.

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VIEIRA DE MELLO'S DEATH 'BITTER BLOW' FOR UNITED NATIONS.
SAYS SECRETARY-GENERAL

The following statement by Secretary-General Kofi Annan was issued at Headquarters:

The loss of Sergio Vieira de Mello is a bitter blow for the United Nations, and for me personally.

The death of any colleague is hard to bear, but I can think of no one we could less afford to spare, or who would be more acutely missed throughout the United Nations system, than Sergio. Throughout his career he has been an outstanding servant of humanity, dedicated to relieving the suffering of his fellow men and women, helping them to resolve their conflicts and rebuild their war-torn societies. In his work with the peoples of every continent — as an official of the High Commissioner for Refugees, as Emergency Relief Coordinator, as my Special Representative in Kosovo and East Timor, and (all too briefly) as High Commissioner for Human Rights — in all those positions he impressed everyone with his charm, his energy, and his ability to get things done — not by force, but by diplomacy and persuasion.

In Iraq, where he spent the last months of his life, he was working day and night to help the Iraqi people regain control of their own destiny and build a future of peace, justice and full independence. It is tragic that he has now given his life in that cause, along with others who, like him, were devoted and much-loved servants of the United Nations. Those who killed him have committed a crime, not only against the United Nations, but against Iraq itself.

I share the grief of Sergio's family. We shall all miss him sorely, as a colleague and as a friend. Let us also strive to be worthy of him, and to complete the work that he began, so that his death will not have been in vain.





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*The Registrar
Le Greffier*

20 August 2003

Réf : ICTR/IOR/ERSPS/08/03/155

Message of Condolences

Your Excellency,

It is with deep anguish that we received the tragic news of the terrorist attack which killed your Special Representative in Iraq, Mr. Sergio Vieira de Mello, and his colleagues. Words cannot express the sense of grief we experienced upon receipt of the news of the unimaginable act of terror inflicted on the Office of the United Nations in Baghdad. Undoubtedly, this act is not just against UN staff, but all humanity.

The ICTR staff stands with the UN staff in Iraq and the bereaved families to mourn the untimely and tragic demise of our colleagues. We pay tribute to their lives of dedication and service to the humanitarian cause and the building of a better human society.

Today, we are living a time of trials and tribulation. But, we remain committed to the rejection of any kind of violence and to the reaching of peaceful agreement through the power of reason and conscience. By deciding to remain in Iraq, the UN has shown to the world that it will rise above this ordeal to become a beacon of hope for afflicted populations worldwide.

On behalf of the ICTR and my personal self, I would like to convey our deepest condolences and solidarity with Your Excellency and the bereaved families during this painful time. Our prayers go out to the many that have lost their lives, those who have been injured and the many more that have been traumatized by this senseless act of violence.

With deep sorrow in our hearts and heartfelt sympathy,

Adama Dieng
Registrar, ICTR

His Excellency
Mr. Kofi Annan
UN Secretary-General
New York



Solemn Gathering to Pay Tribute to the Victims of the Baghdad Bombing

In commemoration of our colleagues who died in Baghdad on 19 August 2003, the UNICTR Staff Association held a Solemn Gathering of all the staff on 21 August 2003. Judge Erik Møse, President of the Tribunal, who presided over the function, made a special speech to honour the souls of the victims.

President Erik Møse's Address at Solemn Gathering on 21 August 2003

Dear Friends and Colleagues,

We gather here today to pay our solemn respects to our United Nations colleagues who died in Baghdad two days ago.

In the Security Council and in UN offices around the world our fellow UN workers have stood in silence as we will do shortly to remember those who gave their lives in the service of our organization.

Those who died and were injured, suffered because they left their homes and countries of origin to work in a dangerous place for an idea.

The United Nations is an idea that has taken expression in a body of persons dedicated to furthering peace and human rights across the globe.

We in the ICTR are part of the same development. If you look around you, you see buildings, vehicles, and documents. You see people working in the buildings, driving the vehicles, and drafting the documents. But all this is only the outward form of a central idea for which we work. Enemies of peace and human rights can destroy the buildings, the vehicles, the documents, and yes, they can kill us and make us suffer. But they cannot kill the idea for which we work. The idea lives on.

This idea may be expressed in many ways. Let us remember the words of the Universal Declaration of Human Rights, adopted by the General Assembly on 10 December 1948:

- Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world;
- Disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people;
- It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

Let us also recall the words of our Secretary-General: "We will persevere. We will continue. It is essential work. We will not be intimidated."

Our sincere condolences and thoughts go to the families of the victims of this tragic and meaningless event. Let us stand in silence to remember the sacrifice made by our colleagues in Baghdad.