Chapter II

International tribunals and court

In 2015, 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 (ICTY) continued to expedite its proceedings, in keeping with its completion strategy. During the year, ICTY rendered two appeal judgements. There were no outstanding indictments for violations of core statutory crimes. As the Tribunal moved towards the completion of its mandate, its activities focused on the completion of pending trials and appeals.

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 Rwanda Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (ICTR) delivered its final judgement on 14 December in the Butare case—largest-ever case of ICTR—and formally closed on 31 December 2015, marking the first ad hoc international criminal tribunal to complete its mandate.

The International Residual Mechanism for Criminal Tribunals operated on two continents and performed functions inherited from both ICTY and ICTR, attending to judicial matters, providing protection to witnesses, supervising the enforcement of sentences and managing archives.

In December, the General Assembly welcomed the completion of the judicial work of ICTR following delivery of its last judgement, acknowledged the substantial contribution of the Tribunal to the process of national reconciliation, and to the fight against impunity and the development of international criminal justice, especially in relation to the crime of genocide. It requested ICTY to complete its work and facilitate the closure of ICTY as expeditiously as possible and called on States to cooperate fully with ICTY, as well as with the International Residual Mechanism.

The International Criminal Court continued its proceedings with respect to situations of concern in eight countries. Eleven situations conducted by the Office of the Prosecutor were under preliminary examination and 12 arrest warrants were outstanding at year’s end.

International Tribunal for the Former Yugoslavia

In 2015, the International Tribunal for the Former Yugoslavia (ICTY) established by Security Council resolution 827(1993) [YUN 1993, p. 440] and based in The Hague, Netherlands, continued efforts to implement its completion strategy [YUN 2002, p. 1275], which was endorsed by Council resolution 1503(2003) [YUN 2003, p. 1330].

The Tribunal continued to focus on the completion of pending trials and appeals, rendering two appeal judgements. The Office of the Prosecutor made progress towards the completion of the mandate of the Tribunal at both the trial and appellate levels and continued to work closely with the authorities of the States of the former Yugoslavia to encourage cooperation with the Tribunal and to support domestic war crimes prosecutions. The Registry provided administrative and judicial support to the Tribunal and coordinated the practical arrangements necessary for the ongoing process of downsizing the Tribunal’s operations and the transfer of responsibilities to the International Residual Mechanism for Criminal Tribunals (the Mechanism), established by Council resolution 1966(2010) [YUN 2010, p. 1306].

As at 31 July 2015, Judge Theodor Meron and Judge Carmel Agius continued to serve as President and Vice-President, respectively. On 21 October, Judge Agius and Judge Liu Daqun were elected as President and Vice-President of the Tribunal, respectively, and took office on 17 November. Serge Brammertz continued to serve as Prosecutor and John Hocking as Registrar.

On 9 December, President Agius informed the Council that the Tribunal continued to make progress in completing its work [S/PV.7574]. On 14 December, the Appeals Chamber delivered its judgement in one of the largest appeals cases ever, the Butare case. The drafting of the judgement in the Karadžić trial was at a very advanced stage, and would come to an end before the end of March 2016. Regarding the Prlić appeal, the most voluminous appeals case in the history of the Tribunal, it would require not only time, but adequate uninterrupted resources. The issue of staff attrition had been, and continued to be, addressed in the proceedings of the Prlić appeal, Mladić and Šešelj by increasing the number of staff on the team and allowing for the possibility of promotion as a staff-retention measure. To ensure that staff morale was maintained, the Registrar had developed a fair and transparent downsizing process in consultation with the Staff Union, and dialogue between staff and management was ongoing.

The Tribunal delivered two appeal judgements in 2015. All 161 indicted individuals were accounted for, and three appeals involving 10 persons and four trials involving 4 persons were ongoing by the end of the year.
The activities of ICTY were covered in two reports to the Security Council and the General Assembly, for the period from 1 August 2014 to 31 July 2015 [A/70/226–S/2015/585] and from 1 August 2015 to 31 July 2016 [A/71/263–S/2016/670]. The Assembly took note of the 2014/2015 report on 13 October (decision 70/506).

On 14 September (decision 69/564), the General Assembly decided to include the item on ICTY in the draft agenda of its seventieth (2015) session. On 23 December (decision 70/554), the Assembly decided that the agenda item on ICTY would remain for consideration during its resumed seventieth (2016) session.

The Chambers

During the year, the Tribunal’s three Trial Chambers rendered no judgements [A/70/226–S/2015/585], while the Appeals Chamber rendered two final judgements. Judicial activities included first instance and appeals proceedings against judgements, interlocutory decisions, State requests for review, and contempt cases. As at 31 July, ICTY had 20 judges from 19 countries, including 13 permanent tribunal judges, four permanent judges of the International Criminal Tribunal for Rwanda (ICTR) serving in the Appeals Chambers, and three ad litem (short-term) judges.

Ongoing cases, trials and appeals

Ratko Mladić was charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Bosnia and Herzegovina between 12 May 1992 and 30 November 1995 [YUN 1995, p. 1314]. The trial commenced on 16 May 2012 [YUN 2012, p. 1270]. The preparation and presentation of the new evidence was completed on 8 July 2015, and the defence case was expected to continue until 2016. The projected date of the delivery of the judgment remained November 2017.

Goran Hadžić was charged with 14 counts of crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Croatia and Serbia between 25 June 1991 and December 1993. The Trial commenced on 16 December 2012 [YUN 2012, p. 1270]. In March and June 2015, the Prosecution filed motions to proceed with the defence case. In March, the Prosecution also filed a proposal for expediting the presentation of the defence case. In June, the defence filed a motion to terminate or, in the alternative, to stay the proceedings indefinitely, in the light of Mr. Hadžić’s health condition. On 26 October, the Trial Chamber decided to stay the proceedings for a period of three months considering by majority that, inter alia, while Mr. Hadžić was fit to stand trial, his health condition precluded his detention at the United Nations Detention Unit in The Hague.

Radovan Karadžić was charged with 11 counts of genocide, crime against humanity and violations of the laws or customs of war, for acts allegedly committed in Bosnia and Herzegovina between 1992 and 1995. The trial commenced on 26 October 2009 [YUN 2009, p. 1282]. A variety of measures to expedite preparation of the trial judgement had been taken, including recruitment of additional staff members.

Vojislav Šešelj was charged with nine counts of crimes against humanity and violations of the laws or customs of war, for acts allegedly committed in Croatia, Bosnia, Herzegovina and Vojvodina (Serbia) between August 1991 and September 1993 [YUN 2003, p. 1311 & YUN 2004, p. 1277]. Trial proceedings concluded on 20 March 2012 [YUN 2012, p. 1271]. Following Judge Niang’s familiarization with the trial record, the Chamber commenced fresh deliberations on 30 June 2015.

Petar Jojić, Jovo Ostojić and Vjerica Radeta were charged with four counts of contempt of court in relation to alleged witness intimidation in the Šešelj case. The proceedings in this case were confidential until 1 December 2015. Arrest warrants had been pending execution in Serbia since 19 January 2015 and it was not possible to estimate the exact commencement and length of the case.

In the case Prosecutor v. Vojadin Popović et al., involving six appellants, the appeal judgement was rendered on 30 January. The Appeals Chamber affirmed the majority of the defendants’ convictions, while granting certain grounds of appeal raised by the Appellants. The Appeals Chamber affirmed Mr. Popović’s and Mr. Beara’s sentences to life imprisonment; affirmed Mr. Nikolić’s sentence of 35 years of imprisonment; reduced Mr. Miletić’s sentence from 19 to 18 years of imprisonment; and affirmed Mr. Pandurević’s sentence of 13 years of imprisonment.

In the case Prosecutor v. Zdravko Tolimir, the appeal judgement was rendered on 8 April. The Appeals Chamber affirmed Mr. Tolimir’s sentence of life imprisonment, while granting certain grounds of his appeal.

In the Stanislić and Simatović case, the appeal judgement was rendered on 15 December. The Appeal Chamber, by majority, granted certain grounds of appeal lodged by the Office of the Prosecutor and ordered that Jovica Stanislić and Franko Simatović be retried on all counts of the indictment.

One Appeals Chamber case was outstanding, namely the Prlić et al. case. This was the most voluminous appellate case in the history of the Tribunal, with seven appellants (including the Office of the Prosecutor) and a combined total of over 500 grounds and sub-grounds of appeal. The six defendants were convicted by the Trial Chamber of crimes against humanity and war crimes committed in Bosnia and Herzegovina between 1992 and 1994. Briefing in the appeal proceedings was completed on 29 May, and
the projected time frame for delivery of the appeal judgement remained November 2017. In the case Prosecutor v. Mićo Stanišić and Stojan Župljanin, the appeal hearing took place in late 2015, and the delivery of the appeal judgement was expected in June 2016. On 14 December, the ICTR Appeals Chamber, on which the ICTR judges also sat, delivered its judgement in the case Prosecutor v. Nyiramabahwe et al., also known as the Butare case—the final and largest-ever case of the ICTR.

Judges of the Court

Extension of terms of office and ad litem judges

ICTY request for extension. On 28 October [A/70/547–S/2015/825], the Secretary-General transmitted to the Security Council and the General Assembly identical letters dated 1 October from the ICTY President requesting the extension of the term of office of 14 permanent judges and three ad litem judges until the date set out therein or until the completion of the cases to which they were assigned.

Nomination for reappointment. By a letter of 14 December to the Council [S/2015/969], the Secretary-General nominated Serge Brammertz for reappointment as the ICTY Prosecutor for a four-year term.

General Assembly action. In resolution 70/227 of 23 December (see p. 000), the Assembly extended the term of office of six permanent and ad litem judges who were members of the Trial Chambers and the Appeals Chamber, until 31 March 2016 or until the completion of the cases to which they were assigned, as well as the term of office of one permanent judge who was a member of the Appeals Chamber, until 30 June 2016 or until the completion of the cases to which he had been assigned. It also extended the term of office of three permanent and ad litem judges who were members of the Trial Chamber, until 31 October 2016 or until the completion of the cases to which they had been assigned, as well as the term of office of seven permanent judges who were members of the Trial Chambers and the Appeals Chamber, until 31 December 2016 or until the completion of the cases to which they were assigned. The Assembly also reappointed Serge Brammertz as the ICTY Prosecutor, for a term with effect from 1 January 2016 until 31 December 2016.

Office of the Prosecutor

In 2015, the Office of the Prosecutor remained focused on completing its work in the final trial and appeal proceedings, while managing its downsizing process. The Office continued to reallocate staff and resources to ensure that all court-ordered deadlines were met. The Office continued to assist Mechanism officials and personnel in transferring functions in accordance with the transitional arrangements.

As at 31 July, judgements were issued in two appeals (Popović et al. and Tolimir); two trials were in the defence evidence presentation phase (Hadžić and Mladić); in two trials the parties were awaiting judgement by the Trial Chamber (Karadžić and Šešelj). In one case on appeal, the parties were awaiting judgement by the Appeal Chamber (Stanišić and Simatović); and in two appeals the parties had completed written submissions and were awaiting scheduling of the oral hearing (Stanišić and Župljanin and Prlić et al.). On 15 December, the Appeals Chamber partially granted the Office’s appeal in the Stanišić and Simatović case, revoked the Trial Chamber’s judgement and ordered a retrial.

The Office continued to rely on the full cooperation of States to fulfil its mandate. The Office continued to have appropriate access to documents, archives and witnesses in Bosnia and Herzegovina, Croatia and Serbia. However, Serbia had failed to cooperate with the Tribunal and to execute the Tribunal’s arrest warrants for three Serbian indictees. Serbia had been obliged to enforce these arrest warrants since January 2015. The Office called upon Serbian authorities to promptly arrest the three indictees and surrender them to the Tribunal’s custody.

With respect to cooperation in judicial matters between States of the former Yugoslavia, meaningful results were achieved in cooperation between regional prosecution offices in the investigation and prosecution of war crimes. In March, Serbian authorities, with the cooperation and support of Bosnia and Herzegovina authorities and the Office of the Prosecutor, arrested eight suspects on suspicion of participation in the Srebrenica genocide.

With respect to the transition from ICTY to national war crimes prosecutions, the Office continued to assist national judicial authorities in the former Yugoslavia to handle their war crimes cases. Only a limited number of the outstanding cases at the national level had been prosecuted to date, due to the lack of fully adopted and implemented strategic approaches to the investigation and prosecution of war crimes under national jurisdiction. However, progress was made in the prosecution of the Srebrenica genocide with the filing of an indictment against three former mid-level police officials. There was also quantitative progress in the processing of war crimes cases at the entity level.

The Office continued its efforts to transfer expertise and information to national authorities in order to build capacity for national war crimes prosecutions in the former Yugoslavia, and also shared the lessons learned and best practices developed from its work with national counterparts working across a range of criminal justice sectors in Africa, South America, Europe and Middle East. While remaining focused on
its core functions, the Office continued work on a manuscript recording the fundamental insights of the Office regarding the prosecution of crimes of sexual violence, crafted with a capacity-building focus in mind, which was scheduled for publication in early 2016.

The Registry

During the year, the Registry provided judicial, diplomatic, operational and administrative support for the Tribunal and managed its outreach programme. The Immediate Office of the Registrar continued to support the Registrar in his overall responsibility of directing the Registry in managing operations of the Mechanism Registry in both Arusha and The Hague, and in the implementation of downsizing procedures.

The Division of Judicial Support Services of the Registry supported four cases on trial and five on appeal, involving 20 accused persons, and filed approximately 180 legal submissions relevant to the Tribunal’s ongoing or completed cases. As at 31 July 2015, the Victims and Witnesses Section had provided operational and psychosocial assistance to 206 witnesses and accompanying support persons appearing before the Tribunal. For its Pilot Study on the long-term impact of giving testimony at the Tribunal, the Section achieved its goal of completing 300 witness interviews. The Courtroom Operations Unit supported four trials and five appeals and the Judicial Records Unit, in cooperation with the Courtroom Operations Unit, had processed approximately 90 requests for assistance submitted by national jurisdictions. Moreover, the Judicial Record Unit had processed 3,429 Tribunal filings (124,691 pages), 299 Mechanism filings (1,920 pages) and 622 transcripts (55,005 pages). The Office for Legal Aid and Defence continued to administer the legal aid system of the Tribunal, overseeing more than 170 defence team members. Of the 20 individuals in trial and appeal proceedings, 18 were found unable or partially unable to remunerate counsel and were thus granted legal aid. Approximately half of those cases were ranked at the highest complexity level. The United Nations Detention Unit continued to support both the Tribunal and the Mechanism and was responsible for detaining up to 23 individuals in conditions exceeding the relevant international standards. It facilitated detainees’ presence at court hearings, ensured the care and security of detained witnesses. In April, in line with the steady decrease in the detainee population, the Unit decommissioned one of its wings, thereby reducing the number of cells from 52 to 32. The Conference and Language Services Section continued to provide interpretation, translation and court reporting services for the Tribunal, resulting in approximately 45,000 pages of translation, 1,350 conference interpreter days and 28,000 pages of transcripts over the year.

To transfer records and archives from the Tribunal to the Mechanism, the Registrar established a high-level Records and Archives Working Group to coordinate and monitor the transfer process. Through 29 high school and university lectures and presentations, the outreach programme of the Communications Service reached around 1,000 students and teachers across the region to inform people in the former Yugoslavia about the Tribunal. The field offices of the Tribunal in Belgrade (Serbia) and Sarajevo (Bosnia and Herzegovina) organized 28 outreach events, reaching more than 1,200 individuals.

As part of the overall liquidation plan, the Administrative Support Service Division remained engaged in staff downsizing efforts and coordinated the preparation of the proposed budgets for the Tribunal and Mechanism for the biennium 2016–2017. The Division presented its first financial statements compliant with the International Public Sector Accounting Standards (IPSAS) and undertook Umoja conversion activities. It also provided overall administrative support and services to the Mechanism in the areas of human resources, general services, procurement, finance, information technology and security.

Financing

2014–2015 biennium

Report of Secretary-General. In November, the Secretary-General submitted the second performance report [A/70/554] on the ICTY budget for the 2014–2015 biennium, providing an estimate of the anticipated final level of expenditure and income for the biennium. It reflected a decrease of $11.9 million compared with the revised appropriation for the biennium, approved by General Assembly resolution 69/255 [YUN 2014, p. 1486]. The Assembly was requested to approve the final appropriation for the biennium 2014–2015 of $191,107,400 gross ($167,197,300 net) to the Special Account for ICTY.

ACABQ report. In December [A/70/600], the Advisory Committee on Administrative and Budgetary Questions (ACABQ) recommended that the Assembly take note of the second performance report and approve the final appropriation for the 2014–2015 of biennium.

2016–2017 biennium

In September [A/70/397], the Secretary-General submitted the ICTY resource requirements for the 2016–2017 biennium, which, before recosting, amounted to $113,609,500 gross. After adjustment for other income, the proposed resources amounted to $113,429,500 gross ($101,180,500 net), reflecting a decrease in real terms of $87,730,800 gross (43.6 per cent), compared with the 2014–2015 resources at revised rates.
ACABQ, in December [A/70/600], recommended approval of resource requirements in the amount of $113,583,900 gross ($101,154,900) for the 2016–2017 biennium for the ICTY.

In December [A/70/606], the Secretary-General submitted revised estimates for the ICTY 2016–2017 proposed budget, arising from the effect of inflation and changes in rates of exchange, which, after recosting, amounted to $95,747,100 gross. ACABQ had no objection to the revised estimates and transmitted them to the General Assembly for consideration [A/70/7/Add.35].

**GENERAL ASSEMBLY ACTION**

On 23 December [meeting 82], the General Assembly, on the recommendation of the Fifth (Administrative and Budgetary) Committee [A/70/633], adopted Resolution 70/242 (Financing 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) without a vote [agenda item 145].

On 23 December, the Assembly decided that the agenda item on ICTY financing would remain for consideration during its seventieth (2016) session (decision 70/554).

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**International Tribunal for Rwanda**

The International Criminal Tribunal for Rwanda (ICTR), established by Security Council resolution 955(1994) [YUN 1994, p. 299] and based in Arusha, United Republic of Tanzania, completed its work at the trial level in 2012. In 2014, the Tribunal marked the completion of its appeals work in all but one case, with the final judgement on appeal in the Butare case, concerning six accused. The delivery on 14 December 2015 of the Butare judgement marked the completion of the mandate of the Tribunal.

On 9 December [S/PV.7574], the ICTR President, Judges Joensen, informed the Council that the Tribunal would deliver its forty-fifth and final judgement on appeal in the Butare case involving six accused, which would mark the completion of the Tribunal's core judicial functions. With the completion of this case, the ICTR would formally close its door on 31 December 2015, and only liquidation activities would remain to be completed during the first half of 2016. ICTR would become the first ad hoc international criminal tribunal to complete its mandate and it would hand its remaining functions over to its residual mechanism, the International Residual Mechanism for Criminal Tribunals.

The Tribunal’s final report to the Council provided an overview of the work of ICTR, including 5,800 days of proceedings in which ICTR brought indictments against 93 individuals, issued 55 first-instance judgements and 45 appeal judgements and heard the accounts of more than 3,000 witnesses during ICTR trials. The evolution of the Tribunal’s referral programme, which culminated in the transfer of eight cases from ICTR to Rwanda, represented a significant part of the Tribunal's legacy, which were all aimed at meeting international fair trial standards.

The ICTR President updated the Council on the progress being made with respect to the issue of reparations for victims of the 1994 genocide in Rwanda. The International Organization for Migration had completed and submitted a draft assessment study to the government of Rwanda, and the final report of the study would be issued in due course. The Tribunal had transferred 80 per cent of its records to Mechanism, and the remaining transfer of its records would be completed upon closure. In the final month of operation, the Tribunal continued to ensure that the knowledge gained and lessons learned throughout its existence were not only passed on to its successor, the Mechanism, but also shared with other national and international jurisdictions.

The ICTR President made his final appearance before the Council, and expressed sincere hope that, as ICTR closed its doors, part of its legacy would be the tremendous potential to dispense justice held by the Council. The success of the Tribunal highlighted the possibilities for justice to address conflicts and fight impunity and to provide at least some comfort to the victims of heinous crimes.

In resolution 70/227 of 23 December (see p. 000), the Assembly welcomed the completion of the judicial work of ICTR, following delivery of its last judgement on 14 December and the impending closure of the ICTR set for 31 December. The Assembly acknowledged the substantial contribution of ICTR to the process of national reconciliation and the restoration of peace and security, and to the fight against impunity and the development of international criminal justice, especially in relation to the crime of genocide.

The 2015 activities of ICTR were covered in a report to the Council and the General Assembly, for the periods of 1 July 2014 to 30 June 2015 [A/70/218-S/2015/577]. The Assembly took note of the 2014–2015 report on 13 October (decision 70/505).

On 14 September (decision 69/563), the Assembly decided to defer consideration of the item on ICTR and to include it in the draft agenda of its seventieth (2015) session. On 23 December, the Assembly decided that the agenda item on ICTR would remain for consideration during its resumed seventieth (2016) session (decision 70/554).

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**The Chamber**

The Chambers were composed of nine permanent judges in the Appeals Chamber and one ad litem
judge serving as President. The one remaining ad litem judge was a member of the Trial Chamber. Nine permanent judges sat on the Appeals Chamber; four of them were from ICTR and five from ICTY.

Ongoing cases, trials and appeals

During the year, the substantive work before the Trial Chamber was complete.

Deliberations were in progress in the final case, Nyiramucubuka et al. (Butare) case, which concerned six convicted persons, in which the Appeals Chamber heard oral arguments in April 2015. The Tribunal delivered judgement on 14 December 2015 in the Butare case, marked the completion of the mandate of the ICTR Tribunal.

Judges of the Court

Extension of terms of office and ad litem judges

ICTR held its twenty-fifth and final plenary session on 13 May in The Hague. The session featured the re-election of the President for a term until 31 December 2015 to coincide with his term of office as judge.

Office of the Prosecutor

The work of the Office of the Prosecutor focused on three main areas: completion of remaining appeals and other ongoing litigation; support on a double-hatting basis for core work undertaken by the Office of the Prosecutor of the Mechanism; and compilation of lessons learned and best practices. As progress in completing its work continued, the Office implemented additional staff reductions, resulting in a further separation of nine staff members effective 15 May 2015.

Litigation in connection with the Tribunal’s last appeal, the Butare case, continued. The Appeals Chamber decided all but one of the pending motions, denying most requests for relief except for allowing the admission of two pieces of additional evidence on appeal. 26 May, the prosecution filed rebuttal evidence in response to the newly admitted evidence.

The other principal litigation function completed by the Office involved the review and update of disclosure obligations in all completed cases. The Office prepared comprehensive records of all past disclosure, search criteria, and analysis for handover to the Office of the Prosecutor of the Mechanism. Legal staff within the Office of the Prosecutor continued to assist on a double-hatting basis the Office of the Prosecutor of the Mechanism in carrying out other key transitional functions, including conducting ongoing litigation and archiving official records. With regard to the referral of cases to national jurisdictions, the Office supported the Mechanism in investigating and responding to requests for revocation of referral orders filed by Bernard Munyagishari and Jean Uwinkindi.

The Office continued to transfer to the Mechanism’s Office of the Prosecutor responsibility for the management and preservation of its official records and archives. In April 2015, the entire vault of the Office containing the evidence collection was transferred to the Arusha branch of the Mechanism’s Office of the Prosecutor. The total number of transfers amounted to 3,423 boxes of archival paper records measuring 489 linear metres. The Office had also transferred a further 425 video tapes of evidence consisting of 402 hours, digitized and migrated in a new higher format for long-term preservation.

In terms of the preservation of lessons learned and best practices, on 11 February 2015, the Office released a best practices manual on the referral of international criminal cases to national jurisdictions. An updated digest of Appeals Chamber judgements of ICTR and ICTY was completed in June 2015. Work on other projects, including a summary of factual findings from all Tribunal judgements, remained under way.

The Registry

The Registry supported the judicial process by servicing the Tribunal’s other organs and the defence, as well as by seeking support from States, international organizations and other stakeholders in the conduct of proceedings.

The Office of the Registrar supported the holding of the oral hearing in the Butare case as well as judicial filings involving pending contempt cases. It also continued to provide administrative support to defence lawyers, including securing cooperation from Member States. The Registrar transmitted more than 114 notes verbales and other correspondence related to the operations of the Tribunal, in particular, to secure support and cooperation from Member States with respect to the remaining appeal cases and the relocation of the acquitted and released persons. The Registrar continued to work closely with the President to deploy all efforts to find host countries for the eight remaining acquitted persons and three released convicts. It also managed the wide dissemination of information about the Tribunal’s activities by means of press meetings, newsletters and press releases as well as the website, films and information brochures in English, French and Kinyarwanda. The Registrar maintained an open line of communication with universities and other educational institutions in the region. In April 2015, the Tribunal participated in an event held to commemorate the twenty-first anniversary of the Rwanda Genocide in Dar es Salaam. The Tribunal also developed and implemented a strategic framework for the three components of the archiving project, including digital/electronic records management project, audiovisual redaction project,
and physical records management project, in order to streamline the preparation and transfer of its records.

The Judicial and Legal Affairs Section provided legal support to the appeal process, the Office of the President and the Registrar and supervision of activities related to court management, defence counsel, detainees at the United Nations Detention Facility and acquitted and convicted persons released in the United Republic of Tanzania. The Section worked closely with the Mechanism on matters related to witness and victims support by preparing witness files for handover in completed cases before the Tribunal. As at 30 June 2015, the UN Detention Facility housed a total inmate population of 13 detained persons, including six convicted persons awaiting appeals judgement and seven convicted persons awaiting orders for transfer for the enforcement of sentences by the Mechanism.

The Division of Administrative Support Service was involved in the preparations for the implementation of Umoja. It also continued to liquidate excess assets in line with the ICTR liquidation plan. The retention process centred on the following issues: determining who would be retained, how such a determination would be made, preventing essential staff from leaving en masse, and coping with the mass separations. To address the situation, ICTR adopted an ad hoc review mechanism that entailed the establishment of a retention task force to propose review criteria, the establishment of section retention panels and the appointment of an advisory retention review committee to review contentious cases and make recommendations to the management. The Career Development and Counselling Unit was implementing a four-pronged strategy to support the completion of the Tribunal’s mandate, including training programmes to support personal and professional transition of staff, programmes to support completion of operations, stress counselling and coaching support, and provision of welfare support to separating and relocating staff and families.

**Financing**

**2014–2015 biennium**

**Report of Secretary-General.** In November, the Secretary-General submitted the second performance report [A/70/553] on the ICTR budget for the biennium 2014–2015, providing an estimate of the anticipated final level of expenditure and income for the biennium. It reflected an increase of $72.4 million compared with the revised appropriation for the biennium, approved by the General Assembly resolution 69/254 [YUN 2014, p. 1491]. The Assembly was requested to approve the final appropriation for the biennium 2014–2015 of $169,348,100 gross ($160,753,400 net) to the Special Account for ICTR.

**ACABQ report.** In December [A/70/600], ACABQ recommended that the General Assembly take note of the above second performance report and approve the final appropriation for the biennium 2014–2015.

**2016–2017 biennium**

In October [A/70/448], the Secretary-General submitted resource requirements for the period from 1 January to 31 May 2016 for the ICTR liquidation, which, before recosting, amounted to $2,376,900 net ($2,503,800 gross).

ACABQ, in December [A/70/606], recommended approval of the ICTR resource requirements in the amount of $2,103,700 net ($2,207,700 gross) for the biennium 2016–2017.

In December [A/70/606], the Secretary-General submitted revised estimates for the ICTR 2016–2017 proposed budget, arising from the effect of inflation and changes in rates of exchange, which, after recosting, amounted to $1,774,600 gross. ACABQ had no objection to the revised estimates and transmitted them to the General Assembly for consideration [A/70/7/Add.35].

**General Assembly Action**

On 23 December (meeting 82), the General Assembly, on the recommendation of the Fifth Committee [A/70/632], adopted resolution 70/241 (Financing 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 and 31 December 1994) without a vote [agenda item 144].

On 23 December (decision 70/554), the Assembly decided that the agenda item on ICTR financing would remain for consideration during its seventieth (2016) session.

**Functioning of the Tribunals**

**Working Group report.** On 31 December [S/2015/1053], the Chair of the Informal Working Group on International Tribunals submitted to the Security Council President an account of the Group’s activities from the period 1 January to 31 December 2015. The Working Group held three meetings, including with the Presidents and the Prosecutors of the two Tribunals and the principals of the International Residual Mechanism for Criminal Tribunals (the Mechanism) in preparation for their briefings to the Security Council. The Permanent Representative of Chile, in his capacity as Chair, briefed the Council on
the activities of the Working Group on 3 June (7455th meeting) and 9 December (7574th meeting). The Working Group also met on 7 December to consider the request for the extension of the terms of office of the judges of ICTY and made recommendations to the Security Council regarding the request.

Implementation of completion strategies

ICTY


As at 16 November, four trials, involving four individuals, and three appeals, involving ten individuals, were ongoing. The Tribunal concluded proceedings against 187 of the 161 individuals it had indicted. It continued to implement measures to expedite its work, including planning additional training programmes for legal drafters in the Tribunal’s Chambers; providing teams with additional staff resources; maintaining rosters of qualified applicants; requesting flexibility in applying UN staff regulations; and addressing the effects of downsizing on staff members’ morale.

The most critical challenge faced by ICTY was staff attrition. As the Tribunal’s closure date approached, the attrition rate had significantly accelerated, in particular among mid- and senior-level staff members who had departed for more secure employment opportunities, depriving the Tribunal of their institutional knowledge and valuable experience in handling the Tribunal’s complicated caseload.

The main priority of the Registry during the reporting period continued to be the provision of full support to the judicial activities. The Registry processed and disseminated over 1,828 internal and external filings, amounting to 38,077 pages. In addition, the Registry drafted and filed approximately 80 legal submissions relating to the ongoing trials and appeals, as well as completed cases, of the Tribunal. The Registry further translated 12,000 pages and provided 600 conference interpreter days. The Registry also facilitated and serviced 91 court days, in support of the ongoing trials and appeals.

The Registry’s Victims and Witnesses Section assisted approximately 55 witnesses and support persons during the reporting period. The Office for Legal Aid and Defence Matters continued to administer the Tribunal’s legal aid system, overseeing approximately 130 defence team members, who worked with both represented and self-represented accused, thereby safeguarding the defendants’ rights to legal representation.

The Tribunal continued its planned downsizing process for the biennium 2014–2015, with adjustments to timelines for downsizing of posts made in line with revisions to the trial and appeal schedule, the Tribunal would have approximately 400 posts, reflecting a reduction of about 70 per cent of the peak staffing levels of approximately 1,300 posts in 2006. The comparative review process for abolishments of posts for the upcoming 2016–2017 biennium was conducted during the second and third quarters of 2015.

The Registry continued to provide the branch of the Mechanism in the Hague with judicial support services, which included assistance with the maintenance of judicial records, legal aid, language services, detention services, and witness support services. Assistance was also provided to the Mechanism in completing its regulatory framework so as to reflect lessons learned and best practices from the ICTY and ICTR. All sections of the Registry continued to support the Mechanism, including recruitment, communications, information technology support, and overall Registry management. The outreach programme produced and distributed a short documentary entitled ICTY Remembers: the Srebrenica Genocide (1995–2015), which was viewed by more than 120,000 people online. It also reached a milestone in the Legacy Websites Project with the integration of the redesigned website of the ICTY into a unified content management system, on which the websites of the Mechanism and the ICTR already operated.

ICTR


As at 15 November, the Tribunal completed its substantive work at the trial level for all 93 accused indicted by the Tribunal, including 55 first-instance judgements involving 75 individuals. The Tribunal concluded 5,824 days of proceedings, including initial appearances, oral hearings of motions, status conferences, judgement deliveries and appeal hearings. The Appeals Chamber issued 44 appeal judgements and appellate proceedings had been concluded in respect of 55 persons, disposing of all but the Butare case.

The Tribunal continued to preserve lessons learned and share best practices. During its mandate, the Tribunal created a substantial body of jurisprudence and rendered decisions on those accused of being among the most responsible for the genocide in Rwanda, including judgements involving the former Prime Minister, government ministers, high-ranking military leaders, and many other high-ranking personalities. For instance, on 2 September 1998, the Tribunal issued the first judgement by an international court on the crime of genocide, when it convicted Jean-Paul Akayesu of genocide [YUN 1998, p. 1201]. In rendering its judgement, the Tribunal became the first
international court to interpret the definition of genocide set forth in the Convention on the Prevention and Punishment of the Crime of Genocide of 1948. The Tribunal further impacted the development of international criminal law by providing the first modern examination of the role of the media with respect to direct and public incitement to commit genocide.

A key component in the completion strategy of the Tribunal had been the referral of indictments to national jurisdictions for trial. The Tribunal referred a total of ten cases to national jurisdictions, including eight cases to Rwanda (two apprehended accused and six fugitives) and two cases to France. As at 15 November, the six fugitives whose cases had been referred to Rwanda remained at large. Trial proceedings in relation to the two apprehended accused referred to Rwanda were ongoing. Proceedings in relation to the two apprehended accused referred to France remained in the pretrial or investigatory stage. In line with the transitional arrangements contained in the annex to Security Council resolution 1966 (2010) [YUN 2010, p. 1307], the Residual Mechanism took over the monitoring of all referred cases effective 1 July 2012. The judges of the Trial Chambers and the Appeals Chamber held their first plenary session from 26 to 30 June 1995 [YUN 1995, p. 109] and conducted the twenty-fifth and final plenary session on 13 May 2015 at The Hague.

The Office of the Prosecutor was responsible for the investigation and prosecution of all cases falling within the jurisdiction of the Tribunal. Securing the arrest of persons indicted by the Tribunal was one of the greatest challenges the Office faced. With the assistance of national authorities, the Office secured the arrest or surrender of 83 fugitives from 27 different jurisdictions in Africa, Europe and North America. The prosecutions by the Office contributed to the development of international humanitarian law through landmark decisions where rape and other forms of sexual violence were defined and recognized as acts of genocide, crimes against humanity, and war crimes. The Office also secured the referral of ten genocide indictments to national jurisdictions for trial. The referral of these indictments marked an important milestone in the completion strategy of the Tribunal. The Office actively supported Tribunal-wide efforts to develop the capacity of regional justice sectors, particularly in Rwanda. The Office helped to organize and provided presenters for a Tanzanian judicial conference on developments in international humanitarian law and human rights law that was held in Arusha in August 2015. To coincide with the twentieth anniversary of the Tribunal, the Prosecutor convened the seventh Colloquium of Prosecutors of International Criminal Tribunals and Special Courts to discuss developments in international criminal justice. The focus of the colloquium was on domestic prosecution of international crimes.

ICRC paid its last visit to the United Nations Detention Facility on 7 November 2015 and concluded that the Facility conformed to international standards and that the transition to the Residual Mechanism had been conducted smoothly. With more than 200 staff members expected to separate from the Tribunal in December 2015, the Division of Administrative Support Services addressed the challenges of ensuring that staff were paid their entitlements in a timely manner. As the Tribunal approached closure, the Information Technology Services Section continued to support the various downsizing activities of the Tribunal and provide support to the information technology infrastructure of the Residual Mechanism in Arusha and Kigali.

The Registry carried out outreach activities aimed at strengthening the capacity of the Rwanda judiciary and raising awareness of the work of the Tribunal among the Rwanda public. Awareness-raising workshops were conducted in various communes in Rwanda for approximately 5,000 participants, as well as for more than 20,000 students and teachers from Rwandan schools. During its existence, the Tribunal welcomed more than 48,000 visitors in Arusha.

To assist the Office of the Prosecutor of the Residual Mechanism in assuming responsibility for ongoing disclosure obligations, the Office of the Prosecutor updated disclosure records and search criteria in all closed cases. The Tribunal transferred the human resources, travel, procurement, and about 80 per cent of the finance functions it had to the Residual Mechanism and would transfer all remaining administrative functions by the end of 2015.

The ICTR president concluded that since its establishment by the Security Council in 1994, the Tribunal had sought to contribute to peace and reconciliation in the Great Lakes region through justice and through the capacity-building and outreach programmes it created. Over the course of the past 21 years, the Tribunal played a significant role in the development of various facets of international criminal law and international humanitarian law. In its final months, the Tribunal continued to ensure that the knowledge gained and lessons learned throughout its existence are not only passed on to its successor, the Residual Mechanism, but are also shared with other national and international jurisdictions. The legacy of the Tribunal was not limited to its judicial decisions or to the capacity-building and outreach programmes it launched over the years. More importantly, the Tribunal would not be so close to complete its mandate without the contributions from the staff of the Tribunal and without the international cooperation and support from Member States. In order to commemorate more than two decades of judicial work, the Tribunal was planning events marking the closure of the Tribunal, with a main closing event being held on 1 December 2015, in Arusha. These closing events once again reminded the international...
community of the unspeakable atrocities that occurred in Rwanda in 1994, and would provide representatives from Member States, government officials, judges, legal practitioners and scholars from across the world the opportunity to come together to discuss the legacy of the Tribunal and to do so one last time in Arusha, the seat of the Tribunal for the past 21 years.

International Residual Mechanism

The Security Council established the International Residual Mechanism for Criminal Tribunals (the Mechanism) by resolution 1966(2010) [YUN 2010, p. 1306], with the mandate to execute the residual functions of ICTY and ICTR, following the closure of those entities. The Mechanism had two branches: the one for ICTR was launched on 1 July 2012 and the one for ICTY commenced functioning on 1 July 2013. In response to the same resolution, the President and the Prosecutor of the Mechanism submitted progress reports in May [S/2015/341] and November [S/2015/883] on its work for the periods from 16 November 2014 to 15 May 2015 and from 16 May to 15 November 2015, respectively.

The Mechanism was operating on two continents and performing functions inherited from both the ICTR and the ICTY. These functions included attending to judicial matters, providing protection to witnesses, supervising the enforcement of sentences and managing archives. The President supervised matters related to the management of the Mechanism, coordinated the work of the Chambers and issued orders and decisions on issues including the enforcement of sentences and the monitoring of cases referred to Rwanda. The Prosecutor focused on the activities such as tracking the remaining fugitives indicted by the ICTR, rendering assistance to national authorities and prosecuting the Mechanism’s first appeal from judgment. The Registry provided and coordinated an increasing range of administrative and judicial support services for the Mechanism. It also assisted in the conclusion of a host state agreement with the Netherlands and was managing the construction of the new premises for the Arusha branch.

The third and fourth annual reports of the Mechanism covered the periods from 1 July 2014 to 30 June 2015 [A/70/225–S/2015/586] and from 1 July 2015 to 30 June 2016 [A/71/262–S/2016/669]. The General Assembly took note of the reports on 13 October (decision 70/507). On 23 December, the Assembly decided that the agenda item on the Mechanism would remain for consideration during its seventieth (2016) session (decision 70/554).

SECURITY COUNCIL ACTION

On 16 of November [meeting 7559], following consultations among Security Council members, the President made statement S/PRST/2015/21 on behalf of the Council:

Pursuant to statement [S/PRST/2015/21] (see above), the President of the Mechanism transmitted the review report [S/2015/886] dated 20 November on the progress of the Mechanism’s work in the initial period. On 23 December, the Assembly welcomed the report and the supplementary information.

SECURITY COUNCIL ACTION

On 22 December [meeting 7593], the Security Council adopted resolution 2256(2015) by recorded vote (14–0–1). The draft [S/2015/1005] was submitted by Chile.

GENERAL ASSEMBLY ACTION

On 23 December [meeting 82], the General Assembly, on the basis of draft resolution [A/70/L.39] submitted by its President, adopted resolution 70/227 (International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 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 Residual Mechanism for Criminal Tribunals) without a vote [agenda item 126, 127 & 128].

The President and the Chamber

During the reporting period from 1 July 2014 to 30 June 2015, the President engaged in issues related to the establishment and management of the Mechanism. In his judicial capacity, the President has issued numerous assignment orders, including on the assignment of panels to consider the revocation of cases referred to Rwanda. With respect to the enforcement of sentences, the President issued orders and decisions relating to applications for early release, sentence remission and other public and confidential matters. In addition, the President presided over the Appeal Chamber and served as pre-appeal judge on the Mechanism’s first appeal from judgement, in the case Augustin Ngitabatware v. the Prosecutor.

Single judges at the Arusha and The Hague branches rendered a large number of orders and decisions on a range of matters, including the variation of protective measures. The President, on 13 May 2015, assigned a trial chamber to consider Jean Uwinkindi’s oral request for the revocation of the referral of his case to Rwanda. On 22 October, a trial chamber at the Arusha branch issued a decision dismissing Jean Uwinkindi’s request. The Trial Chamber issued nine additional decisions or orders in the course of the
first-instance proceedings relating to this matter. On 17 December, the President assigned a Trial Chamber at The Hague branch to conduct the full retrial ordered by the ICTY Appeals Chamber in December in the case **Jovica Stanisic and Franko Simatovic**. On 18 December, Mr. Stanisic and Mr. Simatovic pleaded not guilty at their initial appearance and, on 22 December, the Trial Chamber authorized their provisional release pending trial.

The Appeals Chamber delivered its first appeal judgement in the case **Augustin Ngirabatware** and issued a number of decisions in that and other cases. On 19 January, it denied a request from Aloys Ntabakuze for the assignment of counsel for purpose of filing a request for review, after the President issued a confidential related decision. On 7 July, the Appeals Chamber denied Milan Lukic’s request for review and issued two other decisions, including a decision on 13 November dismissing Mr. Lukic’s request to appeal the decision of 7 July.

The Appeals Chamber was also seized with requests for review filed by Sreten Lukic and Elizer Niyitegeka as well as another confidential matter related to the Niyitegeka case. On 8 July, the Appeals Chamber denied Sreten Lukic’s request for review. On 13 July, the Appeals Chamber denied Elizer Niyitegeka’s request for review without prejudice, but granted his request for the assignment of counsel to assist him with a revised request for review.

On 22 October, the Appeals Chamber dismissed the Prosecution’s appeal of a decision taken by the President in connection with the provisional release of Dragan Nikolic. On 16 November, the Appeals Chamber denied Ferdinand Nahimana’s request for review, and issued a confidential decision authorizing the assignment of counsel in connection to another potential request for review and a related order. On 8 December, the Appeals Chamber dismissed an appeal by Jean de Dieu Kamuhanda against a decision taken by a single judge on an issue of jurisdiction.

**Office of the Prosecutor**

In 2015, the Office of the Prosecutor continued to discharge its mandate with respect to a variety of activities, including tracking fugitives, rendering assistance to national authorities, monitoring cases referred to national jurisdictions, maintaining and updating fugitive files in anticipation of arrest and conducting litigation before the Mechanism.

The Arusha branch of the Office of the Prosecutor continued to focus its efforts on gradually taking full responsibility for all remaining functions of the Tribunal’s Office of the Prosecutor. The arrest and prosecution of the three fugitives, Augustin Bizimana, Felicien Kabuga and Proteas Mpiranya, remained a key priority, and the Prosecutor continued efforts to track those fugitives, with particular emphasis on the southern African and Great Lakes regions. The Prosecutor continued to render assistance to Rwanda in the tracking of the six fugitives whose cases had been referred to Rwanda, namely Fulgence Kayishema, Phenéas Munyarugarama, Aloys Ndimbati, Ladislas Ntaganzwa, Ryandikayo and Charles Sikubwabo, and jointly developed new initiatives with the Rwanda authorities to facilitate these efforts. With the conclusion of the Ngirabatware case, the ad hoc appeals team prosecuting it was disbanded and the four staff members were separated from service by 31 January 2015. The Office serviced foreign request for assistance by responding to 26 requests for assistance from eight Member States and international organizations. The Prosecutor’s evidence vault, with a collection comprising 105.55 linear metres of documents, was transferred to the custody of the Arusha branch on 24 April and for the efficient management of the Prosecutor’s records and evidence collection, an associate records manager and an associate information manager were recruited on an ad hoc basis.

The Hague branch of the Office of the Prosecutor responded to a request for review of judgement by Sreten Lukic. The Prosecution made submissions in two cases concerning the status of documents on the record in cases completed by the ICTY. The Hague branch received 335 requests for assistance from five Member States and one international organization and responded to requests for information from the Registrar of the Mechanism concerning the administration of sentences for nine convicted persons. The Hague branch, with the assistance, in Bosnia and Herzegovina, of the Organization for Security and Cooperation in Europe, monitored the resentencing proceedings in the Milorad Trbic case, which was referred to Bosnia and Herzegovina in 2007 [YUN 2007, p. 1336].

**The Registry**

The Registry was responsible for the provision of legal, judicial, policy, diplomatic and administrative support to the Mechanism’s operations. As at 30 June 2015, a total of 171 staff (in both posts and providing general temporary assistance positions) had been recruited for the Mechanism: 93 for The Hague branch and 78 for the Arusha branch, including Kigali. The Mechanism’s staff included nationals of 57 States. Approximately 84 per cent of those recruited were current or former staff of the two Tribunals. In February, the Mechanism concluded a contract with a Tanzanian construction company based in Arusha, and ground was broken in the same month. The Arusha branch was expected to move to this new premises in early 2016.

The Registry continued to support judicial activities in both branches by preparing and managing court hearings. Additional Registry support included the processing of judicial filings, assigning and remunerating defence teams, and providing translations of correspondence and judicial documents. The Witness
Support and Protection Unit was fully operational at both branches of the Mechanism and provided essential protection and support services to witnesses. To maintain witness-related records received from the Tribunals, the Unit established a common information technology platform for their respective witness databases, which became fully accessible to both branches in November 2015. The Archives and Records Section continued to work closely with the Tribunals on the preparation of their records and archives for transfer to the Mechanism. The Section’s library issued the latest edition of the International Criminal Tribunal for Rwanda Special Bibliography in November 2015.

During the reporting period, the Hague branch transferred four convicted persons to enforcement States. The Arusha branch was enforcing 29 sentences in 2 States, and the Hague branch was enforcing 17 sentences in 11 States. In addition, seven convicted persons at the UN Detention Facility in Arusha and six convicted persons at the UN Detention Unit in The Hague were awaiting transfer to an enforcement State. On 1 October, the Mechanism assumed responsibility for the management and operation of the UN Detention Facility in Arusha. There was no disruption in services provided to the detainees during or after the transition. The Mechanism monitored two of the cases referred to Rwanda through monitors from international bodies and interim monitors provided by ICTY and the Mechanism. In March, following the conclusion of a memorandum of understanding with the Mechanism on 15 January, the Kenyan section of the International Commission of Jurists started monitoring the cases referred to Rwanda.

Construction of a new facility


The Secretary-General reported that on 5 February 2014, the Supplementary Agreement to the Agreement between the United Nations and the United Republic of Tanzania concerning the Headquarters of the International Residual Mechanism for Criminal Tribunals for the Premises of the Mechanism was signed, formalizing the grant of land from the Tanzanian Government to the United Nations and its commitment to provide temporary and permanent access roads and utilities to the site of the new facility, free of charge to the United Nations. On 26 February 2014, the Mechanism concluded an agreement with an architectural and engineering consulting firm to implement the project and a contract was concluded for the provision of detailed design and tender documents, and construction management services once construction was under way.

The project experienced a slight delay of approximately two months in entering into a contract with the architectural and engineering design consultant. Strategic measures had been taken by the Mechanism in an effort to overcome the delays. Negotiations with the selected bidder were expected to commence soon and to be finalized in early 2015. Following the completion of the negotiations, construction work was anticipated to begin in February 2015, subject to the completion of a temporary access road and connection to utilities. Construction was expected to last 12 months, resulting in occupancy in early 2016. As at 31 December 2014, expenditures amounted to $1,194,235. The Secretary-General remained committed to allocating resources in the most effective and efficient manner during the implementation of the remainder of the project to ensure that it is completed within the overall budget.

ACABQ report. On 23 February [A/69/788], ACABQ reiterated its appreciation to the Government of Tanzania for its provision of land, access roads and connection to utilities to the new facility at no cost to the United Nations. It noted the progress made in the audit by oios and stressed the important roles played by the project governance and oversight bodies. The Advisory Committee requested that the Secretary-General: to follow the best practice as recommended by the Board of Auditors with respect to project contingency provisions in future capital projects; to make every effort to absorb the higher-than-budgeted amount related to the architect fees without charging it to the project contingency provision; and to provide the value of the assets identified in his next progress report to the Assembly. Considering the remaining phases of the project, the Advisory Committee recommended that the Assembly request the Secretary-General: to follow the best practice as recommended by the Board of Auditors with respect to project contingency provisions in future capital projects; to make every effort to absorb the higher-than-budgeted amount related to the architect fees without charging it to the project contingency provision; and to provide the value of the assets identified in his next progress report to the Assembly. Considering the remaining phases of the project, the Advisory Committee recommended that the Assembly request the Secretary-General to identify all mitigation measures with a view to absorbing cost escalations within the project construction budget; to refrain, to the maximum extent possible, from charging cost escalations to the contingency provision; and to provide every effort to ensure that the project would be completed within the budget approved for the construction without recourse to the contingency provision.

GENERAL ASSEMBLY ACTION

On 2 April [meeting 84], the General Assembly on the recommendation of the Fifth Committee [A/69/693/Add.1], adopted resolution 69/276 (Construction of a new facility for the International Residual Mechanism for Criminal Tribunals, Arusha branch) without vote [agenda item 147].
Financing
2014–2015 biennium

Report of Secretary-General. In November, the Secretary-General submitted the second performance report [A/70/558] on the budget of the International Residual Mechanism for Criminal Tribunals for the 2014–2015 biennium, providing an estimate of the anticipated final level of expenditure and income for the biennium. The anticipated final level of expenditure amounted to $71.6 million, reflecting a decrease of $43.9 million. The decrease was the result of the strengthening of the dollar against the euro and the Tanzania shilling, lower inflation and decreases related to post and non-post resources. The anticipated final level of income amounted to $5.0 million, reflecting a decrease of $2.2 million. Consequently, the combined effect of the anticipated final level of expenditure and income for amounted to $41.7 million. The Assembly was requested to approve the final appropriation for the biennium 2014–2015 of $71,588,900 gross ($66,614,300 net).

ACABQ report. A December report of ACABQ [A/70/600] recommended that the Assembly take note of the second performance report and approve the above-mentioned final appropriation for the Mechanism.

2016–2017 biennium

Report of Secretary-General. In September [A/70/578], the Secretary-General presented the proposed resource requirements for the Mechanism for the 2016–2017 biennium, which before recosting, amounted to $140,905,300 gross ($130,455,000 net), of which $76,883,900 related to the Arusha branch, $63,623,100 to the Hague branch and $398,300 to Mechanism support in New York.

In December [A/70/606], the Secretary-General submitted revised estimates for the Mechanism for the 2016–2017 biennium, arising from the effect of changes in rates of exchange, which after recosting amounted to $133,522,300 gross. ACABQ had no objection to the revised estimates and transmitted them to the General Assembly for consideration [A/70/7/Add.35].

ACABQ report. A December report of ACABQ [A/70/600], recommended approval of the proposed resource requirements in the amount of $140,481,300 gross ($130,064,600 net) for the 2016–2017 biennium for the Mechanism.

General Assembly action

On 23 December [meeting 82], the General Assembly on the recommendation of the Fifth Committee [A/70/634], adopted resolution 70/243 (Financing of the International residual mechanism for criminal tribunals) without vote [agenda item 146].

On 23 December, the General Assembly decided that the agenda item on the financing of the Mechanism would remain for consideration during its seventieth (2016) session (decision 70/554).

International Criminal Court

The International Criminal Court (icc), based at The Hague, was established by the Rome Statute of the International Criminal Court [YUN 1998, p. 1209] as a permanent institution with jurisdiction over persons accused of the most serious crimes of international concern (genocide, crimes against humanity, war crimes and the crime of aggression).

In 2015, the icc faced an unprecedented workload, with a number of cases simultaneously at trial and several at other stages of proceedings. The Office of the Prosecutor conducted preliminary examination activities in 11 situations and opened a new investigation into the situation in Georgia. The Court was seized of 23 cases and 10 situations. Requests for arrest and surrender issued by the Court remained outstanding against 13 individuals. On 14 December, the Court moved to its new permanent premises in The Hague. Reports covering icc activities during the year [A/70/350 & A/71/342] were submitted to the General Assembly. As at 31 December, 123 countries had ratified the Rome Statute.

General Assembly action


Assembly of States Parties

The Assembly of States Parties to the Rome Statute of the International Criminal Court adopted five resolutions at its fourteenth session (New York, 18–26 November) [ICC-ASP/14/20].

The Assembly approved appropriations totaling €139,590,600 for the Court’s 2016 programme budget, resolved to maintain the Working Capital Fund in the amount of €7,405,983, and decided to maintain the Contingency Fund at the notional level of €7 million [ICC-ASP/14/Res.1].

In resolution on article 124 [ICC-ASP/14/Res. 2], the Assembly adopted the amendment to article 124 of the Rome Statute and urged all States to ratify or accept the amendment to article 124.

In a resolution on cooperation [ICC-ASP/14/Res.3], the Assembly welcomed the relocation of persons at risk agreements concluded with the Court by States in 2015 ; invited the Bureau to discuss the feasibility of establishing a coordinating mechanism of national authorities and to report to the Assembly in advance of the sixteenth session ; took note of the report on arrest strategies by the Rapporteur and of the draft
Action Plan on Arrest Strategies; urged the Bureau to continue consideration of the recommendations of the draft Action Plan on Arrest Strategies with a view to its adoption; and requested the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court.

A resolution on strengthening ICC and the Assembly of States Parties, addressed, among other issues, universality of the Rome Statute, the Agreement on Privileges and Immunities, cooperation, relationship with the United Nations and other international organizations and bodies, the activities of the Court, elections, legal aid, the Study Group on Governance, strategic planning, victims and reparations, recruitment of staff, the principle of complementarity and programme budget.

A resolution on the Court’s permanent premises [ICC-ASP/14/Res.5] welcomed that the completion of the project, with cost within the overall financial envelope of a maximum of €206 million, including both the construction budget of €194.7 million and the transition budget of €11.3 million. It requested the Oversight Committee and the Court to ensure that all preparatory measures were adopted for the Court to be ready to take occupation of the permanent premises by no later than December 2015. It also requested the Oversight Committee and the Project Director to ensure that every effort was made to mitigate risks, seek opportunities for additional savings, and deliver the project within the expected expenditure level of €204 million, and its current budget envelope. It decided that the project audit for 2015 would be conducted so as to include in its scope the project accounts up to such a time as the costs had become final, which was expected by the end of March 2016.

The Chambers

The judicial activities of the Court were conducted by the Chambers, which consisted of 18 judges, organized in three divisions, including the Appeals Division, the Trial Division and the Pre-Trial Division.

New arrests, warrants and summonses

In the Paul Gicheru and Philip Kipkoech Bett case (situation in Kenya), Pre-Trial Chamber II, on 10 September, unsealed an arrest warrant against Gicheru and Bett, initially issued on 10 March for alleged offences against the administration of justice by corruptly influencing witnesses in Kenya.

On 18 September, Pre-Trial Chamber I issued a warrant of arrest against Mr. Al Mahdi for the war crimes of intentionally directing attacks against historic monuments and buildings dedicated to religion.

Ongoing cases, trials and appeals

On 27 February 2015, following an appeal by the Prosecutor, the Appeals Chamber confirmed, by majority, the judgment of 18 December 2012 of Trial Chamber II acquitting Mathieu Ngudjolo Chui of charges of crimes against humanity and war crimes [YUN 2012, p. 1289].

The trial of the Bosco Ntaganda case (situation in the DRC) began on 2 September.

In the Thomas Lubanga Dyilo case (situation in the DRC), on 22 September, the Appeals Chamber decided not to reduce the sentence of Lubanga who, at the time, had four and a half years of his sentence left to serve. On 8 December, the Presidency, taking note of Lubanga’s preference to serve his sentence in his state of nationality, designated the DRC as the state of enforcement. Reparation proceedings were pending following the 3 March 2015 Judgment of the Appeals Chamber, which amended the Trial Chamber’s order for reparations and instructed the Trust Fund for Victims to present a draft implementation plan for collective reparations to Trial Chamber I. On 3 November, the Trust Fund for Victims submitted its draft implementation plan for reparations to Trial Chamber II.

In the Germain Katanga case (situation in the DRC), on 13 November, the Appeals Chamber decided to reduce Katanga’s total sentence of 12 years imprisonment by three years and eight months, setting the date for the completion of his sentence as 18 January 2016. On 8 December, the Presidency designated the DRC as the state in which Katanga would serve the remainder of his sentence.

In the Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidele Babala Wandu and Narcisse Arido case (situation in the Central African Republic), the trial opened on 29 September with the delivery of the Prosecutor’s opening statements before Trial Chamber VII.

In the Dominic Ongwen case (situation in Uganda), Dominic Ongwen was surrendered to the Court’s custody on 16 January and transferred to the Court’s Detention Centre on 21 January. His initial appearance took place on 26 January, and the opening of the confirmation of charges hearing was scheduled for 21 January 2016. Dominic Ongwen was the first suspect to appear before the Court regarding the situation in Uganda.

In the Joseph Kony and Vincent Otti case (situation in Uganda), on 10 September, Pre-Trial Chamber II decided to terminate the proceedings against Okot Odhiambo based on evidence that he had died in October 2013.

In the case Abdallah Banda Abakar Nourain (situation in the Darfur), on 3 March, the Appeals Chamber rejected Banda’s appeal against the decision replacing the summons to appear by a warrant of ar-
rest. On 19 November, Trial Chamber IV found that the Sudan had failed to execute pending requests for the arrest and surrender of Banda.

In the *Omar Hassan Ahmad Al Bashir* case (situation in Darfur), on 9 March, Pre-Trial Chamber II found that the Sudan had failed to cooperate with the Court by refusing to execute the pending requests for the arrest and surrender of Omar Hassan Ahmad Al Bashir, and referred the finding of the non-cooperation of the Sudan to the Security Council (see below).

On 26 June, Pre-Trial Chamber II found that the Sudan had failed to cooperate with the Court by refusing to execute the pending requests for the arrest and surrender of Abdel Raheem Muhammad Hussein and referred the finding of the non-cooperation of the Sudan to the Security Council (see below).

On 13 March, the Trial Chamber V (b) decided to terminate the proceedings in the *Uhuru Muigai Kenyatta* case (situation in the Kenya). On 19 August, the Appeals Chamber reversed the decision of Trial Chamber V (b) of 3 December 2014, which had rejected the Prosecutor’s request to make a finding that Kenya had failed to comply with the Court’s request for cooperation. The decision was remanded to Trial Chamber V (b).

In the *Paul Gicheru and Philip Kipkoech Bett* case (situation in the Kenya), on 10 September 2015, Pre-Trial Chamber II unsealed an arrest warrant against Gicheru and Bett, initially issued on 10 March for alleged offences against the administration of justice by corruptly influencing witnesses in Kenya.

On 11 March, Trial Chamber I joined the two cases (situation in Côte d’Ivoire), *Laurent Gbagbo and Charles Blé Goudé*, in order to ensure the efficacy of proceedings. The opening of the trail was scheduled for 10 November.

On 27 May, the Appeals Chamber confirmed the decision of Pre-Trial Chamber I declaring the case *Laurent Gbagbo* admissible before the Court [*YUN 2014, p. 1502*].

In the *Abdul Al Fagi Al Mahdi* case (situation in Mali), on 18 September, Pre-Trial Chamber I issued a warrant of arrest against Al Mahdi for the war crimes of intentionally directing attacks against historic monuments and buildings dedicated to religion. Al Mahdi first appeared before the Court on 30 September.

**Communications.** On 20 March [*S/2015/202*], the Secretary-General transmitted to the Security Council President a letter dated 9 March from the President of the Court conveying the decision on the Prosecutor’s request for a finding of non-compliance against the Republic of the Sudan, issued by Pre-Trial Chamber II on 9 March in the *Omar Hassan Ahmad Al Bashir* case.

On 13 August [*S/2015/633*], the Secretary-General transmitted to the Council President the decision issued by Pre-Trial Chamber II on the Prosecutor’s request for a finding of non-compliance against the Republic of the Sudan in the *Abdel Raheem Muhammad Hussein* case.

**Office of the Prosecutor**

**Investigations**

In 2015, the Office of the Prosecutor continued to investigate situations in the DRC, the Central African Republic, Uganda, Darfur (the Sudan), Kenya, Libya, Côte d’Ivoire, Mali.

During the period from 1 August 2014 to 31 July 2015, on the situation in the DRC, the Office conducted 44 missions to six countries in relation to its investigation and trial preparation in the case against Bosco Ntaganda for the purpose of collecting evidence, screen and interviewing witnesses and securing continued cooperation. The Office also conducted missions to two countries for its investigation relating to alleged crimes committed by the Forces démocratiques pour la libération du Rwanda in the Kivu provinces. Furthermore, the Office conducted several missions relating to the request for interim release filed by Thomas Lubanga.

On the situation in the Central African Republic, the Office focused its investigations on alleged crimes committed by various actors, including by the armed groups known as the Séléka and the anti-Balaka. The Office conducted 35 missions to eight countries to collect evidence.

The Office continued its investigation into the situation in Uganda, conducting 29 missions to obtain further evidence with a view to bringing additional charges against Dominic Ongwen.

Regarding the situation in Darfur (the Sudan), the Office conducted 20 missions to nine countries and continued to monitor trends that could constitute crimes under the Rome Statute, including alleged aerial bombardments, ground attacks, common crimes, killings, attacks on civilians, sexual violence, forced displacement, attacks on humanitarian aid workers and peacekeepers and arbitrary detentions.

On the situation in Kenya, the Office continued to receive information on the commission of crimes against humanity during the post-election violence in 2007–2008 and conducted 19 missions to five countries.

The Office conducted 13 missions in seven countries and continued to monitor allegations of crimes committed by militias and armed groups in Libya.

On the situation in Côte d’Ivoire, the Office continued its preparation for trial and conducted 42 missions to seven countries to collect additional evidence, screen and interview or re-interview witnesses and secure the continued cooperation of partners.

On the situation in Mali, the Office conducted 46 missions to nine countries to collect evidence, screen
and interview witnesses and secure the continued cooperation of its partners, including States in the Sahel region.

Preliminary examination

The Office of the Prosecutor opened a preliminary examination of the situation in the State of Palestine, continued preliminary examinations in Afghanistan, Colombia, Georgia, Guinea, Honduras, Iraq, Nigeria and Ukraine and concluded its preliminary examination in the Central African Republic as well as in the “Gaza Freedom Flotilla” incident, referred to the Prosecutor by the government of the Comoros.

From 1 August 2014 to 30 June 2015, the Office received 520 communications relating to article 15 of the Rome Statute, of which 383 were outside the Court’s jurisdiction; 36 warranted further analysis; 68 were linked to a situation already under analysis; and 33 were linked to an investigation or prosecution.

The Registry

The Registry provided judicial and administrative support to all organs of the Court and carried out its responsibilities concerning victims, witnesses, defence and outreach. The Registry sought to develop understanding and awareness of icc and its activities by strengthening the Court’s public information capacity for outreach services in countries where the Court was active. It provided security, administrative and logistical support to the Court’s investigations.

The Registry transmitted 1,042 requests for visas and 251 requests for cooperation. In January, the Court concluded a memorandum of understanding with the United Nations Office on Drugs and Crime (UNODC) to increase cooperation concerning the mandate of the Registry’s Victims and Witnesses Section in accordance with the Rome Statute. It also concluded a memorandum of understanding on building the capacity of States to enforce, in accordance with international standards on the treatment of prisoners, sentences of imprisonment pronounced by the Court.

International cooperation

A memorandum of understanding was signed between the Ethics Office of the United Nations and the Court to ensure the administration of the financial disclosure programme commenced by the Court in 2015. On 2 June, the Court concluded an exchange of letters with the United Nations enabling the Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) to provide immediate assistance to the Court on an ad hoc basis, pending the finalization of a more comprehensive agreement. In connection with its investigative and prosecutorial activities, the Office of the Prosecutor addressed a total of 366 requests for assistance to 58 different partners, including States parties, non-States parties and international and regional organizations, in addition to following up on the execution of pending requests. The Court reinforced its involvement and presence in international networks of judicial practitioners and law enforcement actors. Active cooperation was obtained from such partners as Interpol, the European Union (European Commission, European External Action Service, Eurojust, Europol), the World Bank, the Inter-American Commission on Human Rights and the Ibero-American Legal Assistance Network. Cooperation between the Office of the Prosecutor, the UN system, civil society and the State concerned had borne tangible results for the progress of a national investigation regarding alleged crimes against humanity committed during the events of 28 September 2009.

Reports of Secretary-General. In accordance with Assembly resolution 69/279 (see p. 0000), the Secretary-General submitted an August report [A/70/346] on expenses incurred and reimbursement received by the United Nations in connection with assistance provided to icc. From 1 July 2014 to 30 June 2015, the United Nations provided facilities and services in the amount of $742,606, which covered costs for staff, satellite communications, personnel training, conference and related services, file security, library services and others.

In accordance with the same resolution, the Secretary-General submitted a report [A/70/317] on information relevant to the implementation of article 3 of the Relationship Agreement between the United Nations and icc. From 1 July 2014 to 30 June 2015, the United Nations worked closely with the Court to further strengthen its relationship and to ensure the effective implementation of the Agreement. In the field of institutional relations, addressed in chapter II of the Agreement, the United Nations provided to the Court a range of services and facilities, including reimbursable loans; satellite communications services; payroll costs for staff assigned to work exclusively on matters pertaining to the Court; access to the United Nations System Electronic Information Acquisition Consortium; field security services; air and ground transportation services for Court personnel and equipment; provision of laissez-passer and certificates; and training services, including access to language proficiency examinations for Court staff members. In the field of cooperation and judicial assistance, addressed in chapter III of the Agreement, the Organization provided extensive assistance to the Court in the period under review, in particular in the form of access to the Organization’s records and archives and the making available of a number of UN personnel for interview by the prosecution in connection with certain situations before the Court.