



Malaysia

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Permanent Mission to the United Nations

STATEMENT BY

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TO THE UNITED NATIONS

ON

AGENDA ITEM 50:
REPORT OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR
THE PROSECUTION OF PERSONS RESPONSIBLE FOR
GENOCIDE AND OTHER SERIOUS VIOLATIONS OF
INTERNATIONAL HUMANITARIAN LAWS COMMITTED IN THE
TERRITORY OF RWANDA AND RWANDAN CITIZENS
RESPONSIBLE FOR GENOCIDE AND OTHER SUCH
VIOLATIONS COMMITTED ON THE TERRITORY OF
NEIGHBOURING STATES
BETWEEN 1 JANUARY AND 31 DECEMBER 1994

AND

AGENDA ITEM 51:
REPORT 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
AT

THE PLENARY OF THE 59TH SESSION OF THE
UNITED NATIONS GENERAL ASSEMBLY

NEW YORK
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(Please check against delivery)

Mr. President,

I should like to thank the Honourable Judge Erik Mose, President of the International Tribunal for Rwanda and the Honourable Judge Theodor Meron, President of the International Tribunal for the former Yugoslavia for introducing the Reports of the two Tribunals and for their excellent leadership of the Tribunals during the respective reporting period. The reports provide a comprehensive review of the progress of the work of the Tribunals as well as the difficulties encountered by them. We commend both Presidents, members of the Chambers, the Prosecution and the Registries of both Tribunals for the progress achieved so far.

Mr. President,

2. Malaysia continues to believe strongly in the importance of upholding the principles of justice and equality which international humanitarian law stands for. We regard adherence to the rule of law as a necessary basis of upholding these principles. The Tribunals were established, among others, to bring to justice persons allegedly responsible for violations of international humanitarian law and to contribute to the restoration of peace by promoting reconciliation in the former Yugoslavia and Rwanda. Since their creation, the Tribunals have played a significant role in clearly demonstrating that genocide and other serious violations of international humanitarian law cannot be tolerated. The Tribunals exist in order to ensure that the perpetrators of genocide and other serious violations of international humanitarian law will not get away with impunity.

3. The work of the Tribunals is of immense importance in bringing to justice the perpetrators of atrocities and in the development of international justice and international law. There is no doubt that the decisions of the Tribunals have contributed to the progressive and constructive developments of case law in the spheres of general international law and international humanitarian law, in respect of different questions of procedure and competence and also on substantive issues of considerable importance. The Tribunals have led to pioneering advocacy for victim's oriented restitutive justice in international criminal law.

Mr. President,

4. Malaysia is pleased to note that the both the ICTY and ICTR have focused considerable effort on the implementation of their completion strategies as spelt out in Security Council resolution 1503 (2003) and 1534 (2004). The completion strategies call on the ICTY and the ICTR to take all possible measures to complete investigations by the end of 2004, to complete all trial activities at first instance by the end of 2008 and to complete all work in 2010. We take note of the substantial structural changes that have been made in order to facilitate this process.

Mr. President,

5. I would now like to first comment on the activities of the ICTR. Malaysia is pleased to note from the report that the ICTR has undertaken further measures to improve its performance in expediting proceedings towards the completion of its mandate. These improvements have enabled the Tribunal to accelerate its work towards completing all trials by 2008. One of the biggest structural reforms of the ICTR has been the appointment of its own Prosecutor, following perhaps a belated acknowledgement by the Security Council that it would not be possible for one person to hold the position of Prosecutor for the two tribunals. We commend the work of the Prosecutor, Mr. Hassan Jallow, who took office in September 2003, and note his efforts in taking steps to ensure the implementation of the completion strategy through the Completion Strategy Monitoring Committee. With the establishment of the Appeals section, the work of the Court it has been further accelerated.

6. The enlargement of the pool of ad litem judges for the Tribunal from four to nine would allow the Tribunal to increase its judicial productivity and meet the demands of the rise in cases. The Tribunal must be in a position to undertake its tasks efficiently so that detainees are spared from undue delay in the completion of their trials. With the appointment of these ad litem judges, the ICTR should be able to meet its target of completing all trials by 2008. My delegation is pleased that a Malaysian is able to contribute to the process through his service as an ad litem judge.

Mr. President,

7. I would now turn to the ICTY. My delegation notes with appreciation that the Tribunal has undergone structural and operational reform during the reporting period. The most significant internal reform was the amendments of rule 28 and 11 bis of the Rules of Procedure and Evidence to enable the Tribunal to determine the seniority criterion in reviewing and confirmation of new indictments and the expansion of the national jurisdiction so that the cases involving intermediate and lower-level accused could be transferred to national jurisdiction.

8. Malaysia notes that one of the durable legacies of the ICTY will be the strengthened criminal justice system in Bosnia and Herzegovina. The establishment of the special chamber for war crimes prosecutions is crucial to enable the ICTY to complete its work by 2008. The establishment of this War Crimes Chamber is part of the wider ongoing judicial reform in Bosnia and Herzegovina. We are pleased to note that establishment of the task force by the Tribunal has helped accelerate the establishment of this chamber which is expected to be fully operational in 2005 following the amendments in the Bosnia and Herzegovina Parliament.

9. We also note while the ICTY has made every effort to be more efficient and expedite matters more quickly, one of the biggest challenge is the reluctant cooperation from states in the region and, in particular their refusal to turn suspects over the tribunal. As indicated in the report, there has been no major progress in the arrest and transfer of indictees except for Croatia. We are concerned that the lack of cooperation could prevent the tribunal from meeting its 2008 deadline. The countries concerned must meet without hesitation the call for cooperation by the Prosecutor.

Mr. President,

10. The work of the ICTY and the ICTR has greatly contributed to the field of post-conflict justice – not only in furthering international criminal jurisprudence on matters such as individual responsibility, the ability to exercise jurisdiction over crimes committed in internal conflicts, but also in terms of procedural refinements. In reiterating its fullest support for both the Tribunals, Malaysia calls, once again, on the international community to give full and sustained support to the Tribunals in carrying their mandate and objectives. The sustained commitment by major powers is also crucial. The delivery of justice is important for a sustainable peace-building process. Without justice there would be no peace.

Thank you, Mr President.