



General Assembly

Sixty-sixth session

87th plenary meeting

Friday, 16 December 2011, 10 a.m.
New York

Official Records

President: Mr. Al-Nasser (Qatar)

In the absence of the President, Mr. Thomson (Fiji), Vice-President, took the Chair.

The meeting was called to order at 10.15 a.m.

Agenda item 129

International residual mechanism for criminal tribunals

Letter from the President of the Security Council (A/66/564)

Memorandum by the Secretary-General (A/66/571/Rev.1)

Note by the Secretary-General (A/66/572)

The Acting President: This morning, the General Assembly will take up agenda item 129, entitled “International residual mechanism for criminal tribunals”, to elect 25 judges of the Residual Mechanism. In connection with the election, I should like to bring the following matters to the attention of the General Assembly.

As members may recall, by its resolution 1966 (2010), of 22 December 2010, the Security Council decided to establish the International Residual Mechanism for Criminal Tribunals, which would include two branches, namely, the branch for the International Criminal Tribunal for Rwanda, to commence functioning on 1 July 2012, and the one for the International Tribunal for the Former Yugoslavia, to commence functioning on 1 July 2013.

In accordance with article 8 of the statute of the Mechanism, the Mechanism shall have a roster of 25 independent judges, not more than two of whom may be nationals of the same State. This will be the first election of the judges for the Mechanism.

Pursuant to article 10, paragraph 3, of the statute of the Mechanism, the judges of the Mechanism, who will be assigned to either the branch for the International Criminal Tribunal for Rwanda or the branch for the International Tribunal for the Former Yugoslavia of the Mechanism, shall be elected for a term of four years, beginning on 1 July 2012 and ending on 30 June 2016. Judges shall be eligible for reappointment by the Secretary-General after consultation with the Presidents of the Security Council and the General Assembly.

Having considered the nominations for judges of the Mechanism received by the Secretary-General, the Security Council established a list of 36 candidates for transmittal to the General Assembly. In accordance with article 10, paragraph 1 (d), of the statute of the Mechanism, the list was formally conveyed to the President of the General Assembly by means of a letter (A/66/564) dated 16 November 2011 from the President of the Security Council. For ease of reference, the letter identified with an asterisk those candidates with previous judicial experience at the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda, in accordance with article 9, paragraph 1, of the statute of the Mechanism, which provides that particular account shall be taken of such experience.

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In accordance with article 10, paragraph 1 (d), of the statute of the Mechanism, the Holy See, being a non-member State, shall participate in the election in the same manner as the States Members of the United Nations. On this occasion, I am happy to welcome here the representative of the Holy See.

Finally, I should like to draw the attention of the Assembly to the documents relating to the election. The memorandum by the Secretary-General concerning the election of judges of the International Residual Mechanism for Criminal Tribunals is contained in document A/66/571/Rev.1.

The list of candidates is found in paragraph 9 of document A/66/571/Rev.1. In that connection, I have received information from the Legal Counsel of the withdrawal of the following four candidates from the election: Ms. Olivera Andjelkovic (Serbia), Mr. Wolfgang Schomburg (Germany), Ms. Shiranee Tilakawardene (Sri Lanka) and Ms. Tatjana Vukovic (Serbia).

The curricula vitae of the candidates are contained in document A/66/572. In that connection, may I bring to the Assembly's attention the provision of article 9, paragraph 1, of the statute of the Mechanism, which stipulates that judges of the Mechanism shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. According to the same provision, particular account shall be taken of experience as judges of the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda. According to article 9, paragraph 2, of the statute, due account shall be taken in the composition of the Trial and Appeals Chambers of the experience of the judges in criminal law, international law, including international humanitarian law, and human rights law.

In addition, members will recall that the General Assembly decided, during the election of judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda in 1993, 1997, 1998, 2001 and 2005, to follow the election procedures for judges of the International Court of Justice, given the similar nature of the election of judges of the International Court of Justice and the election of judges of the two tribunals. The Secretary-General has suggested that those precedents be followed and that rule 151 of the rules of procedure

of the General Assembly be applied to the election of judges of the Mechanism.

May I take it that the Assembly agrees to that suggestion?

It was so decided.

The Acting President: In accordance with article 10, paragraph 1 (d), of the statute of the Mechanism, the candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected.

The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors, whether or not they vote or are allowed to vote. The electors in the General Assembly for current purposes are all 193 Member States, together with the one non-member State I mentioned earlier. Accordingly, 98 votes constitute an absolute majority in the Assembly for the purpose of the present election.

Only those candidates whose names appear on the ballot papers are eligible for election. The electors will indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers. Each elector may vote in the first ballot for no more than 25 candidates.

If, in the first ballot, the number of candidates obtaining an absolute majority is less than 25, a second ballot will be held and balloting will continue in the same meeting, if and as necessary, until 25 candidates have obtained an absolute majority. In any second or subsequent ballot, each elector may vote for no more than 25 candidates less the number of candidates who have already obtained an absolute majority.

Following the practice in the election of judges of the International Court of Justice, any second and subsequent balloting shall be unrestricted. Votes may accordingly be cast in any second or subsequent ballot for any eligible candidate who has not yet obtained an absolute majority.

If, in the first ballot, more than 25 candidates obtain an absolute majority of votes, a second ballot will be held on all candidates, and balloting will continue at the same meeting, if and as necessary, until 25 candidates, and no more, obtain an absolute

majority. In any such case, each elector may vote, both in the first ballot and in any subsequent ballot, for 25 candidates.

May I take it that the Assembly agrees to the procedures I have just outlined?

It was so decided.

The Acting President: I now give the floor to the observer of the Holy See.

Mr. Swanepoel (Holy See): The Holy See continues to follow the Criminal Tribunals for the Former Yugoslavia and Rwanda with great attentiveness, and welcomes the efforts being undertaken to conclude the work of the Tribunals through the creation of the International Residual Mechanism for Criminal Tribunals.

While the Holy See remains an observer State rather than a Member State in the work of the United Nations, we note that the Holy See, in accordance with article 10, paragraph 1 (d), of the statute of the Residual Mechanism, is entitled to participate in the election of judges to the newly established International Residual Mechanism for Criminal Tribunals in the same manner as Member States. However, on this occasion, the Holy See, in accordance with its prior practice during elections to the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, in consideration of its specific nature and objectives, has decided to abstain from casting its vote on the individual candidates to the International Residual. In so doing, the Holy See reiterates its best wishes to the candidates and those to be elected to the Residual Mechanism, and renews its hope that their work will help to serve the cause of justice and peace around the world.

The Acting President: I now give the floor to the representative of Uganda.

Mr. Muhumuza (Uganda): Like other Member States that have withdrawn candidatures, Uganda has sent a note to the Secretariat that we had thought would have been communicated to the General Assembly. That letter informed the Secretariat of Uganda's withdrawal of the candidature of Mr. Daniel David Ntanda Nsereko. Nevertheless, Ms. Solomy Balungi Bossa continues to be Uganda's candidate.

The Acting President: The Secretariat has informed me that Uganda's notification was not received in time. However, I would ask that members take note of that withdrawal when casting their ballots.

Before we begin the voting process, I should like to remind members that, pursuant to rule 88 of the rules of procedure of the General Assembly, no representative shall interrupt the voting except on a point of order on the actual conduct of the voting.

We shall now begin the voting process. Ballot papers will now be distributed.

Representatives are requested to use only the ballot papers now being distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives will indicate the 25 candidates for whom they wish to vote by placing crosses at the left of their names on the ballot papers. Ballot papers on which more than 25 names are marked will be considered invalid. Votes may only be cast for those whose names appear on the ballot papers.

At the invitation of the Acting President, Mr. Durmić (Bosnia and Herzegovina), Mr. Germán (Guatemala), Ms. Kjartansdóttir (Iceland), Ms. Kakee (Japan), Mr. Dennis (Liberia) and Ms. Ávila (Panama) acted as tellers.

The meeting was suspended at 10.45 a.m. and resumed at 12.25 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	185
Number of invalid ballots:	1
Number of valid ballots:	184
Abstentions:	1
Number of members voting:	183
Required absolute majority:	98
Number of votes obtained:	
Mr. Liu Daqun (China)	176
Mr. Lee G. Muthoga (Kenya)	170
Mr. Carmel A. Agius (Malta)	167
Mr. Gberdao Gustave Kam (Burkina Faso)	167
Mr. Seon Ki Park (Republic of Korea)	166
Mr. Patrick Lipton Robinson (Jamaica)	166
Mr. Aydin Sefa Akay (Turkey)	165
Mr. Burton Hall (Bahamas)	162
Mr. Bakone Justice Moloto (South Africa)	162

Mr. Mparany Mamy Richard Rajohnson (Madagascar)	162
Ms. Solomy Balungi Bossa (Uganda)	161
Ms. Florence Arrey (Cameroon)	160
Mr. Theodor Meron (United States of America)	157
Mr. Ivo Nelson de Caires Batista Rosa (Portugal)	157
Mr. Christoph Flügge (Germany)	154
Mr. Vagn Prüsse Joensen (Denmark)	149
Mr. Alphons Orië (Netherlands)	148
Mr. José Ricardo de Prada Solaesa (Spain)	141
Mr. Ben Emmerson (United Kingdom of Great Britain and Northern Ireland)	141
Ms. Prisca Matimbe Nyambe (Zambia)	138
Ms. Graciela Susana Gatti Santana (Uruguay)	128
Mr. Joseph E. Chiondo Masanche (United Republic of Tanzania)	125
Mr. William Hussein Sekule (United Republic of Tanzania)	125
Ms. Michèle Picard (France)	122
Mr. Jean-Claude Antonetti (France)	118
Ms. Aminatta Lois Runeni N'gum (Zimbabwe/Gambia)	117
Ms. Lombe P. Chibesakunda (Zambia)	94
Mr. Juan Antonio Durán Ramírez (El Salvador)	92
Mr. Carlos Ernesto Sánchez Escobar (El Salvador)	88
Mr. Juan Bautista Delgado Cánovas (Spain)	76
Mr. Alfredo Gomez Tedeschi (Uruguay)	72

Since more than 25 candidates obtained an absolute majority of votes, as agreed earlier today, a second ballot shall be held on all candidates until 25 candidates, and not more, obtain an absolute majority.

We shall now proceed with the second round of balloting.

The voting process has now begun and ballot papers are being distributed.

All the candidates whose names appear on the ballot papers are eligible. Once again, I would remind delegations that only the names of 25 candidates should be marked with a cross. Any ballot paper on which more than 25 names are marked will be considered invalid. Votes may only be cast from among those whose names appear on the ballot papers.

At the invitation of the Acting President, Mr. Durmić (Bosnia and Herzegovina), Mr. Germán (Guatemala), Ms. Kjartansdóttir (Iceland), Ms. Kakee (Japan), Mr. Dennis (Liberia) and Ms. Ávila (Panama) acted as tellers.

The Acting President: It is now my intention to suspend the meeting until 3 p.m., when the results of the voting will be announced. Should the General Assembly need to proceed to another ballot to elect judges of the Mechanism, that round of balloting will take place on Tuesday, 20 December at 10 a.m. in the Hall.

The meeting was suspended at 12.40 p.m. and resumed at 3.10 p.m.

The Acting President: The result of the voting is as follows:

Number of ballot papers:	186
Number of invalid ballots:	0
Number of valid ballots:	186
Abstentions:	1
Number of members voting:	185
Required absolute majority:	98
Number of votes obtained:	
Mr. Liu Daqun (China)	173
Mr. Carmel A. Agius (Malta)	167
Mr. Patrick Lipton Robinson (Jamaica)	166
Mr. Seon Ki Park (Republic of Korea)	164
Mr. Aydin Sefa Akay (Turkey)	163
Mr. Gberdao Gustave Kam (Burkina Faso)	162
Mr. Lee G. Muthoga (Kenya)	162
Ms. Solomy Balungi Bossa (Uganda)	158
Mr. Burton Hall (Bahamas)	158
Ms. Florence Arrey (Cameroon)	156
Mr. Christoph Flügge (Germany)	156
Mr. Bakone Justice Moloto (South Africa)	156
Mr. Theodor Meron (United States of America)	155
Mr. Mparany Mamy Richard Rajohnson (Madagascar)	155
Mr. Ivo Nelson de Caires Batista Rosa (Portugal)	151
Mr. Vagn Prüsse Joensen (Denmark)	147
Mr. Alphons Orië (Netherlands)	143
Mr. Ben Emmerson (United Kingdom of Great Britain and Northern Ireland)	140
Mr. José Ricardo de Prada Solaesa (Spain)	134

Ms. Graciela Susana Gatti Santana (Uruguay)	123
Mr. Joseph E. Chiondo Masanche (United Republic of Tanzania)	121
Mr. William Hussein Sekule (United Republic of Tanzania)	121
Ms. Michèle Picard (France)	119
Ms. Prisca Matimbe Nyambe (Zambia)	118
Mr. Jean-Claude Antonetti (France)	117
Ms. Aminatta Lois Runeni N'gum (Zimbabwe/Gambia)	110
Ms. Lombe P. Chibesakunda (Zambia)	95
Mr. Juan Antonio Durán Ramírez (El Salvador)	74
Mr. Carlos Ernesto Sánchez Escobar (El Salvador)	71
Mr. Juan Bautista Delgado Cánovas (Spain)	67
Mr. Alfredo Gomez Tedeschi (Uruguay)	67

Since more than 25 candidates obtained an absolute majority of votes, as agreed earlier today, a third ballot shall be held on all candidates until 25 candidates, and not more, obtain an absolute majority. However, as I mentioned at the end of this morning's meeting, the Assembly will proceed to the third round of balloting to elect the judges of the Mechanism on Tuesday, 20 December at 10 a.m. in the Hall.

The meeting was suspended at 3.15 p.m. on 16 December and resumed at 10.30 a.m. on 20 December 2011.

The President (*spoke in Arabic*): We shall now proceed with the third round of balloting.

I give the floor to the representative of Fiji.

Mr. Thomson (Fiji): Last Friday, 16 December, the General Assembly conducted two rounds of balloting to fill the 25 positions on the International Residual Mechanism for Criminal Tribunals. That was due to a procedural rule that the Assembly adopted at the beginning of this meeting, according to which the voting had to be repeated if too many candidates received an absolute majority.

I believe that there is broad agreement in the Hall that something needs to be done to avoid a similar situation today. In that spirit, for the purpose of these elections, I would propose that, should a situation arise in which more than 25 candidates once again receive an absolute majority, we should not proceed to another

ballot but, rather, declare elected those 25 who have received the absolute majority and highest number of votes, as we routinely do in many other elections. Also, in the event of a tie for a remaining seat, may I suggest that there should be a restricted ballot limited to those candidates who have received an equal number of votes.

This proposal is particularly relevant today, as the low number of candidates makes it rather likely that such a situation might recur. I urge members to support this proposal in the best interests of our time.

The President: I now give the floor to the representative of Japan.

Mr. Wada (Japan): My delegation has asked for the floor to express its support for the proposal made by the representative of Fiji.

The President (*spoke in Arabic*): In the light of the statement just made by the representative of Fiji, unless I hear any objection, I shall take it that the Assembly decides that if, in the next ballot, more than 25 candidates obtain an absolute majority of votes, those 25 with the highest number of votes will be considered elected and, in the event of a tie vote for a remaining seat, there will be a restricted ballot limited to those candidates who received an equal number of votes.

It was so decided.

The President (*spoke in Arabic*): I should like to remind members that, for the purposes of this ballot, the electors in the General Assembly are all 193 Member States, in addition to the one non-Member State, namely, the Holy See. Accordingly, 98 votes constitute an absolute majority in the Assembly.

I should also like to inform the Assembly that the Legal Counsel has informed me of the withdrawal of the candidatures of Mr. Carlos Ernesto Sanchez Escobar of El Salvador and Mr. Juan Antonio Durán Ramírez of El Salvador. In addition, the Government of France has withdrawn the candidature of Ms. Michèle Picard.

The voting process has now begun and ballot papers are being distributed.

Representatives are requested to use only the ballot papers that are now being distributed. Only those candidates whose names appear on the ballot papers are eligible for election. Representatives should

indicate the 25 candidates for whom they wish to vote by placing crosses to the left of the names on the ballot papers. Ballot papers on which more than 25 names are marked will be considered invalid. Votes may only be cast for those whose names appear on the ballot papers.

At the invitation of the President, Mr. Durmić (Bosnia and Herzegovina), Mr. Espinoza (Chile), Ms. Kjartansdóttir (Iceland), Mr. Dennis (Liberia), Mr. Faizal (Maldives) and Ms. Arias (Peru) acted as tellers.

The meeting was suspended at 10.40 a.m. and resumed at 12.20 p.m.

The President (*spoke in Arabic*): The result of the voting is as follows:

Number of ballot papers:	181
Number of invalid ballots:	0
Number of valid ballots:	181
Abstentions:	1
Number of members voting:	180
Required absolute majority:	98
Number of votes obtained:	
Mr. Liu Daqun (China)	170
Mr. Gberdao Gustave Kam (Burkina Faso)	166
Mr. Aydin Sefa Akay (Turkey)	165
Mr. Carmel A. Agius (Malta)	164
Mr. Lee G. Muthoga (Kenya)	162
Mr. Mparany Mamy Richard Rajohnson (Madagascar)	162
Mr. Patrick Lipton Robinson (Jamaica)	162
Ms. Florence Arrey (Cameroon)	161
Mr. Burton Hall (Bahamas)	161
Mr. Seon Ki Park (Republic of Korea)	161
Ms. Solomy Balungi Bossa (Uganda)	160
Mr. Christoph Flügge (Germany)	158
Mr. Bakone Justice Moloto (South Africa)	157
Mr. Ivo Nelson de Caires Batista Rosa (Portugal)	154
Mr. Theodor Meron (United States of America)	153
Mr. Vagn Prüsse Joensen (Denmark)	146
Mr. Alphons Orie (Netherlands)	146
Mr. José Ricardo de Prada Solaesa (Spain)	143
Mr. Ben Emmerson (United Kingdom of Great Britain and Northern Ireland)	142
Ms. Prisca Matimbe Nyambe (Zambia)	142
Ms. Graciela Susana Gatti Santana (Uruguay)	136
Mr. Jean-Claude Antonetti (France)	135

Mr. Joseph E. Chiondo Masanche (United Republic of Tanzania)	131
Mr. William Hussein Sekule (United Republic of Tanzania)	130
Ms. Aminatta Lois Runeni N'gum (Zimbabwe/Gambia)	126
Ms. Lombe P. Chibesakunda (Zambia)	103
Mr. Juan Bautista Delgado Cánovas (Spain)	88
Mr. Alfredo Gomez Tedeschi (Uruguay)	73

Having obtained an absolute majority and the highest number of votes, Mr. Carmel A. Agius (Malta), Mr. Aydin Sefa Akay (Turkey), Mr. Jean-Claude Antonetti (France), Ms. Florence Arrey (Cameroon), Ms. Solomy Balungi Bossa (Uganda), Mr. José Ricardo de Prada Solaesa (Spain), Mr. Ben Emmerson (United Kingdom of Great Britain and Northern Ireland), Mr. Christoph Flügge (Germany), Ms. Graciela Susana Gatti Santana (Uruguay), Mr. Burton Hall (Bahamas), Mr. Vagn Prüsse Joensen (Denmark), Mr. Gberdao Gustave Kam (Burkina Faso), Mr. Liu Daqun (China), Mr. Joseph E. Chiondo Masanche (United Republic of Tanzania), Mr. Theodor Meron (United States of America), Mr. Bakone Justice Moloto (South Africa), Mr. Lee G. Muthoga (Kenya), Ms. Aminatta Lois Runeni N'gum (Zimbabwe/Gambia), Ms. Prisca Matimbe Nyambe (Zambia), Mr. Alphons Orie (Netherlands), Mr. Seon Ki Park (Republic of Korea), Mr. Mparany Mamy Richard Rajohnson (Madagascar), Mr. Patrick Lipton Robinson (Jamaica), Mr. Ivo Nelson de Caires Batista Rosa (Portugal) and Mr. William Hussein Sekule (United Republic of Tanzania) were elected judges of the International Residual Mechanism for Criminal Tribunals.

The President (*spoke in Arabic*): The roster for the International Residual Mechanism for Criminal Tribunals has thus been fully established. I should like to take this opportunity to extend to the judges the congratulations of the General Assembly on their elections. I also wish to thank the tellers for their assistance.

The Assembly has thus concluded its consideration of agenda item 129.

The meeting rose at 12.35 p.m.