SPECIAL TRIBUNAL FOR LEBANON

FOURTH ANNUAL REPORT (2012-2013)
Dear Prime Minister Mikati,

Dear Secretary-General Ban Ki-moon,

By Article 10(2) of the Statute of the Special Tribunal for Lebanon it is my responsibility and privilege to submit to you this Fourth Annual Report detailing the past year’s developments and our current activities. The report covers the period from 1 March 2012 to 28 February 2013. Subparts A, B, C and D of Part II of the report were prepared by the Chambers, the Registrar, the Prosecutor and the Head of Defence Office respectively.

Previous annual reports have variously described the Tribunal’s structure and distinctive features, recounted the steps leading up to the filing of the Tribunal’s first indictment and canvassed events following the indictment’s confirmation. This Fourth Annual Report expands upon the many activities of the Tribunal’s four organs during the lead-up to trial in its first case, The Prosecutor v. Ayyash et al. It includes decisions of the Trial Chamber and the Appeals Chamber affirming the legality of the Tribunal, and the confirmation by the Appeals Chamber of the first decision of an international criminal tribunal since Nuremberg ordering a trial in absentia.

The disclosure of evidentiary material to Defence counsel is an essential aspect of ensuring the integrity of proceedings and a fair trial. The massive task of evaluating and making disclosure of evidentiary material in this case, coupled with other factors, have made it necessary, in order to adhere to the principles of fairness, to adjourn the trial date. The Pre-Trial Judge has therefore postponed the tentative trial date set for 25 March 2013. Following consultations with the Prosecution, Defence and Legal Representative of Victims on how long they estimate they need for preparation, the Pre-Trial Judge will set a new date for trial. The Prosecution has advised that it will be ready, and if so ordered by the Pre-Trial Judge, can commence later in 2013. In order to maintain momentum in judicial activities, the Pre-Trial Judge has already referred to the Trial Chamber issues which it will address and determine in advance of trial. We have also reviewed our systems, including our Rules of Procedure and Evidence.

The careful preparations of the Prosecution, Defence counsel and Legal Representative of Victims, with the comprehensive support of the Registry, will enable the trial to proceed swiftly and efficiently. The Prosecutor is pursuing investigations as required in relation to trial preparations. By making our operations transparent and finding means to engage the people of Lebanon, we seek to assist them to restore in full the operation of the rule of law in Lebanon. So in addition to its commitment to trial preparedness, the Special Tribunal has undertaken outreach and public affairs initiatives.

This report concludes with our plans for the year ahead.

David Baragwanath
President
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PART I – INTRODUCTION

The fourth year of the Special Tribunal for Lebanon (“STL” or “Tribunal”) has seen both Prosecution and Defence, and also the Legal Representative of Victims (“LRV”), engaged in active preparation for the trial of the STL’s first case, The Prosecutor v. Ayyash, Badreddine, Oneissi and Sabra. The Prosecutor accuses the four individuals of criminal responsibility for the attack that killed former Lebanese Prime Minister Rafik Hariri and others on 14 February 2005.

The appointment by the Head of Defence Office of experienced lead and co-counsel to represent the interests of each of the four accused and the assumption of office of the new Prosecutor Norman Farrell in March 2012, followed by the Pre-Trial Judge’s fixing a tentative date of 25 March 2013 for the first trial to begin, have made the past year a period of concentrated activity. The Prosecutor and the Defence teams have striven to complete preparation in order to confirm that date. But for reasons set out by the Pre-Trial Judge, including incomplete disclosure and technical issues faced by the Defence in accessing certain disclosed material, the overarching requirement of fairness of trial compelled the Pre-Trial Judge to postpone the commencement of trial. The status of disclosure is discussed by the Prosecutor. We await the Pre-Trial Judge’s substitute date for later in 2013. In order to expedite fulfilment of our mandate, the Pre-Trial Judge has already referred substantial issues to the Trial Chamber for determination. We have reviewed our systems and implemented changes to expedite the proceedings, including amending the Rules of Procedure and Evidence (“Rules”) to strengthen and expand the Trial Chamber’s power to rule on issues (including evidence) before it becomes seized of the case. The Pre-Trial Judge retains responsibility for overseeing the process of Prosecution disclosure of evidence to the Defence, now well advanced.

It is important that the nature of our processes be made plain. Trial in absentia is familiar in a number of domestic jurisdictions, including Lebanon. The Appeals Chamber’s confirmation of the order of the Trial Chamber to proceed with the trial in absentia followed a careful analysis and application of the safeguards required for such process to give full protection to the interests of the accused. The Appeals Chamber held that such mode of trial must meet the highest standards of international criminal law, concluding that “Article 22 of the Statute and Rule 106 of the Rules, interpreted in light of the international human rights standards, require that in absentia trials are possible only where (i) reasonable efforts have been taken to notify the accused personally; (ii) the evidence as to notification satisfies the Trial Chamber that the accused actually knew of the proceedings against them; and that (iii) it does so with such degree of specificity that the accused's absence means they must have elected not to attend the hearing and therefore have waived their right to be present.”¹ Trial in absentia under such standards is premised on reason to believe, necessarily without hearing the accused, that the accused are voluntarily avoiding justice, on the appointment of counsel with the ability fully to protect the rights and interests of the accused, as well as on the fact that our Statute – adopted through a United Nations (“UN”) Security Council resolution binding under Chapter VII of the UN Charter – ensures an effective right to re-trial before the Tribunal.

The crucial role of Defence counsel was seen in the challenge to the legality of the establishment of the Tribunal, which included denial of the capacity of the Security Council to pass resolution 1757, upon

¹ STL, Prosecutor v. Ayyash et al., STL-11-01/PT/AC/AR126.1, Decision on Defence Appeals Against Trial Chamber’s Decision on Reconsideration of the Trial In Absentia Decision, 1 November 2012, para. 31.
which the validity of the STL Statute depends. Following litigation before the Trial Chamber and the Appeals Chamber, the Defence challenges were unsuccessful.

Accordingly preparations for trial have proceeded apace. The process of disclosure by the Prosecution to the Defence of documents and information relevant to preparation is an immense and demanding one, performed under the supervision and direction of the Pre-Trial Judge.

With 66 victims now participating in the proceedings, while using international criminal procedural law the trial is a truly Lebanese affair: Lebanese substantive law is applied by a special tribunal for Lebanon which includes Lebanese Judges whose verdict is important not only for the accused but for victims in Lebanon and for the Lebanese public at large.

In addition to managing the pre-trial phase of the Ayyash et al. proceedings, the Pre-Trial Judge is in the process of concluding the extensive litigation in the disclosure claim by Mr Jamil El Sayed, one of the four generals detained by the Lebanese authorities in connection with the 14 February 2005 attack and released upon the Special Tribunal’s order immediately after it commenced its activities.

We record our gratitude to the Government of Lebanon both for its contributions to our investigation and for its prompt provision of 49% of the year’s budget. Nevertheless, the absence of the accused is undesirable; the eight years which have elapsed since the attacks of which we are seized make more urgent the task of locating and detaining them. It is to be emphasised that trial in absentia does not detract in any way from the continuing obligation of the Lebanese authorities in a determined manner and, if need be, by employing novel approaches, to locate, apprehend and surrender the accused to the Tribunal.

In discharging our statutory mandate the STL seeks at every stage to keep the people of Lebanon informed of what is happening, as is their right within the limits of a continuing investigation in which the interests of victims, witnesses as well as the accused must be safeguarded. For that reason, as well as broadcasting our formal hearings, we have encouraged visits and taken part in interviews, lectures and conferences both in Beirut and by video-link from The Hague to Tripoli and Beirut, with members of the legal profession, university students, non-governmental organisations (“NGOs”) and print and television media. Our aim is to help the people of Lebanon restore in full the operation of the rule of law in Lebanon, so that they and their families may enjoy the peace and tranquility which is their birthright. We are concerned solely with discharging our mandate according to the law and the evidence.

It is our strong commitment that 2013 will see the STL perform its tasks of investigation, prosecution, defence and adjudication fairly and expeditiously as our Statute requires; and that in doing so the Tribunal will continue to receive the support of the people of Lebanon.
PART II – MAIN ACTIVITIES OF THE TRIBUNAL IN THE REPORTING PERIOD

A. Chambers

1. Introduction

Judicial activity increased significantly during the reporting period. The Pre-Trial Judge coordinated and directed the parties during the pre-trial phase of the first case before the Special Tribunal, The Prosecutor v. Ayyash et al., whilst the Trial and Appeals Chambers also rendered key decisions in the case. Work continued in several incidental judicial matters, and the President, Judges and staff of Chambers engaged in a variety of outreach initiatives in The Hague, Beirut and elsewhere.

2. Judicial activities

The Prosecutor v. Ayyash et al.

The past year has been marked by key advances in the Ayyash et al. proceedings. The indictment relates to the attack of 14 February 2005 that killed 22 victims and injured a further 226 persons. Some of the primary developments in the case since 1 March 2012 are detailed below.

Trial preparation

The case awaits completion of the pre-trial phase. Under the Pre-Trial Judge’s careful coordination—entailing regular, close contact with the Prosecutor, Defence counsel and LRV, status conferences, informal meetings, and enforcing the provisions of a clear working plan — the parties have made significant progress in readying for trial proper. The Pre-Trial Judge has issued multiple directions with respect to the disclosure of material from the Prosecutor to Defence counsel and the LRV, redactions, protective measures, the filing of preliminary motions before the Trial Chamber, victims participating in the proceedings and cooperation from Lebanon. During the reporting period, he dealt with over 500 motions and issued more than 120 decisions. Full cooperation by the Lebanese authorities related to provision of documents and other matters will allow a swifter trial.

In the Ayyash et al. case, on 19 July 2012, the Pre-Trial Judge set 25 March 2013 as a tentative date for trial to start. In issuing his order, the Pre-Trial Judge took account of the complexity and gravity of the attack in issue, the available information about the status of disclosure and the need for Defence counsel to have sufficient time to conduct their investigations and prepare their case.

On 15 November 2012, the Prosecution filed its pre-trial brief. The Prosecution indicated the intention to call 557 witnesses and tender over 13,000 exhibits. It estimated that its case will take 457.5 hours to present in court. The pre-trial brief and associated documents were all filed confidentially, though
public redacted versions were prepared and made available on the STL’s website. Defence counsel filed their pre-trial briefs on 9 January 2013.

On 24 January 2013, Defence counsel for each accused jointly sought an order to vacate the tentative date for the start of trial. Defence counsel based their application on alleged incomplete disclosure by the Prosecutor, the volume of evidence thus far disclosed, the expected scale of the Prosecution case, various technical and translation issues and the alleged non-cooperation of the Lebanese authorities. For these and other reasons, Defence counsel asserted that the tentative start date of 25 March 2013 was both unrealistic and unreasonable. To the extent that the Defence identified factors which warranted postponing the start of trial, the Prosecution did not oppose the Joint Defence Motion. To ensure full fairness of the proceedings, the Pre-Trial Judge agreed to allow the Defence teams further time to review the material disclosed to them by the Prosecution, and to prepare their cases. A revised trial date will be set in due course.

On 7 February 2013, the Pre-Trial Judge ruled that the motion of Defence counsel for Mr Badreddine seeking an order inviting the Prosecution to strike out certain sections of the Prosecutor’s pre-trial brief of 15 November 2012 be referred to the Trial Chamber.

**Challenge to jurisdiction and legality**

In early May 2012, Defence counsel for the four accused filed motions challenging the Tribunal’s jurisdiction and legality on the grounds that the Tribunal was set up illegally, that it violates Lebanese sovereignty, that it has selective jurisdiction and that it does not guarantee the accused their rights to a fair trial. Following argument from the Prosecution, Defence counsel and the LRV, on 30 July 2012 the Trial Chamber gave judgment confirming the STL’s jurisdiction to try those accused of committing the 14 February 2005 attack and connected cases and rejecting all motions filed by Defence counsel.

Following written and oral arguments, the Appeals Chamber, on 24 October 2012, unanimously (but for various reasons) dismissed appeals by counsel for Messrs Ayyash, Badreddine and Oneissi.

**Request to reconsider the decision to hold a trial in absentia**

On 1 February 2012, the Trial Chamber had made the first order for trial in absentia by an international criminal tribunal since Nuremberg. In May 2012, the Defence teams sought leave to apply for reconsideration of that decision, which was duly granted. On 11 July 2012, the Trial Chamber rejected the applications, concluding that there were no new facts or arguments showing an error of legal reasoning requiring reconsideration of the 1 February 2012 decision to avoid an injustice to any of the four accused.

Following an appeal by the four Defence teams, the Appeals Chamber — in a unanimous decision — dismissed the Defence challenges on 1 November 2012.

**Decision on applicable law**

On 13 June 2012, Defence counsel filed challenges to the Appeals Chamber’s decision of 16 February 2011 on the law applicable before the Tribunal. This decision had defined terrorism for the first time in
international law. The four Defence teams argued that the content of the 16 February 2011 decision should be revisited, and challenged the procedure by which it was reached.

After reviewing the parties’ submissions, on 18 July 2012 the Appeals Chamber rejected the Defence request for reconsideration. The Appeals Chamber held that in order to secure reconsideration, the Defence had to show that it had caused prejudice to the accused. The Appeals Chamber found that no such prejudice had been established.

**Challenges to the form of the indictment**

The Defence teams have filed motions challenging the form of the indictment. In light of the ongoing amendment process before the Pre-Trial Judge, the Trial Chamber has deferred its decision on these motions.

**Victims participating in the proceedings**

In his decisions of 8 May, 3 September and 28 November 2012, the Pre-Trial Judge authorised 68 applicants to participate in the proceedings as victims in the Ayyash et al. case. The Pre-Trial Judge also decided that the participating victims would be represented by a common team of counsel, and for the purpose of their legal representation before the Tribunal put the participating victims into a single group. He further rendered decisions on the modalities of victims’ participation in the proceedings.

On 16 May 2012, following consultations with the Victims’ Participation Unit (“VPU”) and upon its formal recommendation, the Registrar designated Mr Peter Haynes as Lead Legal Representative for participating victims, and Mr Mohammad F. Mattar and Ms Nada Abdelsater-Abusamra as Co-Legal Representatives.

On 14 December 2012, the LRV filed a list of witnesses and exhibits that the victims participating in the proceedings wish to call during trial. The list includes 57 witnesses and 369 exhibits.

On 30 January 2013, the Pre-Trial Judge granted the LRV certification to appeal his decision of 19 December 2012 with respect to protective measures requested by some of the participating victims. The matter is currently before the Appeals Chamber.

**El Sayed**

The Pre-Trial Judge is completing his oversight and active management of the disclosure of evidentiary material from the Prosecutor to Mr Jamil El Sayed, relating to his previous detention in Lebanon for almost three and a half years in connection with the 14 February 2005 attack. Mr El Sayed maintains that such material is essential to support his claims for relief in national courts.

The Appeals Chamber determined several appeals in this litigation during the reporting period.
Review of Registrar’s decision on assignment of a local resource person

In the second half of 2012, the President dealt with a request from the Defence Office to review the Registrar’s decision to deny the assignment of Dr Omar Nashabe as a local resource person to assist Defence teams.

After hearing the parties, the President issued his final decision on 21 December 2012, permitting under strict conditions the appointment of Dr Nashabe as an expert.

3. Regulatory activities

(i) Rules of Procedure and Evidence

Pursuant to Rule 5 of the Tribunal’s Rules, all proposals for amendment of the Rules are examined by a Rules Committee. The Rules Committee is chaired by Vice-President Riachy, and composed of representatives of each of the four organs. Judge Riachy, Judge Roth and Judge Re all invested considerable time and effort analysing proposed amendments to the Rules, and making recommendations for all Judges to consider. The Rules Committee was supported by a secretariat of Chambers legal officers.

At a plenary meeting on 20-21 February 2013, the Tribunal’s Judges authorised amendments to the Rules in order to enhance and streamline the Tribunal’s procedures. These were primarily to limit the time for filing certain motions, to empower Judges Rapporteurs independently to deal with routine scheduling and procedural matters and to facilitate the simpler, swifter disposal of contempt proceedings and proceedings for false testimony.

(ii) Practice Directions / internal guidelines and codes

On 25 May 2012, the Trial Chamber issued a directive on extensions of word limits and filing deadlines. Amongst other things, the directive significantly shortened the time for responses to motions for extensions of time limits or word limits.

On 14 December 2012, the President approved a Code of Professional Conduct for Defence Counsel and Legal Representatives of Victims appearing before the STL. The Code came into force on 21 December 2012.

On 25 February 2013, the Tribunal’s Judges approved the Directive on the Appointment and Assignment of Defence Counsel (an updated version of the previous Directive on the Assignment of Defence Counsel).
4. Personnel; and other tasks

(i) General

Judge Daniel David Ntanda Nsereko, from Uganda, was sworn in as a Judge of the Tribunal’s Appeals Chamber on 12 March 2012. In May 2012, Judge Kjell Björnberg (Appeals Chamber) and Judge David Re (Trial Chamber) led a training course for Chambers staff on the principles of clear legal writing. Following the resignation of Judge Björnberg on 15 January 2013, Judge Ivana Hrdličková, from the Czech Republic, was sworn in as a Judge of the Appeals Chamber the following day.

On 29 March 2012, in honour of its former President, the Tribunal’s courtroom was renamed the "Antonio Cassese Courtroom." The ceremony of the unveiling of the plaque was conducted by the Tribunal’s Judges and attended by the diplomatic community of The Hague and staff members of the Tribunal.

The President attended regular meetings of the Senior Management Board, coordinating with the other Principals to enhance the quality and effectiveness of the STL’s operations. He regularly convened the Judicial Council, a body comprising the President, Vice-President, Presiding Judge of the Trial Chamber and the Pre-Trial Judge.

Over the past year Judges and Chambers staff have been active in dealing with appeals on internal disciplinary measures. Two staff members have also been deployed for ad hoc projects to the Language Services Section in order to help speed up translations.

(ii) Relations with States

On 29 March 2012, the Principals of the STL’s four organs briefed the diplomatic community of The Hague on the Tribunal’s activities. The representatives of 51 States attended. Many meetings with individual diplomatic representatives took place during the year.

The President travelled to Lebanon in April and November 2012 (1-6 April and 26-30 November 2012). In April, the President met President Suleiman and Prime Minister Mikati. On both missions the President and Vice-President Riachy met representatives of the Management Committee and other members of the diplomatic community. The President and Vice-President also took part in regular meetings with Ambassadors and high-level officials in The Hague, Beirut and other capitals throughout the reporting period, in order to report progress and marshal further support for the STL’s work.

On 18 September 2012, Mr John Jones, co-counsel for Mr Badreddine and a dual United States (“US”)/United Kingdom (“UK”) citizen, sought urgent clarification from the STL’s President whether he could continue to represent Mr Badreddine after the US Department of the Treasury imposed sanctions against his client. On 20 September 2012 the US authorities issued a licence enabling Mr Jones to provide Mr Badreddine legal representation and to receive remuneration from the STL for his work. On 26 September 2012, Mr Jones advised the US Department of Treasury of his understanding that the
licence would not compel him to disclose legally privileged documents, and that his work as counsel
continued.

(ii) Outreach activities

Throughout the reporting period, the President and other Judges took part in a number of outreach
initiatives.

During his trip to Beirut in April 2012 the President delivered addresses to (i) university students and
professors at La Sagesse University, (ii) the members of the Beirut Bar Association and
(iii) representatives of some 30 NGOs. He also took part in his first interviews with Lebanese
newspapers. In late November 2012 the President and the Presiding Judge of the Trial Chamber led
outreach activities in Beirut, which included meetings, a lecture by the Presiding Judge and a
roundtable conference on the STL’s jurisprudence with Lebanese academics. The President made his
first appearance on Lebanese television, in a half hour interview on a prime-time current affairs
programme.

The STL Judges and Chambers staff contributed to the Tribunal’s Inter-University Programme on
International Criminal Law and Procedure. The President and Judges met the deans and professors of
the participating universities when they visited The Hague in May 2012, and congratulated the course’s
top students during their study trip to the Tribunal in July 2012. On each occasion the Judges engaged
with the deans, professors and students about the STL’s jurisprudence and responded to questions that
were posed. The President delivered the initial lecture in the second Inter-University Programme on
12 February 2012.

On 26 June 2012, the President hosted a group of 70 Chinese academic leaders in Leidschendam.
Presentations were delivered in the courtroom by the President, Judge David Re, the Chief of
Administration and Judge Xue Hanqin of the International Court of Justice. The success of the event led
to a Memorandum of Understanding ("MoU") between the China Education Association for
International Exchange ("CEAIE") and the STL Chambers, to foster the professional development of
talented Chinese graduates by facilitating internships within the STL (to be funded by the CEAIE). The
MoU was signed on 5 December 2012.

The President delivered a number of lectures throughout 2012, to audiences including legal experts,
academics, university students, representatives of NGOs and diplomats. For example, on 26 September
2012, the President addressed members of the Tripoli Bar Association via video conference. On
14 November 2012 he spoke at Groningen University, and on 17 January 2013 gave the Bynkershoek
lecture at The Hague University. In December 2012, the President took part in a Council of Europe
conference in Lisbon focussing on “The Arab Season: From Change to Challenges.” The Tribunal’s other
Judges also engaged in outreach initiatives throughout the reporting period, which included delivering
presentations in The Hague, Washington DC and various European capitals.

The Judges and staff of Chambers regularly give presentations to student groups, lawyers and others
who visit the Tribunal, to inform them of the Tribunal’s work and respond to their questions.
5. The need for careful management of resources

For the first time all the Tribunal’s Judges were in full-time service throughout 2012. Chambers’ workload increased with a progressively greater volume of filings and hearings in the Tribunal’s main case, Ayyash et al., and other matters (such as the El Sayed litigation and staff appeals).

Chambers will be solidly engaged during 2013. Both the Pre-Trial Judge and the Trial Chamber will continue to be occupied first with preparation and then the commencement of trial hearings in Ayyash et al. There will be a consequential increase in the workload of the Trial and Appeals Chambers, as well as the President’s Office. Nonetheless, and in line with the consistent policy of successive Presidents that the Tribunal should exercise financial prudence, Chambers did not seek any increase in its established posts for the 2013 financial year. Chambers remains committed to maximising its use of human and financial resources as it moves forward. So Chambers continues to address the demands of its ever-increasing judicial activities by hiring legal officers and experts on temporary contracts under the General Temporary Assistance budget, only if and when absolutely necessary.

6. The Way Forward

In the next reporting period, the President, in consultation with the other Judges, plans to:

(i) concentrate on judicial activity, in particular advancing trial proceedings in the Ayyash et al. case;
(ii) address fairly and swiftly other judicial work that is incidental to the Tribunal’s core mandate (such as the El Sayed matter and staff appeals);
(iii) intensify outreach initiatives to increase understanding and appreciation of the STL’s work and the importance of the rule of law in Lebanon and more generally;
(iv) further develop relations with the Lebanese authorities;
(v) continue to build relations with other States in order to maintain and develop financial and political support for the STL’s work, and thus strengthen the existing cooperation network; and
(vi) enhance the availability of the Tribunal’s jurisprudence in all three official languages to legal scholars, professionals and the general public.
B. Registry

1. Introduction

According to Article 12(1) of the Statute, the Registry, under the direction of the Registrar, is responsible for the necessary administration and servicing of the Tribunal. The Registry is mandated to provide support to the Chambers, the Office of the Prosecutor (“OTP”) and the Defence Office in order to facilitate their functioning and ensure that the Tribunal is in a position to expeditiously carry out its mandate in the most cost-efficient fashion. More specifically, the Registrar’s responsibilities include the following:

Judicial support – The assistance provided by the Registry in facilitating the judicial proceedings includes court management, language services, victims’ participation, support to victims and witnesses, security and protection of witnesses and management of the Detention Unit.

External relations – The Registrar has an important external diplomatic function. He liaises closely with the host State, the Tribunal’s Management Committee, donors and non-governmental organisations. He has the responsibility to negotiate witness relocation agreements, as well as other cooperation arrangements with States. In addition, he oversees the Registry Outreach and Legacy Section and Public Affairs Section, which play an important role in communicating with the public, as well as provide information about the work of the Tribunal. Finally, the Registrar is responsible for the overall functioning of the Tribunal’s Beirut and New York Offices.

Administrative support – The Registry is responsible for the preparation of the Tribunal’s budget, as well as for providing support to all organs of the Tribunal in the areas of human resources, finance, procurement, general services and information technology.

In the past 12 months, the Registry focused on securing the necessary financial resources, as well as other cooperation arrangements required to fulfil the Tribunal’s mandate. The Tribunal was able to continue its work with the contributions of States as well as the European Union. During the year, the Registry continued to assist the Chambers, OTP and the Defence Office in areas including translation and interpretation, administration, information technology, security, press and information and outreach. In addition, the Registry focused on strengthening the sections directly involved in providing support to judicial proceedings, and ensuring that courtroom technology is ready for the start of trial. During the reporting period, fiscal responsibility was exercised throughout the Tribunal in order to ensure that its operations were undertaken with utmost efficiency and with minimal costs.

On 14 January 2013 Mr Daryl Mundis was appointed as Deputy Registrar.

\[^2\] This section has been prepared by the Registrar.
2. Judicial support

(i) Court management

The Court Management Services Section (“CMSS”) supported Chambers, the OTP, the Defence Office and other participants with the filing of submissions and orders in the Ayyash et al. case, in the connected cases, in the Matter of El Sayed as well as with the organisation of hearings. CMSS also drafted numerous documents detailing internal procedures to be followed for the efficient administration of justice at the Tribunal.

The number of filings processed by CMSS during the reporting period was 714, corresponding to 24,932 pages of official court documents filed, many of which were translated into all three official languages of the Tribunal: Arabic, English and French.

Regarding the case of The Prosecutor v. Ayyash et al., the Pre-Trial Judge held five status conferences pursuant to Rule 94 of the Rules in April, June, July, September and November 2012 in the Tribunal’s courtroom. He also convened four confidential meetings pursuant to Rule 91 (D) and (E) of the Rules in July, September, October and December 2012, where the parties discussed issues related to the preparation of the case. A judicial conference was held before the President and Judge Rapporteur in April 2012. The Trial Chamber held two hearings on 13 and 14 June 2012 where the Judges heard arguments from the parties on the jurisdiction of the Tribunal and the legality of its creation pursuant to Rule 90 of the Rules. The Trial Chamber’s decision was appealed; the Appeals Chamber held a hearing on the aforementioned matters in October 2012, where the parties made oral submissions.

The Tribunal also held three swearing-in and solemn undertaking ceremonies for eight Defence Counsel, the new Prosecutor, two Appeals Chamber Judges and three Legal Representatives of Victims. A plenary meeting of the Tribunal’s Judges was held in February 2013.

In order to be in a position to ensure the necessary organisational and logistical support for court proceedings with minimal staff, CMSS continued to pursue a flexible combination of staff recruitment, cross-training of staff to cover multiple functions and outsourcing of courtroom support, such as court reporting.

The Legal Workflow IT system (Electronic Tools) which manages the information and processes of the Tribunal’s judicial and non-judicial functions was launched in August 2011. Further refinements were made to the system throughout the year. Parties now use the system to, inter alia, file and disclose documents.

The library continued to build a comprehensive collection based on a patron-driven acquisition policy consisting of 6,221 publications, and including 1,385 full text articles, a core selection of law journals, 49 online databases and seven Arabic legal databases. The library successfully reorganised its electronic resources into a searchable online A-Z list, and with the assistance of colleagues in Chambers developed a new database of case law on terrorism.³

³ All figures provided by CMSS are accurate as of 1 February 2013.
(ii) Language Service Section

The Tribunal’s Language Services Section (“LSS”) operates at the seat of the Tribunal and at the Beirut Office. LSS provides language services to all organs in the Tribunal’s three official languages, Arabic, French and English, and other languages as required.

During the reporting period, interpretation services were provided in support of ongoing investigations in the field, courtroom hearings, outreach, press and training events. Over the last year, these services amounted to 450 interpreter-days. LSS also assisted with the transcription of audio recordings totalling 5,796 minutes, and provided language assistance in many forms to the OTP, the Defence Office, Chambers and various parts of the Registry, notably those interacting with victims, potential witnesses, the media and the general public. This included providing 6,977 pages of draft translation and 1,960 ad hoc language assistance days.

LSS’s translation workload constantly increased during the reporting period. Over the past year, LSS delivered close to 17,000 pages of translation (31 % into English, 38 % into Arabic, and 31 % into French).

Activities have also been conducted to ensure LSS’s preparedness for the commencement of trial in March 2013. Such activities included: implementation of dedicated software for requesting and delivery of language services and the management of internal LSS workflows; consolidation of (technical) terminology for use at trial; conduct of a comprehensive programme of short, targeted training sessions for LSS staff; relocation of two staff interpreters based in Beirut to the seat of the Tribunal; expansion of the LSS roster of qualified, security-cleared freelance language professionals to 81; and consolidation of cooperation with other international courts and organisations (e.g. in the area of training, staff loans, policy development). LSS continues to face challenges in recruiting staff, particularly those with Arabic language skills, but is striving to overcome these difficulties through sustained outreach activities and advertising in targeted media, especially in Lebanon.4

(iii) Victims and Witnesses Unit

During the reporting period, the Victims and Witnesses Unit (“VWU”) maintained its operational capability to ensure the secure and timely movement of victims and witnesses for Tribunal purposes and benefitted from the support and cooperation of States approached to assist in this regard. The VWU continued to develop its capability to provide protection and emergency response services to victims and witnesses and others at risk on account of their interaction with the Tribunal, and continued to actively seek the cooperation and support from States in this field. As illustrated by the unpredictable security situation in Lebanon and the region, the demanding operational environment and the potential risks to victims and witnesses continued to remain a key challenge. The support from States to ensure effective and sustainable witness protection arrangements, in the form of relocation agreements or other measures, remains of vital importance for the success of the Tribunal, not least so in the coming period, with the start of trial proceedings. In addition to maintaining its operational capabilities, the VWU further developed and expanded its analytical and risk assessment capacity during the reporting period.

4 All figures provided by LSS are accurate as of 25 February 2013.
period. Strengthening capacity in this regard enables the VWU to respond efficiently to evolving jurisprudence which requires VWU to independently review and assess requests for procedural protective measures introduced in the proceedings by the parties and the Legal Representatives of Victims.

(iv) Victims’ Participation Unit

The Victims’ Participation Unit (“VPU”) has taken steps to ensure that the necessary legal frameworks are in place for the participation of victims in the Tribunal’s proceedings. On 4 April 2012 the Registrar, following its endorsement by the Management Committee, formally adopted the Legal Aid Policy for Victims’ Participation and on 4 May 2012 the plenary approved and adopted the Directive on Victims’ Legal Representation. In collaboration with the Defence Office, a code of conduct to regulate both Defence counsel and Victims’ Legal Representatives was drafted and promulgated by the President on 14 December 2012, and came into effect on 21 December 2012.

Following its initial transmission to the Pre-Trial Judge of 73 applications for the status of victim participation in the proceedings in the Ayyash et al. case, the VPU complied with requests from the Pre-Trial Judge to provide further information from some of these victims. Transmissions of additional information and evidence supporting victim applications were made on 26 April 2012 and 3 May 2012. On 8 May 2012 the Pre-Trial Judge admitted 58 victims to participate in the proceedings in the Ayyash et al. case, ordering that they be represented as a single group.

The VPU assisted the Registrar to select and designate, on 16 May 2012, a team of three legal representatives (one Lead Legal Representative and two Co-Legal Representatives) to represent the group of victims in the Ayyash et al. case. Participating victims were notified by the VPU of their acceptance by the Pre-Trial Judge to participate in the proceedings, as well as the identity of their legal representatives. In most cases this was done in collaboration with the legal representatives. Two victims later requested to withdraw from the proceedings and, on 19 December 2012, the Pre-Trial Judge approved such request.

The VPU also contacted victims whose applications to participate in proceedings had been rejected by the Pre-Trial Judge and, where appropriate, assisted them to submit further evidence in order to enable the re-transmission of their applications to the Judge. Further transmissions were made on 8 August 2012 and 2 November 2012, and the Pre-Trial Judge accepted nine further victims to participate in the proceedings on 3 September 2012, and an additional one on 28 November 2012. The current number of victims participating in the proceedings is 66.

The VPU provided support to the Legal Representatives in the various steps required to begin their work, including: the selection and appointment of a legal officer and case manager, and the conduct of risk assessments for participating victims (a process which was supported by VWU).

Since their designation, the VPU has also provided the Legal Representatives with other support, including assistance in liaising with their clients and in researching and preparing submissions. The VPU has established systems for the provision of legal aid in the implementation of the Legal Aid Policy for Victims’ Participation.

Where appropriate and in the interests of victims in general (as opposed to those individuals already represented at the Tribunal) the VPU made submissions to the Pre-Trial Judge in the Ayyash et al. case.
The primary role of the Outreach and Legacy Section (“OLS”) is to explain to people in Lebanon the purpose, role and functioning of the Tribunal and to address misperceptions about the Tribunal’s work, with a view to facilitating the transmission of accurate information about the Tribunal.

Over the past year, the OLS has further expanded its work and continued its strategy of explaining the broader context of international justice. The OLS also engaged in educational activities which it envisages will contribute to the legacy of the Tribunal. In coordination with all organs, a number of activities were organised in Lebanon and the Netherlands. Target audiences included the legal, academic and diplomatic communities as well as international and local non-governmental organisations.

In March 2012, the Deputy Registrar spoke to over 125 members of the Beirut Bar Association about the work of the Tribunal and its Registry. As part of the same briefing, the Director General of the Ministry of Justice in Lebanon spoke about the role of the Registry in the Lebanese system, while the Head of OLS provided a comparison between the various international and hybrid courts.

The Inter-University Programme on International Criminal Law and Procedure (“IUPICLP”), launched in November 2011, continued until the end of May 2012. The programme was aimed at law students in Lebanese universities, and was organised by the Tribunal in cooperation with the Asser Institute in the Netherlands and eight universities in Lebanon. The course covered issues such as the history of international law, genocide, crimes against humanity, war crimes, crimes of terrorism and the role of the Tribunal, the rights of the accused in international criminal proceedings, and the role of victims.

In the course of 2012, three events took place in connection with the IUPICLP. In May, ten deans and professors of eight Lebanese universities visited The Hague. The visit included discussions with the Tribunal’s President, as well as other senior Tribunal officials. Officials from the International Criminal Court (“ICC”) and the International Criminal Tribunal for the former Yugoslavia (“ICTY”), as well as professors of law and international legal experts in the Netherlands, also met with the Lebanese academics.

On 3 July 2012, a Certificate Ceremony was held in the Jdeideh Municipality Auditorium for 75 students who attended and completed the IUPICLP. In late July 2012, 26 of the highest achieving students of the programme were invited to a study visit in The Hague. The visit included briefings from representatives of all four organs of the Tribunal and visits to other tribunals, as well as the Asser Institute.

In November and December 2012, the OLS continued to organise and participate in lectures, briefings and round table events for legal professionals, academics, students, journalists, NGO representatives and others, as well as briefings for the diplomatic community in Lebanon.

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5 Universities participating in the programme include Beirut Arab University, Université Libanaise, Université Saint Joseph, Université La Sagesse, Notre Dame University, Université de Saint-Esprit de Kaslik, American University of Science and Technology (AUST) and Université Antonine. The course was delivered via video-streaming technology with lecturers in The Hague and students in the auditoriums at one of the participating universities.
In November 2012, the OLS, in cooperation with the American University of Beirut, organised a round table discussion on “The Special Tribunal for Lebanon and its Jurisprudence.” Participants included Lebanese academics and lawyers and international legal experts. During the round table discussion, the Tribunal launched an online discussion forum on its jurisprudence and distributed Tribunal casebooks, which contain details of major rulings issued by the Tribunal from 2009 to 2010.

In addition, the OLS, in cooperation with the Public Affairs Section, completed the production of two short documentaries – one on international criminal proceedings and the other entitled “A Virtual Visit to the Special Tribunal for Lebanon.” Finally, the OLS published and distributed a booklet of selected Frequently Asked Questions about the Tribunal and a Glossary of legal terms with definitions, in all three official languages of the Tribunal.

(vi) Public Affairs Section

The Public Affairs Section (“PAS”) of the Tribunal is the first point of contact responsible for external communications with journalists and the general public, principally in Lebanon and the broader Middle East.

Through the Tribunal’s website, a number of social media tools and more traditional forms of interaction with journalists, over the past year the PAS has developed a comprehensive method to reach out to the various segments of society.

There has been a greater emphasis on delivering our messages to the Lebanese public directly through social media tools such as YouTube, Twitter and Facebook. Along with our website, these tools allow PAS to engage directly with the Lebanese public.

The section provides services to all the organs of the Tribunal, particularly to the Chambers and the Registry. In the absence of a press office for the OTP and the Defence Office, PAS has worked with both of these organs to assist them in their media strategy. PAS has trained a number of senior Tribunal officials, including the President, in conducting television interviews.

The Tribunal’s spokesperson conducted a number of missions in Lebanon and the region in order to maintain regular contact with the media there. The spokesperson and senior Tribunal officials have appeared on every major political show in Lebanon and conducted various interviews with Lebanese and international press. Several press conferences and briefings have also taken place in Europe and New York.

In July 2012, PAS held the first Beirut Seminar for Journalists, which was attended by every major press outlet in Lebanon. Senior officials of the Tribunal’s Chambers attended the seminar as guest speakers, which was an effort praised by the media in bridging the gap between Leidschendam and Beirut. The success of the seminar resulted in it becoming an annual event. The next seminar is planned for August 2013.

In light of the increase in judicial activity, PAS developed a short monthly news bulletin that is intended to summarise all of the major developments at the Tribunal in one calendar month. It is distributed
widely in all three languages. It is particularly geared to members of the diplomatic community as a monthly synopsis.

PAS continued to host hundreds of visitors to the Tribunal. In the past year the PAS hosted the visits of over 50 groups, including from universities from across the Netherlands, the United Kingdom and the US, as well as a group of Spanish magistrates, a Chinese delegation from the Chinese Education Association for International Exchange (“CEAIE”) and a Tunisian delegation from the Ministry of Justice.

Several measures have been taken to increase also the level of internal communications within the Tribunal. PAS organised regular lunch talks, which focused on a timely topic for discussion. The PAS also increased its efforts to provide regular news updates and analysis of developments in Lebanon to the Tribunal’s staff.

3. **Immediate Office of the Registrar**

**(i)** *External relations*

Throughout the reporting period, bilateral meetings were held by the Office of the Registrar with representatives of the diplomatic community in Leidschendam, The Hague, Beirut, New York and elsewhere to appeal for funding and to negotiate cooperation agreements.

In March 2012, the Deputy Registrar travelled to Beirut to discuss recent developments of the Tribunal and express her gratitude to the Lebanese government for its continued assistance to the Tribunal. A follow up visit took place by the Registrar at the end of January 2013.

In The Hague, briefings were held with representatives of the diplomatic community, including a diplomatic briefing hosted by the Tribunal on 29 March 2012, and a briefing for members of the European Union hosted by the Danish Embassy on the ongoing activities and judicial progress of the Tribunal on 25 May 2012.

In July 2012, the Registrar travelled to New York and Washington DC for meetings with donors and members of the US Congress. In October 2012, the Registrar travelled again to New York to present the Tribunal’s 2013 budget to the Management Committee. In the course of those visits, the Registrar held approximately 50 meetings, including bilateral meetings with Management Committee members, regional states, UN Departments, the Group of Interested States and the European Union.

In November 2012, the Registry hosted nine members of the Management Committee on a visit to the Tribunal in The Hague. The visit offered the members of the Management Committee the opportunity to see first-hand the achievements of the Tribunal, learn about its challenges and meet its staff.

The Registry enjoyed the continued cooperation of the Government of the Kingdom of the Netherlands, including support in relation to the Tribunal’s premises, external security, the issuance of visa and residency permits, and other matters.
(ii) **STL premises outside the Netherlands**

**Beirut Office:**

In the last year, the number of Tribunal staff members posted in Lebanon increased in order to cater for the steady increase and pace of work in the Beirut Office.

A significant development was the establishment in Beirut of the liaison officer for the Defence Office. More broadly, regular missions to Lebanon by Hague-based staff and principals of the Tribunal have ensured that all four organs of the court have been represented in the Beirut Office during the year.

As well as supporting visiting Principals and staff from Chambers, Registry, the OTP and the Defence Office, the Registry in Beirut continued to provide the necessary administrative and security assistance to the work of resident Prosecution and Defence staff. In addition, support was provided to the Registry’s own Beirut-based activities, which also expanded in the areas of outreach, victims’ participation and the VWU.

The external relations function of the Beirut Office remained a key element of the Registry’s work in Beirut, especially following the announcement of a tentative trial start date which increased media and political attention on the Tribunal. In addition, numerous meetings and background briefings were held with the diplomatic community, government officials and UN representatives throughout the year.

By the end of 2012, the total number of staff based in the Beirut Office was 66, a significant proportion of whom were Registry staff from the Immediate Office of the Registrar, Security, LSS, VWU, Outreach, VPU, General Service and Information Technology sections. Minor works were undertaken to the office to accommodate the increase of staff without the necessity of renting additional space or moving to an alternative building.

**New York Liaison Office:**

The Tribunal’s New York Liaison Office supported the work of the Management Committee and its members, by providing background information on matters before the Committee, ensuring the necessary follow up and providing updates about developments at the Tribunal. The Liaison Office also continued to offer political advice to the Registrar and coordinate fundraising and diplomatic efforts in New York. In addition, the Liaison Office ensured that interested States, UN departments and non-governmental organisations were regularly informed of the work and challenges of the Tribunal. Finally, the Liaison Office organised and supported visits of the representatives of the Registry, the Chambers and the OTP to New York throughout the year.

(iii) **Inter-tribunal cooperation**

The Tribunal enjoyed the continued cooperation of the international courts and tribunals based in The Hague, including the ICTY, the ICC and the International Court of Justice (“ICJ”). Areas of cooperation included the joint organisation of various training sessions and outreach events, cooperation on information technology initiatives, assistance in language services as well as inter-library loans. Such mutual assistance contributed to internal cost efficiencies.
The Tribunal also continues to host The Hague Sub-Office of the Special Court for Sierra Leone (“SCSL”) at the Tribunal’s premises for the Taylor appeal proceedings.

4. **Administrative support**

(i) **Budget and funding**

The approved Tribunal budget for the period 1 January – 31 December 2012 amounted to EUR 55.3 million. The approved budget for 1 January - 31 December 2013 amounts to EUR 59.9 million. As in previous years, the 2013 budget is based on a number of parameters that have been formulated on the basis of intensive consultations between the heads of organs. In particular, the 2013 Budget reflects a limited increase in resources for the connected cases and an additional Defence team, in the event of an indictment in relation to an additional accused.

According to Article 5 of the Annex to UN Security Council resolution 1757 (2007), 51% of the expenses of the Tribunal shall be borne by voluntary contributions from States, and 49% by the Government of Lebanon. Since the Tribunal’s inception, more than 26 countries have contributed to the Tribunal, either through voluntary contributions or in-kind support. The countries that have contributed, in addition to Lebanon, include: Australia, Austria, Belgium, Canada, Croatia, Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Regional States, the Russian Federation, Sweden, the Former Yugoslav Republic of Macedonia, Turkey, the United Kingdom, the United States and Uruguay. In addition to contributions from States, the Tribunal received contributions from the European Union.

The External Auditor of the Tribunal, appointed by the Management Committee, conducted the third audit of the Tribunal and a report with an unqualified audit was issued in June 2012. The Tribunal, with the endorsement of the External Auditor, will issue its Financial Statements for 2012 in accordance with International Public Sector Accounting Standards (“IPSAS”), which will be audited in 2013.

(ii) **Recruitment of staff**

A total of 393 staff were employed by the Tribunal as of 25 February 2013, of which 66 are located in the Beirut Office. Currently the Tribunal comprises over 59 nationalities, including 54 staff of Lebanese nationality, representing 14 % of the staffing total. The gender distribution continues to improve with a ratio of 41 % female and 59 % male staff members.

The internship programme has continued successfully with 82 interns participating in the work of the Tribunal during 2012. While funding for the internship programme has seen a reduction over the years, the number of internships has increased with a steady rise in the number of unfunded internships. During 2012, 70 interns were unfunded, accounting for 85 % of all internships. The Tribunal continues to encourage nationals of Lebanon to apply for the programme.
In 2010 a National Visiting Professional ("NVP") programme was also launched in order to provide young Lebanese lawyers in the early stages of their career the opportunity to contribute to the work of the Tribunal and enhance their professional development. During 2012, two Lebanese lawyers participated in the NVP programme.

5. The Way Forward

In the coming year, the Registrar’s priorities will remain ensuring that the Tribunal receives the financial support and cooperation required to fulfil its mandate. In particular, he will focus on:

(i) ensuring that the Registry sections responsible for providing support to the judicial proceedings will be prepared for the commencement of trial activities in the Ayyash et al. case;
(ii) continuing to provide support to the Chambers, OTP and Defence Office;
(iii) ensuring that fiscal responsibility is exercised throughout the Tribunal and ensuring that the Tribunal’s operations are undertaken with utmost efficiency and with minimal costs;
(iv) implementing the Tribunal’s fundraising strategy;
(v) continuing to seek arrangements with States on the relocation of witnesses and the enforcement of sentences; and
(vi) enhancing press and outreach activities in Lebanon and elsewhere with a view to providing accurate and timely information about the next stages in the Tribunal’s work.
C. Office of the Prosecutor

1. Introduction

At the beginning of the reporting period, Mr Norman Farrell of Canada was sworn in as the new Prosecutor of the Special Tribunal for Lebanon, following his appointment by the United Nations Secretary-General on 29 February 2012. Mr Farrell, who was serving as Deputy Prosecutor of the International Criminal Tribunal for the former Yugoslavia, took office on 19 March 2012.

With the determination by the Trial Chamber on 1 February 2012 that the requirements to proceed by trial in absentia had been met, and the appointment of Defence counsel the next day, the Tribunal entered fully into the pre-trial phase of the proceedings in the case of The Prosecutor v. Ayyash et al.

Under the Prosecutor’s leadership, the OTP continued its focus on preparing for trial against the four individuals accused of criminal responsibility for the attack against former Lebanese Prime Minister Rafik Hariri. This has involved investigators, analysts, forensic experts and lawyers working closely together on inter-related aspects of the case: to continue investigations necessary to support the Prosecution’s case and to consider any evidence regarding others who may be responsible for the 14 February 2005 attack; to consolidate the evidence; to prepare the evidence for evidentiary purposes to present in court; to explain the case against the accused in the Prosecution pre-trial brief; to confirm the availability of witnesses who can give testimony to the court; and to identify the documents that will be filed as exhibits with the Judges. At the same time, the OTP has been heavily engaged in disclosing to the Defence both the evidentiary material relevant to the Prosecution case and material which may be relevant for the preparation of the Defence case.

As part of the preparations for trial, the OTP has been taking steps to see how the trial process might be streamlined to enhance efficiency. To that end, the OTP has engaged with the other organs to propose amendments to the Rules of Procedure and Evidence relating to the trial and appeal proceedings; and has sought, for example, to obtain Defence agreement to admit uncontroverted facts.

During the reporting period, the OTP also continued reviewing and investigating the three other targeted attacks that have been found by the Pre-Trial Judge to be “connected” with the Hariri attack and which have been deferred to the Tribunal.

In addition, the OTP dedicated significant resources to responding to challenges brought by the Defence in pre-trial litigation regarding such fundamental matters as the legality of the establishment of the Tribunal.

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6 This section has been prepared by the Prosecutor.
2. Pre-trial litigation

The pre-trial litigation process concerns the necessary steps to resolve matters before the trial can commence. During the past year, the matters that had to be decided arose primarily from challenges initiated and argued by the Defence. Responding to these challenges took considerable resources, including the time of the Prosecutor to appear in court, in relation to such important matters as the legality of the establishment of the Tribunal, the applicable law, and the decision to proceed with a trial in absentia.

Legality of the establishment of the Tribunal

The Defence challenged the legality of the establishment of the Tribunal in May 2012. In response, the OTP put forward extensive written and oral submissions before both the Trial Chamber and the Appeals Chamber. In its judgment, the Trial Chamber agreed with the position put forward by the OTP in finding that the Tribunal was established by Security Council resolution 1757 (2007) under Chapter VII of the UN Charter. The Appeals Chamber upheld the Trial Chamber’s ruling, and, in doing so, accepted the submissions of the OTP defending the Trial Chamber’s determination that the Tribunal lacked the authority to conduct judicial review of a Security Council resolution.

The Applicable Law

The Defence also raised challenges to the law to be applied by the Tribunal in June 2012. In doing so, it sought to reopen issues already decided by the Appeals Chamber in its Decision of 16 February 2011. This required the Prosecution to file a substantive written response opposing the Defence requests. In its Decision of 18 July 2012, the Appeals Chamber agreed with the OTP’s submissions that the Defence had failed to establish that reconsideration was necessary to avoid injustice; that the Appeals Chamber had correctly established that the Tribunal must apply Lebanese law on the crime of terrorism; and that it was permissible to make reference to international law in interpreting Lebanese law.

Trial in absentia

The Defence also challenged the Decision of the Trial Chamber of 1 February 2012 to hold in absentia proceedings. In response, the Prosecution filed detailed written submissions opposing the Defence requests. In its Decision denying the requests, the Trial Chamber agreed with the OTP’s submissions that the Defence had not demonstrated that reconsideration was necessary to avoid injustice. The OTP also filed a consolidated response to Defence appeals from the Trial Chamber’s Reconsideration Decision. In its Decision of 1 November 2012 dismissing the appeals, the Appeals Chamber agreed with the OTP’s submissions that the Trial Chamber had not erred in finding that the relevant standard for notification of accused persons before proceeding in absentia had been applied and met.

As described elsewhere in this Report, the Judges have thus decided that the conditions have been met to proceed with a trial in absentia. In this regard, the Prosecution reiterates its position that the Accused must be arrested. It believes that all necessary steps must be taken to apprehend the fugitives so they may be brought to trial to face the charges against them. The OTP is accordingly still pursuing this matter with the Lebanese authorities. But until they are arrested, the OTP is ready to proceed with the in absentia trial.

The OTP’s focus this past year has thus been on preparing for trial in the case against the four individuals accused of criminal responsibility for the attack against former Lebanese Prime Minister Rafik Hariri. This has included: the continuation of investigations necessary to support the Prosecution’s case and the continued consideration of any evidence regarding others who may be responsible for the 14 February 2005 attack; the filing of an amended indictment; the filing of the Prosecution pre-trial brief; the filing of the list of witnesses and exhibits for trial; ongoing disclosure to the Defence; and proposals for the streamlining of the evidence and efficiency of the trial.

Investigations required in relation to trial preparations

The OTP continued to take the investigative steps necessary to prepare for trial and to consider any evidence regarding others who may be responsible for the attack. This included consolidating the evidence for presentation at trial, confirming the availability of witnesses, preparing the evidence for presentation in court, and responding to more than 150 separate Defence requests to inspect evidence within the possession of the Office of the Prosecutor.

More than 50 missions requiring extensive research and planning in advance were carried out to this end. Over 100 interviews were conducted during these missions and related evidence necessary for trial was collected.

Progress was made possible through the continued cooperation and assistance of Lebanon and other States in the investigation. Much of the OTP’s work requires State support: be it to interview witnesses, to obtain forensics or other technical expertise, to have access to information the State may hold so that it can be converted into evidentiary form and tendered in court, or simply to obtain legal case files in cases that have been decided within the State’s jurisdiction. As the OTP prepares for trial, securing the full and timely cooperation of States is even more critical to the successful implementation of its mandate. As part of this effort, more than 250 formal Requests for Assistance (“RFAs”) were sent to Lebanon and other States.

The OTP continues to count on the support of witnesses and victims who have provided evidence in this case. In this regard, witnesses have been contacted in order to address whether, and if so, what, protective measures might be required at trial.

Filing of an amended indictment

On 17 August 2012, the Prosecution submitted a confidential request to the Pre-Trial Judge for leave to file an amended indictment. The purpose of the proposed amendments was to clarify the pleading of the existing charges. In a public decision rendered on 25 October 2012, the Pre-Trial Judge granted this request, subject to the incorporation of certain changes. In doing so, he accepted the OTP submissions that as the proposed amendments were not intended to add new charges but to provide more detail to existing allegations or to correct formal errors, they would not have a significant effect on the Defence’s preparation of the case or on the progress of the proceedings. Indeed, he considered that, by clarifying some elements, the proposed amendments were likely to support the rights of the Defence. An amended indictment was duly filed on a confidential basis on 8 November 2012, with further clarifications submitted on 6 February 2013.
**Filing of the Prosecution pre-trial brief**

On 15 November 2012, the OTP filed its pre-trial brief, which is a submission indicating the Prosecution’s position on the evidence it intends to call to prove its case. In accordance with the Rules, this document includes, for each count charged in the indictment, a summary of the evidence that the Prosecution intends to bring regarding the commission of the alleged crime and the form of responsibility incurred by the accused.

At the same time, the OTP filed a list of the witnesses it intends to call at trial, together with a summary of the facts and an indication as to which points in the indictment each witness is expected to testify on. At the moment, the Prosecution intends to rely on the evidence of 557 witnesses. The Prosecution has made efforts to reduce this number, and to limit the actual number of witnesses required for court, as outlined below. The Prosecution has also identified the documents which will be filed as exhibits with the Judges. There are currently 13,170 documents on the exhibit list. The list of witnesses and list of exhibits remain confidential at this time, subject to the decision of the court.

**Disclosure**

Following the appointment of Defence counsel in February 2012, the OTP began the process of disclosing to the Defence evidentiary material relevant to the Prosecution case as well as material which may be relevant for the preparation of the Defence case, and any exculpatory or mitigating material. This disclosure was undertaken in accordance with the Prosecution’s obligations under the Rules, in order to ensure the integrity of the proceedings and a fair trial.

By mid-March 2012, the OTP completed disclosure of the supporting material filed with the indictment. In May and June 2012, at the request of the Prosecution, the Pre-Trial Judge issued Orders regarding non-disclosure of material, thereby establishing a protective measures regime for material provided to the Defence. With such protections in place, the OTP commenced disclosing in June 2012 to the Defence (and the then-recently-appointed Legal Representatives of Victims) the supporting material in non-redacted format, and to commence other categories of required disclosure. In July 2012, the OTP began the disclosure of potentially exculpatory and mitigating evidence under Rule 113.

As noted above, on 15 November 2012, the Prosecution filed its pre-trial brief, witness list and exhibit list. The disclosure of nearly all proposed exhibits also took place then.

The OTP has been burdened with a large amount of disclosure as a result of the scope and nature of the Prosecution’s case, the size of its holdings, and the status of such holdings. Some figures give an indication of the volume of materials concerned. During the reporting period, the OTP disclosed to the Defence (and Legal Representatives of Victims) more than 30,000 files, amounting to more than 530,000 pages. The Prosecution has also disclosed voluminous call data records (“CDRs”) in electronic format, and made them available for inspection by the Defence in an on-site Inspection Room.

A full assessment of all the materials that might need to be disclosed was undertaken and kept under review throughout the reporting period. This has led to a realignment of resources and to a redeployment of more than 30 staff dedicated to inputting, processing and reviewing a huge volume of evidentiary material for disclosure purposes. Despite the considerable amount of work carried out
during the reporting period to review and disclose material in its evidentiary holdings, its volume and character was such as to prevent completion of disclosure in time for the tentative trial date.

The OTP acknowledges that there is still much work to be done to fully meet its disclosure obligations and is making every effort to complete this work in a responsible and timely manner. As of 15 February 2013, the Prosecution estimated that it could meet its disclosure obligations by mid-June 2013.

**Proposals to date to streamline the trial process**

As part of the preparations for trial, the OTP has taken steps to see how the trial process might be streamlined and expedited. First, the Prosecution has engaged with the other organs to propose amendments to the Rules of Procedure and Evidence, most of which related to the trial and appeal proceedings, for consideration by the Judges at their plenary on 20 and 21 February 2013. Second, the OTP has sought to obtain the agreement of the Defence on matters which the Prosecution considered incontrovertible. Having such facts agreed to in advance of trial would reduce the amount of work required and reduce the matters in dispute prior to trial. As counsel assigned to the Defence have indicated that they are not in a position to agree to any facts, work progresses on presenting evidence to prove such facts. Third, the Prosecution has attempted to present possible alternatives to having witnesses attend in person, seeking the Defence position on whether the written statements of the witnesses can be admitted without the witnesses having to attend in The Hague. At this stage, the Defence require the Prosecution to complete the disclosure of material relevant to their case before they are in a position to address this matter.

4. **Connected cases**

Another focus of the OTP’s investigative efforts during this reporting period has been on the three other targeted attacks that have been found by the Pre-Trial Judge to be “connected” with the 14 February 2005 attack and which have been deferred to the Tribunal. These attacks involved the attempted assassination of Marwan Hamade on 12 December 2004, the assassination of George Hawi on 21 June 2005, and the attempted assassination of Elias el-Murr on 12 July 2005. Following the deferral of these three cases to the Tribunal by the Lebanese authorities, the OTP has continued to further investigate them as part of its mandate.

In relation to the other attacks that fall within the Tribunal’s jurisdiction – if found to be “connected” with the 14 February 2005 attack – further investigation and analysis will need to be carried out to ascertain whether the criteria of connectivity can be met. The OTP has identified a need to strengthen its capacity to advance this work, through the creation of a dedicated joint investigative/legal team. With the support of the Management Committee, a Connected Cases Transition Team is being created in the first quarter of 2013 within the Prosecution Division to look more closely into whether any other attacks can be “connected” with the 14 February 2005 attack in the manner required by Article 1 of the Statute of the Tribunal. In this regard, the Pre-Trial Judge has elaborated on the criteria that must be met for cases to be connected. Connection includes a combination of the following elements: the way in which the attacks were carried out (the *modus operandi*), the purpose behind the attacks, the nature of the victims targeted, and the perpetrators. In the meantime, these
other attacks not yet found to be connected and not yet deferred to the Tribunal remain within the jurisdiction of the Lebanese judicial authorities.

5. **El Sayed matter**

Considerable resources have been required to be expended in responding to litigation initiated by Mr Jamil El Sayed, who – for the purpose of his seeking relief in national courts – has requested the disclosure of materials allegedly forming part of the Prosecution’s evidentiary holdings. In the OTP’s view, it completed all its disclosure obligations by the end of October 2012, after judicial determination of a number of witness protection-related matters. However, following a subsequent request by Mr El Sayed, further litigation is taking place before the Pre-Trial Judge.

6. **The Way Forward**

In the coming year, the OTP objectives will include the completion of the preparations for trial including disclosure, presenting its case in court once a trial date has been set, completing its review and assessment of the deferred cases, establishing a dedicated Connected Cases Transition Team, closing the *El Sayed* file unless further litigation is filed by the applicant, and re-aligning resources within the Office to meet the current needs.

As part of preparations for trial, the Prosecution will continue its efforts to see how the trial process might be streamlined to ensure efficiency. Though the Defence have indicated they are unable to agree to any factual matters at trial, the Prosecution will continue to pursue possible alternative ways to reduce the time required. The Prosecution will continue in its efforts to have evidence admitted in the most efficient way, reducing court time and eliminating where possible the need for witnesses to attend in person to give evidence. The Prosecution is preparing to file before the Chamber proposals which would result in the admission of written evidence. Proposals for admitting written testimony or which permit the testimony of witnesses through video-conference, if accepted by the Chamber, will alleviate the need to call witnesses, thereby saving time and resources.

In order to achieve its objectives, the OTP has been restructured. Resources are being realigned for trial purposes resulting in a dedicated trial team being established to focus exclusively on trial preparation and presentation. The new Connected Cases Transition Team is being created in the new budget year. The case management team within the Office is being supported to ensure that disclosure obligations are met.

The Prosecution has, as noted, essentially completed its disclosure obligations in the *El Sayed* matter in October 2012. However, there remains litigation by Mr El Sayed before the Tribunal, which requires the Prosecutor to assign staff to respond, removing them from other functions. It is anticipated that the litigation will become less onerous over time, permitting resources to be assigned back to the primary tasks to be performed under the mandate.
D. Defence Office

1. Introduction

The Defence Office is a fully independent organ of the Tribunal. With its principal duties “to protect the rights of the Defence, provide support and assistance to defence counsel and to the persons entitled to legal assistance, including, where appropriate, legal research, collection of evidence and advice, and appearing before the Pre-Trial Judge or a Chamber in respect of specific issues” (Article 13 (1) of the Tribunal’s Statute), the Defence Office constitutes an important safeguard for the fairness of proceedings and the presumption of innocence.

The Defence Office performs its functions autonomously and without regard for political considerations. It does not represent any suspects or accused, but is responsible for the assignment of independent counsel to such persons. It may also take part in the proceedings — both orally and in writing — upon request from the Chambers or proprio motu (pursuant to Rule 57(F) of the Rules of Procedure and Evidence).

With the Trial Chamber’s decision to commence in absentia proceedings on 1 February 2012, the reporting period saw major developments for the Defence Office, in particular in reference to its duty to provide support and assistance to Defence counsel. Within the reporting period, counsel were assigned, composed their teams of support staff, started receiving disclosure and initiated their own analysis of evidence and investigations. Moreover, counsel have gone through a series of important procedural steps forming an essential part of the pre-trial stage, including the challenges to the Tribunal’s legality and the Trial Chamber’s decision to commence in absentia proceedings. Importantly, a tentative trial date was set by the Pre-Trial Judge.

Overall, the reporting period presented formidable challenges to the Defence counsel and the Defence Office providing support to them. At the same time, the regular Defence Office activities continued, such as outreach and relations with Lebanese stakeholders.

2. Organisation of the Office

During the reporting period, no structural changes were made to the Defence Office but it did see some significant changes in its staffing. In April 2012, the Deputy Head of the Defence Office announced her departure and returned to practice as an attorney in France. The Head of the Defence Legal Advisory Section (“DLAS”) was appointed as the acting Deputy.

The Legal Advisory Section recruited a Lebanese legal officer, and filled another legal officer vacancy. Consequently, the section is composed of lawyers from the common and civil law traditions, including from Lebanon.

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7 This section has been prepared by the Head of Defence Office.
In addition, the Operational Support Section was staffed with the recruitment of a liaison officer stationed in Beirut and a case manager on a temporary contract. The liaison officer has a crucial role to assist the Defence with requesting assistance and cooperation from the Lebanese government and private bodies, as well as in the organisation of missions of Defence counsel and the Defence Office. Moreover, he maintains contact with a large network of persons with an interest in the work of the Defence. This may also serve to assist Defence counsel. Furthermore, he undertakes outreach activities on behalf of the Defence Office.

The Defence case manager provides support to all Defence teams in relation to “legal IT” infrastructure and usage and plays an important liaison function vis à vis the Prosecution in terms of disclosure and technical issues. Importantly, the case manager assists in the development and the day-to-day use of the Legal Workflow system. The case manager is also responsible for the maintenance of judicial and legal records held by the Defence Office.

At the close of the reporting period, the Defence Office has 11 staff members and one vacancy for the Deputy Head of Defence Office.

3. Involvement in judicial activities

*Ayyash et al.*

During the reporting period, the proceedings in The Prosecutor v. Ayyash et al. case included hearings before the Pre-Trial Judge and the Trial and Appeals Chambers. The Defence Office activities for these proceedings can be summarised as follows:

*Assignment of counsel and persons assisting counsel*

First and foremost, the Defence Office assigned permanent counsel and co-counsel for the in absentia accused. The Head of Defence Office endeavored to assign four teams of counsel with complementary skills and experiences, as follows:

Counsel for Badreddine are Mr Antoine Korkmaz and Mr John Jones. Mr Korkmaz is Franco-Lebanese and has experience in international public law as well as telecommunications cases. Mr Jones of the United Kingdom and United States is an experienced international criminal defence lawyer.

Counsel for Ayyash are Mr Eugene O’Sullivan and Mr Emile Aoun, Canadian and Lebanese respectively. Mr O’Sullivan is an experienced international criminal defence lawyer and Mr Aoun an experienced Lebanese criminal lawyer.

Counsel for Oneissi are Mr Vincent Courcelle-Labrousse and Mr Yasser Hassan, French and Egyptian respectively. Mr Courcelle-Labrousse is an experienced international criminal defence lawyer, with experience in terrorism cases. Mr Hassan is an experienced criminal defence lawyer in Egypt.

Counsel for Sabra are Mr Young and Dr Mettraux, of the United Kingdom and Switzerland respectively. Mr Young is an experienced criminal defence lawyer, with extensive experience in terrorism cases. Dr Mettraux is an experienced international criminal defence lawyer.
Legal Aid Unit

All counsel are assisted by a team, composed generally of a legal officer, a case manager and an analyst. Depending on their specific requirements, lead counsel have also recruited other persons assisting counsel, such as language support staff, Lebanese jurists or a local resource person. Moreover, Defence teams have brought on board expert consultants to assist with the analysis of the Prosecution’s case. The decisions to assign persons assisting counsel are made by the Head of Defence Office and implemented by the Legal Aid Unit. In the reporting period the Legal Aid Unit responded to around 550 requests from counsel, ranging from requests for travel on mission, requests for assignment of staff or experts, to requests for payment of legal fees. Each request involves a decision-making process based on the legal aid policy, resulting in the issuance of an administrative decision.

Legal Advisory Section

The Defence Legal Advisory Section responded to over 40 formal requests for its services, which come in the form of advisory opinions, memoranda and draft submissions. These are usually produced with a short turn-around time. It also held regular meetings with members of the Defence teams to identify and discuss their specific legal needs. It further monitored the proceedings in the STL and other international courts for the benefit of counsel. Moreover, the section has provided a significant number of internal opinions to the Head of Defence Office in relation to aspects of the proceedings and regulatory documents. It also assisted the Head of Defence office in the preparation and submission of written and oral observations. Furthermore, the section keeps a library of legal research which is shared with the Defence teams.

Operational Support Unit

The Operational Support Unit handled a significant number (13) of official request for assistance to the Lebanese government. There were a number of missions by Defence counsel. In the background, significant work was performed on a number of IT projects, including development of the disclosure and case management modules of the Legal Workflow system, the acquisition of critical (analytical) software packages, and database projects for telecommunications analysis and evidence handling.

Observations filed

The Head of Defence Office attended hearings before the Chambers, as well as status conferences and working meetings before the Pre-Trial Judge. He filed a number of observations to the court pursuant to Rule 57(F), including several on disclosure matters and cooperation of the Lebanese authorities. There was also a significant request for review of a Registrar’s decision before the President, which involved numerous filings by, amongst others, the Defence Office. The President ultimately decided in favor of the Defence Office.

Matter of El Sayed

The Defence Office continued to provide support to Mr El Sayed’s counsel in his efforts to obtain information from his case file. This came mainly in the form of legal advice.
4. **Regulatory framework**

A number of crucial documents in relation to Defence counsel and the Defence Office were adopted or amended during the reporting period.

The most significant work during the reporting period was on the Directive on the Assignment of Defence Counsel, which was submitted to the Judges for approval at the plenary in February 2013. This document, which was adopted in early 2009, required a review. A number of changes were adopted, mainly in relation to the appointment of counsel in cases where a client would privately retain such lawyers, the assignment of persons assisting counsel, possible rights of audience for persons assisting counsel, and some procedural matters.

The President, at the initiative of the Head of Defence Office, adopted in February 2012 a Code of Professional Conduct for Defence Counsel ("Defence Code"), which supplements the Code of Counsel (which applies to all counsel appearing before the Tribunal, including Prosecution, Defence and Legal Representatives of Victims). The Defence Code includes a section which governs the procedure and criteria for the monitoring of the effectiveness of representation by the Head of Defence Office, as well as a disciplinary regime. The Defence Code was replaced in December 2012 by the Code of Professional Conduct for Defence Counsel and Legal Representatives of Victims, which extends to the Legal Representatives of victims participating in the proceedings most of the provisions of the Defence Code.

The Defence Travel and Allowances policy was amended in order to change the pre-trial travel entitlements and to add an inflation correction.

The Head of Defence Office adopted internal regulations concerning off-site working by Defence team members, as well as Defence mission planning.

The Defence Office was also involved in the Rules Committee, making and commenting on proposals for amendment of the Rules of Procedure and Evidence. In this, it acts on its own behalf and at the behest of Defence counsel.

5. **List of counsel**

The list of counsel remains open to persons who wish to be admitted. The right of an accused to be represented by counsel of his own choosing is a fundamental right. There is, however, a distinction to be made between an accused who pays for his own defence and an accused who receives legal aid to pay for his defence. Within the context of a legal aid system, the freedom of choice is to some extent restricted to ensure the quality of representation and the appropriate expenditure of public funds. The Defence Office therefore maintains a list of counsel (“the List”) for purposes of legal aid assignments, including in absentia assignments.

As part of the admission process, applicants are interviewed by a panel of three lawyers, including the Head of Defence Office. In the reporting period, nine new applications were received and the panel held six interviews. As a result, five counsel were admitted to the List, of which four can be selected as lead counsel and one as co-counsel. In the reporting period, no counsel withdrew from the List. At the
end of the reporting period, 136 counsel are included on the List. They practice in 29 different national jurisdictions.

As part of its efforts to ensure that counsel on the List meet high standards of qualifications and competence, the Defence Office organised a fourth session of mandatory training for counsel in June 2012. This training acquainted the newly admitted counsel with relevant rules and procedures at the STL, with the role and functions of the other organs of the STL, and with the work of the Defence teams and Defence Office. It also included a moot court exercise and a roundtable discussion with some of the assigned Defence counsel in the Ayyash et al. case.

6. **Press, public affairs and outreach activities**

In the reporting period, the Defence Office continued with its public affairs activities, in particular with Lebanese bar associations and academic institutions. In the reporting period, three missions to Lebanon were organised by the Defence Office.

One mission was organised in conjunction with the newly sworn-in Defence counsel in March 2012. The Defence Office organised a visit for the four lead counsel in order to acquaint them with relevant Lebanese officials and the bar associations. The Head of Defence Office conducted a separate programme of activities.

Missions in October 2012 and February 2013 saw the Head of Defence Office meet with a plethora of stakeholders such as government officials, members of the Beirut and Tripoli bar associations, the academic community, NGOs and the media. Apart from the Head of Defence Office’s continuing efforts in relaying the Defence Office mission and mandate, the missions conducted by the Defence Office during the reporting period centred on providing support to Defence counsel with their preparations for pre-trial and future trial activities and their proper investigations.

Aside from missions to Lebanon, the Head of Defence Office maintained close contacts with the Paris Bar. He also conducted a mission to Tunisia and Morocco, where he presented the work of the Defence before the STL to the separate bar associations of Rabat and Tunis and encouraged Arabic lawyers to follow the work of the STL and to apply to work for the Defence.

7. **The Way Forward**

The next reporting period is set to be one of further intensified judicial activity. The Pre-Trial Judge’s decision to vacate the date of 25 March 2013, as the starting date for the trial, should allow the Defence to be fully prepared for trial. However, significant hurdles remain in the meantime, for example in relation to receiving and analysing disclosure, acquiring counter-expertise for the large number of Prosecution experts, and solving technical challenges. The absence of the accused, and consequent absence of communication between them and counsel, continues to cause concern. The Prosecution’s case is complex and voluminous and in many aspects very technical.

The activities of the Defence Office in 2013-2014 will be focused entirely on providing all possible support to the Defence, trying to ensure that the Defence can provide effective representation of the
rights and interests of the accused. Undoubtedly, the planned start of trial proceedings will raise a large number of procedural questions, in which the DLAS can assist. From the perspective of legal aid, 2013-2014 will be a period where the available resources will likely be fully utilised, which will likely present a challenge. The operational support section is likely to witness increased activity of the Defence in Lebanon, as well as increased needs for operational support for ongoing investigations and trial proceedings.

Where appropriate, the Head of Defence Office will continue to coordinate the activities of the Defence. Moreover, where appropriate the Head of Defence Office will coordinate activities with the other organs in order to streamline the court proceedings to ensure that the mix of legal traditions generates both fair and efficient justice.

Following the adoption of a revised Directive and having had a year of practical implementation, the Defence Legal Aid Policy will undergo a review to fine-tune some of the procedures and entitlements on the basis of the practice to date.
PART III – CONCLUSIONS

A. Overview

There has recently passed the eighth anniversary of the attack of 14 February 2005. The Special Tribunal for Lebanon, established in March 2009, is about to enter the second year of its renewed mandate which expires at the end of February 2015. These dates highlight the imperative of the Statute that our work must be both fair and expeditious. As Judges of the Tribunal, we are aware that the interests of the people of Lebanon, the victims, our supporters and, it must be emphasised, the accused and potential suspects, require us to strive, as directed by Article 21 of the Statute, to “take strict measures to prevent any action that may cause unreasonable delay.” Under Article 10 it is the task of the President to ensure the Tribunal’s “effective functioning” and as well “the good administration of justice.”

So we have sought to meet these standards by all means possible, including the work of the Judicial Council and the Senior Management Board and the sustained efforts of our staff in Beirut, New York and The Hague. Of special note are the formidable contributions of the Prosecutor, the Head of Defence and the Defence counsel he has appointed, the Registrar and of our capable legal officers and support staff. An attempt has been made to discuss progress with each member of the STL, on whose individual vigour and enthusiasm our performance depends and for which we are grateful. We also express our appreciation for the vital financial contributions made by Lebanon as to 49% of our budget and as to the balance by more than 26 countries and by the European Union.

In carrying out its work, while insisting on due process, the Tribunal gives a voice to the victims of terrorist crimes and furthers the hopes of all Lebanese citizens who aspire to end the vicious circle of violence, crime and impunity that has plagued their beautiful country.

We are determined to show that a fair trial in a complex terrorism case is possible and that such a process can contribute to building a shared understanding of what happened, both on and around 14 February 2005 and in what may prove to be connected cases.

B. Our progress

The past 12 months have been a complex period for the people of Lebanon. The Special Tribunal has continued to pursue its mandate resolutely free from any political bias, considering only the facts and the applicable law. The litigation has demonstrated the independence of our judiciary and the insistence of all organs on fair process.

The previous Annual Report expected that in its fourth year of activity (1 March 2012 – 28 February 2013), the Tribunal would start trial proceedings against the four accused in the Ayyash et al. case, and prepare to consider charges in any other cases supported by prima facie evidence. The fact that the Pre-Trial Judge was unable to confirm the tentative date of 25 March 2013 he had set in July 2012 after due consultation, illustrates the operation of the fundamental principle expressed in Article 16 – the right of each accused to a fair trial is absolute.
The Pre-Trial Judge and the Trial Chamber have taken great care to ensure that the total work-load is properly distributed and efficiently performed. Key decisions have been delivered. Under the chairmanship of the Vice-President the Rules Committee has worked diligently to the same end. As a result the Trial Chamber is to perform before its formal seizure of the case work that it would have had to perform in any event, with consequential saving of time.

It is the right of the Lebanese people to see justice done. At the trial in absentia counsel for the Prosecution and the Defence, as well as the LRV, will present and test competing theories of the case. This will enable the trial Judges, after carefully considering all options and hypotheses presented, to take an informed and just final decision. The fact remains that the accused have not yet been apprehended, despite the efforts of the Lebanese authorities over what is now a 21 month period. Since the Lebanese authorities have not yet been able to locate and apprehend the accused, it may now be appropriate for the authorities to revisit their strategies and techniques for apprehending them.

C. Expectations for the fifth year of STL activities

My revised expectation is that in its fifth year of activity (1 March 2013-28 February 2014) the Tribunal will hear witnesses in the Ayyash et al. case against the four accused. Investigative activity will continue, as necessary to support the Prosecution case during trial and to carry out the mandate in relation to other attacks falling within the Tribunal’s jurisdiction. It is to be hoped that novel and intensified efforts by the Lebanese authorities to search for, arrest and detain the accused will result in their transfer to the Tribunal. To ensure swift and fair proceedings constant cooperation in judicial matters with both Prosecution and Defence remains essential.

Conscious of our obligation to keep our operation tightly efficient and economical, we will continue to recruit only the necessary staff and avoid any unwarranted expenses.

Within those limits and the budget set by the Management Committee in the year ahead the Special Tribunal will intensify its Public Affairs and Outreach programmes. The Lebanese people expect the Tribunal’s efforts to bear fruit within Lebanon itself. By providing opportunities for Lebanese and non-Lebanese lawyers, Judges and interested persons to interact and discuss the challenges the STL faces, new ideas will emerge on how we may better perform our mandate and how we can contribute both to the Lebanese justice system and to improvement of international criminal law.

D. Final observations

Over the past year, with the vital support of the Lebanese government and the international community, the STL has been able to advance the pre-trial phase of its first case and continue investigations in the three connected cases over which the Pre-Trial Judge found the Tribunal has jurisdiction.

Various concerns dictated that the Special Tribunal be located far away from the crime scenes and from the Lebanese people. That and the international nature of our institution shield it from distractions and allow us to focus on the road ahead: completion of our mandate. Our strong presence in and regular
visits to Beirut, and the frequent travels of Lebanese legal professionals and other members of the public to the Netherlands, go far to reduce the distance.

The Lebanese people understand that the Special Tribunal is a reality and that its work – though the subject of criticism at times – is significant to their own efforts to restore a stable future under the rule of law. The Special Tribunal will continue to listen to and learn from the Lebanese people as they and we prepare for a new phase in our joint endeavours.
Special Tribunal for Lebanon
Geographical Representation of International Staff Recruited at the Professional Level and Higher and in the FS Categories
As of 25 February 2013

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## Special Tribunal for Lebanon
Geographical Representation of General Services Staff
As of 25 February 2013

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