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UNITED NATIONS HQS NEW YORK 001

CNR-240 P.1/5

UNAMIR OUTGOING CODE CABLE
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IMMEDIATE

TO: KHAN, UNAMIR, KIGALI
FROM: ANNAN, UNATIONS, NEW YORK
DATE: 28 AUGUST 1995
NUMBER: 2851

J. J. Rye

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ED
SPA 29/8/95
SA/SRS
28 P 749
UNATIONS
OPERATIONS

SUBJECT: Commission of Inquiry on arms deliveries to the former
Rwandese government forces

1. Re our UNAMIR-2818 of 23 August 1995 and your MIR-3015 of 24 August 1995 on the above, please find attached copy of the Secretary-General's letter to the President of the Security Council. The letter, dated 25 August 1995, was sent to the Security Council this afternoon.

2. As you will see, the suggestion in paragraph 3(ii) of your cable regarding the Trust Fund was taken on board. However, the suggestion in paragraph 3(i), regarding "immunity" to witnesses and other persons, was not included in the text of the letter since OLA advised against it. Regards.

RECEIVED
29 AUG 1995
OFFICE OF THE SRSG
UNAMIR

SRSG



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25 August 1995

Dear Mr. President,

I have the honour to refer to paragraph 2 of Security Council resolution 1011 (1995) of 16 August 1995. In its resolution, the Council requested me, in accordance with paragraph 45 of my progress report (S/1995/678) dated 8 August 1995, to make recommendations, as soon as possible, on the establishment of a Commission mandated to conduct a full investigation to address allegations of arms flows to former Rwandese government forces in the Great Lakes region of Central Africa.

In that report, I indicated that some Governments had expressed an interest in the establishment, under United Nations auspices, of an international commission to investigate allegations of arms deliveries to members of the former Rwandese government forces. I also expressed the hope that all Governments concerned would support such an initiative and said that I would submit recommendations to the Security Council on this matter. My recommendations are set out below.

The basic terms of reference of the proposed Commission, as defined in paragraph 2 of resolution 1011 (1995), seem to me adequate. The Commission would collect information and investigate reports relating to the sale or supply of arms and related matériel to former Rwandese government forces in violation of the embargo imposed under Security Council resolutions 918 (1994) of 17 May 1994 and 1011 (1995) of 16 August 1995. It would also investigate allegations that such forces were receiving military training in order to destabilize

His Excellency
Mr. Nugroho Wisnumurti
President of the Security Council
New York

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Rwanda. The Commission would attempt to identify parties aiding or abetting the illegal acquisition of arms by former Rwandese government forces, and recommend measures to curb the illegal flow of arms in the sub-region.

The Commission would need the freedom to obtain from all relevant sources information it considered necessary to carry out its work, including the review of information from investigations of other persons or bodies. In this connection, the Security Council should, as appropriate, request States, international and other organizations and private individuals to provide whatever relevant information they may have to the Commission as soon as possible and to furnish any other assistance that may be required. In addition, any information collected by the Sanctions Committee established under resolution 918 (1994) should be made available to the Commission.

To carry out its mandate effectively, the Commission would need to have the full cooperation and support of the Governments in whose territories it would conduct investigations. These Governments would be requested to take appropriate measures to guarantee the safety and security of the members of the Commission and to ensure that they have the necessary freedom of movement and contacts in order to conduct their investigations. The Commission would require free access, without prior notification, to all sites it deemed necessary for its work, including border points, air fields, refugee camps and other relevant locations. It would also have to be free to interview any person in private, without prior notification. The Governments concerned would have to respect the integrity and freedom of witnesses, experts and other persons who may be called by the Commission, including guaranteeing their security.

The Commission would be composed of an eminent person, appointed by the Secretary-General, who would serve as its Chairman, assisted by five to ten legal, military and police experts and the appropriate support staff. These experts would be contributed by Member

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States, at the request of the Secretary-General, but would be paid by the United Nations and would serve in their personal capacity.

Commission members should be granted all relevant privileges and immunities provided for by the Convention on the Privileges and Immunities of the United Nations. The members of the Commission would have the status of experts on mission in accordance with Article VI of the Convention and any staff of the Secretariat attached to the Commission would have the status of officials in accordance with Articles V and VII of the Convention.

The proposal to establish such a Commission was initially made by the Government of Zaire. In its Note Verbale of 10 August to the President of the Security Council (S/1995/683), the Government of Zaire reiterated its support for this idea and offered to assist an international commission of inquiry established under United Nations auspices. I therefore recommend that the Commission commence its work in Zaire. In the meantime, I would pursue my consultations with the other concerned countries in the region, so that the Commission could, in due course, extend its work to these countries.

The Commission would submit an initial report on its findings to the Security Council, through the Secretary-General, within three months of commencing its work. It would submit a final report, including its recommendations, as soon as possible thereafter.

Should the Security Council decide to establish such a Commission, I recommend that it be financed through the regular budget of the United Nations. However, pending approval of its budget by the relevant bodies, I would call upon Member States to provide voluntary contributions through the Secretary-General's Trust Fund for Rwanda so that the Commission could begin its work immediately.

As I noted in my report of 8 August (S/1995/678), during my visit to the sub-region last July, it was widely recognized by the Governments concerned that de-stabilizing influences, including the illegal acquisition of arms, could be prevented through cooperative efforts. I believe that a Commission of

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Inquiry on the lines described in this letter would be an important element in preventing renewed conflict in the region, provided that it enjoyed the support and cooperation of all concerned. On this basis, I recommend that the Security Council decide to establish it forthwith.

I should be grateful if you would bring the contents of this letter to the attention of the Members of the Security Council.

Please accept, Mr. President, the assurances of my highest consideration.

Boutros Boutros-Ghali

Boutros Boutros-Ghali

(DRAFT)

UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA



NATIONS UNIES
MISSION POUR L'ASSISTANCE AU RWANDA

UNAMIR - MINUAR

RESTRICTED

DISCUSSION PAPER

*Parline: Quest
open
new file*

**THE ESTABLISHMENT OF A COMMISSION OF INQUIRY ON ARMS
DELIVERIES TO FORMER RWANDAN GOVERNMENT FORCES**

1. DPKO in its code cable no. 2612 of 8 August requested UNAMIR to prepare an initial draft regarding the composition, terms of reference and modus operandi of the above-mentioned commission. By the same cable, DPKO indicated that a suggestion had been made for such a commission to be established for a period of up to six months and to be composed of civilian personnel, though the commission would be able to call upon experts, including those with military and police backgrounds. The suggestion had also been made that while the commission should be given a broad mandate to investigate the flow of arms across all of Rwanda's borders, it should begin with Zaire since that country has already called for such an inquiry.
2. In his progress report to the Security Council dated ___ August 1995 (S/1995/), the Secretary-General mentioned the possibility of setting up the commission and indicated his intention to provide the Council shortly with specific recommendations in that regard. Some Security Council members have already expressed support for such a commission, viewing it as an alternative to the deployment of military observers, since the idea to deploy such observers has been rejected by some of the main countries concerned.
3. If the commission is to operate as an alternative to the proposed deployment of military observers in the countries bordering Rwanda, then the objective set out in Security Council 997 should be the point of departure. Under that resolution, the Security Council:
 - "Noting with great concern reports of military preparations and increasing incursions into Rwanda by elements of the former régime and underlining the need for effective measures to ensure that Rwandan nationals currently in neighbouring countries, including those in camps, do not undertake military activities aimed at destabilizing Rwanda or receive arms supplies, in view of the great likelihood that such arms are intended for use within Rwanda",
 - Affirmed "that the restrictions imposed under Chapter VII of the Charter of the United Nations by resolution 918 (1994) apply to the sale or supply of arms and matériel specified therein to persons in the States neighbouring Rwanda, if that sale or supply is for the purpose of the use of such arms or matériel within Rwanda";

- Called "upon the States neighbouring Rwanda to take steps, with the aim of putting an end to factors contributing to the destabilization of Rwanda, to ensure that such arms and matériel are not transferred to Rwandan camps within their territories";
- Requested "the Secretary-General to consult the Governments of neighbouring countries on the possibility of the deployment of United Nations military observers, and to consult as a matter of priority, the Government of Zaire of the deployment of observers including in the airfields located in Eastern Zaire, in order to monitor the sale or supply of arms and matériel referred to above....".

4. The Prime Minister of Zaire, in a letter addressed to the Secretary-General on 23 June 1995, categorically rejected allegations that it was assisting in the training on its territory of Hutu elements opposed to the Burundian and Rwandan régimes. In order to shed light on the issue, the Prime Minister recommended the creation, under the auspices of the United Nations, of a commission of inquiry, the terms of reference of which, he stated, would be elaborated with the Secretary-General's representative.

5. Taking into account paragraphs 3 and 4 above, the elements of draft terms of reference for the commission of inquiry might include the following:

- a) to verify if the restrictions imposed by resolution 918 forbidding the sale or supply of arms and matériel to Rwanda, including to persons in the States neighbouring Rwanda, if such arms are intended for use in Rwanda;
- b) to examine the steps and measures taken by neighbouring countries to put an end to factors contributing to the destabilization of Rwanda, including measures to ensure that arms and matériel are not transferred to Rwandan camps within their territories;
- c) to investigate reports of alleged military support for Rwandan nationals in neighbouring countries, including reports that such nationals have received military training and arms for the purpose of destabilizing Rwanda.
- d) to outline possible additional measures which could be taken to ensure full compliance with the provisions of resolution 918, and to prevent any training or arming of Rwandan nationals on the territories of neighbouring countries;

6. The status of the commission needs to be clarified. Would it be a United Nations commission or an international commission under United Nations auspices? If it is a United Nations commission, will it be set up by the Secretary-General or by the Security Council? Who would appoint its members? Working on the assumption that it would be a United Nations commission established by the Secretary-General after consultation with the Security Council, the following points might be taken into account:

- a) the commission should be headed by a special envoy of the Secretary-General;
- b) the membership of the commission should be limited to five individuals, including civilian, military and police experts;
- c) the supporting secretariat of the commission should include United Nations civilian, military and security staff.

7. The commission should be based in the region, but not in Rwanda or its immediate neighbours hosting Rwandan refugees. Regarding its modus operandi, the commission should, in general:

- a) travel from its base in the region to Rwanda and each of its neighbours to perform the tasks mentioned in paragraph 5 above. Several visits may be necessary, although the commission should aim at devoting approximately two weeks per each of the following countries: Burundi, Tanzania, Uganda and Zaire. Visits to other countries in the region and elsewhere to investigate specific allegations may also be needed;
- b) at its base, members of the commission should compile, review and analyse data and other information collected from trips to the countries concerned;
- c) the commission should work in close consultation with the Special Representatives of the Secretary-General in Burundi and Rwanda.

On the basis of subparagraphs 7(a) to 7(c) above, it is envisaged that the commission could function for a period of up to three months.

Sammy Kum Buo
9 August 1995

cc: SRSG
FC
ED