

UNAMIR

SECURITY COUNCIL

13 MAY 1994-25 NOV 1995

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ORIGINAL ORDER

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*Office of the Spokesman*

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**25 November 1995**

**JUST A REMINDER**

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**Members of the Security Council up to 31 December 1995**

China  
France  
Russian Federation  
United Kingdom  
United States of America  
Argentina  
Botswana  
Czech Republic  
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Honduras  
Indonesia  
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**The G. 10 are**

Belgium  
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Distr.  
GENERAL

S/1995/547  
7 July 1995

ORIGINAL: ENGLISH

situation in all the refugee camps and on the interrelationships between those existing camps.

On the other hand, reports from Human Rights Watch, an American NGO, and Amnesty International, based in London, as well as the BBC, provide an abundance of evidence.

In the preliminary report of Human Rights Watch, entitled "Rearming with impunity: international support for the perpetrators of the Rwandan genocide", and in the report of Amnesty International entitled "Arming the perpetrators of the genocide", the two organizations confirm that it is quite evident that the arms embargo imposed on the former genocidal regime in Rwanda is not achieving the objectives set by the Security Council in its resolution 918 (1994) on expansion of United Nations assistance for Rwanda and the imposition of an arms embargo.

The reports confirm that the perpetrators of the Rwandan genocide are rebuilding their military infrastructure in Zaire, have spoken openly of their intention to return to Rwanda and have threatened to wage a war and to complete the genocide they began in April 1994. The former Rwandese government forces are conducting military training in a number of military camps. They also control some of the civilian refugee camps where they control food distribution and engage in theft; prevent the repatriation of refugees through attacks and intimidation, carry out vigilante killings and mutilations of persons suspected of crimes or disloyalty; restrict the movement of persons in and out of the camps; recruit and train young men for incursions into Rwanda and Burundi in support of the extremists from Burundi; and actively launch cross-border raids, inflaming an already tense situation inside Burundi and threatening to expand the conflict throughout the whole region.

Militia members have told Human Rights Watch in interviews that local Zairian authorities have provided the soldiers and militia of the former regime with armed escorts and have permitted them to conduct political, military and propaganda activities in the refugee camps and in some Zairian-owned military bases, as long as those activities are kept out of the view of international relief workers.

Furthermore, Human Rights Watch, Amnesty International and the BBC have persuasive evidence that the former leaders, militia and soldiers of the former Rwandese Government have benefited from the protection and support of several members of the international community, including some members of the Security Council. The reports state that those members have actively aided and abetted the militias and soldiers of the former regime in their efforts to reconstitute themselves, through a combination of direct shipments of arms, facilitating such shipments from other sources, and providing other forms of military assistance, including training, in violation of the arms embargo imposed by the Security Council under resolution 918 (1994).

Such developments have hindered the process of repatriation of refugees, national reconciliation and national reconstruction.

Even though the two human rights organizations have made their reports available to the Secretariat and to all members of the Security Council, to our knowledge, no concrete action has been taken, either by the Secretariat or by the Security Council, despite the fact that its resolution 918 (1994) was targeted at the Rwandese genocidal regime in an attempt to stop that Government from killing its population. A Security Council presidential statement in April 1995 (S/PRST/1995/22) expressed its "deep concern" for the rearming of militia and soldiers of the former genocidal Government of Rwanda. The Sanctions Committee set up one year ago, under resolution 918 (1994) is not yet operational.

The present Government of Rwanda has as its priorities: the return of refugees, national reconciliation and reconstruction as well as the establishment of rule of law, and Security Council resolution 918 (1994) is detrimental to the present Government of Rwanda which has successfully defended the country against the former regime and stopped genocide in Rwanda while the international community failed to act in defence of innocent civilians. This Government must regain its right to ensure the country's security - especially against those who have committed genocide. It should not be disadvantaged and handicapped in defending the Rwandan population by a Security Council resolution or other action by the international community. A country's self-defence is a sovereign right which neither the international community nor the Security Council should restrict, especially for a Government which has shown that it is responsible and has as its primary concern national reconstruction, reconciliation and justice in a secure environment.

Resolution 918 (1994) is preventing the present Government from ensuring the security of its citizens while the United Nations has repeatedly shown itself incapable of ensuring that security, as was evident during the genocide of 1994, when United Nations peace-keeping troops were unable to protect the Rwandan citizens who faced genocide.

The lifting of the arms embargo on the present Government will ensure that the country regains its full sovereignty and its capability to protect its citizens. The capacity to ensure the security of the country is a right and not a privilege. Regaining the freedom to develop that capacity will send a strong signal to a genocidal group that it cannot continue to destabilize the country with impunity.

The arms embargo, which was originally imposed on a genocidal Government, should not be extended to subsequent Governments and to the State of Rwanda. As it presently exists, an arms embargo on Rwanda and its Government is not justifiable. Any preventive measures to be taken have to be focused on the leaders, the soldiers and the militia of the former Government who have violated humanitarian law and on the Governments who continue to support them.

Maintaining this arms embargo as it is presently applied will ensure the opposite of what was intended. It will be a myopic decision which will further the insecurity of Rwanda, Burundi and the subregion.

In conclusion, resolution 918 (1994) is now outdated and is no longer justifiable for the present Government of Rwanda. We therefore request urgent

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action to lift the arms embargo on Rwanda to ensure the security of its population and to re-establish its full sovereignty.

The proposal to extend the arms embargo to the former regime would be an inefficient solution to the problem. In view of the fact that the group is already sufficiently armed, that solution is unrealistic and would not prevent the continuation of rearming since arms are ordered in the name of its accomplices.

The Security Council and the international community would have to take the responsibility for the potential aggression of Rwanda by the former regime and must seriously consider the potential for a continuation of insecurity in Rwanda. I would like to remind you that the genocide of 1994 in Rwanda was partly encouraged by the failure of the Security Council and the international community to make timely and appropriate decisions. Those gross mistakes resulted in the death of 1 million Rwandans. Such mistakes should not be repeated.

In the light of the evidence collected by Human Rights Watch, Amnesty International and the BBC of continuing transfers of weapons and other military support by members of the international community to the perpetrators of the Rwandan genocide, my delegation requests the Security Council and the Secretariat to take the following specific actions:

- Take urgent action to lift the present arms embargo on Rwanda which severely inhibits the capability of the present Government of Rwanda to ensure the security of its citizens;
- Request that the Sanctions Committee on the arms embargo set up under resolution 918 (1994) consider reports on arms transfers to the leaders, the militia and the soldiers of the former Rwandese Government, as a matter of urgency, and report thereon to the Security Council;
- Prepare and adopt a resolution to restrict the rearming of the former genocidal Rwandese government leaders and forces regardless of where they are located;
- Deploy United Nations monitors at Kinshasa, Goma, Bukavu and Uvira airports in Zaire with the purpose of restricting the militarization of Rwandan refugee camps in Zaire;
- Request the States Members of the United Nations to implement Security Council resolution 978 (1995) as well as the Security Council presidential statement issued on 27 April 1995 (S/PRST/1995/22).

I would be grateful if you would circulate the present letter as a document of the Security Council.

(Signed) Manzi BAKURAMUTSA  
Ambassador  
Permanent Representative of  
Rwanda to the United Nations

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**Conseil de sécurité**

Distr.  
GÉNÉRALE

S/1995/547  
7 juillet 1995  
FRANÇAIS  
ORIGINAL : ANGLAIS

**LETTRE DATÉE DU 5 JUILLET 1995, ADRESSÉE AU PRÉSIDENT DU  
CONSEIL DE SÉCURITÉ PAR LE REPRÉSENTANT PERMANENT DU  
RWANDA AUPRÈS DE L'ORGANISATION DES NATIONS UNIES**

La présente lettre est la seconde que j'adresse au Président du Conseil de sécurité au sujet de l'instruction et du réarmement de milices et de soldats de l'ancien régime du Rwanda dans les pays voisins, une situation qui constitue une menace pour le Rwanda et l'ensemble de la sous-région. Ma première lettre sur la question était datée du 16 mars 1995.

Dans cette première lettre, je demandais au Secrétariat, par l'intermédiaire du Président du Conseil de sécurité, d'enquêter et de faire rapport au Conseil sur les activités des dirigeants, des membres des milices et des soldats de l'ancien Gouvernement rwandais, coupable de génocide, à la lumière d'informations selon lesquelles ceux-ci préparaient une intervention armée au Rwanda.

Malgré l'urgence de la situation, aucun rapport approfondi n'a été soumis au Conseil de sécurité sur la question. L'Organisation n'a pas été en mesure de constater la violation de l'embargo sur les armes par les anciens dirigeants gouvernementaux. Elle n'a pas non plus été en mesure d'empêcher l'infiltration au Rwanda et au Burundi d'éléments des milices et de soldats de l'ancien Gouvernement rwandais. Plus récemment encore, le Secrétariat et ses représentants ont continué de déclarer qu'ils n'avaient pas suffisamment de preuves quant à l'ampleur du problème.

Dans l'intervalle, les auteurs du génocide continuent de se réarmer dans l'impunité en présence de toute une série d'institutions des Nations Unies, comme le Haut Commissariat des Nations Unies pour les réfugiés (HCR), ainsi que d'organisations non gouvernementales (ONG) internationales. L'Organisation des Nations Unies n'a pu, sur la base des informations fournies par le HCR, constater que ceux qui avaient perpétré le génocide se réarmaient alors même que les anciens dirigeants rwandais se voyaient renforcés par l'assistance humanitaire fournie par le HCR et d'autres organisations internationales.

Les renseignements fournis par le Haut Commissaire des Nations Unies pour les réfugiés, Mme Sadako Ogata, à certains membres du Conseil de sécurité à New York en mai 1995 ne donnaient pas une image fidèle de la situation dans les camps de réfugiés au Zaïre. Des informations cruciales manquaient en ce qui





concerne la situation dans tous les camps de réfugiés et les relations entre ces camps.

Par ailleurs, on trouve dans les rapports de Human Rights Watch, une ONG américaine, et d'Amnesty International, dont le siège est à Londres, ainsi que dans les reportages de la BBC, de très nombreux témoignages.

Dans le rapport préliminaire de Human Rights Watch intitulé "Rearming with impunity: international support for the perpetrators of the Rwandan genocide" ("Ils se réarment dans l'impunité : l'appui international aux auteurs du génocide rwandais") et dans le rapport d'Amnesty International intitulé "Arming the perpetrators of the genocide" (Fourniture d'armes aux auteurs du génocide), les deux organisations confirment qu'il est tout à fait évident que l'embargo sur les armes imposé à l'encontre de l'ancien régime rwandais, coupable de génocide, n'aboutit pas aux buts énoncés par le Conseil de sécurité dans sa résolution 918 (1994) sur l'assistance des Nations Unies au Rwanda et l'imposition d'un embargo sur les armes.

Ces rapports confirment que les auteurs du génocide rwandais reconstruisent leur infrastructure militaire au Zaïre, ont annoncé ouvertement leur intention de retourner au Rwanda, et ont menacé de faire la guerre et de mener à bien le génocide qu'ils ont commencé en avril 1994. Les forces de l'ex-Gouvernement rwandais s'entraînent dans un certain nombre de camps militaires. Ils contrôlent également certains camps de réfugiés civils où ils ont la mainmise sur la distribution de l'aide alimentaire, se livrent à des vols, empêchent les réfugiés de rentrer dans leurs foyers en les agressant et les intimidant, exécutent et mutilent ceux qu'ils soupçonnent de crimes ou de déloyauté, limitent les mouvements de ceux qui veulent entrer dans des camps ou en sortir, recrutent et forment de jeunes hommes pour des incursions au Rwanda et au Burundi à l'appui des extrémistes du Burundi, lancent des raids au delà de la frontière, exacerbant ainsi une situation déjà tendue à l'intérieur du Burundi et menaçant d'étendre le conflit à l'ensemble de la région.

Des membres des milices ont déclaré à Human Rights Watch lors d'interviews que les autorités zaïroises locales avaient fourni aux soldats et aux milices de l'ancien régime des escortes armées et les avaient autorisés à mener des activités politiques, militaires et de propagande dans les camps de réfugiés et dans certaines bases militaires zaïroises, à condition que ces activités se déroulent à l'insu du personnel des organisations internationales de secours.

En outre, Human Rights Watch, Amnesty International et la BBC ont des preuves convaincantes que les anciens dirigeants, les membres des milices et les soldats de l'ancien Gouvernement rwandais ont bénéficié de la protection et de l'appui de plusieurs membres de la communauté internationale, y compris certains membres du Conseil de sécurité. Les rapports en question indiquent que ces membres ont aidé activement les milices et les unités de l'ancien régime dans les efforts que ceux-ci déploient pour se reconstituer, soit en leur livrant des armes directement, soit en facilitant de telles livraisons d'autres sources ou en leur fournissant d'autres formes d'assistance militaire, y compris une formation, en violation de l'embargo sur les armes imposé par le Conseil de sécurité dans sa résolution 918 (1994).

Cet état de fait a entravé le rapatriement des réfugiés, la réconciliation nationale et la reconstruction du pays.

Alors même que deux organisations s'occupant des droits de l'homme ont mis leurs rapports à la disposition du Secrétariat et de tous les membres du Conseil de sécurité, à notre connaissance aucune mesure concrète n'a été prise, ni par le Secrétariat, ni par le Conseil de sécurité, bien que la résolution 918 (1994) de ce dernier visât à obliger le régime rwandais, coupable de génocide, d'arrêter de massacrer la population du pays. Une déclaration du Président du Conseil de sécurité datée d'avril 1995 (S/PRST/1995/22) exprimait la "préoccupation profonde" que suscitait parmi les membres du Conseil le réarmement des milices et des soldats de l'ancien Gouvernement rwandais, coupable de génocide. Le Comité des sanctions créé il y a un an par la résolution 918 (1994) n'est pas encore opérationnel.

L'actuel Gouvernement rwandais a les priorités suivantes : le retour des réfugiés, la réconciliation nationale et la reconstruction ainsi que l'établissement de l'état de droit; or, la résolution 918 (1994) du Conseil de sécurité lui est préjudiciable, bien qu'il ait défendu le pays avec succès contre l'ancien régime et mis un terme au génocide au Rwanda, alors que la communauté internationale ne faisait rien pour défendre des civils innocents. L'actuel Gouvernement rwandais doit recouvrer son droit d'assurer la sécurité du pays - en particulier contre les auteurs d'un génocide. Il ne devrait pas être défavorisé ni handicapé dans la défense de la population rwandaise par une résolution du Conseil de sécurité ni par aucun acte de la communauté internationale. Le droit de légitime défense est un droit souverain que ni la communauté internationale ni le Conseil de sécurité ne devraient limiter, en particulier lorsqu'il s'agit du droit d'un gouvernement qui a montré qu'il était responsable et dont les préoccupations premières sont la reconstruction nationale, la réconciliation et la justice dans la sécurité.

La résolution 918 (1994) empêche l'actuel gouvernement d'assurer la sécurité des citoyens rwandais, alors que l'Organisation des Nations Unies s'est montrée à de nombreuses reprises incapable d'assurer cette sécurité, comme cela a été manifeste durant le génocide de 1994, lorsque les troupes de maintien de la paix des Nations Unies n'ont pas été capables de protéger les Rwandais du génocide.

La levée de l'embargo sur les armes au bénéfice de l'actuel gouvernement permettra au pays de recouvrer sa pleine souveraineté et sa capacité de protéger sa population. La capacité d'assurer la sécurité du pays est un droit et non un privilège. Redonner au pays la liberté de développer cette capacité montrera sans ambiguïté aux responsables du génocide qu'ils ne peuvent continuer à déstabiliser le Rwanda dans l'impunité.

L'embargo sur les armes, imposé à l'origine à l'encontre d'un gouvernement coupable de génocide, ne devrait pas être étendu aux gouvernements suivants et à l'état du Rwanda. Tel qu'il existe actuellement, cet embargo à l'encontre du Rwanda et de son gouvernement est injustifiable. Les éventuelles mesures préventives à prendre doivent viser les dirigeants, les soldats et les milices de l'ancien gouvernement qui ont violé le droit humanitaire, et les gouvernements qui continuent à les aider.

Le maintien de l'embargo sur les armes en son état actuel aboutira à un résultat opposé à celui que l'on vise. Ce maintien constituerait une décision erronée qui aggraverait l'insécurité au Rwanda, au Burundi et dans la sous-région.

En conclusion, la résolution 918 (1994) est maintenant obsolète et n'est plus justifiable pour l'actuel Gouvernement rwandais. Nous demandons donc que des mesures soient prises d'urgence pour lever l'embargo sur les armes à l'encontre du Rwanda afin d'assurer la sécurité de la population rwandaise et de rétablir le pays dans sa pleine souveraineté.

L'extension de l'embargo sur les armes à l'ancien régime constituerait une solution inefficace. Ce groupe étant déjà suffisamment armé, une telle solution ne serait pas réaliste et n'empêcherait pas la poursuite du réarmement puisque les armes qui lui sont livrées sont commandées au nom de complices.

Le Conseil de sécurité et la communauté internationale devront assumer la responsabilité de toute agression perpétrée contre le Rwanda par l'ancien régime et ils doivent prendre au sérieux la possibilité du maintien de l'insécurité au Rwanda. Je tiens à vous rappeler que le génocide de 1994 au Rwanda a été en partie encouragé par le fait que le Conseil de sécurité et la communauté internationale n'ont pas pris les décisions qui s'imposaient en temps voulu. Ces erreurs flagrantes ont causé la mort de 1 million de Rwandais. De telles erreurs ne doivent pas se répéter.

À la lumière des témoignages réunis par Human Rights Watch, Amnesty International et la BBC quant à la poursuite des livraisons d'armes et d'autres formes d'appui militaire par des membres de la communauté internationale aux auteurs du génocide rwandais, la délégation rwandaise demande au Conseil de sécurité et au Secrétariat de prendre les mesures spécifiques suivantes :

- Faire d'urgence le nécessaire pour lever l'embargo sur les armes qui frappe le Rwanda et qui affaiblit gravement la capacité du Gouvernement rwandais actuel d'assurer la sécurité des citoyens du pays;
- Demander que le Comité des sanctions créé par la résolution 918 (1994) relative à l'embargo sur les armes examine d'urgence les rapports faisant état de livraisons d'armes aux dirigeants, membres des milices et soldats de l'ancien Gouvernement rwandais, et fasse rapport à ce sujet au Conseil de sécurité;
- Élaborer et adopter une résolution pour empêcher le réarmement des dirigeants et des forces de l'ancien Gouvernement rwandais, coupable de génocide, où qu'ils se trouvent;
- Déployer des observateurs des Nations Unies aux aéroports de Kinshasa, Goma, Bukavu et Uvira au Zaïre dans le but de limiter la militarisation des camps de réfugiés rwandais au Zaïre;

- Demander aux États membres du Conseil de sécurité de l'Organisation des Nations Unies d'appliquer la résolution 978 (1995) du Conseil de sécurité ainsi que la déclaration du Président du Conseil de sécurité publiée le 27 avril 1995 (S/PRST/1995/22).

Je vous serais obligé de bien vouloir faire distribuer le texte de la présente lettre comme document du Conseil de sécurité.

L'Ambassadeur,

Représentant permanent du Rwanda auprès  
de l'Organisation des Nations Unies

(Signé) Manzi BAKURAMUTSA

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UNITED  
NATIONS

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## Security Council

Distr.  
GENERAL

S/PRST/1995/22  
27 April 1995

ORIGINAL: ENGLISH

### STATEMENT BY THE PRESIDENT OF THE SECURITY COUNCIL

At the 3526th meeting of the Security Council, held on 27 April 1995, in connection with the Council's consideration of the item entitled "The situation concerning Rwanda", the President of the Security Council made the following statement on behalf of the Council:

"The Security Council has considered the Secretary-General's progress report on the United Nations Assistance Mission for Rwanda (UNAMIR) (S/1995/297, of 9 April 1995) and his third report on security in the Rwandese refugee camps (S/1995/304, of 14 April 1995), as well as the oral briefings from the Secretariat on the tragic events on 22 April 1995 at the Kibeho camp for internally displaced persons.

"The Security Council condemns the killing of numerous civilians in the camp and is encouraged by the decision of the Government of Rwanda to carry out a full investigation of these events without delay and to bring to justice those responsible. In this regard it welcomes the decision of the Rwandese authorities to establish an independent inquiry with United Nations and other international participation to carry out this investigation of the events. The Council also requests the Secretary-General to report to it, without delay, on these events and on the role of UNAMIR.

"The Security Council is concerned by the generally deteriorating security situation in Rwanda. It underlines that the Government of Rwanda bears primary responsibility for maintaining security throughout the country and for the safety of internally displaced persons and returnees, as well as for ensuring respect for their basic human rights. In this context it reaffirms the need for coordination between the Government of Rwanda and UNAMIR and other agencies on these matters. The Council does, however, note with satisfaction that the Government of Rwanda has in previous months made considerable efforts directed at national reconciliation, rehabilitation and reconstruction, which are of crucial importance. The Council calls on the Government of Rwanda to intensify these efforts and on the international community to continue to support those efforts, in order to bring about a climate of trust and confidence

S/PRST/1995/22

English

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which would assist in the early and safe return of refugees. In this context, it underlines the importance it attaches to demining, including the United Nations proposal.

"The Security Council notes with deep concern disturbing reports of increased incursions into Rwanda from neighbouring countries, allegations of arms shipments into the Goma airport and of elements of the former Rwandese Government forces being trained in a neighbouring country. It calls upon all States, especially those neighbouring Rwanda, to refrain from any action that would further exacerbate the security situation in that country and to prevent incursions into Rwanda from their own territories. The Council invites States and organizations which have information on the transport of arms into countries neighbouring Rwanda for the purpose of their use in Rwanda in contravention of resolution 918 (1994) to pass that information to the Committee established under resolution 918 (1994) and requests the Committee to consider that information as a matter of urgency and to report thereon to the Security Council.

"The Security Council notes with satisfaction that the deployment of the Zairian Camp Security Contingent and the Civilian Security Liaison Group has had a positive effect on the security situation in refugee camps in Zaire.

"The Security Council pays tribute to all members of UNAMIR. It reaffirms that UNAMIR constitutes one essential factor for creating a climate of confidence and for promoting stability and security. In this context, it underlines the responsibility of the Government of Rwanda for the safety and security of all UNAMIR personnel and other international staff serving in the country. It urges the Rwandese authorities to proceed with the exchange of letters supplementing the agreement on the status of UNAMIR and its personnel, reflecting the changes in UNAMIR's mandate following from Security Council resolution 918 (1994). The Council calls for increased cooperation and collaboration between the Government of Rwanda, its neighbouring countries and UNAMIR as well as other agencies, including in the humanitarian field.

"The Security Council expresses grave concern at the situation created by the overcrowded prisons in Rwanda which has resulted in the death of numerous persons in custody and requests the Secretary-General to consider urgently measures which could be taken quickly in conjunction with the Government of Rwanda and humanitarian agencies to improve the conditions of those in detention or under investigation. The Council emphasizes that the development of the Rwandese justice system continues to be an important factor in creating conditions of security, law and order, conducive to the return of refugees from abroad and of displaced persons to their homes. The Council calls on the international community to assist the Government of Rwanda in re-establishing the justice system as a contribution to confidence-building and the maintenance of law and order.

"The Security Council expresses its appreciation for the action of those States which have arrested and detained persons following the

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English  
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adoption of resolution 978 (1995). It urges States, in accordance with that resolution, to arrest and detain persons against whom there is sufficient evidence of responsibility for acts within the jurisdiction of the International Tribunal for Rwanda. It requests the Secretary-General to facilitate the rapid establishment of the Tribunal.

"The Security Council requests the Government of Rwanda to facilitate the delivery and distribution of humanitarian assistance to refugees and displaced persons in need, in conformity with the principles and current practice of UNHCR. It invites States and donor agencies to deliver on their earlier commitments and to further increase their assistance. It urges all Governments in the region to keep their borders open for this purpose.

"The Security Council appeals to all States to act in accordance with recommendations adopted in the Regional Conference on Assistance to Refugees, Returnees and Displaced Persons in the Great Lakes Region held in Bujumbura in February 1996, in order to contribute to facilitate the return of refugees. The Council welcomes the Dar-es-Salaam trilateral agreement of 12 April 1995, on the voluntary repatriation of Rwandese refugees from Tanzania.

"The Security Council reaffirms the view that an international conference would contribute substantially to peace and security in the subregion. It welcomes the intention of the Secretary-General to carry out consultations with all concerned so that such a conference can be held at the earliest possible date.

"The Security Council will remain seized of the matter."

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## OUTGOING FACSIMILE

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9J HEC  
09 567  
DATE: 30 November 1994

TO: KHAN, UNAMIR, KIGALI	FROM: ANNAN, UNATIONS, N.Y. <i>f</i> <i>L. Kigumba</i>
FAX NO: 3-3090	FAX NO: 1 (212) 963-9483
SUBJECT: Security Council Resolution and Presidential Statement on Rwanda	
ATTN:	ROOM:
TOTAL NUMBER OF TRANSMITTED PAGES INCLUDING THIS PAGE:10	

Today the Security Council adopted Resolution 965 and Presidential Statement S/PRST/1994/75, copies attached. Also attached is the Statement by the United States in the Security Council in which the Permanent Representative pays high compliments to UNAMIR, the Force Commander and the SRSB for their work in the evolving situation in Rwanda.

A Note on the Security Council Meeting will be sent to you tomorrow, 1 December 1994.

Best regards.

*SRSB*  
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UNITED  
NATIONS

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2/16



## Security Council

S/1994/1365

PROVISIONAL

S/1994/1360  
30 November 1994

ORIGINAL: ENGLISH

Draft resolutionThe Security Council,

Reaffirming all its previous resolutions on the situation in Rwanda, in particular its resolution 872 (1993) of 5 October 1993 by which it established the United Nations Assistance Mission for Rwanda (UNAMIR), and its resolutions 912 (1994) of 4 April 1994, 918 (1994) of 17 May 1994, and 925 (1994) of 8 June 1994, which set out the mandate of UNAMIR,

Having considered the progress report of the Secretary-General on UNAMIR dated 25 November 1994 (S/1994/1344),

Noting the report of the Secretary-General on security in the Rwandese refugee camps of 18 November 1994 (S/1994/1308),

Recalling its resolution 955 (1994) of 8 November establishing the International Tribunal for Rwanda,

Stressing the importance of achieving genuine reconciliation between all elements of Rwandan society within the frame of reference of the Arusha Peace Agreement,

Noting the deployment of human rights officers to Rwanda by the High Commissioner for Human Rights in order to monitor the ongoing human rights situation, to help redress existing problems and prevent possible human rights violations from occurring, to help foster a climate of confidence and the establishment of a more secure environment and thus facilitate the return of refugees and displaced persons, and to implement programmes of technical cooperation in the field of human rights, particularly in the area of administration of justice,

Noting also that the widespread dispersal of landmines is causing hardship to the civilian population and is hampering the return of refugees and displaced persons and other humanitarian relief efforts,

Welcoming the establishment by the Secretary-General of a Trust Fund pursuant to resolution 925 (1994) of 8 June 1994,

S/1994/1360

English

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1. Decides to extend the mandate of UNAMIR until 9 June 1995;

2. Reaffirms that UNAMIR will:

(a) Contribute to the security and protection of displaced persons, refugees and civilians at risk in Rwanda including through the establishment and maintenance, where feasible, of secure humanitarian areas;

(b) Provide security and support for the distribution of relief supplies and humanitarian relief operations;

(c) Exercise its good offices to help achieve national reconciliation within the frame of reference of the Arusha Peace Agreement;

3. Decides to expand UNAMIR's mandate to include the following additional responsibilities within the limits of the resources available to it:

(a) Contribute to the security in Rwanda of personnel of the International Tribunal for Rwanda and human rights officers, including full-time protection for the Prosecutor's Office, as well as security details for missions outside Kigali;

(b) Assist in the establishment and training of a new, integrated, national police force;

4. Strongly urges the Government of Rwanda to continue its cooperation with UNAMIR in the implementation of its mandate and in particular in ensuring unimpeded access to all areas of Rwanda by UNAMIR forces, personnel of the International Tribunal for Rwanda, and human rights officers;

5. Welcomes UNAMIR's efforts to increase its radio broadcasting capabilities so as to reach the refugee camps in neighbouring countries and expresses the hope that it will soon be possible for the Government of Rwanda to conclude appropriate arrangements with UNAMIR in this regard, including the allocation of a radio frequency;

6. Commends the efforts of States, United Nations agencies and non-governmental organizations which have provided humanitarian and other assistance, and encourages them to continue and increase such assistance, particularly in Rwanda;

7. Requests the Secretary-General to make recommendations on possible steps that could be taken by the United Nations to promote the establishment of an effective mine clearance programme in Rwanda;

8. Calls upon the international community to provide resources needed to meet the immediate needs of the Government of Rwanda directly or through the Trust Fund established pursuant to resolution 925 (1994) of 8 June 1994;

9. Requests the Secretary-General, following the usual consultations, to inform the Council should he consider that the additional tasks in paragraph 3

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require consideration of an adjustment in the logistic and personnel requirements of UNAMIR;

10. Decides to keep under review the situation in Rwanda and the role played by UNAMIR and, to that end, requests the Secretary-General to report to the Council by 9 February 1995 and 9 April 1995, on UNAMIR's discharge of its mandate, the safety of populations at risk, the humanitarian situation and progress towards repatriation of refugees;

11. Commends the efforts of the Secretary-General, his Special Representative and his Special Humanitarian Envoy to coordinate the United Nations response to the various aspects of the crisis in Rwanda;

12. Decides to remain actively seized of the matter.

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/ R R S T / 1994 / 75

30 November 1994  
11.30 a.m.

The Security Council has considered carefully the report of the Secretary-General dated 18 November 1994 on the security in the Rwandese refugee camps (S/1994/1308), particularly those located in Zaire. It is gravely concerned at the situation described in the Secretary-General's report.

The Security Council condemns the actions being taken by the former Rwandan leaders, and by former government forces and militias to prevent, in some cases by force, the repatriation of the refugees in the camps. It also condemns the ongoing interference by these groups and individuals in the provision of humanitarian relief, and is deeply concerned that this interference has already led to the withdrawal of some non-governmental agencies responsible for the distribution of relief supplies within the camps.

The Security Council is alarmed at the indications that these same groups and individuals may be preparing for an armed invasion of Rwanda. It deplores the fact that food distributed by relief agencies for those in the camps is apparently being misappropriated for this purpose. The Council condemns all such actions. It warns these persons, many of whom may have been implicated in the genocide and other serious violations of international humanitarian law which were unleashed on Rwanda in April 1994, that their actions will only reinforce the determination of the international community to ensure that such persons are brought to justice. The Council also stresses once again the responsibilities of neighbouring countries for ensuring that their territories are not used to destabilize the situation inside Rwanda.

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The Security Council notes the statement in the Secretary-General's report of 18 November that the first step towards promoting the repatriation of refugees must be a determined effort by the international community to reduce intimidation of prospective returnees and to improve security in the Rwandese refugee camps, especially those in Zaire. The Security Council attaches equal importance to the Secretary-General's observation that any operation to achieve this would be futile without parallel efforts to promote national reconciliation and reconstruction in Rwanda. The Council stresses the imperative of reinvigorating the political process to provide a framework for any action taken to address security in the camps and the repatriation of Rwandese refugees to Rwanda. The framework should include a mechanism for sustaining a dialogue between the Government of Rwanda, refugee representatives and the United Nations.

The Security Council considers that the options described in the Secretary-General's report raise complex issues which require further elucidation. The Council requests the Secretary-General to consult potential troop contributors to assess their willingness to participate in a possible peace-keeping operation modeled along the lines described in paragraphs 18 to 25 of the Secretary-General's report, namely to create secure areas within large camp sites, providing safe conditions for the refugees in those areas. The Council requests the Secretary-General to provide a detailed description of the objectives, rules of engagement and costs of such an operation as soon as possible. The Council further requests the Secretary-General to continue to explore as appropriate all possible means of addressing the problems in the camps. The Council will be giving further urgent consideration to this question in the light of the additional information it receives from the Secretary-General.

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The Security Council encourages the Secretary-General to assess the taking, on an interim basis, of initial measures aimed at providing immediate assistance to the Zairian security forces in protecting humanitarian operations in the camps, including the possibility of deploying security experts, from member Governments or through contract arrangements, to train and monitor the local security forces. The Council also requests the Secretary-General to consider what steps need to be taken to address the question of security in the refugee camps in Tanzania and Burundi. However, the Council is concerned that the use of local security forces without international involvement may not prove to be an effective approach to the security problems in the camps.

The Security Council recognizes that, in the wake of the events that have overtaken Rwanda, the Government needs immediate and major financial assistance, particularly in the establishment of security conditions inside the country, the maintenance of law and order, the administration of justice, economic and social rehabilitation and national reconciliation for all Rwandese.

The Security Council notes the deployment of 60 human rights officers in the country and the steps taken by UNAMIR to promote the re-establishment of civil administration throughout the country and looks forward to full deployment. The Council also welcomes the fact that procedures are being instituted, with the cooperation of the Government of Rwanda, to make operational the International Tribunal for Rwanda established in resolution 955 (1994).

The Security Council reminds States that in accordance with resolution 925 (1994), the Secretary-General has established a trust fund which could serve as a useful conduit for contributions to meet the immediate needs of the Government of Rwanda. It calls upon the international community to provide the

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resources needed for the Rwanda Emergency Normalization Plan, the forthcoming UNDP-sponsored round-table meeting and the consolidated inter-agency appeal.

The Security Council welcomes the Secretary-General's intention to work with the Organization of African Unity (OAU) to address the wider problems of the subregion.

The Security Council notes that preparations are under way for the convening in Bujumbura in the near future of a regional conference on assistance to refugees, returnees and displaced persons in the Great Lakes region, sponsored by the OAU and endorsed by the General Assembly in resolution 49/7. It also notes the Secretary-General's view that the United Nations and OAU should jointly convene at a later stage a broader conference to address a range of political and other issues, including national reconciliation, in order to identify long-term solutions to ensure peace, security and development in the subregion. Given the urgent need to take forward the political process as part of an overall strategy, including action on security in the camps and conditions inside Rwanda, the Council requests the Secretary-General to consider how preparations for this conference can be accelerated.

The Security Council will remain seized of the matter.

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## PRESS RELEASE

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USUN PRESS RELEASE #203-(94)  
NOVEMBER 30, 1994

Statement by Ambassador Madeleine K. Albright, United States Permanent Representative to the United Nations, in the Security Council, in Explanation of Vote, on the Situation in Rwanda, November 30, 1994

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The United States Government is pleased to have been able to support the resolution just adopted extending the mandate of UNAMIR. UNAMIR has done an exceptional job in difficult and rapidly changing circumstances. We particularly wish to thank all the troop contributing countries which have responded favorably to the Secretary-General's requests to participate in UNAMIR.

UNAMIR, the Force Commander and the Secretary-General's Special Representative have responded admirably to the evolving situation in Rwanda. But because the situation in Rwanda has changed since the Council last extended UNAMIR's mandate, it was necessary in the current resolution to clarify that mandate. We are well aware that UNAMIR has done an exemplary job of providing protection for all manner of international civilian personnel, whether involved in humanitarian assistance, investigation of allegations of genocide, monitoring of human rights, or other necessary pursuits. However, the mandate was originally designed before the establishment of the International Tribunal for Rwanda and before Human Rights Monitors were deployed by the High Commissioner for Human Rights. The renewed mandate therefore makes it clear that Human Rights Monitors and Tribunal personnel are entitled to protection. We do not believe that additional UNAMIR personnel will be required to carry out these protection functions, which UNAMIR has already begun to perform.

The U.S. Government is making preparations to dispatch investigators, prosecutors and support personnel to work with the International Tribunal. It is important that UNAMIR provide security for all the Tribunal's personnel, as well as for their premises, to ensure that they can carry out their work effectively and free from fear for their personal safety. We are sure that UNAMIR will design security arrangements in close consultation with the chief prosecutor, the head of the human rights officers and the Government of Rwanda.

The civilian police component of UNAMIR has been functioning for some time. The Council encouraged UNAMIR, in the Presidential statement of 14 October, to continue the activities of its civilian police observers. We reiterate that support in the current resolution.



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We believe that UNAMIR can carry out these responsibilities within existing resources for the moment. If the Secretary-General determines that additional resources might be necessary at some time in the future, he should inform the Council. We can consider at that time whether to authorize additional resources.

In closing, let me thank the Secretary-General, the Secretariat staff here in New York, and the personnel out in the field for their close monitoring and analysis of the various aspects of the Rwanda crisis, as reflected in the two long and complicated reports which they produced in the space of less than one week. We appreciate their efforts.

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**UNITED  
NATIONS****S****Security Council**Distr.  
GENERALS/PRST/1994/59  
14 October 1994

ORIGINAL: ENGLISH

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**STATEMENT BY THE PRESIDENT OF THE SECURITY COUNCIL**

At the 3436th meeting of the Security Council, held on 14 October 1994, in connection with the Council's consideration of the item entitled "The situation concerning Rwanda", the President of the Security Council made the following statement on behalf of the Council:

"The Security Council has considered the Secretary-General's progress report on the United Nations Assistance Mission for Rwanda (UNAMIR) (S/1994/1133). The Council stresses the importance it attaches to the role of UNAMIR, whose neutral and independent presence is crucial to creating conditions of security. It welcomes the Secretary-General's revised deployment schedule for UNAMIR which is intended to promote security in all sectors of the country and create conditions conducive to the return of refugees. It also welcomes the assistance being provided by UNAMIR to the Government of Rwanda's efforts to establish a new integrated police force. It encourages UNAMIR to continue that assistance and asks the Secretary-General to provide it with detailed information on this programme.

"The Security Council remains extremely concerned at the plight of the millions of refugees and displaced persons in Rwanda and the countries of the region. It reiterates its view that their return to their homes is essential for the normalization of the situation in Rwanda and for the stabilization of the region. It deplores the continuing acts of intimidation and violence within the refugee camps which are designed to prevent the refugee population there from returning home. It welcomes the commitment of the Governments of Zaire, Tanzania and Burundi to help resolve the problems facing the refugees, and calls upon them to do all in their power to ensure the safety both of the refugees and of the international personnel providing humanitarian assistance to the refugees.

"The Security Council notes the view expressed in the report that the most effective way of ensuring the safety of the refugees and their freedom to return to Rwanda would be the separation of political leaders, former RGF soldiers and militias from the rest of the refugee population, and looks forward to receiving a further report from the Secretary-General on this issue, as soon as possible, based inter alia on the findings of the United Nations team participating in the joint Zairian/United Nations

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working group. It stresses once again the responsibilities which fall upon the neighbouring countries, including that of ensuring that their territories are not used to destabilize the situation.

"The return of refugees is also crucially dependent upon the situation within Rwanda itself, including the existence of a climate of confidence and the establishment of a more secure environment. The Security Council notes the important role human rights monitors and their speedy deployment will have in this context and notes also the importance of cooperation between them and UNAMIR. The Security Council stresses the importance it attaches to UNAMIR having an effective broadcasting service to provide objective information. It hopes that the Government of Rwanda will assist in enabling the proposed United Nations radio station to come into operation as soon as possible.

"The Security Council welcomes the efforts being made by the Rwandan Government to facilitate the return of refugees and to begin the difficult process of national reconciliation and reconstruction in the country. It notes with concern reports that some reprisals may have occurred and affirms the importance it attaches to the avoidance of reprisals against returnees and to the safeguarding of their property rights. It welcomes the speed with which the United Nations and the Government of Rwanda responded to allegations that some RPA soldiers might have been responsible for systematic killings. It underlines the importance it attaches to the thorough and expeditious investigation of these allegations.

"The Security Council welcomes the assurance given to Council members by President Bizimungu of his Government's commitment to achieving national reconciliation and promoting respect for the fundamental rights of individuals. The Security Council stresses the importance it attaches to the Government of Rwanda implementing this commitment. In this context it endorses the Secretary-General's call to the Government of Rwanda to maintain an open dialogue with all political interest groups in Rwanda in an effort to achieve genuine reconciliation between all elements of Rwandan society, within the frame of reference of the Arusha Peace Agreement. In particular, the Security Council encourages the Rwandan Government to continue its efforts to invite members of the MRND who were not involved in the massacres to participate in the Government and to absorb members of the former RGF into the new army.

"The Security Council reaffirms its view that those responsible for serious breaches of international humanitarian law and acts of genocide must be brought to justice. It stresses that persons involved in such acts cannot achieve immunity from prosecution by fleeing the country and notes that the provisions of the Convention relating to the status of refugees do not apply to such persons. In this context, the Council is currently considering the recommendations of the Commission of Experts in respect of the establishment of an international tribunal and will act expeditiously in the matter.

"The Security Council commends the assistance given by the international community, the United Nations agencies and non-governmental

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organizations in response to the crisis in Rwanda. It calls on them to maintain their support during the difficult transition period and to begin to redirect their support from relief to rehabilitation and reconstruction. It endorses the Secretary-General's views as to the importance of immediate and coordinated assistance, in particular to the restoration of civil administration and the reconstruction of the social and economic infrastructure of the country.

"The Security Council agrees with the Secretary-General that developments in Rwanda strengthen the case for a broader approach to the question of national reconciliation and other key aspects of the crisis. It encourages him to continue his consultations on how the United Nations can assist in the preparation and convening of an international conference to look into the problems of the subregion.

"The Security Council will remain seized of the matter."

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SECURITY COUNCIL

Distr.  
GENERAL

S/1995/  
... February 1995

ORIGINAL: ENGLISH

REPORT OF THE SECURITY COUNCIL MISSION TO RWANDA  
ON 12 AND 13 FEBRUARY 1995

Letter of transmittal

Letter dated ..... February 1995 from the members of the Security  
Council Mission to Rwanda addressed to the  
President of the Security Council

We have the honour to transmit herewith the report of the Security Council's mission to Rwanda, which took place on 12 and 13 February 1995. The report is submitted to the Security Council in accordance with the terms of reference for the mission agreed upon by the Council on 6 February, following consultations.

(Signed)	Li ZHAOXING (China)
(Signed)	Karel KOVANDA (Czech Republic)
(Signed)	Gerhard HENZE (Germany)
(Signed)	Julio RENDON BARNICA (Honduras)
(Signed)	Nugroho WISNUMURTI (Indonesia)
(Signed)	Ibrahim A. GAMBARI (Nigeria) (Chairman)
(Signed)	Karl F. INDERFURTH (United States of America)

## **I. INTRODUCTION**

1. On 6 February 1995, the President of the Security Council announced that following consultations, the Council's mission to Burundi would make a stop-over in Rwanda on 12 and 13 February before its scheduled return to New York on 14 February. According to the terms of reference for the visit to Rwanda, the mission would hold consultations with the Rwandese Government regarding its efforts towards national reconciliation and reconstruction and the problem of the return of refugees. It would also hold consultations with the Special Representative of the Secretary-General, United Nations agencies, UNAMIR personnel, members of the diplomatic corps and NGOs in Kigali and, upon its conclusion, submit a report to the Security Council.

2. The mission arrived at Kigali (Rwanda), in the morning of 12 February, from Bujumbura (Burundi). It was led by Mr. Ibrahim A. Gambari, Permanent Representative of Nigeria to the United Nations, and comprised also Mr. Li Zhaoxing (China), Mr. Karel Kovanda (Czech Republic), Mr. Gerhard Henze (Germany), Mr. Julio Rendon Barnica (Honduras), Mr. Nugroho Wisnumurti (Indonesia) and Mr. Karl Inderfurth (United States of America).

## **II. OVERVIEW OF RECENT DEVELOPMENTS AND OF SECURITY COUNCIL ACTION REGARDING THE SITUATION IN RWANDA**

3. Two recent reports by the Secretary-General and the discussions on them within the Security Council have shown that the situation in Rwanda continues to be volatile. On 25 January 1995, the Secretary-General, in response to a request by the Security Council contained in its Presidential Statement of 30 November 1994 (S/PRST/1994/75), submitted his second report on the security situation in the Rwandese refugee camps (S/1995/65). On 6 February 1995, pursuant to the Council's resolution 965 of 30 November, the Secretary-General submitted a progress report on the discharge by the United Nations Assistance Mission for Rwanda (UNAMIR) of its mandate, the safety of populations at risk, the humanitarian situation and progress towards repatriation of refugees (S/1995/107).

4. It emerges from both reports that while significant progress has been made towards restoring normality and stability to Rwanda, more needs to be done. By the contents of its letter of 10 February addressed to the Secretary-General and its Presidential Statement of 10 February (S/PRST/1995/...), the Security Council has demonstrated not only its continued concern but, above all, its readiness to support additional practical measures and efforts aimed at achieving effective solutions that would help turn a page towards a more peaceful and stable Rwanda. At the same time, however, the Council, while acknowledging the achievements of the Government of Rwanda, despite the difficulty of the task and the limited resources available to it, expects the Government to play an even greater role to repatriate refugees, to promote national reconciliation and to reinvigorate the political process, including the creation of an appropriate mechanism for sustaining dialogue between the Government, the refugee community and the United Nations.

### III. ACTIVITIES OF THE MISSION

5. Upon its arrival in Kigali in the morning of 12 February, the mission began its work immediately following a programme of work which included meetings with Mr. Pasteur Bizimungu, President of the Republic of Rwanda (accompanied by Mr. Anastase Gasana, Minister of Foreign Affairs, and Mr. Jacques Bihozagara, Minister of Rehabilitation and Social Reintegration), Major General Paul Kagame, Vice-President and Minister of Defence of Rwanda, Mr. Faustin Twagiramungu, Prime Minister of Rwanda, Mr. Shaharyar M. Khan, Special Representative of the Secretary-General, Brig. Gen. Henry Anyidoho, Deputy Force Commander of UNAMIR, representatives of United Nations agencies and offices in Rwanda, members of the diplomatic corps and representatives of non-governmental organizations (NGOs). The mission also visited a displaced person's camp in Kibeho, in south-western Rwanda.

6. Bearing in mind its terms of reference, the mission focused on issues relating to the reconciliation and reconstruction processes, including developments in the area of repatriation of refugees and return of displaced persons. In this connection, it reviewed and exchanged views with participants on the role and contribution of the international community, including, in particular, the Security Council, UNAMIR, United Nations agencies and NGOs, as well as the efforts of the Government of Rwanda itself. The mission pointed out, from the outset, that its relatively large size and broad composition, embodying almost half of the Security Council's membership, and representing all regions, demonstrated the importance the Council attached to the mission. Members of the mission received a warm welcome and attentive hearing throughout their visit to Rwanda. Government officials expressed deep appreciation for the contribution and role of the Security Council in particular and the United Nations as a whole in the on-going efforts to normalize the situation in their country and pledged Rwanda's full cooperation with the mission and with the Security Council itself.

7. The mission visited the Kibeho IDP camp to observe the progress of Opération Retour which seeks to facilitate the safe and voluntary return of displaced persons to their homes. While at the camp, the mission was briefed by and exchanged views with elements of the UNAMIR force deployed in the area to provide security and protection for the IDPs and assist humanitarian relief operations. It also met with the "Chef de Camp", an IDP himself chosen by fellow camp residents to serve as their overall coordinator. Following that visit, the mission observed a former IDP camp-site at Rukondo, also in the south-west, which, along with a number of other such facilities, recently closed down as a result of the voluntary departure of its internally displaced residents under the Opération Retour programme. The mission noted that a proportion of the camps that were voluntarily closed had moved into the Kibeho camp which had recently increased in size.

8. The mission's visits, meetings and other contacts in Rwanda offered its members a valuable opportunity not only to exchange views on the situation in the country, but also to observe at first hand, the realities on the ground. The mission's programme of work in Rwanda, as well as a list of participants in its various meetings, are attached to the present report as Annex I and Annex II, respectively.

#### IV. OBSERVATIONS OF THE MISSION

9. Several and sometimes seemingly differing perspectives were heard on how best to move forward in stabilizing the situation in Rwanda. It was, however, generally recognized that the situation was extremely complex, covering long-standing and often intensely emotional issues which, in some ways, were compounded or otherwise affected by developments in the subregion as a whole. While everyone agreed that the most important goal was to prevent the recurrence of the tragedy that had recently befallen Rwanda, the specific issues of repatriation, reconciliation, reconstruction and justice were seen as inter-related and inter-dependent, though differences were evident, even among the Government officials the mission met with, as to the order of priorities to be followed in addressing those concerns.

10. There was however broad consensus on the point that the prompt, voluntary and safe return and proper resettlement of displaced persons and refugees was a priority requirement on which progress in other areas, such as reconciliation and reconstruction, ultimately depended. Their return home was generally seen as a condition sine qua non for long-term stability and progress, with the Prime Minister emphasizing that this was a matter of the highest priority for the Government because, without it, reconciliation, which was essential for peace, would not be possible. At the same time, it was widely felt that bringing to justice those responsible for genocide and other serious violations of international humanitarian law in Rwanda constituted another area of priority concern requiring urgent attention if long-term stability and genuine reconciliation were to be achieved. In this connection, the President and the Vice-President and Minister of Defence, in particular, stressed their view that equal priority should be accorded to the need for repatriation and justice, and that both objectives should be pursued simultaneously.

11. The mission was informed that major progress had recently been made in facilitating the return and resettlement of displaced persons, especially through Opération Retour. This programme, jointly coordinated by UNAMIR and United Nations agencies, in cooperation with the Government and supported also by NGOs, had, since it was launched on 29 December, enabled the voluntary and safe departure of approximately half of the estimated 350,000 displaced persons in IDP camps. 35,000 IDPs had been transported in United Nations vehicles to their homes while some 150,000 had voluntarily walked home. Of these, between 20-25 per cent had transferred to other camps, notably Kibeho, a fact that was confirmed when the mission visited Kibeho, where it learnt that, instead of returning to their homes, some displaced persons were simply moving from one camp to another.

12. Progress on the return of internally displaced persons was considered vital for encouraging similar advances in the more complex domain of refugee repatriation. It was widely felt that repatriation could be facilitated substantially by eliminating intimidation in refugee camps, a measure which, in the Government's view, could best be achieved by separating armed elements from the civilian refugee population, and by assuring security and justice inside Rwanda as well as protecting the property rights of all citizens.



13. It emerged from the mission's meetings and consultations, including in particular its visit to the Kibeho IDP camp, that fear was the single most important factor impeding the return of displaced persons and refugees. Government officials informed the mission of progress made in the Government's efforts to ensure that the rights of innocent citizens were safeguarded and that retribution, vengeance, harassment and other arbitrary and extra-judiciary practices were eliminated. They recognized that a lot more remained to be done but pointed out their Government's material, logistical, financial and personnel constraints, especially in its attempts to restore an effective judiciary and a trained police force. To underscore the Government's need for assistance to set up a functioning judiciary, the Prime Minister said that due to a lack of personnel resources to process the cases of detainees, many people were probably being held unjustly. In this connection, he estimated that about half of the estimated 20,000 persons currently imprisoned in Rwanda were probably innocent. The Vice-President and Minister of Defence asserted that the failure to hold accountable the perpetrators of genocide had, despite the Government's efforts to prevent and punish such actions, led to acts of vengeance. He added that some of the IDPs and refugees who cited fear as the reason for not returning home were probably implicated in the recent atrocities and were thus afraid of facing justice. In this connection, Government officials, while recalling their concerns with regard to various aspects concerning the International Tribunal for Rwanda, reaffirmed Rwanda's readiness to cooperate with the Tribunal and expressed the hope that it would begin its work as soon as possible. They also pointed out that their Government no longer insisted on Kigali as the site for the headquarters of the Tribunal and the Prime Minister specifically reiterated Rwanda's recent proposal of Arusha (Tanzania) to host it.

14. Regarding reconciliation, it was widely felt that, despite positive commitments and other efforts by the Government, concrete progress in this sphere was largely marginal so far. While recognizing that national reconciliation was a continuous process occurring over the long-term, as Government officials, in particular the President and the Vice-President and Minister of Defence believed, the view was stressed that the urgency of the Rwandese context demanded the taking of a number of immediate steps and measures, such as active repatriation, the creation of a conducive political and psychological climate and the restoration of an effective and functioning judiciary. Concern was expressed, on the other hand, especially by Government officials, that many of those accused or suspected of carrying out atrocities had so far shown no remorse or contrition, a situation that was seen as discouraging efforts towards reconciliation, by making forgiveness difficult. Moreover, it was pointed out, armed elements of former government forces and militias were not only intimidating Rwandese refugees and preventing their return home from camps in the neighbouring countries but were also increasingly infiltrating into Rwandese territory for the purpose of carrying out acts of banditry and destabilization.

15. Government officials also emphasized that, within the framework of efforts towards national reconciliation, they not only accepted but indeed respected the spirit of an inclusive and broad-based government, as provided for under the Arusha Peace Agreement to which their Government remained fully committed. The Prime Minister pointed out that the Arusha accords were part of Rwanda's fundamental or basic law ("*loi fondamentale*"). Officials also indicated that the Government had recently commenced dialogue with representatives of Rwandese refugee communities in Burundi. They explained that dialogue with other refugee communities,

especially those in Zaire, was not yet feasible in view of the insecurity and intimidation to which those refugees were subjected by armed elements in their midst. Holding that justice should not be traded for reconciliation, Government officials underlined their objection to dialogue with those responsible for genocide who, in their view, should be held accountable for their deeds.

16. The mission heard many positive and optimistic statements, including among IDPs in Kibeho as well as among Government officials, about the prospects for Rwandese to live together in harmony, irrespective of ethnic or political differences. To help enhance those prospects, the role of civic education and sensitization programmes emphasizing the virtues of respect for human rights, the rule of law and tolerance, was underlined. In this connection, it was agreed that the United Nations Radio in Rwanda could make a positive contribution by providing Rwandese, both inside the country as well as in refugee camps, with factual and objective information which could counter the misinformation and rumours that were hampering repatriation and reconciliation.

17. The view was also expressed that the perception of military dominance over civilian administration in Rwanda likewise contributed to hindering reconciliation. It was felt that effective civilian control of the administration at all levels, could help build confidence among the population, including displaced persons and those Rwandese who had fled the country out of fear. While acknowledging that the military was visible throughout the country and that its size had grown, a situation which he explained was necessary because of the continuing threats against Rwanda, the Vice-President and Minister of Defence pointed out that civilian administration was largely in place at the national, provincial and local levels.

18. Concerning rehabilitation and reconstruction, the mission was informed, especially by United Nations agencies and NGOs, that the emergency phase was largely over and that emphasis was increasingly being placed on longer term measures to rebuild the country, based on priorities elaborated by the Government, in consultation with agencies and other aid partners. In this connection, the response of the international community to the recent round-table conference and consolidated inter-agency appeal, both of which Government officials commended as successful initiatives to assist Rwanda in its rehabilitation and reconstruction efforts, was discussed. It was pointed out that the Government had since set up a follow-up mechanism and was working with the donor community on the implementation of programmes in various sectors. Among the priorities listed by the Prime Minister were agricultural development, provision of primary health care, the restoration of educational institutions, the re-establishment of the judiciary and assistance to especially vulnerable groups, such as children. The importance of setting up an effective mine-clearance programme in Rwanda was emphasized. Such a programme, it was explained, was especially urgent in view of the need to ensure the proper resettlement of large numbers of displaced persons and refugees upon their return to Rwanda, and to revive and revitalize agricultural and reconstruction activities overall.

19. The mission learned that wide-ranging efforts had been undertaken and were underway at various levels to contribute to the rehabilitation and reconstruction process. It found within the diplomatic and international relief and development community, including United Nations personnel and NGO representatives, as well as on the Rwandese side, a strong commitment to consolidate the progress already made on the recovery front. Everyone recognized that national

reconciliation was a vital, indeed essential factor not only for safeguarding the achievements realized but also for advancing further. The Government expressed appreciation for the support provided by the international community, including member States, international organizations and NGOs. It especially welcomed the role of United Nations agencies and operations, in particular UNAMIR, whose presence in the country Government officials, representatives of agencies and NGOs as well as the local coordinator of the IDP camp at Kibeho, viewed as a valuable and indeed indispensable factor for confidence and security in Rwanda, at a time when the country was still trying to achieve normality and durable peace. Government officials also commended the UNHCR's efforts to facilitate the repatriation of refugees and expressed satisfaction over what they characterized as growing improvements in relations between that United Nations organ and their Government. United Nations agencies and NGOs, on their part, stressed the need to coordinate their activities more closely with each other in order to maximize the international humanitarian community's efforts and resources to enable them to serve the people of Rwanda even better. Several agencies and NGOs stressed the importance of the security and protection support provided by UNAMIR, especially in escorting relief operations and accompanying human rights monitors in their work around the country.

## V. CONCLUSIONS AND RECOMMENDATIONS

20. The mission was impressed and encouraged by the progress made towards returning normality to Rwanda, especially in the areas of infrastructural rehabilitation. In Kigali, in particular, there were few visible reminders of the recent tragedy and nightmare the city and the rest of the country had lived through. Government workers, international relief personnel and ordinary citizens alike were all busy trying to rebuild.

21. Yet, as even Government officials themselves acknowledged, the country's problems are far from over. In fact, the critical challenges of social and political accommodation, on which genuine stability and long-term healing depend, are still to be addressed. A wide gulf continues to separate Rwandese and to separate expectations and aspirations on the one hand from realities and achievements on the other. That gulf is fear and mistrust, born of centuries of a complex history and freshly re-awakened by recent traumatic events. Fear is both a personal and an individual feeling as well as a palpable condition. Both aspects were in evidence, especially during the mission's visit to the Kibeho IDP camp. The mission heard from camp residents that despite the ready availability of basic relief supplies and services, including food, water, medical care and security, provided by United Nations and other humanitarian agencies, amenities that were generally less assured in the country as a whole, most displaced persons would rather return to their homes and farms but were held back by fear.

22. The gravity of the horrendous crimes committed recently in Rwanda is recognized by the international community which, though the Security Council, has established an International Tribunal to bring to justice those responsible. At the same time, it is imperative to move forward to re-establish order and, above all, to prevent a new cycle of injustices or atrocities. In other words, while trying to cope with the tragic consequences of its recent problems, Rwandese society must be enabled to rebuild and to continue to function. Clearly, the primary responsibility in this regard rests with the Rwandese themselves who must determine if and how

to save their land and to come to terms with each other. For healing to succeed and to endure, it should, above all, be indigenous and deliberate. It cannot be imposed.

23. The role of the international community has, to-date, been to assist Rwanda's own efforts towards peace and progress. This continues to be an appropriate role. Important achievements have been realized because of the contribution of the international community and its cooperation with Rwanda. Much of what remains to be done can also be achieved as long as mutual goodwill and cooperation continue. During its stay in Rwanda, therefore, the mission made it clear, especially in its discussions with Government officials, that its purpose was to learn and to exchange ideas in order to enhance cooperation between Rwanda and the Security Council with a view to finding solutions to the problems at hand. The visit and the discussions held convinced the mission of the continuing validity of the Security Council's approach to-date, based essentially on the sharing of responsibilities between the Government and the international community, especially in the areas of repatriation, reconstruction and reconciliations.

24. On repatriation, the mission believes that as long as 2 million Rwandese remain as refugees in camps in and outside their country, the situation in Rwanda will remain inherently unstable. It, therefore, considers their return home as a matter of the highest priority in the interest of lasting and sustainable peace and progress. The mission agrees that ensuring security in refugee camps is vital for the success of efforts to accelerate repatriation. In this regard, it reaffirms the endorsement, by the Security Council, of recent arrangements made by UNHCR with the Governments of Zaire and Tanzania to enhance security in Rwandese refugee camps in their respective countries and supports the Council's request to the Secretary-General to continue to explore all options in this regard and to make any further recommendations necessary to realize effective security in the camps. At the same time, the Government of Rwanda should intensify its efforts to create favorable conditions and an auspicious climate inside the country to encourage and facilitate repatriation. In this connection, it is considered that the Government's action in the following areas, among others, could be particularly helpful: (a) reinvigorate the political process, including the creation of a framework for dialogue between the Government, refugee representatives and the United Nations; (b) launch, in cooperation with civic associations, religious leaders, the United Nations, and NGOs, an active and proactive civic education programme within the country, including in IDP camps, and directed also at refugee camps through the radio, to promote harmony among all Rwandese; (c) move expeditiously to put in place an effective mechanism to protect property rights; (d) establish a transparent and effective judiciary; (e) set up and deploy nationwide a trained police force; (f) allow unimpeded access throughout the country to UNAMIR personnel and United Nations human rights monitors. The mission recommends furthermore that the international community support the Government's efforts.

25. The mission believes that the generous response of the international community to the recent round-table conference and consolidated inter-agency appeal will make a major contribution towards the rehabilitation and reconstruction of Rwanda. In view of the massive task involved in rebuilding a country destroyed by a devastating civil war, the mission considers that additional assistance, both bilaterally and through appropriate international arrangements, would further facilitate and enhance the rebuilding process. In this connection, the mission recommends the setting up as soon as possible in Kigali of a United Nations inter-agency mine-

clearance programme to be coordinated by UNAMIR and funded on the basis of voluntary contributions. The mission recommends further that consideration be given to using resources from the Secretary-General's trust fund for de-mining activities to cover start-up expenditures for the Rwanda programme and expresses the hope that the international community will contribute generously to support the activities of the programme with a view to clearing Rwanda of all mines.

26. The mission shares the view that national reconciliation is a continuous process. It could be facilitated by efforts to promote repatriation and rehabilitation, including the measures outlined above. It could also be aided by concrete movement in the area of justice. The mission, therefore, recommends that the process of making the International Tribunal operational be expedited. In the meantime, and in view of the fact that both the Prosecutor and Deputy Prosecutor have been appointed and are supported by several staff members, the mission recommends further that consideration be given to having the Prosecutor's Office commence its work in Rwanda as soon as possible. In this connection, it hopes that a list of persons sought for questioning in connection with the violations of international humanitarian law concerning recent events in Rwanda, will soon be established and made available publicly. The mission considers, above all, that national reconciliation is principally a task for the Rwandese themselves. In this area the Government should continue to play a leading role, including finding effective ways and means of broadening the political process to cover all sectors of Rwandese society, among them those Rwandese citizens currently living in IDP and refugee camps who are not implicated in the atrocities. The mission welcomes the reaffirmation by the Rwandese Government of its commitment to the Arusha Peace Agreement. It recalls in this connection that the Security Council has, from the outset, viewed the Arusha accords as a framework for political dialogue and accommodation in Rwanda. The mission, in this connection, notes that UNAMIR is mandated to exercise its good offices to help achieve national reconciliation in Rwanda within the frame of reference of the Arusha Peace Agreement and considers that this approach offers an opportunity for dialogue between Rwandese, using the United Nations as an intermediary.

27. The mission believes that UNAMIR's mandate, as outlined in Security Council resolution 965 of 30 November 1994, remains valid. UNAMIR's role is crucial in the present transitional phase in Rwanda, especially as efforts are being accelerated to encourage the return of refugees and displaced persons. The mission believes that continued cooperation between the Government and UNAMIR is vital for the successful discharge of UNAMIR's role and the implementation of its mandate.

28. The mission welcomes the commencement of Radio UNAMIR broadcasts and shares the view that the Radio will make an important contribution towards repatriation and reconciliation efforts by making available factual and objective information which could help counter rumours and misinformation inimical to the objectives of peace in Rwanda.

29. The mission notes the Security Council's recent agreement with the Secretary-General's recommendation to increase the strength of UNAMIR's civilian police component from 90 to 120 police observers. It stresses the urgent need to deploy the CIVPOL observers at the earliest

opportunity in order to enable UNAMIR to fulfil its mandated task to assist in the training of a new, integrated national police force for Rwanda.

30. The mission commends UNAMIR and other United Nations staff as well as NGO personnel in Rwanda for their dedication and commitment in the service of peace. It salutes their courage and selflessness, working as they do under extremely difficult and often risky conditions.

31. The members of the mission would like to express their gratitude and appreciation to the Special Representative of the Secretary-General and his staff for the valuable support and assistance rendered to them during the mission's visit to Rwanda.

## ANNEX I

### PROGRAMME OF WORK IN RWANDA FOR THE SECURITY COUNCIL MISSION 12-13 February 1995

#### Sunday, 12 February 1995:

0845 hrs	Arrival at Kigali
1000 hrs	Meeting with UN Agencies
1130 hrs	Meeting with NGOs
1300 hrs	Briefing by the SRSG and Deputy Force Commander of UNAMIR
1600 hrs	Meeting with the Diplomatic Corps
1700 hrs	Ambassador Gambari to meet the Nigerian Contingent serving with the UNAMIR Force
1930 hrs	Buffet Dinner offered by SRSG

#### Monday, 13 February 1995:

0800 hrs	Visit to Kibeho IDP camp and Rukondo
1200 hrs	Meeting with the Prime Minister
1500 hrs	Meeting with the Vice-President and Minister of Defence
1700 hrs	Meeting with the President
1900 hrs	Press Conference at the Airport
2010 hrs	Departure from Kigali en route to New York

ANNEX II

PARTICIPANTS IN MEETINGS WITH THE SECURITY COUNCIL MISSION

A - Meeting between Representatives of  
UN agencies and offices in Rwanda and the  
Security Council Mission

12 February 1995

Mr. Sukehiro Hasegawa, Resident Representative, UNDP  
Mr. Babacar Cisse, Deputy Resident Representative, UNDP  
Mr. Roman Urasa, Representative, UNHCR  
Mr. Julio Gamba, Resident Representative, World Bank  
Mr. Daniel Toole, Representative, UNICEF  
Mr. Carol Jaenson, Chief, Children in Difficult Circumstances Section, UNICEF  
Mr. Randolph Kent, UN Humanitarian Coordinator in Rwanda, UNREO  
Ms. Patricia Banks, Deputy Humanitarian Coordinator in Rwanda, UNREO  
Mr. Techeste Zergaber, Country Director, WFP  
Mr. Zlatan Milisic, Reports Officer, WFP  
Mr. William Clarence, head of the United Nations Human Rights Field Operation in Rwanda  
Mr. Paul Howard, Chief of Mission, International Organization for Migration (IOM)  
Dr. Mahamane Maiga, Acting Coordinator, WHO  
Mr. Ibrahima Kaba, Officer-in-Charge, FAO  
Ms. Alana Armitage, Programme Officer, UNFPA  
Mr. Abdoulaye Mar Dieye, Interregional Adviser, Department for Development Support and  
Management Services (DDSMS)  
Mr. Sidique Dao, Officer-in-Charge, Humanitarian Affairs, SRSG's Office, UNAMIR



B -

Meeting between  
Steering Group of NGO Community in Rwanda  
with Security Council Mission

12 February 1995

Mr. Teferra Shiawl, Africa Humanitarian Action  
Mr. Askale Binga, Africa Humanitarian Action  
Mr. Steven Rifkin, Save the Children (UK)  
Mr. Tom Walker, Médecins Sans Frontières (MSF)  
Ms. Barbara Kerstiens, Médecins Sans Frontières (MSF)  
Mr. Yvan M'Bomo, Equilibre  
Dr. Mungwakuzwe Canisius, Forum des ONG Rwandaises (Forum of Rwandese NGOs)

C -

Meeting between members of the Diplomatic Corps  
and the Security Council Mission

12 February 1995

H.E. Mr. August Hummel	-	Ambassador of Germany
H.E. Mr. Huang Shejiao	-	Ambassador of China
H.E. Mr. J. Courbin	-	Ambassador of France
H.E. Mr. David Rawson	-	Ambassador of the United States of America
H.E. Ms. Lucy Edwards	-	Ambassador of Canada
Père Nguyen Van Tot	-	Chargé d'Affaires, Representation of the Holy See
Père Henri Hoser	-	Representation of the Holy See
Mr. Sylvain Ndayikengurukiye	-	Chargé d'Affaires, a.i. Burundian Embassy
Mr. Siguar Schelstraete	-	Belgian Embassy
Dr. Lillian Wong	-	Representative of British Foreign and Commonwealth Office
Mr. Claude Latulippe	-	Canadian Embassy

D - The Security Council mission met with the following officials of the Government of Rwanda on 13 February:

Mr. Pasteur Bizimungu, President of the Republic of Rwanda  
Maj. Gen. Paul Kagame, Vice-President and Minister of Defence  
Mr. Faustin Twagiramungu, Prime Minister  
Mr. Anastase Gasana, Minister of Foreign Affairs  
Mr. Jacques Bihozagara, Minister of Rehabilitation and Social Integration

E - The Security Council mission was briefed by the following UNAMIR officials:

Mr. Shaharyar M. Khan, Special Representative of the Secretary-General  
Brig. Gen. Henry Anyidoho, Deputy Force Commander



## Security Council

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18 November 1994

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### REPORT OF THE SECRETARY-GENERAL ON SECURITY IN THE RWANDESE REFUGEE CAMPS

#### I. INTRODUCTION

1. The present report is submitted in pursuance of the statement of the President of the Security Council dated 14 October 1994 (PRST/1994/59), which noted the Council's concern at the plight of the millions of Rwandese refugees and displaced persons, reiterated the view that their return to their homes was essential for the normalization of the situation in Rwanda and deplored the continuing acts of intimidation and violence within the refugee camps, which were designed to prevent the refugee population there from returning home.
2. In my report on the situation in Rwanda dated 6 October (S/1994/1133), I indicated that, as a result of his visit to Zaire from 12 to 14 September, my Special Representative for Rwanda, Mr. Shaharyar Khan, concluded that the most effective way of ensuring the safety of the refugees and their freedom to return to Rwanda would be the separation of political leaders, former Rwandese government forces and militia from the rest of the refugee population. I also noted, however, that that would be a difficult and complex undertaking, especially as those to be separated would be likely to resist, and incite others to resist, any attempt to relocate them. In order to address more fully the problems associated with separating the former Rwandese government forces' political leaders, military and militia from the refugees, and to evaluate the logistic and other requirements involved, a joint Zairian/United Nations working group was established, composed of officials of the Government of Zaire, the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Development Programme (UNDP). A technical team from the United Nations Assistance Mission for Rwanda (UNAMIR) was sent to Zaire to join the working group. In my report of 6 October, I also indicated that my Special Representative had recommended that attention be focused, as a matter of priority, on the camps in Zaire, where the problems were significantly more acute than in those established in the United Republic of Tanzania. Accordingly, the present report addresses mainly the issue of security in the camps located in Zaire.
3. In his statement of 14 October, the President of the Security Council noted that the Council looked forward to receiving a further report from me on this



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issue, based, inter alia, on the findings of the UNAMIR technical team participating in the joint Zairian/United Nations working group. The joint working group was established at Kinshasa on 26 September and concluded its site visits on 11 October. The UNAMIR technical team returned to Kigali on 14 October and subsequently submitted its report to my Special Representative.

4. Following consultations between the Secretariat and UNHCR on possible options for addressing the security situation in the camps, I convened a high-level meeting at Geneva on 8 November, which focused on various aspects of the crisis in Rwanda and most importantly on the situation in the refugee camps. The meeting was attended by the United Nations High Commissioner for Refugees and the United Nations High Commissioner for Human Rights, the Executive Director of the World Food Programme, the Under-Secretaries-General for Political Affairs and for Humanitarian Affairs, the Legal Counsel, one of my special advisers, my Special Representatives for Rwanda and Burundi, my Special Humanitarian Envoy for Rwanda and Burundi, the Military Adviser in the Department of Peace-keeping Operations and a representative of the United Nations Children's Fund (UNICEF).

5. The meeting concluded that the most urgent problems were the security in the camps and the Government's need for support to enable it to carry out its functions. It was agreed that those problems must be addressed under an overall strategy leading to the repatriation and reintegration of refugees and internally displaced persons. The meeting also concluded that longer-term efforts, including efforts on a regional basis, towards national reconciliation, rehabilitation and reconstruction of the country should contribute to the resolution of the more urgent problems related to the safe return of refugees and internally displaced persons.

## II. PRESENT SITUATION IN THE RWANDESE REFUGEE CAMPS IN ZAIRE

### A. Conditions in the camps

6. An estimated 1.2 million people fled Rwanda over a four-day period in mid-July to the Kivu region of Zaire, in one of the largest and most sudden movements of refugees in modern history. UNHCR estimates that there are 850,000 refugees in north Kivu, in the Goma areas of Mugunga, Kibumba and Katale, and about 370,000 in south Kivu, in the Bukavu and Uvira areas. The camps, which sprawl over miles, are overcrowded, chaotic and increasingly insecure. The refugees live in makeshift huts and are completely dependent on United Nations and relief agencies for basic needs assistance.

7. The former Rwandese political leaders, Rwandese government forces soldiers and militia control the camps, though the degree of control varies from area to area. They are determined to ensure by force, if necessary, that the refugees do not repatriate to Rwanda. They also make it difficult for relief agencies to carry out their work in safety, because they attempt to control the agencies' activities in the camps and prevent relief supplies from reaching those in need. It is believed that these elements may be preparing for an armed invasion of Rwanda and that they may be stockpiling and selling food distributed by relief agencies in preparation for such an invasion. There have already been some

cross border incursions. Security is further undermined by general lawlessness, extortion, banditry and gang warfare between groups fighting for control of the camps. As a result of these threats to security, non-governmental organizations responsible for the distribution of relief supplies in the camps have begun to withdraw.

8. There are approximately 230 Rwandese political leaders in Zaire, including former ministers, senior civilian and military officials, members of parliament and other political personalities, many of whom live in good conditions in hotels and houses outside the refugee camps. With their dependants, they amount to about 1,200 persons. These leaders exert a hold on the refugees through intimidation and the support of military personnel and militia members in the camps.

9. Estimates of the number of former Rwandese government forces personnel in Zaire differ but they probably amount to about 50,000 persons, including dependants. In south Kivu, they are located in two separate military camps. In north Kivu, on the other hand, they are living among the refugees and are often indistinguishable from them, since many no longer wear uniform. It seems to be their intention to regain power in Rwanda and there are reports of continuing military activity by them along the Zairian/Rwandese border in Kanganiro and Kamanyola. However, they have not so far been as significant a factor for insecurity in the camps as have the militia.

10. The militia have a significant presence in the camps in the Goma area, where they control access into and out of the camps and resort openly to intimidation and force to stop refugees who are inclined to return to Rwanda. Like the Rwandese government forces personnel, they possess firearms, as the Zairian authorities were unable to disarm all the Rwandese government forces and militia personnel when they sought refuge in Zaire in July 1994. They also possess vehicles and communication equipment. It is difficult to determine their exact number as they neither wear uniform nor carry any insignia that would distinguish them from the rest of the refugee population. However, an estimate of their number can be made by reference to the militia's pre-war organization. Each of the 147 communes in Rwanda had between 100 and 150 organized militia, which would represent a total of between 14,700 and 22,050 personnel. Allowing for war attrition, this number may have fallen as low as 10,000 when the refugee camps were established but, in view of the political activity in the camps, it could have risen since that time.

11. There is little information available on the former Presidential Guard, which is estimated to consist of 800 men located in both Goma and Bukavu. There are reports that it may be housed in clandestine camps.

#### B. Factors impeding repatriation

12. In August and early September, an estimated 200,000 refugees returned to Rwanda. This movement, however, was interrupted by the activity of militia and political leaders opposed to voluntary repatriation. Since September, the number of refugees returning home has fallen drastically, although small numbers of refugees continue to trickle back to Rwanda in spite of threats by the

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militia and dissuasion by political leaders. During the same period, some 400,000 refugees of mainly Tutsi origin, many of whom had been in exile in Uganda and Burundi for decades, have returned to Rwanda and, in many cases, settled on land belonging to those who have fled most recently, thus creating another problem relating to property rights. The Government has set up a land commission to resolve that problem but it is unable to provide alternative solutions for those refugees, because of a lack of funds.

13. The refugees' fear of reprisals by the Government for atrocities committed against Tutsis and moderate Hutus seems to be another main reason for their hesitancy about returning to Rwanda. While this fear has been exacerbated by efforts on the part of political leaders, Rwandese government forces elements and militia to dissuade the refugees from returning home, it also appears to be rooted in the history of the relationship between Hutus and Tutsis in Rwanda.

expressing their distrust of the Government, refugees have also indicated a desire for their security to be guaranteed by a neutral body or for their own leaders to participate in the new Government.

14. In the light of the above, the UNAMIR technical team sought the views of the political and military leaders in the camps on conditions that would enable them to allow refugees the freedom of choice to return to Rwanda. These conditions included negotiations with the new Government; involvement of the exiled leadership in all negotiation processes; involvement of the United Nations in facilitating negotiations between the Government and the leadership in exile; revival of acceptable elements of the Arusha Accord; power-sharing; setting up of an international tribunal that would address not only the atrocities and acts of genocide committed after the events of 6 April 1994, but also alleged massacres committed by forces of the Rwandese Patriotic Front (RPF) since 1990; organization of early elections; security guarantees, especially for the safe return of all refugees; and guarantees for the repossession by the refugees of their property.

### III. MEASURES FOR THE ESTABLISHMENT OF SECURE CONDITIONS IN THE CAMPS

#### A. Initial measures

15. In response to a request from the Government of Zaire, consideration has been given, in consultation with UNHCR, to measures aimed at providing immediate, but temporary, assistance to the Zairian security forces in protecting humanitarian operations in the camps. These measures would promote bilateral arrangements between the Government of Zaire and other Governments for the deployment of security experts to train and monitor the local security forces. An assessment mission would formulate recommendations on the number of security experts required and their organization, management and modus operandi. The mission would also estimate the financial support to be provided to the local security forces.

16. In this connection, it is relevant that UNHCR is already assisting the Government of the United Republic of Tanzania to strengthen its local capacity to provide security in the camps through the provision of incentives and

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logistic support. An assessment of the additional support that the Government of the United Republic of Tanzania may require in this regard will be made as soon as possible. Such measures would not, by themselves, be sufficient to address the more difficult problems in the camps in Zaire. If adopted in Zaire, they would need to be taken in conjunction with and in support of one of the options described below.

17. Efforts to improve security in the camps should also be supported by a public information campaign that would provide factual information on the situation both in the camps and in Rwanda. To this end, as indicated in my report of 6 October, UNAMIR is building a broadcasting capacity that can reach the camps. However, the Government of Rwanda has yet to grant the necessary authorizations for UNAMIR to begin broadcasting and for a frequency allocation. It is important that these authorizations should be forthcoming soon.

#### B. Deployment of a United Nations peace-keeping operation

18. In order to improve security, one option would be to deploy a United Nations peace-keeping force to the camps in Zaire, with the consent of the Government of Zaire, as is the established practice for such operations. The task of such a force would be to provide security for international relief workers, protection for the storage and delivery of humanitarian assistance and safe passage to the Rwandese border for those refugees who wish to return. From the border, UNAMIR troops would then provide assistance in returning the refugees to their home communities. Such a force would have a mandate separate from that of UNAMIR but would be under the operational control of, and supported logistically by, UNAMIR.

##### 1. First phase

19. In the first phase, two well-trained and well-equipped mechanized battalions would spearhead the operation in the camps north of Lake Kivu. Each battalion would establish secure areas within large camp sites, providing safe conditions for the refugees in those areas. The force would establish screening procedures to keep weapons out of the secure areas. Humanitarian assistance operations would be intensified within these secure areas. The aim during this first phase would be to create conditions conducive to the voluntary repatriation to Rwanda of as many refugees as possible from each secure area. This, of course, would depend on the establishment within Rwanda of conditions under which the refugees could return to their homes in safety and dignity.

20. Within each secure area, local security units would be formed and trained to take over the security functions being performed by the peace-keeping force when reasonably secure conditions were deemed to have been created. At that time, the United Nations contingents would move forward to create similar secure areas in other locations. In planning such movement, consideration would be given to the likely impact of ongoing operations on conditions and attitudes in the camps that were to be secured in subsequent operations.

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21. The local security units would include guards from either the Zairian security forces or former Rwandese gendarmerie present in the camps (who were proved not to have been involved in the atrocities), depending upon the situation in the particular area. Security experts, as envisaged in paragraph 15 above, would be made available (either as United Nations civilian police or through a private security firm) to train and monitor the local units in carrying out their security duties. The requisite equipment and financial assistance would also be provided for the local security units. The intention would be to ensure that the local security unit in each area would be capable of providing reasonable security, under the supervision of a minimal number of United Nations personnel, until the remaining refugees could be repatriated during the second phase of the operation, after which the area would be closed.

## 2. Second phase

22. In the second phase, lightly equipped motorized units would be deployed in the areas rendered secure during the first phase. Their main task would be to escort refugees to the Rwandese border and, in the meantime, to ensure that these areas continued to enjoy secure conditions. In this phase, self-contained company groups would be deployed to each secure area, cumulatively reaching battalion level. As the areas were closed upon completion of repatriation, each company group would be rotated to another secure area which was ready to move into the second phase.

23. Under this option, it is estimated that a force of 3,000 all ranks would be required. A parallel operation, launched simultaneously in the area south of Lake Kivu, where conditions are marginally better, could have a stabilizing effect on Burundi where the situation is still very fragile. To conduct such an operation, an additional 2,000 troops would be required.

24. After progressively establishing security in the camps both north and south of Lake Kivu, the mechanized battalions would be withdrawn from the force. The second phase units would also be gradually withdrawn as secure areas were closed down. This operation would be fully coordinated with the measures for strengthening security conditions in the camps mentioned in paragraph 15 above.

25. The incremental approach to establishing security proposed under this option is unavoidable as the dimensions of the problem are such as to make it impossible to address all refugee camps at the same time. Depending on the situation in the camps and the rate of repatriation, it is estimated that, given a force strength of 3,000 all ranks, it would take 24 to 30 months to complete the operation. However, with the additional 2,000 troops mentioned in paragraph 23, it is estimated that the duration of the operation could be reduced by about 10 months.

## C. Action under Chapter VII of the Charter

26. The option outlined above does not provide for the separation of the political leaders, former Rwandese government forces troops and militia from the rest of the camp population, which, as indicated in my report of 5 October, is



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considered to be the most effective way of ensuring the safety of refugees and their freedom to exercise their right to return to Rwanda. That report also noted that the Government of Zaire had expressed its commitment to addressing the refugee crisis and to improving security in the camps. To this end, it has indicated that the military and militia elements could be moved to new camps at a distance from the present refugee camps. It has also indicated that it would prefer the political leadership of the former Government of Rwanda to be located in third countries, although they could stay in Kinshasa while awaiting relocation.

27. The political leaders, the military hierarchy of the Rwandese government forces and the militia have made evident their opposition to either their removal from Goma and Bukavu or their separation from the refugee population prior to an overall settlement of the conflict. It is difficult to determine how far these groups would resist attempts to relocate them. Given their expressed opposition, however, and their proven propensity for violence, it can be assumed that they would not move voluntarily and would be likely to use force to resist being moved.

28. Should it be decided to undertake the separation of former political leaders, military and militia, the operation would also be undertaken in phases. In the first phase, while the new camps were being prepared, a strong, well-trained and well-equipped force would be deployed inside the existing refugee camps with the initial mandate of ensuring the security of international relief workers and the delivery of humanitarian assistance. During the second phase, once the new camps were established, the former political leaders, Rwandese government forces personnel and militia would be moved to the new sites, on a voluntary basis if possible, with force being used only where voluntary separation was resisted.

29. The UNAMIR technical team visited several sites recommended by the Government of Zaire, most of them in remote locations. The team analysed in detail the logistic difficulties that would have to be overcome in order to move the political leaders, Rwandese government forces personnel and militia to these new camps. The team concluded that the camps would require considerable infrastructure repair (airfields, roads, buildings, etc.), which would take at least six months to complete from the date of commissioning.

30. Taking all these factors into consideration, especially the likelihood that forcible action would be required, it is evident that this would be a risky, complex and very expensive endeavour. Given the need to provide security in both the existing camps and in the new sites to which the Rwandese government forces personnel and militia would be moved, it is estimated that a force level of two brigade groups (10,000-12,000 men), operating under a Chapter VII mandate, would be required. A United Nations force could conceivably be established for this purpose, either linked to UNAMIR or, preferably, as a separate operation. However, it will be recalled how difficult it was for the United Nations to obtain the necessary troops for the expansion of UNAMIR. It is, thus, clear that the United Nations could not be assured of obtaining expeditiously the personnel required to establish a force capable of undertaking this operation. Should the Security Council favour the establishment of such an operation, it may therefore wish to authorize a Member State, or a group of

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Member States, to take the lead in organizing it, using all necessary means to achieve the aims outlined above.

#### IV. CONCLUDING OBSERVATIONS

31. The preceding section of this report has identified three major military options for tackling the problem of security in the camps, namely:

(a) A United Nations peace-keeping operation, set up in accordance with normal procedures, to establish security progressively in the camps, area by area, over a period of time;

(b) A United Nations force, set up under Chapter VII of the Charter, to separate the former political leaders, military personnel and militia from the ordinary refugee population of the camps, thereby ensuring their security;

(c) A multinational force, authorized by the Security Council under Chapter VII of the Charter but not under United Nations command, to carry out the functions set out in subparagraph (b) above.

Other measures which could be associated with any of the above options would be the provision of foreign security experts to train and monitor the local security forces and appropriate public information campaigns.

32. In considering the above options, it is important to bear in mind that any operation conducted without parallel efforts towards national reconciliation in Rwanda will be futile. Indeed, it might merely have the effect of intensifying extremist activities in the refugee camps in Zaire and also those in other countries bordering Rwanda. It is evident that national reconciliation will require both a political understanding between the former leadership of the country and the present Government and the establishment of conditions in the camps, and in Rwanda itself, conducive to the return of the refugees. Neither is imminent. Any operation that encouraged the repatriation of refugees who were then not able to return to their home communities would merely add to the 1.5 to 2 million persons who are already internally displaced persons inside Rwanda and should therefore be avoided.

33. I am convinced that the first step must be a determined effort by the international community to improve security in the Rwandese refugee camps, especially those in Zaire. On the basis of the information provided by my Special Representative and of the preparatory work undertaken by the Secretariat, I feel that the peace-keeping operation envisaged above (paragraph 31 (a)) may be, under the present circumstances, the most realistic way of achieving a progressive improvement of security in the camps. This will be a difficult, complex and, to some extent, unprecedented enterprise. Should the Security Council favour such an approach, it would be essential that Member States be prepared to provide, in a timely manner, the full human, financial and logistic resources which would be required to carry it out effectively.

34. In determining the measures that need to be taken, the Security Council may wish to keep in mind that establishing security in the refugee camps must be

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seen as only the first step in an overall strategy to establish long-term security and durable peace in Rwanda. A two-pronged approach must be adopted of addressing security issues in the camps and, at the same time, helping the Government to create conditions in Rwanda under which large-scale repatriation and reintegration of refugees and internally displaced people can take place. This twin approach is the only means of achieving the environment necessary for national reconciliation and sustainable peace.

35. The Government must assume its responsibilities for establishing the conditions necessary for the return of refugees to Rwanda in safety and dignity. However, in the wake of the cataclysm that has overtaken Rwanda, it finds itself without even the minimal resources to run an administration, much less reconstruct a shattered country and nation. The Government has indicated its commitment to creating conditions for the safe repatriation of refugees and has requested assistance from the international community for this purpose. This will require the rehabilitation of the basic economic and social infrastructure. Measures to be taken inside Rwanda must include the establishment of a fair and effective judicial system and the issue of property rights. As mentioned above, large numbers of longer-term refugees are returning to Rwanda and, in some cases, are occupying the land of those who have recently fled. The Government needs immediate and major financial and technical assistance from the international community to reintegrate the earlier refugees who are now returning and to ensure that those who recently left the country are able to reclaim their properties upon their return.

36. The Government and the international community must be equally committed to cooperating with one another in ensuring that special measures are taken in regard to security, the maintenance of law and order, the administration of justice, economic and social rehabilitation and national reconciliation for the benefit of all Rwandese, especially in those communities to which refugees and displaced people will return. In this regard, about 60 human rights monitors have been deployed in the country to monitor the conditions of returning refugees and internally displaced people. Furthermore, UNAMIR is planning to deploy political affairs officers to its five sectors of operation, specifically to assist the Government, through the local administrations, in promoting national reconciliation and re-establishing civil administration and to facilitate coordination between the activities of UNAMIR and those of other United Nations agencies and programmes.

37. As noted in my report of 6 October, it is fully recognized how difficult it is for the Government to undertake nation-building activities when it suffers from a severe lack of basic resources, including cash reserves. While the international community is calling on it to undertake such activities, the Government is becoming increasingly frustrated with the international community's slow pace in providing the resources necessary for it to do so. Furthermore, there are signs that the security situation in the country is becoming unstable as the Government is not in a position to strengthen local civil administrations or even to pay the salaries of its army. As a result, there is increasing tension between the Rwandese military and UNAMIR and incidents obstructing UNAMIR's ability to carry out its mandate are becoming more frequent. It is therefore essential for the international community to provide immediate assistance to the Government so that it can, for its part,

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take the measures necessary to help improve the situation in the country and create the conditions necessary to encourage refugees to return.

38. My Special Representative has formulated and presented to potential donors a Rwanda emergency normalization plan, outlining areas in which such assistance is urgently required. At the request of the Government of Rwanda, UNDP has begun consultations with the donor community leading to a round-table meeting designed to establish a policy framework and to formulate reconstruction and rehabilitation requirements, a process that should also assist the international community to identify areas requiring immediate response. Finally, the Department of Humanitarian Affairs is preparing a new consolidated inter-agency appeal which will cover both continuing emergency requirements and short-term rehabilitation needs. The international community is urged to respond in an adequate and timely manner to these initiatives as part of a comprehensive approach to the problem of Rwanda. In this connection, I would like to recall that, pursuant to Security Council resolution 925 (1994), a trust fund has been established to finance humanitarian relief and rehabilitation programmes in Rwanda. The Trust Fund could serve as a useful conduit for contributions to meet the immediate needs of the Government of Rwanda.

39. Given the crucial importance of establishing secure conditions in the Rwandese refugee camps in Zaire, as well as the pressing need for financial and technical assistance to reach the Government of Rwanda, it is my intention to concentrate all the efforts of the United Nations system on these immediate priorities. Once progress has been made on these two fronts, I shall work with the Organization of African Unity (OAU) to address the wider problems of the subregion.

40. The first step in that direction will be the convening of the regional conference on assistance to refugees, returnees and displaced persons in the Great Lakes region, which was decided upon by the Assembly of Heads of State and Government of OAU at its thirtieth ordinary session, held at Tunis in June 1994. This conference was recently endorsed by the General Assembly (resolution 49/7) and is to be jointly organized by OAU and UNHCR at Bujumbura in the near future.

41. I believe that, at a later stage, a broader conference should be convened jointly by the United Nations and OAU to address a range of political and other issues, including national reconciliation and land-related questions, in order to identify long-term solutions which will ensure peace, security and development in the subregion. Work has begun in the Secretariat to define the scope and modalities of such a conference and I have asked my Special Humanitarian Envoy, Mr. Robert Dillon, who is currently visiting the region, to explore the matter with the countries concerned.

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FROM DPIIDS

Security Council  
3526th Meeting (PM)

SC/6025  
27 April 1995

PART 1 OF 2

SECURITY COUNCIL CONDEMNS RECENT KILLING OF CIVILIANS IN  
RWANDA'S KIBEHO CAMP FOR INTERNALLY DISPLACED PERSONS  
Presidential Statement also Welcomes Rwanda's Decision to Set  
Up Inquiry To Investigate Events; Secretary-General Requested  
to Report on UNAMIR Role

Condemning the recent killing of numerous civilians in  
Rwanda's Kibeho Camp for internally displaced persons, the  
Security Council this afternoon welcomed the Rwandese  
Government's decision to set up an independent inquiry, with  
United Nations and other international bodies taking part, to  
investigate those events.

In a statement read on behalf of Council members by its  
President,  
Karel Kovanda (Czech Republic), the Council said it was  
encouraged by the Government's decision to investigate the  
events without delay and to bring those responsible to  
justice. It requested the Secretary-General to report to it  
without delay on the occurrences and on the role of the United  
Nations Assistance Mission for Rwanda (UNAMIR).

Expressing its concern at Rwanda's declining security  
situation, the Council underlined that the Government was  
primarily responsible for maintaining security, the safety of  
internally displaced persons and returnees as well as ensuring  
respect for their human rights.

All States, especially those neighbouring Rwanda, were  
called upon to refrain from actions that would worsen the  
security situation in it and to prevent incursions into Rwanda  
from their territories. The Council made the call after noting  
with deep concern "disturbing" reports of increased incursions  
into Rwanda from neighbouring States, allegations of arms  
shipments into Goma airport and of elements of the former  
Rwandese Government forces being trained in a neighbouring  
country.

Also by that statement, the Council invited States and  
organizations with facts on the transshipment of arms into

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Rwanda through neighbouring

countries -- in violation of the arms embargo imposed by Council resolution 918 (1994) -- to so inform the Committee established by the Council to monitor the embargo. That Committee was requested to consider the information urgently and report to the Council on it.

The Council called on Rwanda's Government to intensify its noteworthy efforts to reconcile, rehabilitate and rebuild the nation. It also called on the international community to continue helping those efforts so as to create a climate of trust and confidence that would assist in the early return of refugees. In that context, it underlined the importance of demining.

Expressing grave concern at the situation created by the overcrowding of prisons in Rwanda which had led to numerous deaths, the Council requested the Secretary-General to urgently consider measures which could be taken quickly along with the Rwandese Government and humanitarian agencies to improve those conditions. Emphasizing the importance of developing Rwanda's justice system to the creation of conditions to encourage the return of refugees and displaced persons, it called on the international community to help the Government re-establish that system.

The Council expressed its appreciation to States that had arrested and detained persons after its adoption of resolution 978 (1995) and further urged them to arrest and detain others responsible for acts within the jurisdiction of the International Tribunal for Rwanda. It requested the Secretary-General to help establish the Tribunal quickly.

Resolution 978 (1995), adopted unanimously last February, urged States to arrest and detain persons in their territory who were suspected of being responsible for acts that could be tried by the International Tribunal. It urged States to act according to their national law and relevant standards of international law, pending prosecution by the International Tribunal or appropriate national authorities.

Also at this afternoon's meeting, the Council urged the Rwandese authorities to proceed with the exchange of letters supplementing the agreement on the status of UNAMIR and its personnel, reflecting the changes in UNAMIR's mandate following from Security Council resolution 918 (1994). It also called for increased cooperation and collaboration between the Government, its neighbours, UNAMIR and other agencies, including in the humanitarian field.

In addition, the Council requested Rwanda's Government to help in the distribution of humanitarian aid to needy refugees and displaced persons in accordance with the United Nations High Commissioner for Refugees (UNHCR) principles and current practice. Inviting States and donor agencies to meet their

commitments and increase their help, it urged governments in the region to keep their borders open for that purpose.

The full text of the statement, to be issued as document S/PRST/1995/22, reads as follows:

"The Security Council has considered the Secretary-General's progress report on the United Nations Assistance Mission for Rwanda (UNAMIR) (S/1995/297, of 9 April 1995), and his third report on Security in Rwandese

Refugee Camps (S/1995/304, of 14 April 1995), as well as the oral briefings from the Secretariat on the tragic events on 22 April 1995 at the Kibeho Camp for internally displaced persons.

"The Security Council condemns the killing of numerous civilians in the camp and is encouraged by the decision of the Government of Rwanda to carry out a full investigation of these events without delay and to bring to justice those responsible. In this regard it welcomes the decision of the Rwandese authorities to establish an independent inquiry with United Nations and other international participation to carry out this investigation of the events. The Council also requests the Secretary-General to report to it, without delay, on these events and on the role of UNAMIR.

"The Security Council is concerned by the generally deteriorating security situation in Rwanda. It underlines that the Government of Rwanda bears primary responsibility for maintaining security throughout the country and for the safety of internally displaced persons and returnees, as well as for ensuring respect for their basic human rights. In this context it reaffirms the need for coordination between the Government of Rwanda and UNAMIR and other agencies on these matters. The Council does, however, note with satisfaction that the Government of Rwanda has in previous months made considerable efforts directed at national reconciliation, rehabilitation and reconstruction, which are of crucial importance. The Council calls on the Government of Rwanda to intensify these efforts and on the international community to continue to support those efforts, in order to bring about a climate of trust and confidence which would assist in the early and safe return of refugees. In this context, it underlines the importance it attaches to demining, including the United Nations proposal.

"The Security Council notes with deep concern disturbing reports of increased incursions into Rwanda from neighbouring countries, allegations of arms shipments into the Goma airport and of elements of the former Rwandese Government forces being trained in a neighbouring country. It calls upon all States, especially those neighbouring Rwanda, to refrain from any action that would further exacerbate the security situation in that country and to prevent incursions into Rwanda from their own territories. The Council invites States and organizations which have information on the transport of arms into countries neighbouring Rwanda for the purpose of their use in Rwanda in



contravention of resolution 918 (1994) to pass that information to the Committee established under resolution 918 (1994) and requests the Committee to consider that information as a matter of urgency and to report thereon to the Security Council.

END OF PART 1 OF 2  
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FROM DPIIDS

Security Council  
3526th Meeting (PM)

SC/6025  
27 April 1995

PART 2 OF 2

"The Security Council notes with satisfaction that the deployment of the Zairian Camp Security Contingent and the Civilian Security Liaison Group has had a positive effect on the security situation in refugee camps in Zaire.

"The Security Council pays tribute to all members of UNAMIR.

It reaffirms that UNAMIR constitutes one essential factor for creating a climate of confidence and for promoting stability and security. In this context, it underlines the responsibility of the Government of Rwanda for the safety and security of all UNAMIR personnel and other international staff serving in the country. It urges the Rwandese authorities to proceed with the exchange of letters supplementing the agreement on the status of UNAMIR and its personnel, reflecting the changes in UNAMIR's mandate following from Security Council resolution 918 (1994). The Council calls for increased cooperation and collaboration between the Government of Rwanda, its neighbouring countries and UNAMIR as well as other agencies, including in the humanitarian field.

"The Security Council expresses grave concern at the situation created by the overcrowded prisons in Rwanda which has resulted in the death of numerous persons in custody, and requests the Secretary-General to consider urgently measures ~~which could be taken quickly in conjunction with the Government of Rwanda and humanitarian agencies to improve the conditions~~ of those in detention or under investigation. The Council emphasizes that the development of the Rwandese justice system continues to be an important factor in creating conditions of security, law and order, conducive to the return of refugees from abroad and of displaced persons to their homes. The Council calls on the international community to assist the Government of Rwanda in re-establishing the justice system as a contribution to confidence-building and the maintenance of law and order.

"The Security Council expresses its appreciation for the action of those States which have arrested and detained persons

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following the adoption of resolution 978 (1995). It urges States, in accordance with that resolution, to arrest and detain persons against whom there is sufficient evidence for acts of genocide before the International Tribunal for Rwanda. It requests the Secretary-General to facilitate the rapid establishment of the Tribunal.

"The Security Council requests the Government of Rwanda to facilitate the delivery and distribution of humanitarian assistance to refugees and displaced persons in need, in conformity with the principles and current practice of the United Nations High Commissioner for Refugees (UNHCR). It invites States and donor agencies to deliver on their earlier commitments and to further increase their assistance. It urges all governments in the region to keep their borders open for this purpose.

"The Security Council appeals to all States to act in accordance with recommendations adopted in the Regional Conference on Assistance to Refugees, Returnees and Displaced Persons in the Great Lakes Region held in Bujumbura in February 1995, in order to contribute to facilitate the return of refugees. The Council welcomes the Dar-es-Salaam trilateral agreement of 12 April 1995 on the voluntary repatriation of Rwandese refugees from the United Republic of Tanzania.

"The Security Council reaffirms the view that an international conference would contribute substantially to peace and security in the subregion. It welcomes the intention of the Secretary-General to carry out consultations with all concerned so that such a conference can be held at the earliest possible date.

"The Security Council will remain seized of the matter."

The meeting, called to order at 4:00 p.m., was adjourned at 4:12 p.m.

In considering the situation in Rwanda, the Security Council had before it the third report of the Secretary-General on security in the Rwandese refugee camps (S/1995/304) and his progress report on the United Nations Assistance Mission for Rwanda (UNAMIR) (S/1995/297).

In the report on the camps, the Secretary-General states that at the beginning of April, the UNHCR had warned that just half of the food needs of the Rwandese refugees were available for that month. The cut in rations had led to the beginnings of malnutrition among women and children, as well as to the belief by refugees that the international community was using food as a weapon to force them to go back home. With the deteriorating food situation in the camps increasingly seen as a sign of serious fatigue on the part of donors, the Secretary-General appealed to donor nations to reverse the situation.

He added that both the Government of Rwanda and the international community were concerned by persistent reports about arms shipments into Goma airport, allegedly for arming the former Rwandese Government forces, as well as by reports about the training of those forces on Zairian territory. The allegations had been rejected by Zaire.

Meanwhile, he added, the deployment of the Zairian Camp Security Contingent and the Civilian Security Liaison Group in the refugee camps had so far had a positive effect and might help prevent attacks on refugees and others.

Since the improvement of security conditions in the camps alone would not ensure the voluntary return of all refugees, their repatriation would depend on the efforts of the Government of Rwanda to promote genuine national reconciliation and ensure that refugees could return without fear of persecution. The Secretary-General also stressed that more rapid and effective assistance from the international community was required.

The report goes on to say that rebuilding the Rwandese justice system was an important factor in encouraging the return of refugees, and the Government should be helped in that regard. While the international community had pledged \$618 million to support the Government's rehabilitation and reconstruction programme, including the rebuilding of the justice system, most of it had not been converted into actual assistance. Meanwhile, most of the contributions to the Trust Fund for Rwanda, some \$4.7 million as of 1 April, were being disbursed to back Rwanda's justice system.

In early April, there were 1.1 million refugees in the camps in Zaire. The immediate effect of the deployment of the security forces (the Zairian Camp Security Contingent and the Civilian Security Liaison Group) had been to facilitate organized repatriation. The number of refugees leaving the Goma camps had risen from 2,000 in January 1995 to 10,000 a month later. Repatriation had fallen substantially in March, however, partly due to reports of increased arrests and detentions inside Rwanda.

The Regional Conference on Assistance to Refugees, Returnees and Displaced Persons in the Great Lakes Region had taken place in mid-February 1995 in Bujumbura. Organized by the Organization of African Unity (OAU) and the UNHCR, it adopted a plan of action, stressing voluntary repatriation as the preferred solution to the refugee problem. It underscored the roles to be played by the countries of origin, the countries of asylum and the international community. It also outlined specific measures needed in that regard.

In a speech to the Conference, the Secretary-General had stressed that there were short- and long-term solutions to the refugee problem. Security in the camps and eradication of intimidation and blackmail of refugees were among the

short-term measures. Solving the problem in the long run required the combined efforts of African governments and the international community with the full involvement of the civil society. To that end, the Conference urged the international community to assist both the asylum countries and countries of origin through concrete measures to alleviate the burden on local communities of the presence of refugees and displaced persons. It also asked the United Nations Development Programme (UNDP) to convene a meeting of donors to coordinate the actions to be taken.

In his report on UNAMIR, the Secretary-General states that the progress achieved in Rwanda in the past nine months was being threatened by renewed tensions. The Government and the international community should help stabilize, reconcile and reconstruct Rwanda. But those goals were likely to remain elusive as long as 2 million Rwandese remained in camps outside their country, he warned. He urged the Government to make more determined efforts to foster a climate of trust and create conditions to encourage refugees and displaced persons not suspected of involvement in the genocide to return to their homes. Also, steps must be taken to bring to trial, at the earliest opportunity, those guilty of genocide.

Recalling that UNAMIR's mandate would expire on 9 June, the Secretary-General stated that his next report to the Council would contain recommendations on the mission's role after that date.

In an overview, the report noted that in the nine months since the new Government took office, the overall situation in Rwanda had improved considerably. The private sector had revived in an atmosphere of relative security and schools had reopened.

In the past two months, however, tensions and frustrations had surfaced and security in the country had deteriorated. Armed saboteurs had reportedly entered Rwanda; more people were being detained by the Government, and there were reports of the armed forces of the former Government being trained and rearmed. As a result, the Rwandese Patriotic Army had tightened security and strengthened its border patrols.

Regarding legal aspects of the situation, the report stated that despite efforts by the Government to follow correct procedures, arrests were sometimes arbitrary and individuals were being held without hope of timely trial proceedings. There were some 27,000 people in Rwanda's overcrowded prisons. Kigali prison, for example, built to hold 1,500 detainees, now had over 7,000 inmates. On 16 March, 24 people had died in a police jail.

END OF PART 2 OF 2  
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FROM DPIIDS

Security Council  
3526th Meeting (PM)

SC/6025  
27 April 1995

PART 1 OF 2

SECURITY COUNCIL CONDEMNS RECENT KILLING OF CIVILIANS IN RWANDA'S KIBEHO CAMP FOR INTERNALLY DISPLACED PERSONS  
Presidential Statement also Welcomes Rwanda's Decision to Set Up Inquiry To Investigate Events; Secretary-General Requested to Report on UNAMIR Role

Condemning the recent killing of numerous civilians in Rwanda's Kibeho Camp for internally displaced persons, the Security Council this afternoon welcomed the Rwandese Government's decision to set up an independent inquiry, with United Nations and other international bodies taking part, to investigate those events.

In a statement read on behalf of Council members by its President, Karel Kovanda (Czech Republic), the Council said it was encouraged by the Government's decision to investigate the events without delay and to bring those responsible to justice. It requested the Secretary-General to report to it without delay on the occurrences and on the role of the United Nations Assistance Mission for Rwanda (UNAMIR).

Expressing its concern at Rwanda's declining security situation, the Council underlined that the Government was primarily responsible for maintaining security, the safety of internally displaced persons and returnees as well as ensuring respect for their human rights.

All States, especially those neighbouring Rwanda, were called upon to refrain from actions that would worsen the security situation in it and to prevent incursions into Rwanda from their territories. The Council made the call after noting with deep concern "disturbing" reports of increased incursions into Rwanda from neighbouring States, allegations of arms shipments into Goma airport and of elements of the former Rwandese Government forces being trained in a neighbouring country.

Also by that statement, the Council invited States and organizations with facts on the transshipment of arms into

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Rwanda through neighbouring

countries -- in violation of the arms embargo imposed by Council resolution 918 (1994) -- to so inform the Committee established by the Council to monitor the embargo. That Committee was requested to consider the information urgently and report to the Council on it.

The Council called on Rwanda's Government to intensify its noteworthy efforts to reconcile, rehabilitate and rebuild the nation. It also called on the international community to continue helping those efforts so as to create a climate of trust and confidence that would assist in the early return of refugees. In that context, it underlined the importance of demining.

Expressing grave concern at the situation created by the overcrowding of prisons in Rwanda which had led to numerous deaths, the Council requested the Secretary-General to urgently consider measures which could be taken quickly along with the Rwandese Government and humanitarian agencies to improve those conditions. Emphasizing the importance of developing Rwanda's justice system to the creation of conditions to encourage the return of refugees and displaced persons, it called on the international community to help the Government re-establish that system.

The Council expressed its appreciation to States that had arrested and detained persons after its adoption of resolution 978 (1995) and further urged them to arrest and detain others responsible for acts within the jurisdiction of the International Tribunal for Rwanda. It requested the Secretary-General to help establish the Tribunal quickly.

Resolution 978 (1995), adopted unanimously last February, urged States to arrest and detain persons in their territory who were suspected of being responsible for acts that could be tried by the International Tribunal. It urged States to act according to their national law and relevant standards of international law, pending prosecution by the International Tribunal or appropriate national authorities.

Also at this afternoon's meeting, the Council urged the Rwandese authorities to proceed with the exchange of letters supplementing the agreement on the status of UNAMIR and its personnel, reflecting the changes in UNAMIR's mandate following from Security Council resolution 918 (1994). It also called for increased cooperation and collaboration between the Government, its neighbours, UNAMIR and other agencies, including in the humanitarian field.

In addition, the Council requested Rwanda's Government to help in the distribution of humanitarian aid to needy refugees and displaced persons in accordance with the United Nations High Commissioner for Refugees (UNHCR) principles and current practice. Inviting States and donor agencies to meet their

commitments and increase their help, it urged governments in the region to keep their borders open for that purpose.

The full text of the statement, to be issued as document S/PRST/1995/22, reads as follows:

"The Security Council has considered the Secretary-General's progress report on the United Nations Assistance Mission for Rwanda (UNAMIR) (S/1995/297, of 9 April 1995), and his third report on Security in Rwandese

Refugee Camps (S/1995/304, of 14 April 1995), as well as the oral briefings from the Secretariat on the tragic events on 22 April 1995 at the Kibeho Camp for internally displaced persons.

"The Security Council condemns the killing of numerous civilians in the camp and is encouraged by the decision of the Government of Rwanda to carry out a full investigation of these events without delay and to bring to justice those responsible. In this regard it welcomes the decision of the Rwandese authorities to establish an independent inquiry with United Nations and other international participation to carry out this investigation of the events. The Council also requests the Secretary-General to report to it, without delay, on these events and on the role of UNAMIR.

"The Security Council is concerned by the generally deteriorating security situation in Rwanda. It underlines that the Government of Rwanda bears primary responsibility for maintaining security throughout the country and for the safety of internally displaced persons and returnees, as well as for ensuring respect for their basic human rights. In this context it reaffirms the need for coordination between the Government of Rwanda and UNAMIR and other agencies on these matters. The Council does, however, note with satisfaction that the Government of Rwanda has in previous months made considerable efforts directed at national reconciliation, rehabilitation and reconstruction, which are of crucial importance. The Council calls on the Government of Rwanda to intensify these efforts and on the international community to continue to support those efforts, in order to bring about a climate of trust and confidence which would assist in the early and safe return of refugees. In this context, it underlines the importance it attaches to demining, including the United Nations proposal.

"The Security Council notes with deep concern disturbing reports of increased incursions into Rwanda from neighbouring countries, allegations of arms shipments into the Goma airport and of elements of the former Rwandese Government forces being trained in a neighbouring country. It calls upon all States, especially those neighbouring Rwanda, to refrain from any action that would further exacerbate the security situation in that country and to prevent incursions into Rwanda from their own territories. The Council invites States and organizations which have information on the transport of arms into countries neighbouring Rwanda for the purpose of their use in Rwanda in

contravention of resolution 918 (1994) to pass that information to the Committee established under resolution 918 (1994) and requests the Committee to consider that information as a matter of urgency and to report thereon to the Security Council.

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FROM DPIIDS

Security Council  
3526th Meeting (PM)

SC/6025  
27 April 1995

PART 2 OF 2

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"The Security Council pays tribute to all members of UNAMIR.  
It reaffirms that UNAMIR constitutes one essential factor for creating a climate of confidence and for promoting stability and security. In this context, it underlines the responsibility of the Government of Rwanda for the safety and security of all UNAMIR personnel and other international staff serving in the country. It urges the Rwandese authorities to proceed with the exchange of letters supplementing the agreement on the status of UNAMIR and its personnel, reflecting the changes in UNAMIR's mandate following from Security Council resolution 918 (1994). The Council calls for increased cooperation and collaboration between the Government of Rwanda, its neighbouring countries and UNAMIR as well as other agencies, including in the humanitarian field.

"The Security Council expresses grave concern at the situation created by the overcrowded prisons in Rwanda which has resulted in the death of numerous persons in custody, and requests the Secretary-General to consider urgently measures which could be taken quickly in conjunction with the Government of Rwanda and humanitarian agencies to improve the conditions of those in detention or under investigation. The Council emphasizes that the development of the Rwandese justice system continues to be an important factor in creating conditions of security, law and order, conducive to the return of refugees from abroad and of displaced persons to their homes. The Council calls on the international community to assist the Government of Rwanda in re-establishing the justice system as a contribution to confidence-building and the maintenance of law and order.

"The Security Council expresses its appreciation for the action of those States which have arrested and detained persons

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following the adoption of resolution 978 (1995). It urges States, in accordance with that resolution, to arrest and detain persons against whom there is sufficient evidence for acts of genocide under the International Tribunal for Rwanda. It requests the Secretary-General to facilitate the rapid establishment of the Tribunal.

"The Security Council requests the Government of Rwanda to facilitate the delivery and distribution of humanitarian assistance to refugees and displaced persons in need, in conformity with the principles and current practice of the United Nations High Commissioner for Refugees (UNHCR). It invites States and donor agencies to deliver on their earlier commitments and to further increase their assistance. It urges all governments in the region to keep their borders open for this purpose.

"The Security Council appeals to all States to act in accordance with recommendations adopted in the Regional Conference on Assistance to Refugees, Returnees and Displaced Persons in the Great Lakes Region held in Bujumbura in February 1995, in order to contribute to facilitate the return of refugees. The Council welcomes the Dar-es-Salaam trilateral agreement of 12 April 1995 on the voluntary repatriation of Rwandese refugees from the United Republic of Tanzania.

"The Security Council reaffirms the view that an international conference would contribute substantially to peace and security in the subregion. It welcomes the intention of the Secretary-General to carry out consultations with all concerned so that such a conference can be held at the earliest possible date.

"The Security Council will remain seized of the matter."

The meeting, called to order at 4:00 p.m., was adjourned at 4:12 p.m.

In considering the situation in Rwanda, the Security Council had before it the third report of the Secretary-General on security in the Rwandese refugee camps (S/1995/304) and his progress report on the United Nations Assistance Mission for Rwanda (UNAMIR) (S/1995/297).

In the report on the camps, the Secretary-General states that at the beginning of April, the UNHCR had warned that just half of the food needs of the Rwandese refugees were available for that month. The cut in rations had led to the beginnings of malnutrition among women and children, as well as to the belief by refugees that the international community was using food as a weapon to force them to go back home. With the deteriorating food situation in the camps increasingly seen as a sign of serious fatigue on the part of donors, the Secretary-General appealed to donor nations to reverse the situation.

He added that both the Government of Rwanda and the international community were concerned by persistent reports about arms shipments into Goma airport, allegedly for arming the former Rwandese Government forces, as well as by reports about the training of those forces on Zairian territory. The allegations had been rejected by Zaire.

Meanwhile, he added, the deployment of the Zairian Camp Security Contingent and the Civilian Security Liaison Group in the refugee camps had so far had a positive effect and might help prevent attacks on refugees and others.

Since the improvement of security conditions in the camps alone would not ensure the voluntary return of all refugees, their repatriation would depend on the efforts of the Government of Rwanda to promote genuine national reconciliation and ensure that refugees could return without fear of persecution. The Secretary-General also stressed that more rapid and effective assistance from the international community was required.

The report goes on to say that rebuilding the Rwandese justice system was an important factor in encouraging the return of refugees, and the Government should be helped in that regard. While the international community had pledged \$618 million to support the Government's rehabilitation and reconstruction programme, including the rebuilding of the justice system, most of it had not been converted into actual assistance. Meanwhile, most of the contributions to the Trust Fund for Rwanda, some \$4.7 million as of 1 April, were being disbursed to back Rwanda's justice system.

In early April, there were 1.1 million refugees in the camps in Zaire. The immediate effect of the deployment of the security forces (the Zairian Camp Security Contingent and the Civilian Security Liaison Group) had been to facilitate organized repatriation. The number of refugees leaving the Goma camps had risen from 2,000 in January 1995 to 10,000 a month later. Repatriation had fallen substantially in March, however, partly due to reports of increased arrests and detentions inside Rwanda.

The Regional Conference on Assistance to Refugees, Returnees and Displaced Persons in the Great Lakes Region had taken place in mid-February 1995 in Bujumbura. Organized by the Organization of African Unity (OAU) and the UNHCR, it adopted a plan of action, stressing voluntary repatriation as the preferred solution to the refugee problem. It underscored the roles to be played by the countries of origin, the countries of asylum and the international community. It also outlined specific measures needed in that regard.

In a speech to the Conference, the Secretary-General had stressed that there were short- and long-term solutions to the refugee problem. Security in the camps and eradication of intimidation and blackmail of refugees were among the

short-term measures. Solving the problem in the long run required the combined efforts of African governments and the international community with the full involvement of the civil society. To that end, the Conference urged the international community to assist both the asylum countries and countries of origin through concrete measures to alleviate the burden on local communities of the presence of refugees and displaced persons. It also asked the United Nations Development Programme (UNDP) to convene a meeting of donors to coordinate the actions to be taken.

In his report on UNAMIR, the Secretary-General states that the progress achieved in Rwanda in the past nine months was being threatened by renewed tensions. The Government and the international community should help stabilize, reconcile and reconstruct Rwanda. But those goals were likely to remain elusive as long as 2 million Rwandese remained in camps outside their country, he warned. He urged the Government to make more determined efforts to foster a climate of trust and create conditions to encourage refugees and displaced persons not suspected of involvement in the genocide to return to their homes. Also, steps must be taken to bring to trial, at the earliest opportunity, those guilty of genocide.

Recalling that UNAMIR's mandate would expire on 9 June, the Secretary-General stated that his next report to the Council would contain recommendations on the mission's role after that date.

In an overview, the report noted that in the nine months since the new Government took office, the overall situation in Rwanda had improved considerably. The private sector had revived in an atmosphere of relative security and schools had reopened.

In the past two months, however, tensions and frustrations had surfaced and security in the country had deteriorated. Armed saboteurs had reportedly entered Rwanda; more people were being detained by the Government, and there were reports of the armed forces of the former Government being trained and rearmed. As a result, the Rwandese Patriotic Army had tightened security and strengthened its border patrols.

Regarding legal aspects of the situation, the report stated that despite efforts by the Government to follow correct procedures, arrests were sometimes arbitrary and individuals were being held without hope of timely trial proceedings. There were some 27,000 people in Rwanda's overcrowded prisons. Kigali prison, for example, built to hold 1,500 detainees, now had over 7,000 inmates. On 16 March, 24 people had died in a police jail.

END OF PART 2 OF 2  
DISSEMINATION/DPI



## Security Council

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## REPORT OF THE SECRETARY-GENERAL ON THE SITUATION IN RWANDA

## I. INTRODUCTION

1. The present report is submitted in pursuance of paragraphs 17 and 11 of Security Council resolutions 925 (1994) of 8 June 1994 and 929 (1994) of 22 June 1994 respectively, by which the Council requested the Secretary-General to report to it by 9 August on the progress made by the United Nations Assistance Mission for Rwanda (UNAMIR) in the discharge of its mandate, the safety of the population at risk, the humanitarian situation and progress towards a cease-fire and political reconciliation, as well as the deployment of the expanded UNAMIR. The Secretariat presented an oral report to the Council on 7 July pursuant to paragraph 10 of resolution 929 (1994), when the Council was also informed of the arrival at Kigali on 4 July of my new Special Representative, Mr. Shiharyar Khan. Members of the Council have also seen my letter of 1 August 1994 to the President of the Council (S/1994/923) about UNAMIR'S requirements for additional troops and equipment. The present report is based on information available to the Secretariat up to 1 August 1994.

2. Since the adoption of resolutions 925 (1994) and 929 (1994), the situation in Rwanda has been transformed. The Rwandese Patriotic Front (RPF) has established military control over most of the country. About 1.5 million Rwandese sought refuge in Zaire over a two-week period in July creating a humanitarian crisis of catastrophic proportions. The former "interim Government" fled, and on 19 July a broad-based Government of national unity was formed.

## II. MILITARY SITUATION

3. The RPF forces took full control of Kigali, the capital, on 4 July, of Butare, the second largest city, on 5 July, and of the former Government's stronghold, Ruhengeri, on 14 July. The retreating Rwandese Government forces concentrated in and around Gisenyi in the north-west, soon withdrawing into Zaire. On 17 July RPF took Gisenyi and on 18 July it unilaterally declared a cease-fire, effectively ending the civil war which had broken out immediately after the death of the presidents of Rwanda and Burundi in a suspicious air crash, on 6 April, which led to country-wide massacres of the Hutu opposition

and intelligentsia, as well as members of the Tutsi minority and other RPF supporters.

4. As the Security Council is aware, the foremost priority of UNAMIR since the start of the crisis was to bring about a cease-fire and a halt to the carnage. The Force Commander, Major-General Romeo Dallaire, had intensified those efforts since early June, when the two sides initiated cease-fire talks at the military level under UNAMIR's auspices. My new Special Representative made this his first priority upon his arrival at Kigali, establishing direct contact with the leadership of both parties and emphasizing the importance of achieving an immediate cease-fire, especially with a view to preventing further exacerbation of the humanitarian crisis. However, cease-fire negotiations remained stalled until the fall of Gisenyi on 17 July, by which time over a million Rwandese refugees had crossed into Zaire.

5. Although the Deputy Force Commander, Brigadier General Henry Anyidoho, had previously succeeded in bringing the two sides together on most of the requirements for a cease-fire, their insistence on including rigid conditions prevented the conclusion of an agreement. On the side of the Rwandese government forces, guarantees were demanded that RPF was not willing to give, while RPF insisted on prior measures to halt the continuing massacres, which the Rwandese government forces professed themselves unable to take. There was also a strong indication that RPF was not prepared for a cease-fire until it had secured its military goals. While at first these appeared to be the control of as much territory as it could secure, the crumbling of the fighting capacity of the Rwandese government forces from late June onwards evidently encouraged RPF to intensify its offensive and take control not only of the capital, but also of the rear areas of the Rwandese government forces up to the Zairian border. Only the "humanitarian protected zone" established by the French task force, "Operation Turquoise" (see para. 7 below), did not come under the control of RPF.

6. The swift RPF advance had the effect of causing large numbers of civilians to take flight from the areas of combat. This displacement of the population might well have been containable, had not panic been caused by deliberately inflammatory broadcasts from radio stations controlled by the "interim Government". These provoked a massive stampede of refugees across the border into Zaire in the north-west, overwhelming humanitarian agencies and non-governmental organizations (NGOs) whose preparations had anticipated the simultaneous movement of refugees further south. Virtually all the Rwandese government forces retreated in disarray into Zaire, where they no longer comprise an organized fighting force, most of the personnel reportedly having been disarmed by the Zairian authorities, though there are disturbing reports that they are trying to prevent refugees from returning to Rwanda. Thus, for the present, the fighting in Rwanda has ended, with no significant military operations being reported since 18 July.

7. In the course of these events, the Government of France announced on 20 June 1994 its intention to dispatch a force to the region, based in Zaire but operating inside Rwanda, to provide protection to the large number of civilians uprooted from their homes by the fighting, many of whom had fled into Zaire. This operation was authorized by the Security Council, under Chapter VII of the

Charter of the United Nations, in resolution 929 (1994). On 2 July, France announced that Operation Turquoise would establish a "humanitarian protected zone" in the Cyangugu-Kibuye-Gikongoro triangle in south-western Rwanda, covering about one fifth of Rwandese territory. While expressing its strong opposition to the French move, RPF did not seek confrontation with French forces which, on their side, avoided provocation. From the start, close cooperation at all levels was established between UNAMIR and Operation Turquoise with frequent contact between both force commanders. UNAMIR liaison officers were immediately stationed at the headquarters of the French force at Goma, Zaire, with a French liaison office later being established at UNAMIR headquarters at Kigali. Resolution 929 (1994) had authorized the deployment of the French force until 21 August 1994, and, on 11 July, the Prime Minister of France informed the Council and me of the French Government's decision to commence its withdrawal by 31 July.

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### III. HUMANITARIAN SITUATION

8. The protracted violence in Rwanda has created an almost unprecedented humanitarian crisis. Of a total population of approximately 7 million, as many as 500,000 people have been killed, 3 million displaced internally and more than 2 million have fled to neighbouring countries. Although the flight of people seems to have slowed, the situation remains volatile and extremely fluid. Of particular concern is the possibility of another massive outflow from the humanitarian protected zone in south-west Rwanda when the French forces withdraw.

9. The international community is confronted with four basic humanitarian challenges: to respond to the immediate life-saving needs of refugees; to facilitate the early return of those who have fled their homes; to restore basic infrastructure in Rwanda; and to ensure a smooth transition in the humanitarian protected zone established by French forces.

10. It is hard to describe the horrors faced by those who have fled Rwanda, many of them inspired by propaganda radio broadcasts whose purpose has been to spread fear among the population. The pace of developments and the sheer number of people overwhelmed the capacities of the humanitarian organizations, which were striving valiantly against impossible odds. An outbreak of cholera has already claimed as many as 20,000 lives and remains a continuing threat. Thousands of corpses remain unburied, posing health hazards and endangering ground water sources in the area. The logistics of arranging the daily supply and distribution of 30 million litres of drinking water and 1,000 tons of food are daunting.

11. There is consensus on the necessity of promoting and facilitating the early return of Rwandese to their homes. This is essential given the conditions in the refugee camps and the need within the next two weeks to harvest the crops which traditionally supply 60 per cent of Rwanda's yearly caloric intake. This will require confidence-building measures among the refugees, the establishment of transit depots and the prepositioning of humanitarian supplies. I am deeply disturbed by reports that persons and groups from the former "interim Government" and the Rwandese government forces are intimidating refugees in the

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Goma camps to prevent them from returning to Rwanda by telling them that they face torture and death at the hands of RPF troops if they do so.

12. The civil conflict in Rwanda has destroyed the country's infrastructure. Short- and medium-term rehabilitation is essential for the absorption of the returnee population as well as the resettlement of the internally displaced. The restoration of electricity, the water supply and telecommunications are the minimum actions needed. It is also important to restore the capacity of the Government to carry out its responsibilities.

13. It is estimated that there are as many as 2 million internally displaced persons in the humanitarian protected zone in south-west Rwanda. An outflow of this group into Zaire would eclipse the current horrors of Goma. To prevent this from happening, it is necessary to ensure the capacity of UNAMIR to take over responsibility in this area and to increase the humanitarian presence and activities there.

14. The actions outlined above must be pursued simultaneously. Failure to respond adequately in any one area of need will weaken the effectiveness of actions in the other interrelated areas.

15. To respond to this complex situation, the United Nations humanitarian organizations, under the leadership of the United Nations Rwanda Emergency Office, have prepared a United Nations Consolidated Inter-Agency Appeal for Persons Affected by the Crisis in Rwanda covering emergency and rehabilitation needs until the end of the current year. To support these urgent activities US\$ 434.8 million are required. In launching this appeal on 22 July, I urged the international community to contribute generously and in a timely manner to ensure that vital humanitarian programmes could be implemented. A pledging conference was convened in Geneva on 2 August. I am encouraged by the initial positive response from Governments and, indeed, from ordinary people willing to help, and would like to thank those countries that have already made significant contributions.

16. At my request, the Under-Secretary-General for Humanitarian Affairs, Mr. Peter Hansen, undertook a mission to Rwanda and to the neighbouring region from 24 to 28 July. He was accompanied by senior representatives of all principal United Nations humanitarian organizations as well as from the NGO community. During his mission, Mr. Hansen carried out an assessment of the humanitarian situation and took a number of measures to ensure that the necessary coordination arrangements were in place. These include a clear division of responsibilities among the organizations of the United Nations system, an overall strategy to meet this extraordinary humanitarian challenge, as well as a decision to move the headquarters of the United Nations Rwanda Emergency Office from Nairobi to Kigali.

17. Along with my Special Representative in Rwanda, Mr. Hansen met with Vice President Kagame and other senior officials of the new Government in Rwanda to discuss how humanitarian aid could be delivered to all parts of the country and the urgent steps required to re-establish a climate conducive to the return of refugees and displaced persons. It is reassuring that the new Government has indicated its commitment to encourage people to return to Rwanda, to ensure



their protection and to permit full access to all those in need throughout the country. Refugees have already started to return to Rwanda.

18. I should like to express my appreciation to all the relief personnel, who are working in extremely difficult conditions to meet a humanitarian challenge of this scale. The courageous staff of UNAMIR and the French-led multinational force have played and continue to play a critical role in saving lives and protecting people. I would also like to pay tribute to those neighbouring countries that have accepted and protected Rwandese refugees. Their generosity has made a difference between life and death for millions of fellow human beings in need. At this time, it is essential that the international community mobilize the necessary resources to enable humanitarian organizations to maintain and increase deliveries of urgently needed assistance.

#### IV. REVISED OPERATIONAL PLANS OF UNAMIR

19. I have already informed the Council in my letter of 1 August of the deplorable delays in the reinforcement of UNAMIR as authorized by resolution 918 (1994) of 17 May 1994. I shall not repeat my comments beyond stressing that the failure of Member States to reinforce the military component of UNAMIR with the necessary speed severely limited its capacity to reduce the human suffering that accompanied the civil conflict and the deliberate massacres of civilians, mainly members of the Hutu opposition and supporters of RPF.

20. With the situation on the ground in Rwanda having changed radically over the past few weeks, UNAMIR has adjusted its operational plans to cope with the altered circumstances within the framework of the mandate established by the Security Council in its resolution 925 (1994). UNAMIR's principal tasks are now as follows:

(a) To ensure stability and security in the north-western and south-western regions of Rwanda;

(b) To stabilize and monitor the situation in all regions of Rwanda in order to encourage the return of refugees and the displaced population;

(c) To provide security and support for humanitarian assistance operations inside Rwanda as humanitarian organizations arrange the return of refugees;

(d) To promote, through mediation and good offices, national reconciliation in Rwanda.

21. Even with the severely limited resources possessed by UNAMIR, the Mission has already taken action. It has deployed a company along the border near Goma, Zaire as well as a number of observers in that region and in the zone controlled by Operation Turquoise. In the expectation that UNAMIR will eventually receive the 5,500 troops authorized by the Security Council, the Force Commander has planned deployment in five sectors, as indicated in the map annexed to the present report and as follows:

- (a) Sector I (north-east): 1 engineer company;
- (b) Sector II (south-east): 1 reinforced motorized company;
- (c) Sector III (south): 1 reinforced motorized company;
- (d) Sector IV (south-west): 3 mechanized/motorized infantry battalions;
- (e) Sector V (north-west): 1 mechanized/motorized infantry battalion.

22. The Force headquarters would remain at Kigali, with the minimum units required for protection, along with specialized units for communications and logistics, as well as the field hospital. United Nations military observers and United Nations civilian police monitors would be deployed in all sectors according to operational requirements.

23. The principal areas of concern are in the north-west to resettle returning refugees, and in the south-west to avert possible outbreaks of violence. The north-western sector borders Zaire near the vast throng of over a million Rwandese refugees assembled there in the harshest of conditions. It is known that substantial numbers of the former Rwandese government forces and militia, as well as extremist elements suspected of involvement in the massacres of the Hutu opposition and RPF supporters, are mingled with the refugees in Zaire and are reportedly trying to prevent their return. A more volatile situation prevails in the south-west, where armed elements of the Rwandese government forces have sought refuge in the French-protected zone. Furthermore, these are the two regions through which refugees will transit as they return from Zaire. Large numbers of refugees are also expected to return from Tanzania into sectors I and II, and a substantial number from Burundi into sectors II and III, but these three sectors are not expected to present the problems anticipated in sectors IV and V.

24. The situation in sector IV is particularly pressing in view of the anxiety of the French Government to complete its withdrawal by 21 August. In discussions with UNAMIR, the new Rwandese Government has indicated that it will not insist on taking control of this area immediately, provided that UNAMIR will ensure its stability. For this purpose, it would be imperative that UNAMIR be able to deploy the three battalions intended for this sector. Should they not be available, UNAMIR would have to go into the zone with depleted strength and threadbare equipment. The new Government, so far, has refused to accept that UNAMIR should include troops from some African countries participating in Operation Turquoise, but it may be possible to persuade it to permit these troops, along with their equipment, to remain. In that case, it is hoped that France will be prepared to lease some of the equipment being used by Operation Turquoise.

#### V. POLITICAL ASPECTS

25. The Arusha Peace Agreement (see A/48/824-S/26915) was signed a year ago in the hope that the political balance it stipulated would bring lasting stability to Rwanda through a pluralist approach of a transitional government, which would

include the numerous parties that had emerged, leading to elections. Both the "interim Government", established immediately after the death of President Habyarimana on 6 April, as well as RPF, professed some commitment to the principles of the Arusha agreement. However, the "interim Government" took the position that the agreement was based on the fallacious premise that the historic ethnic animosity between the majority Hutu and the minority Tutsi could be resolved by a political formula; the only solution would be an arrangement which could guarantee the rights not only of the minority but also of the majority so that one would not fear domination by the other; this could be achieved neither through military means nor through simple elections. For its part, RPF maintained that while it remained committed to the Arusha principles of a pluralist political compromise, the deliberate subversion of the Arusha process by extremist Hutu elements and their planned and deliberate massacres of Tutsi and moderate Hutu called for changes in the Arusha formula to ensure that this could not occur again.

26. For the present, RPF has not only military but also political control of the country, other than the area controlled by Operation Turquoise, and it installed a broad-based Government of National Unity on 19 July 1994 for a transitional period of five years. It has excluded the former governing party, the Mouvement révolutionnaire national pour le développement, as well as an openly anti-Tutsi party the Coalition pour la défense de la République, which was not included in the transitional government established by the Arusha agreement. In the present transitional Government, the post of President, reserved for the Mouvement révolutionnaire national pour le développement in the Arusha agreement, has been allocated to Mr. Pasteur Bizimungu of RPF, and the post of Vice President, not provided for in the Arusha agreement, has been allocated to Major-General Paul Kagame, military commander of RPF who is also Minister of Defence. The Prime Minister is Mr. Faustin Twagiramungu of the Mouvement démocratique républicain and the Deputy Prime Minister is Colonel Alexis Kanyarengwe of RPF. Other portfolios have been allocated to these two parties as well as the Parti socialiste démocrate, the Parti démocrate chrétien and the Parti libéral, all of which were members of the previous transitional Government.

27. Since taking office, President Bizimungu has met with President Mobutu of Zaire, President Mwinyi of Tanzania, President Museveni of Uganda and the Interim President of Burundi, Mr. Ntibantunganya. The Rwandese leadership is encouraging refugees to return to Rwanda by publicizing the following assurances:

(a) Refugees need not fear persecution or reprisals. Refugees returning from Goma will not be screened;

(b) Refugees and displaced persons can return to their homes, properties, farms, etc. If these have been occupied by others, unauthorized occupants will be forcibly ejected. Uganda-based refugees returning to Rwanda have no right to assert their claims by dispossessing Rwandese of their legal rights;

(c) Criminals will be prosecuted according to a process of law. The United Nations should appoint the Commission of Experts established by resolution 935 (1994), which should urgently begin its investigation;

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(d) The Government is encouraging civilian officials and army personnel to return;

(e) The Government will give full cooperation to United Nations efforts to encourage refugee return by reopening Kigali airport, permitting the establishment of a United Nations radio station and facilitating freedom of movement for United Nations personnel carrying out their functions.

28. It is evident that the highest priority at the moment is the resolution of the massive humanitarian crisis caused by the refugees in Zaire and the displaced persons in Rwanda and the establishment of conditions of security and normalcy to encourage and enable these unfortunate people to return to their homes. Only then can the new Government ensure stable conditions in the country. Political discussions with moderate elements of the Mouvement révolutionnaire national pour le développement to work out political arrangements for the long-term stability of Rwanda should, however, begin as soon as possible.

#### VI. OBSERVATIONS

29. The agony of a small country which is having to endure the massacre of a substantial portion of its population and the displacement of half the survivors is one of the most hideous events in recent times. It is all the more tragic that the international community hesitated for so long to intervene, despite the fact that most of its Member States have signed the Convention on the Prevention and Punishment of the Crime of Genocide. As I remarked in my report of 31 May (S/1994/640), by our failure we have acquiesced in the horrifying loss of human life and the suffering of an entire people. To make amends, the international community, at the very least, must ensure that, through the efforts of the Commission on Human Rights, the United Nations High Commissioner for Human Rights and the Commission of Experts established by Security Council resolution 935 (1994) of 1 July 1994, those individuals responsible in their personal and official capacities for unleashing and instigating this cataclysm are brought to justice.

30. As regards the Commission of Experts, my report of 26 July 1994 (S/1994/879) set out its mandate. I have requested it to provide me, not later than 30 November 1994, with its conclusions on evidence of specific violations of international humanitarian law and acts of genocide, on the basis of which identification of the persons responsible for those violations could be made. The Commission is also empowered to examine the question of the jurisdiction, international or national, before which such persons should be brought to trial. I have appointed the following persons to serve as members of the Commission: Mr. Atsu-Koffi Amega, Chairman (Togo), Mrs. Habi Dieng (Guinea) and Mr. Salifou Fomba (Mali).

31. It is incumbent upon the international community to do everything in its power to alleviate the appalling human suffering in the refugee camps in Zaire, as well as in Tanzania, Uganda and Burundi, and to enable refugees and displaced persons to return to their homes or other safe areas in reasonable security. In this connection, I am grateful to those Governments that have decided to deploy

troops to Rwanda and/or Zaire in order to provide critically needed logistic support to the humanitarian effort. At the same time, I am becoming concerned by the problems of coordination that will arise if several foreign forces under national command are working along side UNAMIR, which is under United Nations command, and the forces loyal to the new Government. Ideally, all foreign forces engaged in support of the humanitarian effort should be part of UNAMIR. If this is not possible, I would urge that the deployment of the foreign forces should be authorized by the Security Council, even if their mandate is purely humanitarian, and that formal liaison arrangements should be established between them and UNAMIR, as has been the case with Operation Turquoise.

32. Governments which possess the necessary resources are also urged to apply them toward the reconstruction and rehabilitation needed to bring Rwanda to its feet again. I commend those Governments that are already beginning to provide these forms of tangible assistance.

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33. The recently installed Government in Rwanda also bears responsibility for bringing its people together again in national reconciliation. Even in the wake of the tragedy that it has confronted, it must show magnanimity and not allow its military success to create a desire for permanent dominance. It must ensure that there are no reprisals. It must enable families to regain their homes and individuals to return to their professions and livelihoods. It must accept in the national army those soldiers of the former armed forces and gendarmerie who did not deliberately engage in wanton killings. It must install an equitable and transparent system of justice to try those suspected of instigating or participating in the massacres of their compatriots.

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34. These are overwhelming tasks for a fledgling Government which has taken power in a wrecked and devastated country. In addition to the urgent humanitarian needs and help in reconstruction and rehabilitation, the Government will also require assistance in re-establishing systems of administration, justice, police, finance, education and health and all the other responsibilities a Government must discharge. I hope that Governments will make this available on a bilateral basis or through the United Nations system. But, ultimately, it is the Rwandese who must assume these tasks, and this can only be done if the Government commits itself to genuine and full reconciliation.

35. The ultimate political aim must be the installation of a broad-based system of government that will give all elements of society, irrespective of ethnic origin or social level, a sense of security and a stake in the country. The Arusha agreement still provides principles and a broad framework for establishing such a system. The Organization of African Unity and the United Republic of Tanzania, which were instrumental in the negotiation of the Arusha agreement, will have a special role to play. Rwanda's four neighbours also have a special responsibility to promote stability in this recuperating country and to ensure that their territories are not used for further destabilization. It is gratifying to note that the new Government has established cordial contacts with all four neighbours. All countries in the region must work to ensure that the repercussions of the crisis in Rwanda do not strike at Burundi, for this could destabilize the entire region.

36. In conclusion, I should like to commend my former Special Representative, Mr. Jacques-Roger Booh-Booh, and my new Special Representative, Mr. Shaharyar Khan, as well, as the personnel of UNAMIR, who have worked with dedication under the most demanding conditions. I must especially commend the Force Commander, Major-General Dallaire, for his outstanding leadership. In ending, I extend on my own behalf and on behalf of all members of the United Nations our heartfelt condolences to all in Rwanda who have lost members of their families in what would have been a nightmare had it not actually come to pass.

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## REPORT OF THE SECRETARY-GENERAL ON THE SITUATION IN RWANDA

## I. INTRODUCTION

1. The present report is submitted in response to the letter of the President of the Security Council of 6 May 1994 (S/1994/546), requesting me to provide indicative contingency planning with regard to the delivery of humanitarian assistance as well as support to displaced persons in Rwanda.

2. It will be recalled that the resumption of the civil conflict following the tragic events of 6 April 1994, and the ensuing violence and massacres, created a situation that called into question the ability of the United Nations Assistance Mission for Rwanda (UNAMIR) to carry out its mandate under Security Council resolution 872 (1993) of 5 October 1993. Hence, with Council resolution 912 (1994), adopted on 21 April 1994, the Security Council authorized the adjustment of UNAMIR's mandate (a) to act as an intermediary between the parties in an attempt to secure their agreement to a cease-fire; (b) to assist in the resumption of humanitarian relief operations to the extent feasible; and (c) to monitor and report on developments in Rwanda, including the safety and security of the civilians who sought refuge with UNAMIR. In compliance with resolution 912 (1994), the force was sharply reduced, and now stands at 444, all ranks, in Rwanda, and 179 military observers at Nairobi pending repatriation or redeployment to the Mission. Reductions to the authorized level have been suspended pending the outcome of the ongoing consideration by the Council.

3. The situation in Rwanda remains highly unstable and insecure, with widespread violence. Combat between the Rwandese government forces and the Rwandese Patriotic Front (RPF) continues, even though both the Rwandese government forces and RPF have separately expressed their readiness to enter into a cease-fire. The Rwandese government forces controls the west and south-western parts of Rwanda, while RPF is in control of the northern and eastern parts of the country, as well as areas in the south-east. The capital, Kigali, is divided between the Rwandese government forces and RPF, but the front line is fluid and changing as military actions continue. The Rwandese government forces continue to control the airport but hostilities in its vicinity interrupt its operations from time to time. Armed militia and other unruly elements continue to operate, although less frequently than at the beginning of the conflict, killing and terrorizing innocent civilians. It is estimated that nearly 2 million persons have been displaced, seeking safer places within Kigali, in



various regions of the country and in border areas in neighbouring countries, principally the United Republic of Tanzania. Under these conditions, a major humanitarian crisis has developed.

## II. POLITICAL ASPECTS

4. In accordance with resolution 912 (1994), and in support of the efforts of the Organization of African Unity (OAU), the United Republic of Tanzania, in its capacity as the facilitator of the Arusha peace process, and other interested parties, my Special Representative, Mr. Jacques-Roger Booh-Booh, and the UNAMIR Force Commander, Major-General Romeo Dallaire, have undertaken, both inside Rwanda and at Arusha, all possible efforts since the resumption of the conflict to bring about a cease-fire agreement between the parties. Unfortunately, their efforts have been of no avail, but they are determined to persevere. Obviously, a cease-fire agreement is the first step in establishing a stable and secure environment in the country, thus allowing the organized, coordinated and secure delivery of humanitarian assistance and the reactivation of the Arusha peace process. In the prevailing conditions, however, it is essential that the United Nations consider what measures it can take even before a cease-fire is achieved.

## III. HUMANITARIAN ASPECTS

5. Given the pace of developments and the security situation, it has not been possible to assess accurately the humanitarian situation in Rwanda. However, early reports indicate that there are 250,000 displaced persons in the north, 65,000 in the east, and 1,200,000 in the south and south-west. Although there are some concentrations, the internally displaced appear to be widely scattered. At Kigali itself, some 30,000 displaced persons have taken refuge in public places and religious sanctuaries, where they are running out of food, water and basic medical supplies. The Office of the United Nations High Commissioner for Refugees (UNHCR) estimates that 80,000 of the original 272,000 refugees from Burundi have remained in Rwanda. This situation is complicated by the fact that, prior to the war, some 1.2 million drought-affected people in the south who required emergency food assistance had been identified. In neighbouring countries, the Rwandese refugee population is estimated at more than 300,000, and UNHCR reports that as many as 1,500 refugees continue to arrive daily in the United Republic of Tanzania. It is most important that the basic humanitarian needs of these populations are met as soon as possible.

6. The Department of Humanitarian Affairs of the Secretariat has established the United Nations Rwanda Emergency Office (UNREO), in collaboration with the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF), UNHCR, the World Food Programme (WFP), the World Health Organization (WHO) and the Food and Agriculture Organization of the United Nations (FAO). The office, temporarily located at Nairobi, has overall responsibility for coordinating humanitarian relief activities, including the prepositioning of relief supplies. Close coordination with the non-governmental organizations (NGOs), other international organizations and bilateral donors concerned is an essential part of the work of the office. An advance humanitarian assistance team has been positioned at Kigali to work with UNAMIR in carrying out

humanitarian operations and to advise in the expansion of activities where the situation permits. Other sub-offices in Rwanda or neighbouring countries are envisaged. A "flash" appeal covering immediate emergency assistance needs totalling about \$16 million was issued on 25 April 1994.

7. In spite of the difficulties, limited emergency operations have been initiated. For example, medical and nutritional supplies from UNICEF have been distributed in Kigali. WFP has been able to deliver more than 500 tons of food in the north and 840 tons in the south. Currently, three NGOs are active in Rwanda. Médecins sans Frontières is active in the north and Médecins du Monde is active in the south. The International Committee of the Red Cross (ICRC) has remained without interruption in Rwanda, focusing on emergency medical care and carrying out food deliveries in the north and south and in Kigali. UNAMIR has assisted in the delivery of food and other relief supplies to displaced persons in the Kigali area and has provided security for the activities of the advance team and NGOs. UNHCR is responding to the needs of refugees in neighbouring countries.

8. The United Nations humanitarian organizations, in consultation with UNAMIR and ICRC, have agreed on the following principles, which should serve as the basis for humanitarian operations in Rwanda:

(a) Ensuring the security of relief staff (both national and international), the beneficiaries of relief assistance and of the relief materials themselves;

(b) Joint identification by the responsible authorities and the respective United Nations humanitarian organizations of distribution sites;

(c) Clear identification of interlocutors from the side of the authorities for the humanitarian aid organizations to liaise with regarding humanitarian operations, both at a central level as well as at the field level;

(d) Acceptance by the responsible authorities of the monitoring and reporting responsibilities of the United Nations organizations regarding the distribution and use of relief materials;

(e) An understanding that aid should be provided based on need, regardless of race, ethnic group, religion or political affiliation.

9. These principles have been submitted to the Rwandese government forces and RPF authorities for approval. The Rwandese government forces have formally notified the Humanitarian Coordinator of its agreement. RPF has also agreed to these principles.

10. While it is too early to present fully developed operational plans for the distribution of humanitarian assistance in Rwanda, the basic effort will be to respond to the urgent needs of all affected persons in all parts of the country whenever conditions so permit. With the consent of appropriate authorities in neighbouring countries, it is envisaged that extensive cross-border operations will be utilized to transport relief supplies. The detailed operational plans will take into account the need to avoid, as far as possible, further

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displacement of the population. The objective will be to deliver assistance to the distressed in their existing locations, provided that these sites can be made secure.

#### IV. CONCEPT OF OPERATIONS

11. In his letter of 6 May 1994 (S/1994/546), the President of the Security Council informed me that, in view of the unabated hostilities and killings taking place in Rwanda, urgent and effective means of action must be considered. This would require that the Council decide upon an expanded mandate under which UNAMIR would support and provide safe conditions for displaced persons and other groups in Rwanda who have been affected by the hostilities or are otherwise in need, and assist in the provision of assistance by humanitarian organizations. The efforts of UNAMIR in this regard would be coordinated with those of the humanitarian organizations operating in Rwanda and/or engaged in assisting Rwandese refugees in neighbouring countries. The mission, as it would function under this amended mandate, is referred to herein as UNAMIR II.

12. UNAMIR II would provide security assistance to humanitarian organizations in their programmes for distribution of relief supplies. UNAMIR II would establish access to sites where displaced and other affected persons are concentrated and could assure their protection. Such protected sites would include areas inside Rwanda along the border with neighbouring States where refugees and displaced persons are concentrated. All protected sites would be patrolled and monitored by UNAMIR II, in cooperation with the local authorities wherever possible. At the same time, UNAMIR II would devote equal attention to the needs of displaced persons in the interior of the country and would provide escorts to relief convoys and security to United Nations installations there.

13. UNAMIR II would monitor border crossing points as operationally required, as well as the deployment of the parties in conflict, in order to assure the effective conduct of UNAMIR II operations.

14. Kigali airport is the most practical point of entry into the country and is therefore important for the induction of personnel, equipment and humanitarian relief goods. The parties would be expected to establish the airport as a "neutral zone" under the exclusive control of the United Nations before commencement of the deployment of the expanded force. However, if continued fighting prevents this, UNAMIR II would use other points of entry and resupply, such as secondary airstrips within the country. In addition, UNAMIR II would establish lines of communication, deployment and supply routes by land through neighbouring countries, particularly for the resupply of those protected sites located on Rwanda's borders.

A. Rules of engagement

15. UNAMIR II's rules of engagement do not envisage enforcement action. The Mission would depend primarily on deterrence to carry out its tasks. However, UNAMIR II may be required to take action in self-defence against persons or groups who threaten protected sites and populations and the means of delivery and distribution of humanitarian relief.

B. Force structure

16. In order to execute its mandate, UNAMIR II must be composed of a credible, well-armed and highly mobile force. The size of the force is determined also by the size and terrain of the area of operation, which is land-locked, difficult and mountainous with very limited infrastructure. With these criteria, it is estimated that a minimum viable force of approximately 5,500 troops, including 5 infantry battalions, will be required to carry out the tasks described above. Readjustment of the size of the force may be necessary as the situation evolves.

17. The composition of the force would therefore include:

(a) A force headquarters of approximately 219 personnel, built around the nucleus of the present headquarters, would include a supporting military signals/communication squadron. The force headquarters would continue to operate at Kigali;

(b) Five battalions (approximately 4,000 personnel) comprising two mechanized battalions and three motorized battalions, each of which would have a mechanized company;

(c) A force support battalion of approximately 721 personnel, which would provide logistical, maintenance, and medical service, and would include an engineer company capable of undertaking tasks such as mining clearance, bomb disposal and the rehabilitation of essential roads, bridges and the other infrastructure, as required by UNAMIR II to carry out its mandate;

(d) A helicopter squadron of approximately 110 personnel and 16 helicopters;

(e) A military police force of approximately 50 personnel would provide internal force security;

(f) A military observer group of 320 officers would conduct the humanitarian security monitoring, liaison and escort-duty tasks throughout the area of operation, including at the border areas if necessary;

(g) A force of 90 United Nations civilian police would be deployed in a similar fashion to the military observers, but would be dedicated to maintaining liaison with the local civilian authorities on matters relating to public security.

### C. Deployment schedule

18. The deployment of UNAMIR II would be conducted in three phases, subject to the timely availability of the necessary troops, equipment and airlift. "D-Day" is the date on which the Security Council resolution would be adopted authorizing the expanded mandate of UNAMIR II.

19. Phase 1 (D-Day + 7). The Ghanaian battalion would be brought to its full strength of 800 personnel and equipped with armoured personnel carriers. This unit would ensure the protection of Kigali International Airport, as well as other sites in the city, where thousands of displaced persons have sought refuge under UNAMIR protection. This battalion would also subsequently act as the force reserve.

20. Phase 2 (D-Day + 14). Deployment of two battalions (one mechanized and one motorized), some advance elements of the support battalion and all of the force headquarters and signal squadron. These troops would be deployed where the security situation is of greatest concern and where there is the highest concentration of displaced persons, including at border areas if necessary.

21. Phase 3 (D-Day + 31). Induction of the rest of the force support battalion and two other infantry battalions. The rest of the support battalion would establish logistic and engineer advance bases in the Ruhengeri, Byumba and Butare prefectures in order better to serve the field force. The two infantry battalions would be deployed to certain specific areas of the country in order to provide the necessary support and assistance to people in need in these areas and provide security arrangements to humanitarian assistance programmes.

### D. Logistics

22. The deployment and logistical support of a force of 5,500 under the schedule described above is a difficult undertaking. In addition, Rwanda is a land-locked country with only one major airport (Kigali) and three secondary airports. Land movement between regional seaports (Mombasa, Dar es Salaam) and Rwanda requires several days in the best of conditions. It is therefore essential to deploy self-sufficient military contingents capable of operating independently, while logistical support is put in place by the United Nations. The concept of operations calls for the first three units to be moved by air, requiring military and commercial strategic airlift, that is, up to 10 passenger flights and 40 cargo flights (C-5A aircraft). The remainder of the force and its material would be transported by sea and air as soon as technically possible.

23. Because of the need to stabilize the security situation in Rwanda as quickly as possible, deployment of UNAMIR II will have to be carried out rapidly. The longer the delay in the deployment of the force from the time of a Security Council decision, the greater the prospect of the mission not achieving its purpose in operational terms.

24. The most rapid deployment would be achieved with two formed infantry brigades with their integral logistical support. If formed brigades cannot be made available, it would be necessary to draw on the recent United Nations stand-by arrangements, but specific contributions for this Mission must still be negotiated. It is estimated that this process would require one to two months. Simultaneously with stand-by arrangements, the traditional method of requesting Governments for military forces would be used. Experience shows that it would take at least two to three months to achieve full deployment of forces. If forces are accepted without adequate equipment, experience shows that a further delay of several months would be incurred in providing the necessary equipment for those forces. It is therefore essential that Member States agree to make arrangements on a bilateral basis to provide the troops, equipment and airlift required for UNAMIR II.

#### E. Command and control

25.. UNAMIR II would be headed by the Special Representative of the Secretary-General, who would have overall authority for all the activities of the Mission. The military component of the Mission would be commanded by the Force Commander. The present UNAMIR force headquarters would be expanded as indicated in paragraph 17 (a) above and would remain located at Kigali. Battalions would be deployed to designated regions or sectors in accordance with the modus operandi described in paragraphs 19 to 21 above. Battalion commanders would act as sector commanders within their assigned regions, under the direction of the Force Commander. The military signal unit would establish communications between the force headquarters, battalion headquarters and other designated units as necessary.

#### V. FINANCIAL ASPECTS

26. The cost associated with the deployment of the force described above would be approximately \$115 million for a six-month period (see annex). It would be my recommendation to the General Assembly that the costs would be considered an expense of the Organization in accordance with Article 17, paragraph 2, of the Charter of the United Nations and the assessments would be levied on Member States and be credited to the UNAMIR special account.

#### VI. OBSERVATIONS

27. The solution to the crisis in Rwanda must, in my judgement, be found through implementation of the Arusha agreement, which both sides say that they accept. For this to be achieved, it is clearly necessary that a cease-fire be agreed and put into effect at the earliest possible date. I have instructed my Special Representative and the Force Commander to continue to give the highest priority to the pursuit of both objectives. The Security Council may wish to issue another urgent call for the parties to agree to a cease-fire and, even before it comes into effect, to accept the designation of Kigali airport as a neutral zone under the exclusive control of the United Nations.

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28. Meanwhile, there is an urgent requirement for the United Nations to increase its efforts to address the desperate humanitarian crisis created by the conflict. I welcome the idea that protected sites should be established close to Rwanda's borders with Burundi and the United Republic of Tanzania in order to facilitate the provision of relief to displaced persons who are already present in those areas. But I believe that it is essential that any such initiative should be matched by action to assist persons in need in the interior of Rwanda. These outnumber, by a factor of five, the displaced persons who are in the border areas or have already crossed into neighbouring countries. To concentrate the international community's efforts on the latter would be to address only a small part of the problem. Moreover, there would be a risk that protected sites in the border areas would act as a magnet to people in need in the interior of the country and would therefore increase even further the number of displaced persons.

29. Expanded humanitarian operations, both in the border areas and in the interior, would also clearly be facilitated by a cease-fire, which would contribute immeasurably to the effective and secure distribution of relief supplies. However, if a cease-fire is not in place by the time the expanded force is deployed, my Special Representative and the Force Commander will continue to pursue this objective as the force is being put in place. I met with my Special Representative in Paris today and encouraged him to continue his efforts with a view to achieving a cease-fire agreement as soon as possible.

30. As noted above, should UNAMIR II need to initiate deployment and resupply through neighbouring States, the Mission would require the active support of those States. UNAMIR II would also require the cooperation and support of the Rwandese parties. In this connection, I should like to note that my Special Representative and the Force Commander have presented the concept outlined herein to both the Rwandese government forces and RPF. I am encouraged by their initial positive responses. I have asked my Special Representative and the Force Commander to obtain confirmation from both parties of their support to this operation without preconditions.

31. The world community has witnessed with horror and disbelief the slaughter and suffering of innocent civilians in Rwanda. While the chances for a lasting peace are fundamentally in the hands of the political and military leaders of the country, the international community cannot ignore the atrocious effects of this conflict on innocent civilians. I therefore recommend to the Security Council that it approve the phased expansion of UNAMIR, as described above, to enable the Mission immediately to help alleviate the humanitarian crisis in Rwanda. The mandate for UNAMIR II should be for a period of six months from the date of initial deployment, on the understanding that it would be reviewed by the Council as necessary and, in particular, following an agreement on a cease-fire.

32. In concluding, I must again emphasize that in order for UNAMIR II to attain its objective, there can be no delay in its deployment.

33. I would like to express my deep gratitude to my Special Representative, the UNAMIR Force Commander, and all UNAMIR personnel, for their outstanding performance in the pursuance of UNAMIR's mandate under the extremely dangerous conditions in Rwanda.



Annex

United Nations Assistance Mission for Rwanda

Summary cost estimate for the deployment of approximately  
5,500 troops for a six-month period

(In thousands of United States dollars)

	<u>Amount</u>
1. Military personnel costs	60 100
2. Civilian personnel costs	11 100
3. Premises/accommodation	1 300
4. Infrastructure repairs	700
5. Transport operations	6 000
6. Air operations	8 600
7. Naval operations	-
8. Communications	3 100
9. Other equipment	4 500
10. Supplies and services	4 500
11. Election-related supplies and services	-
12. Public information programmes	300
13. Training programmes	-
14. Mine-clearing programmes	500
15. Assistance for disarmament and demobilization	-
16. Air and surface freight	12 000
17. Integrated Management Information System	-
18. Support account for peace-keeping operations	800
19. Staff assessment	<u>1 500</u>
Total	<u>115 000</u>

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## Security Council

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### REPORT OF THE SECRETARY-GENERAL ON SECURITY IN THE RWANDESE REFUGEE CAMPS

#### I. INTRODUCTION

1. The present report is submitted in pursuance of the statement of the President of the Security Council dated 14 October 1994 (PRST/1994/59), which noted the Council's concern at the plight of the millions of Rwandese refugees and displaced persons, reiterated the view that their return to their homes was essential for the normalization of the situation in Rwanda and deplored the continuing acts of intimidation and violence within the refugee camps, which were designed to prevent the refugee population there from returning home.

2. In my report on the situation in Rwanda dated 6 October (S/1994/1133), I indicated that, as a result of his visit to Zaire from 12 to 14 September, my Special Representative for Rwanda, Mr. Shaharyar Khan, concluded that the most effective way of ensuring the safety of the refugees and their freedom to return to Rwanda would be the separation of political leaders, former Rwandese government forces and militia from the rest of the refugee population. I also noted, however, that that would be a difficult and complex undertaking, especially as those to be separated would be likely to resist, and incite others to resist, any attempt to relocate them. In order to address more fully the problems associated with separating the former Rwandese government forces' political leaders, military and militia from the refugees, and to evaluate the logistic and other requirements involved, a joint Zairian/United Nations working group was established, composed of officials of the Government of Zaire, the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Development Programme (UNDP). A technical team from the United Nations Assistance Mission for Rwanda (UNAMIR) was sent to Zaire to join the working group. In my report of 6 October, I also indicated that my Special Representative had recommended that attention be focused, as a matter of priority, on the camps in Zaire, where the problems were significantly more acute than in those established in the United Republic of Tanzania. Accordingly, the present report addresses mainly the issue of security in the camps located in Zaire.

3. In his statement of 14 October, the President of the Security Council noted that the Council looked forward to receiving a further report from me on this

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issue, based, inter alia, on the findings of the UNAMIR technical team participating in the joint Zairian/United Nations working group. The joint working group was established at Kinshasa on 26 September and concluded its site visits on 11 October. The UNAMIR technical team returned to Kigali on 14 October and subsequently submitted its report to my Special Representative.

4. Following consultations between the Secretariat and UNHCR on possible options for addressing the security situation in the camps, I convened a high-level meeting at Geneva on 8 November, which focused on various aspects of the crisis in Rwanda and most importantly on the situation in the refugee camps. The meeting was attended by the United Nations High Commissioner for Refugees and the United Nations High Commissioner for Human Rights, the Executive Director of the World Food Programme, the Under-Secretaries-General for Political Affairs and for Humanitarian Affairs, the Legal Counsel, one of my special advisers, my Special Representatives for Rwanda and Burundi, my Special Humanitarian Envoy for Rwanda and Burundi, the Military Adviser in the Department of Peace-keeping Operations and a representative of the United Nations Children's Fund (UNICEF).

5. The meeting concluded that the most urgent problems were the security in the camps and the Government's need for support to enable it to carry out its functions. It was agreed that those problems must be addressed under an overall strategy leading to the repatriation and reintegration of refugees and internally displaced persons. The meeting also concluded that longer-term efforts, including efforts on a regional basis, towards national reconciliation, rehabilitation and reconstruction of the country should contribute to the resolution of the more urgent problems related to the safe return of refugees and internally displaced persons.

## II. PRESENT SITUATION IN THE RWANDESE REFUGEE CAMPS IN ZAIRE

### A. Conditions in the camps

6. An estimated 1.2 million people fled Rwanda over a four-day period in mid-July to the Kivu region of Zaire, in one of the largest and most sudden movements of refugees in modern history. UNHCR estimates that there are 850,000 refugees in north Kivu, in the Goma areas of Mugunga, Kibumba and Katale, and about 370,000 in south Kivu, in the Bukavu and Uvira areas. The camps, which sprawl over miles, are overcrowded, chaotic and increasingly insecure. The refugees live in makeshift huts and are completely dependent on United Nations and relief agencies for basic needs assistance.

7. The former Rwandese political leaders, Rwandese government forces soldiers and militia control the camps, though the degree of control varies from area to area. They are determined to ensure by force, if necessary, that the refugees do not repatriate to Rwanda. They also make it difficult for relief agencies to carry out their work in safety, because they attempt to control the agencies' activities in the camps and prevent relief supplies from reaching those in need. It is believed that these elements may be preparing for an armed invasion of Rwanda and that they may be stockpiling and selling food distributed by relief agencies in preparation for such an invasion. There have already been some

cross border incursions. Security is further undermined by general lawlessness, extortion, banditry and gang warfare between groups fighting for control of the camps. As a result of these threats to security, non-governmental organizations responsible for the distribution of relief supplies in the camps have begun to withdraw.

8. There are approximately 230 Rwandese political leaders in Zaire, including former ministers, senior civilian and military officials, members of parliament and other political personalities, many of whom live in good conditions in hotels and houses outside the refugee camps. With their dependants, they amount to about 1,200 persons. These leaders exert a hold on the refugees through intimidation and the support of military personnel and militia members in the camps.

9. Estimates of the number of former Rwandese government forces personnel in Zaire differ but they probably amount to about 50,000 persons, including dependants. In south Kivu, they are located in two separate military camps. In north Kivu, on the other hand, they are living among the refugees and are often indistinguishable from them, since many no longer wear uniform. It seems to be their intention to regain power in Rwanda and there are reports of continuing military activity by them along the Zairian/Rwandese border in Kanganiro and Kamanyola. However, they have not so far been as significant a factor for insecurity in the camps as have the militia.

10. The militia have a significant presence in the camps in the Goma area, where they control access into and out of the camps and resort openly to intimidation and force to stop refugees who are inclined to return to Rwanda. Like the Rwandese government forces personnel, they possess firearms, as the Zairian authorities were unable to disarm all the Rwandese government forces and militia personnel when they sought refuge in Zaire in July 1994. They also possess vehicles and communication equipment. It is difficult to determine their exact number as they neither wear uniform nor carry any insignia that would distinguish them from the rest of the refugee population. However, an estimate of their number can be made by reference to the militia's pre-war organization. Each of the 147 communes in Rwanda had between 100 and 150 organized militia, which would represent a total of between 14,700 and 22,050 personnel. Allowing for war attrition, this number may have fallen as low as 10,000 when the refugee camps were established but, in view of the political activity in the camps, it could have risen since that time.

11. There is little information available on the former Presidential Guard, which is estimated to consist of 800 men located in both Goma and Bukavu. There are reports that it may be housed in clandestine camps.

#### B. Factors impeding repatriation

12. In August and early September, an estimated 200,000 refugees returned to Rwanda. This movement, however, was interrupted by the activity of militia and political leaders opposed to voluntary repatriation. Since September, the number of refugees returning home has fallen drastically, although small numbers of refugees continue to trickle back to Rwanda in spite of threats by the

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militia and dissuasion by political leaders. During the same period, some 400,000 refugees of mainly Tutsi origin, many of whom had been in exile in Uganda and Burundi for decades, have returned to Rwanda and, in many cases, settled on land belonging to those who have fled most recently, thus creating another problem relating to property rights. The Government has set up a land commission to resolve that problem but it is unable to provide alternative solutions for those refugees, because of a lack of funds.

13. The refugees' fear of reprisals by the Government for atrocities committed against Tutsis and moderate Hutus seems to be another main reason for their hesitancy about returning to Rwanda. While this fear has been exacerbated by efforts on the part of political leaders, Rwandese government forces elements and militia to dissuade the refugees from returning home, it also appears to be rooted in the history of the relationship between Hutus and Tutsis in Rwanda. In expressing their distrust of the Government, refugees have also indicated a desire for their security to be guaranteed by a neutral body or for their own leaders to participate in the new Government.

14. In the light of the above, the UNAMIR technical team sought the views of the political and military leaders in the camps on conditions that would enable them to allow refugees the freedom of choice to return to Rwanda. These conditions included negotiations with the new Government; involvement of the exiled leadership in all negotiation processes; involvement of the United Nations in facilitating negotiations between the Government and the leadership in exile; revival of acceptable elements of the Arusha Accord; power-sharing; setting up of an international tribunal that would address not only the atrocities and acts of genocide committed after the events of 6 April 1994, but also alleged massacres committed by forces of the Rwandese Patriotic Front (RPF) since 1990; organization of early elections; security guarantees, especially for the safe return of all refugees; and guarantees for the repossession by the refugees of their property.

### III. MEASURES FOR THE ESTABLISHMENT OF SECURE CONDITIONS IN THE CAMPS

#### A. Initial measures

15. In response to a request from the Government of Zaire, consideration has been given, in consultation with UNHCR, to measures aimed at providing immediate, but temporary, assistance to the Zairian security forces in protecting humanitarian operations in the camps. These measures would promote bilateral arrangements between the Government of Zaire and other Governments for the deployment of security experts to train and monitor the local security forces. An assessment mission would formulate recommendations on the number of security experts required and their organization, management and modus operandi. The mission would also estimate the financial support to be provided to the local security forces.

16. In this connection, it is relevant that UNHCR is already assisting the Government of the United Republic of Tanzania to strengthen its local capacity to provide security in the camps through the provision of incentives and



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logistic support. An assessment of the additional support that the Government of the United Republic of Tanzania may require in this regard will be made as soon as possible. Such measures would not, by themselves, be sufficient to address the more difficult problems in the camps in Zaire. If adopted in Zaire, they would need to be taken in conjunction with and in support of one of the options described below.

17. Efforts to improve security in the camps should also be supported by a public information campaign that would provide factual information on the situation both in the camps and in Rwanda. To this end, as indicated in my report of 6 October, UNAMIR is building a broadcasting capacity that can reach the camps. However, the Government of Rwanda has yet to grant the necessary authorizations for UNAMIR to begin broadcasting and for a frequency allocation. It is important that these authorizations should be forthcoming soon.

#### B. Deployment of a United Nations peace-keeping operation

18. In order to improve security, one option would be to deploy a United Nations peace-keeping force to the camps in Zaire, with the consent of the Government of Zaire, as is the established practice for such operations. The task of such a force would be to provide security for international relief workers, protection for the storage and delivery of humanitarian assistance and safe passage to the Rwandese border for those refugees who wish to return. From the border, UNAMIR troops would then provide assistance in returning the refugees to their home communities. Such a force would have a mandate separate from that of UNAMIR but would be under the operational control of, and supported logistically by, UNAMIR.

##### 1. First phase

19. In the first phase, two well-trained and well-equipped mechanized battalions would spearhead the operation in the camps north of Lake Kivu. Each battalion would establish secure areas within large camp sites, providing safe conditions for the refugees in those areas. The force would establish screening procedures to keep weapons out of the secure areas. Humanitarian assistance operations would be intensified within these secure areas. The aim during this first phase would be to create conditions conducive to the voluntary repatriation to Rwanda of as many refugees as possible from each secure area. This, of course, would depend on the establishment within Rwanda of conditions under which the refugees could return to their homes in safety and dignity.

20. Within each secure area, local security units would be formed and trained to take over the security functions being performed by the peace-keeping force when reasonably secure conditions were deemed to have been created. At that time, the United Nations contingents would move forward to create similar secure areas in other locations. In planning such movement, consideration would be given to the likely impact of ongoing operations on conditions and attitudes in the camps that were to be secured in subsequent operations.

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21. The local security units would include guards from either the Zairian security forces or former Rwandese gendarmerie present in the camps (who were proved not to have been involved in the atrocities), depending upon the situation in the particular area. Security experts, as envisaged in paragraph 15 above, would be made available (either as United Nations civilian police or through a private security firm) to train and monitor the local units in carrying out their security duties. The requisite equipment and financial assistance would also be provided for the local security units. The intention would be to ensure that the local security unit in each area would be capable of providing reasonable security, under the supervision of a minimal number of United Nations personnel, until the remaining refugees could be repatriated during the second phase of the operation, after which the area would be closed.

## 2. Second phase

22. In the second phase, lightly equipped motorized units would be deployed in the areas rendered secure during the first phase. Their main task would be to escort refugees to the Rwandese border and, in the meantime, to ensure that these areas continued to enjoy secure conditions. In this phase, self-contained company groups would be deployed to each secure area, cumulatively reaching battalion level. As the areas were closed upon completion of repatriation, each company group would be rotated to another secure area which was ready to move into the second phase.

23. Under this option, it is estimated that a force of 3,000 all ranks would be required. A parallel operation, launched simultaneously in the area south of Lake Kivu, where conditions are marginally better, could have a stabilizing effect on Burundi where the situation is still very fragile. To conduct such an operation, an additional 2,000 troops would be required.

24. After progressively establishing security in the camps both north and south of Lake Kivu, the mechanized battalions would be withdrawn from the force. The second phase units would also be gradually withdrawn as secure areas were closed down. This operation would be fully coordinated with the measures for strengthening security conditions in the camps mentioned in paragraph 15 above.

25. The incremental approach to establishing security proposed under this option is unavoidable as the dimensions of the problem are such as to make it impossible to address all refugee camps at the same time. Depending on the situation in the camps and the rate of repatriation, it is estimated that, given a force strength of 3,000 all ranks, it would take 24 to 30 months to complete the operation. However, with the additional 2,000 troops mentioned in paragraph 23, it is estimated that the duration of the operation could be reduced by about 10 months.

## C. Action under Chapter VII of the Charter

26. The option outlined above does not provide for the separation of the political leaders, former Rwandese government forces troops and militia from the rest of the camp population, which, as indicated in my report of 6 October, is



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considered to be the most effective way of ensuring the safety of refugees and their freedom to exercise their right to return to Rwanda. That report also noted that the Government of Zaire had expressed its commitment to addressing the refugee crisis and to improving security in the camps. To this end, it has indicated that the military and militia elements could be moved to new camps at a distance from the present refugee camps. It has also indicated that it would prefer the political leadership of the former Government of Rwanda to be located in third countries, although they could stay in Kinshasa while awaiting relocation.

27. The political leaders, the military hierarchy of the Rwandese government forces and the militia have made evident their opposition to either their removal from Goma and Bukavu or their separation from the refugee population prior to an overall settlement of the conflict. It is difficult to determine how far these groups would resist attempts to relocate them. Given their expressed opposition, however, and their proven propensity for violence, it can be assumed that they would not move voluntarily and would be likely to use force to resist being moved.

28. Should it be decided to undertake the separation of former political leaders, military and militia, the operation would also be undertaken in phases. In the first phase, while the new camps were being prepared, a strong, well-trained and well-equipped force would be deployed inside the existing refugee camps with the initial mandate of ensuring the security of international relief workers and the delivery of humanitarian assistance. During the second phase, once the new camps were established, the former political leaders, Rwandese government forces personnel and militia would be moved to the new sites, on a voluntary basis if possible, with force being used only where voluntary separation was resisted.

29. The UNAMIR technical team visited several sites recommended by the Government of Zaire, most of them in remote locations. The team analysed in detail the logistic difficulties that would have to be overcome in order to move the political leaders, Rwandese government forces personnel and militia to these new camps. The team concluded that the camps would require considerable infrastructure repair (airfields, roads, buildings, etc.), which would take at least six months to complete from the date of commissioning.

30. Taking all these factors into consideration, especially the likelihood that forcible action would be required, it is evident that this would be a risky, complex and very expensive endeavour. Given the need to provide security in both the existing camps and in the new sites to which the Rwandese government forces personnel and militia would be moved, it is estimated that a force level of two brigade groups (10,000-12,000 men), operating under a Chapter VII mandate, would be required. A United Nations force could conceivably be established for this purpose, either linked to UNAMIR or, preferably, as a separate operation. However, it will be recalled how difficult it was for the United Nations to obtain the necessary troops for the expansion of UNAMIR. It is, thus, clear that the United Nations could not be assured of obtaining expeditiously the personnel required to establish a force capable of undertaking this operation. Should the Security Council favour the establishment of such an operation, it may therefore wish to authorize a Member State, or a group of

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Member States, to take the lead in organizing it, using all necessary means to achieve the aims outlined above.

#### IV. CONCLUDING OBSERVATIONS

31. The preceding section of this report has identified three major military options for tackling the problem of security in the camps, namely:

(a) A United Nations peace-keeping operation, set up in accordance with normal procedures, to establish security progressively in the camps, area by area, over a period of time;

(b) A United Nations force, set up under Chapter VII of the Charter, to separate the former political leaders, military personnel and militia from the ordinary refugee population of the camps, thereby ensuring their security;

(c) A multinational force, authorized by the Security Council under Chapter VII of the Charter but not under United Nations command, to carry out the functions set out in subparagraph (b) above.

Other measures which could be associated with any of the above options would be the provision of foreign security experts to train and monitor the local security forces and appropriate public information campaigns.

32. In considering the above options, it is important to bear in mind that any operation conducted without parallel efforts towards national reconciliation in Rwanda will be futile. Indeed, it might merely have the effect of intensifying extremist activities in the refugee camps in Zaire and also those in other countries bordering Rwanda. It is evident that national reconciliation will require both a political understanding between the former leadership of the country and the present Government and the establishment of conditions in the camps, and in Rwanda itself, conducive to the return of the refugees. Neither is imminent. Any operation that encouraged the repatriation of refugees who were then not able to return to their home communities would merely add to the 1.5 to 2 million persons who are already internally displaced persons inside Rwanda and should therefore be avoided.

33. I am convinced that the first step must be a determined effort by the international community to improve security in the Rwandese refugee camps, especially those in Zaire. On the basis of the information provided by my Special Representative and of the preparatory work undertaken by the Secretariat, I feel that the peace-keeping operation envisaged above (paragraph 31 (a)) may be, under the present circumstances, the most realistic way of achieving a progressive improvement of security in the camps. This will be a difficult, complex and, to some extent, unprecedented enterprise. Should the Security Council favour such an approach, it would be essential that Member States be prepared to provide, in a timely manner, the full human, financial and logistic resources which would be required to carry it out effectively.

34. In determining the measures that need to be taken, the Security Council may wish to keep in mind that establishing security in the refugee camps must be

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seen as only the first step in an overall strategy to establish long-term security and durable peace in Rwanda. A two-pronged approach must be adopted of addressing security issues in the camps and, at the same time, helping the Government to create conditions in Rwanda under which large-scale repatriation and reintegration of refugees and internally displaced people can take place. This twin approach is the only means of achieving the environment necessary for national reconciliation and sustainable peace.

35. The Government must assume its responsibilities for establishing the conditions necessary for the return of refugees to Rwanda in safety and dignity. However, in the wake of the cataclysm that has overtaken Rwanda, it finds itself without even the minimal resources to run an administration, much less reconstruct a shattered country and nation. The Government has indicated its commitment to creating conditions for the safe repatriation of refugees and has requested assistance from the international community for this purpose. This will require the rehabilitation of the basic economic and social infrastructure. Measures to be taken inside Rwanda must include the establishment of a fair and effective judicial system and the issue of property rights. As mentioned above, large numbers of longer-term refugees are returning to Rwanda and, in some cases, are occupying the land of those who have recently fled. The Government needs immediate and major financial and technical assistance from the international community to reintegrate the earlier refugees who are now returning and to ensure that those who recently left the country are able to reclaim their properties upon their return.

36. The Government and the international community must be equally committed to cooperating with one another in ensuring that special measures are taken in regard to security, the maintenance of law and order, the administration of justice, economic and social rehabilitation and national reconciliation for the benefit of all Rwandese, especially in those communities to which refugees and displaced people will return. In this regard, about 60 human rights monitors have been deployed in the country to monitor the conditions of returning refugees and internally displaced people. Furthermore, UNAMIR is planning to deploy political affairs officers to its five sectors of operation, specifically to assist the Government, through the local administrations, in promoting national reconciliation and re-establishing civil administration and to facilitate coordination between the activities of UNAMIR and those of other United Nations agencies and programmes.

37. As noted in my report of 6 October, it is fully recognized how difficult it is for the Government to undertake nation-building activities when it suffers from a severe lack of basic resources, including cash reserves. While the international community is calling on it to undertake such activities, the Government is becoming increasingly frustrated with the international community's slow pace in providing the resources necessary for it to do so. Furthermore, there are signs that the security situation in the country is becoming unstable as the Government is not in a position to strengthen local civil administrations or even to pay the salaries of its army. As a result, there is increasing tension between the Rwandese military and UNAMIR and incidents obstructing UNAMIR's ability to carry out its mandate are becoming more frequent. It is therefore essential for the international community to provide immediate assistance to the Government so that it can, for its part,

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take the measures necessary to help improve the situation in the country and create the conditions necessary to encourage refugees to return.

38. My Special Representative has formulated and presented to potential donors a Rwanda emergency normalization plan, outlining areas in which such assistance is urgently required. At the request of the Government of Rwanda, UNDP has begun consultations with the donor community leading to a round-table meeting designed to establish a policy framework and to formulate reconstruction and rehabilitation requirements, a process that should also assist the international community to identify areas requiring immediate response. Finally, the Department of Humanitarian Affairs is preparing a new consolidated inter-agency appeal which will cover both continuing emergency requirements and short-term rehabilitation needs. The international community is urged to respond in an adequate and timely manner to these initiatives as part of a comprehensive approach to the problem of Rwanda. In this connection, I would like to recall that, pursuant to Security Council resolution 925 (1994), a trust fund has been established to finance humanitarian relief and rehabilitation programmes in Rwanda. The Trust Fund could serve as a useful conduit for contributions to meet the immediate needs of the Government of Rwanda.

39. Given the crucial importance of establishing secure conditions in the Rwandese refugee camps in Zaire, as well as the pressing need for financial and technical assistance to reach the Government of Rwanda, it is my intention to concentrate all the efforts of the United Nations system on these immediate priorities. Once progress has been made on these two fronts, I shall work with the Organization of African Unity (OAU) to address the wider problems of the subregion.

40. The first step in that direction will be the convening of the regional conference on assistance to refugees, returnees and displaced persons in the Great Lakes region, which was decided upon by the Assembly of Heads of State and Government of OAU at its thirtieth ordinary session, held at Tunis in June 1994. This conference was recently endorsed by the General Assembly (resolution 49/7) and is to be jointly organized by OAU and UNHCR at Bujumbura in the near future.

41. I believe that, at a later stage, a broader conference should be convened jointly by the United Nations and OAU to address a range of political and other issues, including national reconciliation and land-related questions, in order to identify long-term solutions which will ensure peace, security and development in the subregion. Work has begun in the Secretariat to define the scope and modalities of such a conference and I have asked my Special Humanitarian Envoy, Mr. Robert Dillon, who is currently visiting the region, to explore the matter with the countries concerned.

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FINAL REPORT OF THE COMMISSION OF EXPERTS  
SUBMITTED PURSUANT TO SECURITY COUNCIL RESOLUTION 935 (1994)

FINAL REPORT OF THE COMMISSION OF EXPERTS  
SUBMITTED PURSUANT TO SECURITY COUNCIL RESOLUTION 935 (1994)

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## I. INTRODUCTION

A. Mandate

1. On 1 July 1994, the Security Council adopted resolution 935 (1994) requesting the Secretary-General to establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse information submitted pursuant to that resolution, with a view to providing the Secretary-General with its conclusions on the evidence of grave violations of international humanitarian law committed in the territory of Rwanda, including the evidence of possible acts of genocide.
2. In pursuance of paragraph 3 of the above-mentioned resolution, the Secretary-General submitted, on 26 July 1994, a report to the Security Council (S/1994/879). In that report, the Secretary-General stated that the Council had condemned all breaches of international humanitarian law in Rwanda, particularly those perpetrated against the civilian population during the armed conflict and had recalled that persons who instigated or participated in such acts were individually responsible. The Council had affirmed that the killing of members of an ethnic group with the intention of destroying the group as such, in whole or in part, constituted a crime under international law.
3. Based on the terms of reference set out in Security Council resolution 935 (1994), the Secretary-General requested the Commission of Experts to review and update information available from all sources; to carry out its own investigations in Rwanda; to draw its own conclusions concerning evidence of specific violations of international humanitarian law and in particular acts of genocide; and to determine whether and to what extent certain individuals might be held responsible for having committed those violations.
4. In view of the above, the Commission was requested to examine the question of jurisdiction, whether international or municipal, before which such persons could be brought to trial.
5. Furthermore, the report of the Secretary-General outlined the composition of the Commission of Experts and its operational modalities. In that regard, the Secretary-General took note, inter alia, of the similarities of the mandates entrusted by the Commission on Human Rights in its resolution S-3/1 of 25 May 1994 to the Special Rapporteur on Rwanda and the terms of references outlined by the Council in its resolution 935 (1994) vis-à-vis the Commission of Experts.
6. To avoid unnecessary overlapping and to ensure maximum cooperation between the two investigative bodies, the Secretary-General urged that the information submitted to him in pursuance of the above-mentioned resolutions should be made available to each body in the performance of their respective tasks.
7. For reasons of efficiency, practicality and economy, the Secretary-General decided that the Commission of Experts should be located at the United Nations Office at Geneva, where it could benefit from the resources of the Office of the United Nations High Commissioner for Human Rights as well as those made available to the Special Rapporteur of the Commission on Human Rights.

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8. Given the urgency of the matter, the Security Council requested Secretary-General, within four months from the establishment of the Commission of Experts to report to the Council, on the conclusions of the Commission as to take account of these conclusions in any recommendations for further appropriate steps. Accordingly, the Secretary-General established the deadline of 30 November 1994 for submission of the final report.

9. Moreover, the Commission of Experts decided at its first session, on 12 and 13 August 1994, to submit an interim report to the Secretary-General covering its preliminary investigations and activities prior to 30 September 1994. It also designated Mr. Fomba as Rapporteur of the Commission and developed methods of work and security procedures in respect documentation. (See Annexes II and IV).

10. On 1 October 1994, the Secretary-General transmitted to the Security Council the Preliminary Report of the Commission of Experts (S/1994/1125). The Report sets out the Commission's preliminary conclusions and recommendations, in particular that individuals from each side to the armed conflict had perpetrated serious breaches of international humanitarian law and crimes against humanity. It concludes also that acts of genocide had been perpetrated against the Tutsi group by Hutu elements in a concerted, planned, systematic and methodical way.

11. Based on these conclusions the Commission of Experts recommended to the Security Council to take all necessary and effective action to ensure that individuals responsible for the foregoing grave violations of human rights be brought to justice before an international criminal tribunal. Furthermore, the Commission recommended that the Security Council amend the Statute of the International Criminal Tribunal for the Former Yugoslavia to expand the Tribunal's jurisdiction to cover crimes under international law committed during the armed conflict in Rwanda that began on 6 April 1994.

12. On the consideration of the Secretary-General's report (S/1994/1125), pursuant to paragraph 3 of Security Council resolution 935 (1994), the Security Council adopted resolution 955 (1994) on 8 November 1994 with 13 votes in favour, 1 against (Rwanda) and 1 abstention (China).

13. In resolution 955 (1994), the Security Council determined inter alia that the situation in Rwanda continued to constitute a threat to international peace and security and acting under Chapter VII of the Charter of the United Nations decided, upon the request of the Government of Rwanda, "to establish an international tribunal for the sole purpose of prosecuting individuals responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994". The Security Council also adopted the Statute of the International Tribunal for Rwanda which is annexed to the present report (see Annex I).

#### B. Composition

14. On 26 July 1994, the Secretary-General established the Commission of Experts composed of three members. Accordingly, he nominated Mr. Atsu-Koffi Amega (Togo), as Chairman; Ms. Baby Diang (Guinea); and Mr. Salifou Fomba (Mali), to serve in their personal capacities.

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### C. Meetings

15. The Commission of Experts began its work on 15 August 1994, in Geneva. Its first session was held on 18 and 19 August, during which it adopted its internal method of work, rules of procedure and its plan of activities.

16. On 19 August 1994, the Commission of Experts held consultations with the Special Rapporteur of the Commission on Human Rights Rwanda, Mr. René Dégui-Ségué, to coordinate the modalities of their work, primarily for the purposes of gathering information and evidence concerning their respective mandates. The Commission also met several times with the United Nations High Commissioner for Human Rights. Meetings were held between the Commission and representatives of a number of United Nations organizations, and in particular delegations from the Office of the United Nations High Commissioner for Refugees (UNHCR) and the World Food Programme, and also from the International Committee of the Red Cross (ICRC) and a number of non-governmental organizations.

17. The Chairman appealed to Member States for assistance so as to improve implementation of the Commission's mandate. On 23 August, prior to the Commission's departure for Rwanda, he held a meeting at Geneva with 21 government representatives to outline the Commission's immediate plan of activities. He made a request for assistance, including in matters related to prosecution, police investigations and forensic expertise so that proper hearings of victims and witnesses could be conducted and that mass graves could be exhumed.

18. Pursuant to paragraph 3 of Security Council resolution 935 (1994), the Commission of Experts met in private session to adopt its Preliminary Report for submission to the Secretary-General.

19. On 20 September 1994 the Commission of Experts met in special session with members of the delegation from the United States, and in particular with Mr. Mansfield who conducted an investigating mission in Rwanda from 28 September to 7 October 1994 for the Commission of Experts.

20. On 10 October 1994 the Commission of Experts met in Geneva with representatives from UNHCR: Mr. Fouinat (Chef du Cabinet); Mr. Kimbibi (Senior Legal Advisor for Africa) and Mr. Gersony (Consultant).

21. Furthermore, the Commission of Experts met with the Prosecutor of the International Tribunal for Rwanda, Mr. Justice Richard Goldstone in Geneva and in The Hague to discuss possible arrangements for the transmission of documentation and evidence from the Commission of Experts on Rwanda to the Office of the Prosecutor.

### D. Missions carried out in Rwanda and in neighbouring countries

22. From 29 August to 17 September 1994, the Commission of Experts conducted a field mission in Rwanda and its three neighbouring countries, Burundi, the United Republic of Tanzania and Zaire. The Commission met with the national authorities of those countries, United Nations officials, representatives of international and local non-governmental organizations, diplomatic representatives and other individuals in order to collect substantial information relating to grave violations of international humanitarian law and acts of genocide committed in Rwanda during the conflict.

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23. During its first stay in Rwanda, the Commission carried out a number of missions in the field and initiated several investigations. It also had the opportunity to hold a number of meetings with Rwandese refugees at Goma Zaire and at Dar-es-Salaam (Tanzania), and to collect allegations of violations.

24. In accordance with its plan of action, the Commission of Experts determined it necessary to make a second mission to Rwanda. The Commission determined it that it should make an effort to ensure that the means and methods of the investigation should continue with all necessary care and dispatch, always with a view to meeting the high procedural and evidentiary standards of international law and justice. The Commission of Experts saw that the work of the Special Investigative Unit of the Human Rights Field Operation in Rwanda was working efficiently. The Special Investigation Unit has created two teams: the Site Investigation Team and the Documentation and Evidence Team. The Site Investigation Team conducts field investigations into massacres and mass grave sites with the assistance of experienced forensic experts. The Documentation and Evidence Team gathers, catalogues and supervises custody and control of all documents and evidence gathered by the Special Investigation Unit in accordance with the procedures established and adopted by the Commission at its first session on 18 and 19 August 1994. (See Annexes III and IV).

25. The Commission made visits to Nyamirambo (Kigali) Nyarubuye, Gafunso, Gikondo, Cyanvuzo, Save, M'hasi, Ntarama and a number of other sites of atrocities. The Commission was received by the Minister of Interior, the Minister of Justice, by the Prime Minister and by the Vice-President General Paul Kagame. There were meetings with the Special Representative of the Secretary-General, Mr. Shahyar Khan, General Jean-Claude Toussignant (UNAMIR Commander) and with the Chiefs of UN agencies in the region as well as with representatives of the NGOs working in Rwanda.

26. During its second mission, the Commission received the technical assistance of a number of experts. The Commission was pleased that its appeal for support, launched by the Chairman, was heard by certain States. In particular, Spain put at the disposal of the Commission a team of experts, composed of two investigative experts and two forensic experts. Working along side this team was an investigative expert from Switzerland.

5. References made to the Commission of Experts  
by other United Nations bodies

27. At its first session, the Commission took note of Security Council resolutions 918 (1994) and 925 (1994), and of the reports of the Secretary-General (S/1994/640) and (S/1994/875) leading to the establishment of the Commission of Experts.

28. The Commission also took note of the resolution adopted by the Commission on Human Rights at its special session held in Geneva on 25 May 1994 (S-3/1) and of the reports of the Special Rapporteur of the Commission on Human Rights on Rwanda (E/CN.4/1995/7, E/CN.4/1995/12 and E/CN.4/1995/70) submitted pursuant to that resolution.

29. Furthermore, at its forty-sixth session, the Subcommission on Prevention of Discrimination and Protection of Minorities adopted resolution 1994/1 entitled "Situation in Rwanda", which called the attention of the Commission of Experts to the need to inquire, *inter alia*, into events leading to the present situation, including the attack on the plane carrying the Presidents

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of Burundi and Rwanda, the assassination of the Prime Minister and of Rwandese ministers and dignitaries, as well as of the 10 United Nations soldiers assigned to protect the Prime Minister; to identify the Rwandese and foreign individuals implicated in the traffic of arms or other illicit traffic; and to engage as a priority in the identification and finding of evidence leading to attribution of responsibility of proprietors, management and personnel of certain media institutions especially those of Radio des Mille Collines, which played a crucial role in the perpetration and spread of the atrocities through incitement.

## II. SOURCES OF INFORMATION AND ANALYSIS OF INFORMATION RECEIVED BY THE COMMISSION OF EXPERTS

10. In pursuance of Security Council resolution 935 (1994) of 1 July 1994, the Commission of Experts carried out various investigations and obtained reliable information concerning serious human rights violations.

### A. Information received from States

11. The Commission received documents from the Governments of Spain, the United States of America, France and Ireland, which in turn had received them essentially from non-governmental organizations and individuals.

12. The dossiers forwarded by the Spanish Government originate from the following organizations and institutions: AMB-SIA, the Liaison Committee of the Conference of Catholic Bishops of Rwanda and the Protestant Council of Rwanda, the Congregation of Sisters of San José de Gerona, Médecins du monde (Spain) and the Society of Missionaries of Africa (White Fathers).

13. The Government of the United States also presented to the Commission documents originating from the following governmental and non-governmental organizations: the Senate Committee on Foreign Relations, the State Department, Amnesty International (United States) and the Committee for Refugees (United States). These various reports and eyewitness accounts contain information on many massacres carried out all over Rwanda, the victims being for the most part members of the Tutsi group and Hutu opponents of the regime of former President Juvénal Habyarimana. They also reveal that these violations were basically carried out by armed groups composed of interahamwe militias trained by the Presidential Guard and supported by the Rwandese armed forces. The reports condemn the behaviour of several figures in the former regime and the owners and journalists of Radio des Mille Collines, who bear prime responsibility for inciting Hutus to exterminate Tutsis and kill moderate Hutus.

14. Most of the organizations which forwarded this information to the Governments of Spain and the United States urge that the United Nations act speedily to prevent further human rights violations in Rwanda and to set up an impartial body to investigate serious violations of human rights and humanitarian law, including genocide.

15. The United States State Department has forwarded documents from the special investigative team it put at the Commission's disposal in September - October 1994 to the Commission. These comprise basically written statements by witnesses and victims, accounts of the activities of political parties, reports by humanitarian organizations on the human rights situation in Rwanda, letters from foreign diplomats, press releases from USAMRIID, the report of an

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inquiry by UDMR on the killing of 10 Belgian United Nations peace-keepers, documents on militia activities and summaries of radio broadcasts. Although most of them date from before 6 April 1994, these accounts and documents prove the existence of a plan for genocide against Tutsis and the murder of moderate Hutus. Some documents reveal actual preparations for such actions, while others refer to lists of figures to be killed.

36. The French Government forwarded to the Commission information collected during "Operation Turquoise".

37. Lastly, the Commission received a paper from the Canadian Government on the existence of allegations concerning participation by a senior MORD official in campaigns of incitement to ethnic hatred and genocide against Tutsis (a speech delivered in 1992). The Commission has been informed that the investigation concerning this matter is pursuing its normal course.

**B. Information provided by organs within  
the United Nations system**

38. The Special Rapporteur, appointed under resolution S-2/1 adopted by the Commission on Human Rights, has transmitted three reports to the Commission to date.

39. In his first report (E/CN.4/1995/7 of 28 June 1994), the Special Rapporteur reported large-scale massacres organized and carried out by Hutu militias - the interahamwe, close to the National Revolutionary Movement for Democracy and Development (MRND), and the impuzamugambi, close to the Coalition for the Defence of the Republic (CRD).

40. The victims of the massacres were mostly either of Tutsi origin or were Hutus considered to be moderate. The report cited numerous heinous acts perpetrated against those groups, including the killing of moderate Hutus by extremist Hutus, acts of torture and other cruel, inhuman or degrading treatment, as well as the incitement of ethnically motivated hatred and violence. The report concluded that responsibility for the above rested with the aforementioned militias and the "transitional Government" of Rwanda. It recommended, inter alia, the establishment of an ad hoc international criminal tribunal or, alternatively, the extension of the jurisdiction of the International Criminal Tribunal for the former Yugoslavia. 1/

41. In his second report (E/CN.4/1995/12 of 12 August 1994), the Special Rapporteur condemned in particular the activities of Radio Télévision Libre des Mille Collines (RTLM) and the exiled former Government, which he said were responsible for incitement to the murder of Tutsis and Hutu moderates and had caused the refugees to be afraid to return to Rwanda.

42. In his third report (E/CN.4/1995/70 of 11 November 1994), the Special Rapporteur confirms the constituent elements of genocide, namely the discovery of mass graves and the existence of proof or indications of the planned genocide of Tutsis. It also describes the existence of human rights violations which may be attributed to military personnel and civilians. These may be broken down into serious violations of the right to property, personal safety and the right to life. As the Special Rapporteur noted in his third Report, the current Minister of Justice disclosed in a fax to the Special Rapporteur that the Government had arrested about of its own 100 soldiers which it intends to bring before military courts for serious violations of codes of military discipline.

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43. Lastly, the Special Rapporteur has forwarded to the Commission documents on the serious and large-scale violations of human rights in Rwanda.

44. The Commission of Experts has also received from UNHCR information concerning massacres alleged to have been perpetrated by members of the RPF army on a systematic basis against a number of Hutus. In all alleged cases, the victims included not only men, but also women and children. Most of the massacres do not seem to have been provoked by individuals suspected of participation in the massacres of Tutsis carried out in April 1994. Bodies that drifted down the Kagera River at an average rate of five per day in the last week of September, many of which had their feet and hands tied - indicating that the victims had been summarily executed - were being recovered.

C. Information provided by other intergovernmental bodies

45. The Commission of Experts received a copy of the report on the situation in Rwanda submitted by the Secretary-General of the Organization of African Unity (OAU) to the Council of Ministers of OAU at its sixtieth regular session (Tunis, 6-11 June 1994). In his report, the Secretary-General noted the worsening of the political situation and the growing lack of security evidenced by the murder of political leaders and the massacre of civilians in deliberate killings perpetrated on an almost unimaginable scale. He called in particular for the establishment of a commission of independent and impartial experts to investigate the circumstances surrounding the accident in which the President's airplane was involved on 6 April 1994 and the massacres which followed it.

D. Information provided by non-governmental organizations

46. A large number of non-governmental organizations submitted reports to the Commission. These reports include either general observations on the situation as regards violations of human rights and humanitarian law in Rwanda, or precise allegations on the murder or kidnapping of named individuals.

47. These crimes were essentially attributed to the militias referred to above, the Rwandese Armed Forces, the political and administrative authorities and several hundred Rwandese of Hutu origin.

48. A number of these reports contain detailed lists of those allegedly responsible for massacres and other abuses. The non-governmental organizations whose reports were received by the Commission are the following: African Rights, Amnesty International, Association rwandaise pour la défense des droits de l'homme, Avocats sans frontières, Comité pour le respect des droits de l'homme au Rwanda, Conseil régional des organisations non gouvernementales de développement du Sud-Kivu, Droits de l'homme sans frontières, International Federation of Human Rights, International Service for Human Rights, International Society for Human Rights (Zaire branch), Médecins du monde, Médecins sans frontières, Nord-Sud MKI, OXFAM, Reporteurs sans frontières, Survival International, US Committee for Refugees and World Organization against Torture. ICRC also supplied information.

49. Most of these reports recommend the establishment of a tribunal to try and punish the individuals responsible for genocide.

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50. The material contained in most of these reports seems to be precise, detailed and corroborated by the information gathered in particular by the Special Rapporteur. Among noteworthy documents, mention should be made of the following evidence incriminating identified individuals: the statutes of Radiotélévision des Mille Collines (featuring the names and signatures of 90 shareholders), and a complaint and claim for indemnification lodged by Reporteurs sans frontières, with the judicial authorities in Belgium and France, and directed against figures in the former Rwandese regime who are mentioned by name. They are accused in particular of the following acts: (a) the crime of genocide; (b) serious violations of international humanitarian law; (c) crimes against humanity; (d) torture and other cruel, inhuman or degrading punishment or treatment. One of the items in this dossier is a transcription of broadcasts made by Radio des Mille Collines, containing incitements to commit acts of genocide.

E. Information provided by each side to the armed conflict

51. The Commission has received from the two parties to the conflict thousands of pages of documents, letters, written complaints and testimony and other items (sound and audio-visual recordings) instancing serious violations of international humanitarian law. The value of these documents varies. From the RPF-dominated Government currently in power in Rwanda, the Commission received documents accusing the former Government and bodies and militias under its control, of acts relating to incitement to ethnic hatred and the perpetration of genocide against Tutsis. Some of these documents contain non-exhaustive lists of the principal suspects. In this context, the Commission received from the RPF a list of Hutu figures who are accused of instigating the massacres and other crimes committed in Rwanda from 6 April 1994 onwards.

52. For their part, leaders of the exiled former Government supplied the Commission with documents indicating (a) the names of several hundred persons alleged to have been massacred by the inkotanyi troops of the RPF; (b) the sites of some 15 common graves in which the victims of massacres alleged to have been perpetrated by the RPF were buried; and (c) written testimony by a number of Hutus who escaped from zones occupied by the RPF during the armed conflict.

F. Information provided by private individuals

53. The Commission also received testimony, reports, complaints and other documents from individuals. They cover essentially facts recounted by members of religious orders or foreign nationals who have lived in Rwanda concerning Rwandese nationals and Rwandese refugees in Zaïre.

54. Other information was supplied by associations of Rwandese individuals abroad belonging to one or other party to the conflict. These provide very partisan information. The pro-Hutu associations maintain that the international community would be wrong to consider the Tutsis as the only victims of the Rwandese tragedy. In particular, they report various violations such as murders of prisoners, hostage-taking, the destruction and pillage of property belonging to fugitive Hutu extremists, torture and cruel, inhuman or degrading treatment. Meanwhile, the pro-Tutsi associations emphasize the premeditated and planned nature of the massacres perpetrated by the Hutus.

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## III. OVERVIEW OF THE FACTS

## A. Background

55. A number of massacres have been perpetrated in Rwanda in the last 45 years. In particular, the years 1959, 1963, 1966, 1973, 1990, 1991, 1992 and 1993 were marked by massacres in Rwanda. Mass killings were carried out in October 1990, January-February 1991 and March 1992. From December 1992 to February 1993 about 2,000 people were murdered. The report of the fact-finding mission of the International Federation of Human Rights of February 1993 recounted massive and systematic human rights violations. These violations were principally carried out against Tutsi individuals. The facts were corroborated by other sources (see reports published by Amnesty International Rwanda, Persecution of Tutsi, Minority and Repression of Government Critics, 1990-1992, of May 1992; and also of the Association Rwandaise pour la Défense des droits de la personne et des libertés publiques, Rapport sur de droits de l'homme au Rwanda, September 1991-September 1992).

56. On 6 April 1994, Juvénal Habyarimana, President of the Rwandese Republic, Cyprion Ntuyamira, President of the Republic of Burundi, and a number of entourage members and crew were killed when the aircraft carrying them was attacked. This disaster triggered a pre-planned execution of severe human rights violations, including systematic, widespread and flagrant breaches of international humanitarian law, large-scale crimes against humanity and genocide.

57. Since 6 April 1994, an estimated 500,000 unarmed civilians have been murdered in Rwanda. That estimate indeed may err on the conservative side for, as the Special Rapporteur of the Commission on Human Rights observed in his report of 28 June 1994 (E/CN.4/1995/7, para. 24), some reliable estimates put the number of dead at close to 1 million. It is unlikely that the world will ever know the exact number of men, women and children slaughtered in this holocaust.

B. Concerted, planned, systematic and methodical nature of the criminal acts

58. Overwhelming evidence indicates that the extermination of Tutsi by Hutu had been planned months in advance of its actual execution. The mass exterminations of Tutsis were carried out primarily by Hutu elements in a concerted, planned, systematic and methodical way and were motivated out of ethnic hatred. These mass exterminations were clearly "committed with intent to destroy, in whole or in part, a national, ethnic(al), racial, or religious group, as such" within the meaning of Article II of the Convention on the Prevention and Punishment of the Crime of Genocide, 1948. Certain organizations such as Doctors without Borders have provided audio tapes and press releases based on information from former informants from the Government's official news service. These informants provided them with tapes proving the existence of death squads called "Network O", established by the staff of the former Head of State who was assassinated.

59. The Rwandese Government of President Juvénal Habyarimana following colonial policy had classified Rwandans by ethnic group. The ethnic identity of individuals in Rwanda is traditionally determined on a patrilineal basis, taking sole account of the father's ethnicity. While mixed marriage abound in Rwanda, one is considered a Tutsi in Rwanda where the father is Tutsi, regardless of the mother's ethnic background. In April 1994, the population

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of Rwanda consisted of approximately 84 percent Hutu, 14 percent Tutsi, and 2 percent other, which includes the Twa population.

60. Certain physical traits have commonly been attributed to the Tutsi population that are taken to distinguish them from Hutu. Tutsi are described as being taller than Hutu, with more aquiline noses, thinner ankles, longer fingers and longer jawbones.

61. In Rwanda, the ethnic designation of every individual is clearly indicated on his or her identity card. In the past, censuses have been taken that relate the name of each Rwandese to his or her ethnic identity. These lists were used during the killings that began on 7 April 1994.

62. Ample evidence of extensive preparation and planning months in advance of the actual violations indicates the concerted and premeditated character of the criminal acts in question.

63. In 1992, Leon Mugesera, an official in President Habyarimana's Movement révolutionnaire national pour le développement delivered a speech at a party conference at Gisenyi. In his speech, he explicitly called on Hutus to kill Tutsis and to dump their bodies in the rivers of Rwanda. The Commission of Experts has in its possession an audio cassette of this speech, which will likely prove to be of significant probative value to establish the presence of criminal intent to commit genocide when the perpetrators are brought to justice.

64. Racist hate propaganda was disseminated on a widespread basis as far back as 1992, especially by Radio-Télévision Libre des Mille Collines, a private radio station owned by members of President Habyarimana's party. These incitements branded Tutsi as well as certain Hutu opponents of the President as "enemies" and "traitors" who "deserved to die". The radio referred to all Tutsi as "the enemy" and accused them of siding with the RPF. It called for all "enemies" to be "exterminated". Posters, leaflets and radio broadcasts on Radio des Mille Collines dehumanized Tutsis as "snakes", "cockroaches" and "animals". Individuals targeted in the radio broadcasts were among the first killed (along with their families) in April 1994.

65. Subsequently, a training camp for Hutu militia (interahamwe) was established in Mutara. The programs there - which lasted for three weeks each - involved indoctrination of groups of 300 men in ethnic hatred against the Tutsi minority. The programs also propagated information on methods of mass murder. These trainees formed the militia of interahamwe meaning "those who attack together". They formed the core perpetrators of genocide. This militia was augmented by the imukamugambi (which means "those who have a single aim") of the Coalition for the Defense of the Republic (CDR). The imukamugambi militia were trained, armed and led by the Presidential Guard and other elements of the Rwandan Government army.

66. Events in the hours immediately following the aircraft crash claiming the lives of President Habyarimana and President Ntaryamira underscore that extensive planning and premeditation were involved in the human rights violations. As stated in the report of the Special Rapporteur (ibid., para. 26), the "provisional Government" was formed within only a few hours of the aircraft crash. Within 30 to 45 minutes of the crash, even before the news could be spread by national radio, barricades were erected on certain major thoroughfares. The Special Rapporteur records that within 45 minutes of the crash, the road from the Hotel Méridien to Amahoro Stadium was blocked by

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soldiers and civilians. He notes that senior officers of the general staff of the "provisional Government" conceded these facts. However, the officers contended that the exceptionally swift pace of events was really attributable to civilians and certain soldiers acting spontaneously in reaction to the sudden death of the Rwandese President, who had enjoyed great popularity. This explanation can hardly be convincing because news of the crash, which had only occurred 45 minutes previously, had yet to be disseminated.

67. Perhaps even more damning, the Rwandan Presidential Guard set up roadblocks that prevented UNAMIR troops (United Nations Assistance Mission to Rwanda) from reaching the airport to investigate the President's assassination.2/

68. Before dawn on 7 April, members of the Presidential Guard went to the homes of moderate opposition members and then killed them and their families. Among those killed were Prime Minister Agathe Uwilingiyimana, 10 Belgian UNAMIR soldiers who tried to protect her, the President of the Supreme Court, (Cour de Cassation) Mr. Joseph Kavaruganda, and human rights advocates Charles Shanukiga, Fidele Kanyabugoyi, Ignace Ruhatsana and Patrick Gahizi. Soldiers also attacked a Roman Catholic Centre in Kigali and murdered 17 Tutsi, mostly priests and nuns, including Father Chrysologue Mahama (Society of Jesus) and Abbot Augustin Ntagara.

69. On 8 April 1994, the Presidential Guard, along with Rwandese army troops and interahamwe militia, began a systematic slaughter of Tutsi civilians in Kigali. As the Special Rapporteur states in his report, roadblocks had been set up and identity cards inspected to determine the ethnic identity of individuals within 30 to 45 minutes of the aircraft crash. At this time, individuals bearing Tutsi physical traits were singled out and summarily executed. As reported extensively in press reports, the streets of Kigali had begun to fill with corpses.

70. Eyewitness accounts indicate that house to house searches were carried out and Tutsis were hunted down and killed. Some Tutsis tried to flee to churches or hotels or to places where there might be safety in numbers. However, soldiers systematically murdered Tutsis who had tried to take refuge in the warehouse of the Belgian Red Cross in Kigali. Churches and the Amahoro stadium were surrounded by soldiers who prevented Tutsis inside from leaving.

71. On 9 April 1994, the Rwandese Army and interahamwe militia continued to slaughter Tutsis at street barricades in Kigali and began to take people out of the churches for execution. At least 100 persons that were either inside or in front of a church were murdered. Others were burnt alive in a chapel.

72. Within the next week, the Presidential Guard and militia had killed an estimated 20,000 people in Kigali and its immediate environs. The mass killings, fomented by Radio des Mille Collines broadcasts which encouraged listeners to "fill the half-empty graves", spread to areas outside Kigali.

73. Many documents from human rights non-governmental organizations have provided non-exhaustive lists of victims:

Human Rights Watch/Africa (Report of June 1994)

- 2,800 persons killed in a church in Kibungo;

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- 6,000 Tutsis killed in a church in Cyahinda where they had taken refuge. Only 200 survived;
- 4,000 killed in a church in Kibeho;
- 2,000 killed in a parish in Mibirizi;
- 4,000 killed in Shangé parish;
- 500 killed in Rukara parish;
- Hundreds of sick patients and also medical staff in hospitals in Kigali and in Butare;
- 11 Tutsi orphans and 11 Red Cross volunteers who tried to protect them were killed at the orphanage at Butare;
- 88 students were killed at their school in Gikongoro.

#### Doctors without Borders (USA)

74. According to testimony on the events of 6 to 30 April 1994, Doctors without Borders provided the names of hundreds of persons murdered, prefecture by prefecture. The perpetrators of the crimes were Rwandan civilians and Hutu refugees from Burundi, RPF army soldiers and also Hutu militia.

#### Prefecture of Ngora

- 3 persons were killed in a camp at Burangé (6 to 10 April);
- 5 persons working for Doctors without Borders were assassinated at Burangé, close to the office of the Belgian Red Cross, on 10 April 1994;
- On 7 and 12 April, 24 other persons disappeared from a camp.

#### Prefecture of Butare

- 600 persons, most of whom were Tutsis, were killed in the commune of Mungaza on 19 April. The perpetrators of the crimes were from Hutu militia and neighbouring communes, made up of and accompanied by the communal administrator, the sector councillor, cell members, the mayor (bourgmestre) and members of the Mouvement révolutionnaire national pour le développement;
- Assassination of numerous sick, wounded and medical staff of the Butare university hospital between 16 and 26 April 1994, by the soldiers of the Rwandese armed forces and Hutu militia;
- Assassination of the Sub-prefect of Butaré (Parti socialiste démocrate, opposition party) and all members of his family, including a child of three months, by elements of the Presidential Guard, interahamwe militia and communal police officers, on 22 April 1994;
- 30 Tutsi civilians were beaten by the Presidential Guard in front of the Falcon Hotel;

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- 170 patients (wounded and sick), all belonging to the Tutsi ethnic group, and 5 members of the medical staff, were kidnapped, then beaten to death or cut into pieces, at the Butare university hospital on 22 to 23 April 1994; the perpetrators of the violations were interahamwe militia, supported by Presidential Guard soldiers coming from Kigali and present in the hospital;
- Massacre of 4,000 Tutsi Rwandese civilians in the communal office of Muyaga by Rwandese armed forces soldiers supported by Hutu civilians on 27 April 1994.

#### Prefecture of Kibungo

- In the centre of Saint Joseph, Kibungo, 2,800 Tutsi persons were attacked on 15 April 1994 by Hutu soldiers and interahamwe militia with grenades.

#### Prefecture of Gikongoro

- 100 Tutsi civilians were killed in Kibeho (south-west Rwanda) by soldiers of the provisional Government army and by groups of armed Hutus following orders of the army.

#### United States Committee for Refugees

- 15,000 Tutsis were grouped together, by order of the Kibuye Prefect, at the stadium of Gatwaro, Kibuye, and massacred by interahamwe militia on 18 April 1994;
- Massacre of 4,300 Tutsis at St. Jean Home from 18 to 20 April 1994;

#### Testimony of clergy gathered by soldiers of Operation Turquoise

- 30 priests of the Nyundo Diocese were assassinated;
- Massacres and mass graves (pits) at Birambo, on the order of the mayor (bourgmestre) of Rwakira, and of the Sub-prefect of Birambo.

#### Testimony from general sources

75. On 11 April, more than 800 Tutsi gathered at Kiziguro Roman Catholic Church, Murambi district, Byumba prefecture. Rwandese soldiers and militia attacked and killed all but 10 of them. Those survivors threw themselves into the mass grave to avoid being hacked to death.

76. Nine Tutsi patients at the Kigali hospital were killed in separate attacks on 11 and 15 April by Rwandese government soldiers.

77. It was reported that 500 Tutsi were killed by interahamwe militia and gendarmes at Rukara Roman Catholic mission in Kibungo prefecture, Rukara district.

78. On 15 April and thereafter, Rwandese army troops distributed automatic and semi-automatic rifles and pistols to interahamwe militia, with which they continued the mass slaughter of Tutsis that had begun with machetes and other weapons.

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79. On 17 April more than 100 Tutsi were killed by soldiers and militia at Nyanza. On 18 April, 2,000 Tutsi were massacred by interahamwe militia in the Mibirizi Roman Catholic church, Cyangugu prefecture, Cyimbogo district.

80. On 19 April, the President of the provisional Rwandese government, Theodores Sindikubwabo, spoke on the radio and called for the killing of "accomplices" in Butare. The Presidential Guard flew in that night and dug pits, filled them with burning tires, and pushed Tutsi into them. They also executed Tutsi near the National University for the next three days, killing thousands.

81. Over 2,800 people, most of them Tutsi, were killed at Mukarange Roman Catholic parish, Kibungo prefecture, Rwamagana district. Interahamwe militia used grenades, machine-guns, 84 rockets and machetes in this massacre.

82. In Gikongoro, 88 students were singled out because of their Tutsi origin and slaughtered at their school.

83. On 23 April, Government troops and militia murdered 170 Tutsi patients and staff at Butare hospital. Doctors of Médecine sans frontières witnessed these acts.

84. On 29 April, military and militia killed over 300 of 5,000 hostages held in the Cyangugu stadium.

85. On 30 April, the Rwandese Government radio called on people to take up arms against "the enemy" (the Tutsi) all over Rwanda. Leaders of the Hutu militia called upon their members to finish the "nettoyage" (cleansing) of Rwanda of all Tutsi.

86. On 1 May, at the Butare orphanage, militia murdered 21 orphan children, segregated on account of their Tutsi origin, along with 13 Rwandese Red Cross volunteers who tried to protect them.

87. Beginning on 11 May, militia and military took hundreds of Tutsis from the Cyangugu stadium into the countryside by bus, where they were murdered.

88. In Cyahinda, over 5,800 Tutsi who had taken refuge in a church were murdered. Only 200 people survived the massacre.

89. On 16 May, Rwandese government troops and militia removed hundreds of Tutsis from the church centre of Kabgayi and executed them, while only a few kilometres away the Rwandese "Minister of Defense" of the "provisional Government", Augustin Bizimana, told reporters the massacres had stopped.

90. In Kigali, thousands of Tutsis sought refuge in the Amahoro Stadium, the Hotel des Mille Collines, the Sainte Famille Church and other locations. Militia entered at night on a number of occasions, removed hundreds of Tutsis from the Stadium and church, then murdered them.

91. The genocidal massacres in Rwanda continued into July 1994. The Commission could cite many more massacres committed by Rwandese government soldiers and Hutu militia against the Tutsi of Rwanda.

92. The mass murder of Tutsis continued throughout areas controlled by the Rwandese "provisional Government". Reliable estimates put the number of

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persons murdered in Rwanda between the period 6 April 1994 and 15 July 1994 at half a million.

C. Violations of international humanitarian law and of human rights law attributed to the Rwandese Patriotic Front

93. The exiled former Government submitted to the Commission lists of persons alleged to have been massacred by RPF soldiers. In particular, it is alleged that 11 Hutu were murdered in August, including certain persons returning from exile, and that 27 Hutu families were massacred between 2 and 12 April 1994. The former Government also provided a document that alleges the existence of mass graves attributed to RPF elements, including 8 in Kigali.

94. Other lists were submitted by witnesses and parents of Hutu victims, now refugees in Zaire: about 300 persons were alleged to have been killed by the inkotanyi (regulars of the RPF forces) in Nyumba prefecture. In the commune of Ewisiga, it is alleged that the following massacres were perpetrated: 30 Hutus killed in Ewisiga sector; 49 in Myarurama sector; 52 in Kabongoya sector; 52 in Ruhanga sector; 22 in Gihuka sector; 26 in Muti sector and 25 in Karehe sector. The former Government has alleged that, in Kigali prefecture, RPF elements massacred 102 Hutus in the communes of Rutongo, Shongi, Mutwa and Rwerere from April to June 1994.

95. The Commission of Experts has concluded that there exist substantial grounds to conclude that mass assassinations, summary executions, breaches of international humanitarian law and crimes against humanity were also perpetrated by Tutsi elements against Hutu individuals and that allegations concerning these acts should be investigated further.

96. As it was finalizing its Preliminary Report, the Commission of Experts received reports of violations of the right to life in Rwanda perpetrated in the period from August to early September 1994. The Secretary-General asked the Commission to investigate these reports.

97. The Commission therefore renewed its efforts to verify allegations that certain atrocities committed in Rwanda by the current Government might be systematic or widespread, by applying the same standards of impartiality and independence that it has applied to all other investigations concerning the situation in Rwanda. Accordingly, it took all available measures during its second mission to Rwanda to investigate allegations against the RPF authorities.

98. For its own part, the Commission was unable, due to a lack of time, to uncover any evidence to indicate that Tutsi elements perpetrated acts committed with intent to destroy the Hutu ethnic group as such within the meaning of the Genocide Convention of 1948. Nor could the Commission find evidence to indicate that killings of Hutus perpetrated by a number of individual RPF soldiers were systematic, sponsored or even approved of, by Government officials or army commanders.

99. In a meeting with the Commission of Experts in Kigali, General Paul Kagame, Vice-President and Minister of Defence of the Government of Rwanda, gave his solemn promise to continue all cooperation with the Commission of Experts and with the Prosecution. Moreover, he informed the Commission that the Government had detained about 70 RPF soldiers, including three majors,

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that the Government intends to try and punish for private acts of revenge exacted against Hutus, acts the Government insists are not only unauthorized, but subject to heavy military discipline and punishment. General Kagame indicated that both he and his Government welcomed the scrutiny of the international community in this regard and he reiterated his every intention to bring to a halt any such breaches of military discipline in his own ranks.

100. Nevertheless, the Commission of Experts remains disturbed by ongoing violence committed by some RPF soldiers and recommends that investigation of violations of international humanitarian law and of human rights law attributed to the Rwandese Patriotic Front be continued by the Prosecutor for the International Tribunal for Rwanda. Accordingly, the Commission of Experts shall turn over all relevant files to the Secretary-General.

#### IV. ISSUES OF LAW CONCERNING INDIVIDUAL RESPONSIBILITY IN INTERNATIONAL LAW

##### A. Applicability of international law to the situation in Rwanda

101. The applicability of international legal norms to the situation in Rwanda in the period 6 April to 15 July 1994 depends upon (a) the legal status of the conflict (determined by the factual situation in Rwanda and the legal norms in force); (b) the scope ratione materiae of specific norms of international human rights law and international humanitarian law (determined by their content); and (c) the legal status of these norms (determined by their sources of law).

102. With these indices in mind, it is clear that international legal norms providing for individual responsibility for serious human rights violations have been breached in Rwanda during the period 6 April to 15 July. Specifically, certain individuals are responsible for breaches of (a) norms of international humanitarian law on a systematic, widespread and flagrant basis; (b) norms prohibiting crimes against humanity; and (c) norms prohibiting acts of genocide.

103. The relevant norms of international law providing for individual responsibility overlap to a certain extent. Consequently, in some instances a single act may qualify as a crime on more than one separate and distinct legal ground.

##### B. Breaches of international humanitarian law, particularly those perpetrated against the civilian population

104. Rwanda succeeded to the Geneva Conventions of 12 August 1949 on 5 May 1964 and acceded to Protocols additional thereto of 1977 on 19 November 1984.3/

105. The applicability of international humanitarian law hinges on the status of the conflict.

106. First, there must be an armed conflict. There can be no doubt that the conflict in Rwanda was an armed conflict as evidenced by the means and methods employed by those involved, and as evidenced by the sheer scale of atrocities committed during the period 6 April to 15 July 1994.

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107. Second, precisely which rules of international humanitarian law apply to the armed conflict in Rwanda between 6 April and 15 July depends on whether the armed conflict is to be considered an international armed conflict or a non-international conflict.<sup>4/</sup>

108. The armed conflict between the period 6 April and 15 July 1994 qualifies as a non-international armed conflict. The use of armed force had been carried out within the territorial borders of Rwanda and did not involve the active participation of any other State. Third State involvement entailed peacemaking and humanitarian functions rather than belligerent action.

109. This is not to say that the armed conflict in Rwanda has not had a serious effect on neighbouring States or on the international community as a whole. There have been serious repercussions on the social and political welfare and internal stability of neighbouring States. For example, the massive influx of refugees into these neighbouring territories has created significant problems. Moreover, the conflict in Rwanda makes it an obvious threat to international peace and security within the meaning of Chapter VII of the Charter of the United Nations. None the less, these aspects do not alter the basic character of the armed conflict in Rwanda during the period 6 April to 15 July 1994 as predominately non-international in character.

110. Accordingly, the obligations set out in common article 3 to the four Geneva Conventions of 1949 governing "situations not of an international character", as well as Protocol II<sup>5/</sup> additional thereto (intended to develop and supplement common article 3 but without modifying its existing conditions of application)<sup>6/</sup> are applicable.

111. At the other end of the scale, the non-international armed conflict in Rwanda cannot be considered to be of a purely internal nature within the meaning of article 1 (2) of Protocol II. The violence in Rwanda has far exceeded mere "internal disturbances and tensions, such as riots, isolated acts of violence [or] other acts of a similar nature".<sup>7/</sup> The evidence indicates very clearly that the violence perpetrated in Rwanda was carried out not by small groups in a spontaneous fashion, but by individuals under a responsible command that conducted "sustained and concerted military operations"<sup>8/</sup> involving strategic planning and tactical sophistication.<sup>9/</sup>

112. Common article 3 to the Geneva Conventions of 12 August 1949 prohibits "at any time and in any place whatsoever":

- (a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) Taking of hostages;
- (c) Outrages upon personal dignity, in particular humiliating and degrading treatment; and
- (d) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples;



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against "persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause".

113. Article 3 (2) provides that "the wounded and sick shall be collected and cared for".

114. Article 4 of Protocol II, which supplements article 3 common to the four Geneva Conventions, prohibits the following acts against "all persons who do not take a direct part or who have ceased to take part in hostilities":

(a) Violence to the life and person, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation, cruel treatment or any form of corporal punishment;

(b) Collective punishments;

(c) Taking of hostages;

(d) Acts of terrorism;

(e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;

(f) Slavery and the slave trade in all their forms;

(g) Pillage;

(h) Threats to commit any of the foregoing acts.

115. Article 4 (3) (c) of Protocol II provides that:

"Children shall be provided with the care and aid they require and in particular: that children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities".

116. Article 5 of Protocol II provides that "the following provisions be respected as a minimum with regard to persons deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained":

(a) The wounded and sick shall be treated in accordance with article 7;

(b) The persons referred to in this paragraph shall, to the same extent as the local civilian population, be provided with food and drinking water and be afforded safeguards as regards health and hygiene and protection against the rigours of the climate and the dangers of the armed conflict;

(c) They shall be allowed to receive individual or collective relief;

(d) They shall be allowed to practise their religion and, if requested and appropriate, to receive spiritual assistance from persons, such as chaplains, performing religious functions;

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(e) They shall, if made to work, have the benefit of working conditions and safeguards similar to those enjoyed by the local civilian population.

117. Article 7 (1) requires that:

"All the wounded, sick and shipwrecked, whether or not they have taken part in the armed conflict, shall be respected and protected."

118. Article 7 (2) provides that:

"In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones."

119. Article 8 requires that:

"Whenever circumstances permit, and particularly after an engagement, all possible measure shall be taken, without delay, to search for and collect the wounded, sick and shipwrecked, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead, prevent their being despoiled, and decently dispose of them."

120. Article 9 provides that medical and religious personnel shall be respected and protected. Article 11 provides that medical units and transports shall be respected and protected at all times and shall not be the object of attack.

121. Part IV of Protocol II relates to protection of the civilian population. Article 13 provides that:

1. The civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations. To give effect to this protection, the following rules shall be observed in all circumstances.
2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.
3. Civilians shall enjoy the protection afforded by this Part, unless and for such time as they take a direct part in hostilities.

122. Article 14 guarantees protection of objects indispensable to the survival of the civilian population. Article 16 provides for protection of cultural objects and places of worship.

123. Article 17 provides that:

"The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be

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taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition."

124. The Commission of Experts has determined that common article 3 of the Geneva Conventions of 1949 and the provisions cited above of Protocol II additional to the Geneva Conventions of 1949 were violated in Rwanda during the period 6 April to 15 July 1994 on a systematic, widespread and flagrant basis.

### C. Crimes against humanity

125. To understand whether and to what extent norms prohibiting crimes against humanity apply to the armed conflict in Rwanda it is necessary to consider the content and legal status of "crimes against humanity" as a norm of international law.

126. "Crimes against humanity" as a legal category is not as clear in content or legal status as "genocide" or breaches of the Geneva Conventions or Protocols additional thereto. A certain level of ambiguity in the content and legal status of "crimes against humanity" derives partly from its formulation in the Nuremberg Charter and partly from the way it was interpreted by the Nuremberg Tribunal.

127. "Crimes against humanity" were cast in article 6 (c) of the Nuremberg Charter as:

"murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population before or during the [Second World] war, or persecutions on political, racial, or religious grounds in execution of or in connection with any crime within the jurisdiction of the [Nuremberg] Tribunal, whether or not in violation of the domestic law of the country where perpetrated."

It was unclear at the outset as to whether norms prohibiting "crimes against humanity" were intended to overlap with norms prohibiting war crimes or whether they were supposed to be independent juridical concepts.

128. Article 6 (c) of the Nuremberg Charter does narrow the concept of "crimes against humanity" considerably. As Sunga<sup>10</sup> states:

"In particular, the acts must have been committed against civilians rather than soldiers (whereas norms prohibiting war crimes restrict actions against soldiers as well), and the acts must have been committed 'either before or during the war' (although what period of time before the war is not specified). A Protocol of 6 October 1945, done in Berlin, amended the original version of article 6 (c). The original provision contained a semicolon which followed the word 'war' which seemed to imply that murder etc. could be considered as crimes against humanity independent of the jurisdiction of the Tribunal. However, the semicolon was replaced with a comma by the Protocol. The result was to imply that crimes against humanity were to be interpreted to import liability only for acts connected to the war."

Moreover, the United Nations War Crimes Committee on Facts and Evidence in 1946 sought to clear up any ambiguity by stating that:

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"... crimes against humanity as referred to in the Four Power Agreement of 8th August 1945, were war crimes within the jurisdiction of the [United Nations War Crimes] Commission."11/

129. Consequently, "crimes against humanity" were interpreted by the Nuremberg Tribunal as offenses that were connected to the Second World War, rather than to any situations that might have existed prior to it.

130. If the normative content of "crimes against humanity" had remained frozen in its Nuremberg form, then it could not possibly apply to the situation in Rwanda that existed between 6 April and 15 July 1994 because there was not a "war" in the classic sense of an inter-State or international armed conflict.

131. However, the normative content of 'crimes against humanity' - originally employed by the Nuremberg Tribunal for its own specific purposes in connection World War II - has undergone substantial evolution since the end of World War II.

132. First, even the Nuremberg Tribunal itself had established that 'crimes against humanity' covered certain acts perpetrated against civilians, including those with the same nationality as the perpetrator. Indeed, 'crimes against humanity' as a normative concept finds its very origins in "principles of humanity" first invoked in the early 1800's by a State to denounce another State's human rights violations of its own citizens. Thus, 'crimes against humanity' as a juridical category was conceived early on to apply to individuals regardless as to whether or not the criminal act was perpetrated during a state of armed conflict or not and regardless of the nationality of the perpetrator or victim.

133. Second, the content and legal status of the norm since Nuremberg has been broadened and expanded through certain international human rights instruments adopted by the United Nations since 1945. In particular, the Genocide Convention, 1948 affirms the legal validity of some of the normative content of 'crimes against humanity' as conceived in Article 6(c) of the Nuremberg Charter, but does not overtake it. The Apartheid Convention, adopted by the United Nations General Assembly on November 10, 1973 refers in Article 1 to apartheid as a 'crime against humanity'.

134. Third, the Commission of Experts on the Former Yugoslavia, formed by United Nations Security Council resolution 780 of 1992, stated that it considered crimes against humanity to be:

"gross violations of fundamental rules of humanitarian and human rights law committed by persons demonstrably linked to a party to the conflict, as part of an official policy based on discrimination against an identifiable group of persons, irrespective of war and the nationality of the victim."12/

This view finds support in the writings of publicists.13/

135. The Commission of Experts on Rwanda considers that "crimes against humanity" are gross violations of fundamental rules of humanitarian and human rights law committed by persons demonstrably linked to a party to the armed conflict, as part of an official policy based on discrimination against an identifiable group of persons, irrespective of war and the nationality of the victim, and includes acts such as the following:

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- Murder;
- Extermination;
- Enslavement;
- Deportation and population transfer;
- Imprisonment;
- Torture;
- Rape;
- Persecutions on political, racial and religious grounds;
- Other inhumane acts;
- Apartheid.

136. Disturbing reports have been filed with the Commission of Experts that document the abduction and rape of women and girls in Rwanda during the period of armed conflict in Rwanda.<sup>14/</sup>

137. The Commission of Experts considers rape to be both an egregious breach of international humanitarian law and a crime against humanity.

138. It is valuable to reflect a little on the juridical basis of international legal norms prohibiting rape in order to come to a full appreciation of their present status in international law.

139. The Nuremberg Charter does not explicitly list "rape" as a war crime or crime against humanity.

140. Neither does Article 3 common to the four Geneva Conventions, 1949 refer to "rape". Common Article 3 refers to violence to life and person, mutilation, cruel treatment, torture, outrages upon personal dignity and to humiliating and degrading treatment but does not refer to "rape" or "sexual assault". Nor do the provisions on 'grave breaches' of the Geneva Conventions refer to "rape".<sup>15/</sup> The "grave breaches" provisions are those that provide specifically for individual criminal responsibility in case of especially serious violations of the Geneva Conventions.

141. However, despite the absence of explicit reference to "rape" in these provisions, the international community appears to regard rape as covered in common Article 3 and also by the grave breaches provisions. Indeed, the International Committee of the Red Cross has taken the position as early as 1958 that 'inhuman treatment' as referred to in Article 147 of the fourth Geneva Convention should be interpreted in light of Article 27 which prohibits rape.<sup>16/</sup> Article 27 provides a mandatory obligation that:

"Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault."

The 1977 Protocols, which revise and supplement the 1949 Geneva Conventions, contain provisions referring specifically to "rape". Especially relevant to the situation in Rwanda is 1977 Protocol II relating to the Protection of Victims of Non-International Armed Conflict which provides that:

"outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault"

are "prohibited at any time and in any place whatsoever."<sup>17/</sup>

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142. In any event, the Statute of the International Tribunal for Rwanda, adopted by Security Council resolution 955 (1994) on 8 November 1994, specifically includes "rape" as a "crime against humanity" in Article 3(g).

143. Even if the Statute had not made explicit and specific reference to "rape" as a "crime against humanity", the international community has recognized that under certain circumstances, rape constitutes a crime against humanity.

144. The Special Rapporteur on the former Yugoslavia expressed in very clear terms the relation of rape as an instrument of social control to 'ethnic cleansing' in his 1993 report:

"Rape is an abuse of power and control in which the rapist seeks to humiliate, shame, degrade and terrify the victim. In all his reports, the Special Rapporteur has emphasized the variety of methods which are used to achieve ethnic cleansing. Rape is one of these methods, as has been stated from the outset. In this context, rape has been used not only as an attack on the individual victim, but is intended to humiliate, shame, degrade and terrify the entire ethnic group."<sup>18/</sup>

145. Commission of Experts wishes to express its endorsement of this position and to make clear that it considers rape to be both a breach of international humanitarian law and a crime against humanity. There are clear cases where rape - which undoubtedly constitutes 'serious bodily or mental harm' - is perpetrated under a responsible command as a systematic policy alongside or part of a larger policy that is 'committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such'. The Commission of Experts recommends that the Prosecutor explore fully the relation between the policy of systematic rape under a responsible command as a crime against humanity on the one hand, with the crime of genocide on the other.

146. The Commission has determined that there exists ample grounds to conclude that 'crimes against humanity' were committed by each side to the armed conflict in Rwanda.

#### D. Genocide

147. The term 'genocide' was coined by Raphael Lemkin, a lawyer of Polish and Jewish origins, in his 1944 book entitled "Axis Rule in Occupied Europe".<sup>19/</sup> It is based on the Greek word *genos* meaning "race" and the Latin word *gide* which refers to "killing".

148. On 11 December 1946, the UN General Assembly adopted unanimously resolution 96(I) of 6 June 1947<sup>20/</sup> which refers to genocide as "the denial of the right of existence of entire human groups".<sup>21/</sup> Resolution 96-I also recognized genocide as a crime under international law and appeals to member states to enact legislation for the prevention and punishment of genocide.<sup>22/</sup>

149. On 9 December 1948, the Convention on the Prevention and Punishment of the Crime of Genocide was adopted by the United Nations General Assembly. It entered into force on 12 January 1951 in accordance with Article XIII and as a treaty, created legal norms binding the States Parties to it.

150. Before the Genocide Convention was adopted in 1948, genocide was not specifically prohibited by international law except in laws of war.<sup>23/</sup>

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committed in time of peace or in time of war, is a crime under international law' therefore represented an advance in international law. Thus, the emergence of international legal norms prohibiting genocide that apply without regard to the existence of status of an armed conflict, dates only to the end of the Second World War.

151. Rwanda acceded to the Genocide Convention on 16 April 1975. Rwanda has entered a reservation that states: "The Rwandese Republic does not consider itself as bound by Article IX of the Convention." Article IX provides that:

"[d]isputes between the Contracting Parties relating to the interpretation, application, or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in Article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

152. Even if Rwanda had not ratified the Genocide Convention, it would be bound by the prohibition of genocide which has since 1948, developed into a norm of customary international law. Moreover, it is universally recognized by the international community that the prohibition of genocide has attained the status of jus cogens. It therefore has a peremptory status.<sup>24/</sup> For these reasons, the prohibition of genocide as expressed in the Genocide Convention applies to all members of the international community rather than merely to parties to the Convention.<sup>25/</sup>

153. Article II provides that:

"In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical (sic), racial, or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group."

154. Article III provides that "the following acts shall be punishable:

- (a) Genocide;
  - (b) Conspiracy to commit genocide;
  - (c) Direct and public incitement to commit genocide;
  - (d) Attempt to commit genocide;
  - (e) Complicity in genocide."
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155. Article IV provides that "persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals."

156. The Commission of Experts has determined that there are more than ample grounds to conclude that every provision laid out in Article III of the Genocide Convention has been violated in Rwanda in the period 6 April to 15 July 1994 in respect of a specific ethnic group as such. Furthermore, abundant and compelling evidence supports the conclusion that prior to 6 April 1994 Hutu elements conspired to commit genocide against the Tutsi group in violation of Article III of the Genocide Convention, 1948. It should be recalled that the Genocide Convention applies both in time of war or peace and that therefore its provisions apply to the situation in Rwanda regardless of the existence and status of any armed conflict there.

1. The issue of national, ethnic, racial, or religious groups

157. The precursor to the Genocide Convention, General Assembly resolution 96(I) provided in Article 1(I) that:

"The purpose of this Convention is to prevent the destruction of racial, national, linguistic, religious or political groups of human beings."

However in the Genocide Convention as it was finally adopted,

"Political groups are conspicuously not on the list because some states feared that the inclusion of such an arguably unstable category would create an obstacle to the Convention's ratification."26/

158. This may appear to leave the door slightly open for perpetrators to argue that the killings that they ordered or carried out were directed against political groups and not any of the groups listed in Article II. Alternatively, it may be argued that the killings were politically motivated and not with the intent to destroy a national, ethnic, racial, or religious group, as such.

159. However, this attempt at a defense is bound to fail as it should, because the presence of political motive does not negate the intent to commit genocide if such intent is established in the first instance.27/ On a related point, to recognize that there exists discrimination on racial or ethnic grounds, it is not necessary to presume or posit the existence of race or ethnicity itself as scientifically objective facts.

2. Issues concerning numbers of persons killed and the issue of specific intent to commit genocide

160. Because the crime of genocide is qualified by the intention to destroy the group as such, genocide cases brought before the international tribunal would have to focus on elements of proof that tie the act of killing to the intention of the accused to the victim's national, ethnic, racial, or religious background.

161. The Commission of Experts considers it valuable here to ponder a number of issues concerning the criminal intent to commit genocide as defined in



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Article II that will likely arise in trials of individuals for acts of genocide.

162. Does a particular minimum number of persons have to be killed for an act of genocide to be established in the individual case?

163. Let us suppose for example, that an individual is brought before the Tribunal for having committed an act of genocide. Further suppose that: a) the accused killed one single person; and b) there is sufficient evidence to prove that the accused was guilty of murder under the laws of Rwanda.

164. First, this raises the issue as to whether Article II of the Genocide Convention requires the Prosecution to prove intention to destroy the whole group or whether intention to destroy part of the group is sufficient. In individual cases, there may be no evidence of express intention to commit genocide. In these cases, it will likely be critical to prove that the act of killing constituted an act of genocide as opposed to ordinary murder.

165. The interpretation of Article II of the Convention on this point would likely have significant ramifications for the breadth of criminal prosecutions for the International Tribunal for Rwanda for the following reason. If Article II were interpreted to mean that the intention to destroy the group as such applied only to the entire group and not to part, it could mean that prosecutions would be limited to those individuals suspected of directing and planning genocide with the requisite intent. It could mean that the individual suspect who could be proved to have carried out the act of killing, but could not be proved to have acted with the intent to destroy the whole group as such would have to be indicted on some other ground or left unpunished.

166. Recourse to the travaux préparatoires sheds little light on the intention of the drafters of the Genocide Convention. However, on a plain reading of Article II, the word 'or' indicates that intention to destroy part of the group is sufficient for the crime of genocide to have been committed. However, as Bryant has opined:

"Unless the intent were express, ... the intent to destroy the group would be difficult to prove, except in those instances where the number of people of the group affected was significant. Practically speaking, then, the number of victims may be of evidentiary value with respect to proving the necessary intent." 28

167. Second, there is the question as to how specific intent to commit an act of genocide (where an accused is alleged to have killed a single human being) is to be distinguished from an act of ordinary murder or the killing of several from mass murder. If the prosecution were forced to prove specific intent 'to destroy the group as such' in respect of the accused in each and every case in order to rebut the defense that ordinary murder rather than genocide had been committed, it would be faced with an unreasonably high burden of proof.

168. It might seem to matter little whether an accused was found guilty of murder rather than genocide or the other way round. On the contrary, the difference could matter a great deal to the accused, to the Prosecution effort and to the community at large. In the case of genocide, the matter would come under the jurisdiction of the international tribunal authorized to try and punish the accused according to rules of international law. However, in the

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case of murder, it would be the national laws and procedures of Rwanda that would apply before a duly authorized domestic court. The law applicable, including procedural fair trial guarantees, venue of the trial, even the public profile of the verdict and scale of punishment, are likely to differ significantly according to the substance of the indictment.

## V. ATTRIBUTION (IMPUTABILITY)

### A. Individual responsibility in international law

169. The attribution of responsibility to the individual in propria personam is not entirely new. Indeed, military trials of individuals for having committed war crimes dates back at least to 1419 as Kean documents in his work The Laws of War in the Middle Ages.<sup>29/</sup> There is also the international trial of Peter von Hagenbach which took place in 1474 for acts that today are considered crimes against humanity. International legal norms stipulating individual responsibility for slave-trading and slave-trafficking and for piracy arose out of the Congress of Vienna, 1815. Today these norms are considered part of customary international law and probably of jus cogens.<sup>30/</sup>

170. It is true that international responsibility is predominately, even almost exclusively centred around States rather than other entities. This should not be surprising since it is the State that is the primary subject of international law. Moreover, prior to the Nuremberg Trials following the end of the Second World War, even norms prohibiting war crimes and crimes against humanity involved responsibility primarily of the State rather than of the individual directly.

171. However, the Nuremberg Trials established clearly the principle that any individual, regardless of office or rank, shall be held responsible in international law for war crimes, crimes against peace or crimes against humanity. It symbolized the possibility that trials could actually be carried out and punishment enforced in modern times.

172. The principle that the individual shall be held responsible for serious violations of human rights - firmly enforced by the Nuremberg Tribunal and today universally recognized by the international community - is the same principle that guides the operation of the International Criminal Tribunal for the former Yugoslavia and of the present Commission of Experts on Rwanda acting in conformity with United Nations Security Council resolution 975 (1994).

### B. Command responsibility

173. It is a well-established principle of international law that a person who orders a subordinate to commit a violation for which there is individual responsibility is as responsible as the individual that actually carries it out. The Nuremberg Principles, adopted by the United Nations General Assembly on 11 December 1946, affirmed that even a Head of State is not free from responsibility under international law for the commission of a crime under international law.<sup>31/</sup>

174. The principle of command responsibility has been incorporated in article IV of the Genocide Convention laid out above and is expressed also in article 26 (2) of the 1977 Protocol I additional to the Geneva Conventions of

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1949 relating to international armed conflicts. It finds expression again in the Draft Code on Crimes against the Peace and Security of Mankind.<sup>12/</sup>

C. Defences: superior orders, duress, mistake, military necessity and reprisal

175. Since the inception of the Nuremberg Charter it has been recognized that the existence of superior orders does not provide an individual with an exculpatory defence.<sup>13/</sup> Nevertheless, the existence of superior orders may be taken into account with respect to mitigation of punishment.

176. The Commission wishes to note that it considers the defences of duress and mistake of fact as possible defences to individual allegations of serious human rights violations.

VI. THE QUESTION OF CRIMINAL JURISDICTION

177. In its Preliminary Report, the Commission of Experts recommended that cases concerning crimes under international law committed in Rwanda should be brought under the competence of the International Criminal Tribunal for the Former Yugoslavia, (created pursuant to Security Council resolutions 808 of 1993 and 827 of 1993) and that this approach could greatly advance the cause of international criminal justice.

178. For these reasons, the Commission of Experts recommended that trials of individuals suspected of serious breaches of international humanitarian law, crimes against humanity and acts of genocide, should be carried out by an international criminal tribunal.

179. The Commission of Experts recommended that the jurisdiction of the International Criminal Tribunal for the Former Yugoslavia be expanded to cover international crimes committed in Rwanda rather than to create a separate ad hoc international criminal tribunal.

180. Security Council resolution 955 of 8 November 1994, more particularly its Annex - the Statute of the International Tribunal for Rwanda (see Annex I) - goes a long way to meeting the Commission's recommendations concerning jurisdiction. It is designed to bring unity to the process and interpretation of international criminal law. Specifically, Article 14 provides that the same rules of procedure and of evidence applicable before the International Tribunal for the Former Yugoslavia shall also be adopted by the judges of the International Tribunal for Rwanda. Article 15(3) provides that: "The Prosecutor of the International Tribunal for the Former Yugoslavia shall also serve as the Prosecutor of the International Tribunal for Rwanda." It is true that there shall be separate trial chambers; one for the former Yugoslavia and the other for Rwanda. However, it is significant that Article 12(2) of the Statute provides that the members of the Appeals Chamber for the Tribunal for the Former Yugoslavia shall also serve as the members of the Appeals Chamber for the Rwanda Tribunal thus unifying the appeals process.

VIII. CONCLUSIONS

181. The Commission of Experts concludes on the basis of ample evidence that individuals from both sides to the armed conflict in Rwanda during the period 6 April 1994 to 15 July 1994, have perpetrated serious breaches of

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international humanitarian law, in particular of obligations set forth in Article 3 common to the four Geneva Conventions of 12 August 1949 and in Protocol II additional to the Geneva Conventions and relating to the Protection of Victims of Non-International Armed Conflicts of 8 June 1977.

183. The Commission of Experts concludes also that ample evidence indicates that individuals from both sides to the armed conflict perpetrated crimes against humanity in Rwanda in the period mentioned above.

183. After careful deliberation, the Commission of Experts has concluded that there exists overwhelming evidence to prove that acts of genocide against the Tutsi group were perpetrated by Hutu elements in a concerted, planned, systematic and methodical way.

184. Abundant evidence shows that these mass exterminations perpetrated by Hutu elements against the Tutsi group as such, during the period mentioned above, constitute genocide within the meaning of Article II of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted 9 December 1948.

185. The Commission was unable to uncover any evidence to indicate that Tutsi elements perpetrated acts committed with intent to destroy the Hutu ethnic group as such within the meaning of the Genocide Convention of 1948. The Commission was not in the position, due to a lack of time, means and objective limits to its mandate, to uncover evidence to indicate that the killings of Hutus perpetrated by a certain number of RPF soldiers were systematic, sponsored or even approved of, by Government officials or army commanders.

186. Nevertheless, the Commission of Experts remains disturbed by ongoing violence committed by some RPF soldiers and recommends that investigation of violations of international humanitarian law and of human rights law attributed to the Rwandese Patriotic Front be continued by the Prosecutor. Accordingly, the Commission of Experts will transmit all relevant files in its possession to the Secretary-General.

187. The Commission of Experts wishes to express its gratitude to Mr. José Ayala Lasso, the United Nations High Commissioner for Human Rights, to Mr. Ibrahim Fall, Assistant Secretary-General for Human Rights, and to the staff members of the United Nations Secretariat for the concerted effort and support they gave to our Commission.

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#### Notes

1/ The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, established by Security Council resolution 827 of 25 May 1993 will be referred to in this report as the "International Criminal Tribunal for the former Yugoslavia".

2/ See Report of Human Rights Watch / Africa of May 1994, at 3.

3/ Even if Rwanda had not become a party to the Geneva Conventions of 1949, it is universally acknowledged that common article 3 has become part of customary international law binding non-parties to the Conventions and is very likely to have attained the status of ius cogens as well. Norms of a ius cogens have a peremptory status and do not permit of any derogation or exception.

4/ Article 2 common to the four Geneva Conventions of 12 August 1949 concerns the applicability of the Conventions to all cases of declared war between two or more High Contracting Parties, even if the state of war is not recognized by one of them and all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance. Article 3 common to the four Geneva Conventions of 12 August 1949 applies to cases of "armed conflict not of an international character occurring in the territory of one of the High Contracting Parties".

5/ Protocol II: Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, entered into force on 7 December 1978.

6/ See article 1 of Protocol II.

7/ See article 1 (2) of Protocol II to the Geneva Conventions of 1949.

8/ See article 1 (1) of Protocol II.

9/ Therefore, article 1 (2) of Protocol II relating to the Protection of Victims of Non-International Armed Conflicts, which provides that "This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts", does not apply in the case of Rwanda.

10/ Sunga, Individual Responsibility in International Law for Serious Human Rights Violations 1992. See also Reshetov, "Development of Norms of International Law on Crimes against Humanity" in The Nuremberg Trial and International Law, Ginsburgs and Kudriavtsev (eds.) 1990 at 199-200.

11/ See Dinstein, International Criminal Law 20 Israel L. Rev. 206-242 (1985) and Id. at 36-7.

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12/ S/25274, annex I, para. 49.

13/ See e.g. Reshatov, "Development of Norms of International Law on Crimes against Humanity" in The Nuremberg Trial and International Law, Ginsburgs and Kudriavtsev (eds.) 1990, p. 159. See also, Bassicuni, Crimes against Humanity in International Criminal Law, 1992, chap. 11.

14/ See in particular Chapter 10 of African Rights, "Rwanda: Death, Despair and Defiance," 1994.

15/ See Articles 50 of Convention I, 51 of Geneva Convention II, 130 of Geneva Convention III and Article 147 of Geneva Convention IV.

16/ See further Meron, "Rape as a Crime Under International Humanitarian Law," American Journal of International Law 87 (1993): 424-428. See also Daes, "New Types of War Crimes and Crimes against Humanity: Violations of International Humanitarian and Human Rights Law," International Geneva Yearbook 7 (1993): 55-78 and Khushalani, Dignity and Honour of Women as Basic and Fundamental Human Rights, (Dordrecht: Martinus Wijkhoff, 1982).

17/ See Article 4(2)(e) of Protocol II. Also Article 76 of Protocol I provides that:

"1. Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault.

2. Pregnant women and mothers having dependent infants who are arrested, detained or interned for reasons related to the armed conflict, shall have their cases considered with the utmost priority."

18/ "Report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to Commission resolution 1992/8-1/1 of 14 August 1992," Commission on Human Rights, 1993, at para. 85.

19/ Lenkin Axis Rule in Occupied Europe, (Washington: Carnegie Endowment for International Peace: Division of International Law Publications, 1944).

20/ United Nations Secretariat, "Draft Convention for the Prevention and Punishment of Genocide (Doc. A/AC.10/42)," (6 June 1947).

21/ G.A. Res. 96(II), U.N. Doc. A/211 (1946).

22/ For a good account of the drafting process of the Genocide Convention, refer to Part I (17-28) see Robinson, Nehemiah, The Genocide Convention: a Commentary, (New York: World Jewish Congress, 1960).

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23/ See Sungu, Individual Responsibility in International Law for Serious Human Rights Violations (Dordrecht: Martinus Nijhoff, 1992). In Chapter III(1) the author argues that while some acts that qualify now in international law as acts of genocide, were previously covered by norms prohibiting war crimes and crimes against humanity, these norms were considered to apply only to situations involving armed conflict. This meant that there was a gap in international law concerning mass killings and genocide committed in peace-time.

24/ Article 53 of the Vienna Convention on the Law of Treaties, 1969 provides that: "a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character."

25/ This is not to say that the provisions of the entire Genocide Convention, 1948 have necessarily attained the status of jus cogens or even of customary international law. The Commission of Experts is referring here to the normative content of the rule prohibiting genocide as expressed in Article II of the Convention and not to its particular material source.

26/ Webb, John, "Genocide Treaty: Ethnic Cleansing, Substantive and Procedural Hurdles in the Application of the Genocide Convention to Alleged Crimes in the Former Yugoslavia," Georgia Journal of International and Comparative Law Summer (1993): 377-408 at 391.

27/ Or as Leblanc observes, "Neither Article II nor any other article of the convention refers to the motives that must lie behind the commission of such acts." Leblanc, The United States and the Genocide Convention, (Durham, N.C.: Duke University Press, 1991) at 80.

28/ Bryant, "The United States and the 1948 Genocide Convention," Harvard International Law Journal 16.1 (1975): 683-704. See also Robinson, The Genocide Convention: a Commentary, (New York: World Jewish Congress, 1960) and Webb, "Genocide Treaty: Ethnic Cleansing, Substantive and Procedural Hurdles in the Application of the Genocide Convention to Alleged Crimes in the Former Yugoslavia," Georgia Journal of International and Comparative Law Summer (1993): 377-408 at 392.

29/ Kaen, The Laws of War in the Middle Ages (London: Routledge & Kegan Paul) 1965.

30/ See Sungu, Individual Responsibility in International Law for Serious Human Rights Violations, (Dordrecht: Martinus Nijhoff, 1992) and generally, Bassiouni, Crimes against Humanity (Dordrecht: Martinus Nijhoff, 1992).

31/ See General Assembly resolution 95 (I) of 11 December 1946.

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12/ See report of the International Law Commission on the work of its forty-third session (A/46/10).

11/ Article 8 of the Nuremberg Charter provides that: "The fact that the defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determines that justice so requires".

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## ANNEX I

## RESOLUTION 935 (1994)

Adopted by the Security Council at its 3453rd meeting,  
on 8 November 1994

The Security Council,

Reaffirming all its previous resolutions on the situation in Rwanda,

Having considered the reports of the Secretary-General pursuant to paragraph 3 of resolution 935 (1994) of 1 July 1994 (S/1994/879 and S/1994/905), and having taken note of the reports of the Special Rapporteur for Rwanda of the United Nations Commission on Human Rights (S/1994/1157, annex I and annex II),

Expressing appreciation for the work of the Commission of Experts established pursuant to resolution 935 (1994), in particular its preliminary report on violations of international humanitarian law in Rwanda transmitted by the Secretary-General's letter of 1 October 1994 (S/1994/1125),

Expressing once again its grave concern at the reports indicating that genocide and other systematic, widespread and flagrant violations of international humanitarian law have been committed in Rwanda,

Determining that this situation continues to constitute a threat to international peace and security,

Determined to put an end to such crimes and to take effective measures to bring to justice the persons who are responsible for them,

Convinced that in the particular circumstances of Rwanda, the prosecution of persons responsible for serious violations of international humanitarian law would enable this aim to be achieved and would contribute to the process of national reconciliation and to the restoration and maintenance of peace,

Believing that the establishment of an international tribunal for the prosecution of persons responsible for genocide and the other above-mentioned violations of international humanitarian law will contribute to ensuring that such violations are halted and effectively redressed,

Stressing also the need for international cooperation to strengthen the courts and judicial system of Rwanda, having regard in particular to the necessity for those courts to deal with large numbers of suspects,

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Considering that the Commission of Experts established pursuant to resolution 935 (1994) should continue on an urgent basis the collection of information relating to evidence of grave violations of international humanitarian law committed in the territory of Rwanda and should submit its final report to the Secretary-General by 30 November 1994,

Acting under Chapter VII of the Charter of the United Nations,

1. Decides hereby, having received the request of the Government of Rwanda (S/1994/1115), to establish an international tribunal for the sole purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994 and to this end to adopt the Statute of the International Tribunal for Rwanda annexed hereto;
2. Decides that all States shall cooperate fully with the International Tribunal and its organs in accordance with the present resolution and the Statute of the International Tribunal and that consequently all States shall take any measures necessary under their domestic law to implement the provisions of the present resolution and the Statute, including the obligation of States to comply with requests for assistance or orders issued by a Trial Chamber under Article 28 of the Statute, and requests States to keep the Secretary-General informed of such measures;
3. Considers that the Government of Rwanda should be notified prior to the taking of decisions under articles 26 and 27 of the Statute;
4. Urges States and intergovernmental and non-governmental organizations to contribute funds, equipment and services to the International Tribunal, including the offer of expert personnel;
5. Requests the Secretary-General to implement this resolution urgently and in particular to make practical arrangements for the effective functioning of the International Tribunal, including recommendations to the Council as to possible locations for the seat of the International Tribunal at the earliest time and to report periodically to the Council;
6. Decides that the seat of the International Tribunal shall be determined by the Council having regard to considerations of justice and fairness as well as administrative efficiency, including access to witnesses, and economy, and subject to the conclusion of appropriate arrangements between the United Nations and the State of the seat, acceptable to the Council, having regard to the fact that the International Tribunal may meet away from its seat when it considers it necessary for the efficient exercise of its functions; and decides that an office will be established and proceedings will be conducted in Rwanda, where feasible and appropriate, subject to the conclusion of similar appropriate arrangements;

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7. Decides to consider increasing the number of judges and Trial Chambers of the International Tribunal if it becomes necessary;

8. Decides to remain actively seized of the matter.

#### Statute of the International Tribunal for Rwanda

Having been established by the Security Council acting under Chapter VII of the Charter of the United Nations, the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994 (hereinafter referred to as "the International Tribunal for Rwanda") shall function in accordance with the provisions of the present Statute.

#### Article 1

##### Competence of the International Tribunal for Rwanda

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994, in accordance with the provisions of the present Statute.

#### Article 2

##### Genocide

1. The International Tribunal for Rwanda shall have the power to prosecute persons committing genocide as defined in paragraph 2 of this article or of committing any of the other acts enumerated in paragraph 1 of this article.

2. Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

3. The following acts shall be punishable:

(a) Genocide;

(b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide;

(d) Attempt to commit genocide;

(e) Complicity in genocide.

#### Article 1

##### Crimes against humanity

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds:

(a) Murder;

(b) Extermination;

(c) Enslavement;

(d) Deportation;

(e) Imprisonment;

(f) Torture;

(g) Rape;

(h) Persecutions on political, racial and religious grounds;

(i) Other inhumane acts.

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Article 4Violations of Article 1 common to the Geneva  
Conventions and of Additional Protocol II

The International Tribunal for Rwanda shall have the power to prosecute persons committing or ordering to be committed serious violations of Article 1 common to the Geneva Conventions of 12 August 1949 for the Protection of War Victims, and of Additional Protocol II thereto of 8 June 1977. These violations shall include, but shall not be limited to:

- (a) Violence to life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
- (b) Collective punishments;
- (c) Taking of hostages;
- (d) Acts of terrorism;
- (e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
- (f) Pillage;
- (g) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples;
- (h) Threats to commit any of the foregoing acts.

Article 5Personal jurisdiction

The International Tribunal for Rwanda shall have jurisdiction over natural persons pursuant to the provisions of the present Statute.

Article 6Individual criminal responsibility

1. A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of a crime

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referred to in articles 2 to 4 of the present Statute, shall be individually responsible for the crime.

2. The official position of any accused person, whether as Head of State or Government or as a responsible Government official, shall not relieve such person of criminal responsibility nor mitigate punishment.

3. The fact that any of the acts referred to in articles 2 to 4 of the present Statute was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

4. The fact that an accused person acted pursuant to an order of a Government or of a superior shall not relieve him or her of criminal responsibility, but may be considered in mitigation of punishment if the International Tribunal for Rwanda determines that justice so requires.

#### Article 7

##### Territorial and temporal jurisdiction

The territorial jurisdiction of the International Tribunal for Rwanda shall extend to the territory of Rwanda including its land surface and airspace as well as to the territory of neighbouring States in respect of serious violations of international humanitarian law committed by Rwandan citizens. The temporal jurisdiction of the International Tribunal for Rwanda shall extend to a period beginning on 1 January 1994 and ending on 31 December 1994.

#### Article 8

##### Concurrent jurisdiction

1. The International Tribunal for Rwanda and national courts shall have concurrent jurisdiction to prosecute persons for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994.

2. The International Tribunal for Rwanda shall have primacy over the national courts of all States. At any stage of the procedure, the International Tribunal for Rwanda may formally request national courts to defer to its competence in accordance with the present Statute and the Rules of Procedure and Evidence of the International Tribunal for Rwanda.

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Article 9Neg bis in idem

1. No person shall be tried before a national court for acts constituting serious violations of international humanitarian law under the present Statute, for which he or she has already been tried by the International Tribunal for Rwanda.

2. A person who has been tried by a national court for acts constituting serious violations of international humanitarian law may be subsequently tried by the International Tribunal for Rwanda only if:

(a) The act for which he or she was tried was characterized as an ordinary crime; or

(b) The national court proceedings were not impartial or independent, were designed to shield the accused from international criminal responsibility, or the case was not diligently prosecuted.

3. In considering the penalty to be imposed on a person convicted of a crime under the present Statute, the International Tribunal for Rwanda shall take into account the extent to which any penalty imposed by a national court on the same person for the same act has already been served.

Article 10Organization of the International Tribunal for Rwanda

The International Tribunal for Rwanda shall consist of the following organs:

- (a) The Chambers, comprising two Trial Chambers and an Appeals Chamber;
- (b) The Prosecutor; and
- (c) A Registry.

Article 11

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### Composition of the Chambers

The Chambers shall be composed of eleven independent judges, no two of whom may be nationals of the same State, who shall serve as follows:

- (a) Three judges shall serve in each of the Trial Chambers;
- (b) Five judges shall serve in the Appeals Chamber.

### Article 12

#### Qualification and election of judges

1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

2. The members of the Appeals Chamber of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Law Committed in the Territory of the Former Yugoslavia since 1991 (hereinafter referred to as "the International Tribunal for the Former Yugoslavia") shall also serve as the members of the Appeals Chamber of the International Tribunal for Rwanda.

3. The judges of the Trial Chambers of the International Tribunal for Rwanda shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for judges of the Trial Chambers from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within thirty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in paragraph 1 above, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any judge on the Appeals Chamber;

(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twelve and not more than eighteen candidates, taking due account of adequate representation on the International Tribunal for Rwanda of the principal legal systems of the world;

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(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect the six judges of the Trial Chambers. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-Member States maintaining permanent observer missions at United Nations Headquarters, shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

4. In the event of a vacancy in the Trial Chambers, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of paragraph 1 above, for the remainder of the term of office concerned.

5. The judges of the Trial Chambers shall be elected for a term of four years. The terms and conditions of service shall be those of the judges of the International Tribunal for the former Yugoslavia. They shall be eligible for re-election.

#### Article 13

##### Officers and members of the Chambers

1. The judges of the International Tribunal for Rwanda shall elect a President.

2. After consultation with the judges of the International Tribunal for Rwanda, the President shall assign the judges to the Trial Chambers. A judge shall serve only in the Chamber to which he or she was assigned.

3. The judges of each Trial Chamber shall elect a Presiding Judge, who shall conduct all of the proceedings of that Trial Chamber as a whole.

#### Article 14

##### Rules of procedure and evidence

The judges of the International Tribunal for Rwanda shall adopt, for the purpose of proceedings before the International Tribunal for Rwanda, the rules of procedure and evidence for the conduct of the pre-trial phase of the proceedings, trials and appeals, the admission of evidence, the protection of victims and witnesses and other appropriate matters of the International Tribunal for the former Yugoslavia with such changes as they deem necessary.

#### Article 15

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### The Prosecutor

1. The Prosecutor shall be responsible for the investigation and prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994.

2. The Prosecutor shall act independently as a separate organ of the International Tribunal for Rwanda. He or she shall not seek or receive instructions from any Government or from any other source.

3. The Prosecutor of the International Tribunal for the Former Yugoslavia shall also serve as the Prosecutor of the International Tribunal for Rwanda. He or she shall have additional staff, including an additional Deputy Prosecutor, to assist with prosecutions before the International Tribunal for Rwanda. Such staff shall be appointed by the Secretary-General on the recommendation of the Prosecutor.

### Article 16

#### The Registry

1. The Registry shall be responsible for the administration and servicing of the International Tribunal for Rwanda.

2. The Registry shall consist of a Registrar and such other staff as may be required.

3. The Registrar shall be appointed by the Secretary-General after consultation with the President of the International Tribunal for Rwanda. He or she shall serve for a four-year term and be eligible for reappointment. The terms and conditions of service of the Registrar shall be those of an Assistant Secretary-General of the United Nations.

4. The staff of the Registry shall be appointed by the Secretary-General on the recommendation of the Registrar.

### Article 17

#### Investigation and preparation of indictment

1. The Prosecutor shall initiate investigations ex-officio or on the basis of information obtained from any source, particularly from Governments, United Nations organs, intergovernmental and non-governmental organisations. The Prosecutor shall assess the information received or obtained and decide whether there is sufficient basis to proceed.

2. The Prosecutor shall have the power to question suspects, victims and witnesses, to collect evidence and to conduct on-site investigations. In carrying out these tasks, the Prosecutor may, as appropriate, seek the assistance of the State authorities concerned.

1. If questioned, the suspect shall be entitled to be assisted by counsel of his or her own choice, including the right to have legal assistance assigned to the suspect without payment by him or her in any such case if he or she does not have sufficient means to pay for it, as well as to necessary translation into and from a language he or she speaks and understands.

4. Upon a determination that a prima facie case exists, the Prosecutor shall prepare an indictment containing a concise statement of the facts and the crime or crimes with which the accused is charged under the Statute. The indictment shall be transmitted to a judge of the Trial Chamber.

#### Article 18

##### Review of the indictment

1. The judge of the Trial Chamber to whom the indictment has been transmitted shall review it. If satisfied that a prima facie case has been established by the Prosecutor, he or she shall confirm the indictment. If not so satisfied, the indictment shall be dismissed.

2. Upon confirmation of an indictment, the judge may, at the request of the Prosecutor, issue such orders and warrants for the arrest, detention, surrender or transfer of persons, and any other orders as may be required for the conduct of the trial.

#### Article 19

##### Commencement and conduct of trial proceedings

1. The Trial Chambers shall ensure that a trial is fair and expeditious and that proceedings are conducted in accordance with the rules of procedure and evidence, with full respect for the rights of the accused and due regard for the protection of victims and witnesses.

2. A person against whom an indictment has been confirmed shall, pursuant to an order or an arrest warrant of the International Tribunal for Rwanda, be taken into custody, immediately informed of the charges against him or her and transferred to the International Tribunal for Rwanda.

3. The Trial Chamber shall read the indictment, satisfy itself that the rights of the accused are respected, confirm that the accused understands the

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indictment, and instruct the accused to enter a plea. The Trial Chamber shall then set the date for trial.

4. The hearings shall be public unless the Trial Chamber decides to close the proceedings in accordance with its rules of procedure and evidence.

#### Article 20

##### Rights of the accused

1. All persons shall be equal before the International Tribunal for Rwanda.

2. In the determination of charges against him or her, the accused shall be entitled to a fair and public hearing, subject to article 21 of the Statute.

3. The accused shall be presumed innocent until proved guilty according to the provisions of the present Statute.

4. In the determination of any charge against the accused pursuant to the present Statute, the accused shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he or she understands of the nature and cause of the charge against him or her;

(b) To have adequate time and facilities for the preparation of his or her defence and to communicate with counsel of his or her own choosing;

(c) To be tried without undue delay;

(d) To be tried in his or her presence, and to defend himself or herself in person or through legal assistance of his or her own choosing; to be informed, if he or she does not have legal assistance, of this right; and to have legal assistance assigned to him or her, in any case where the interests of justice so require, and without payment by him or her in any such case if he or she does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her;

(f) To have the free assistance of an interpreter if he or she cannot understand or speak the language used in the International Tribunal for Rwanda;

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(g) Not to be compelled to testify against himself or herself or to confess guilt.

#### Article 21

##### Protection of victims and witnesses

The International Tribunal for Rwanda shall provide in its rules of procedure and evidence for the protection of victims and witnesses. Such protection measures shall include, but shall not be limited to, the conduct of in camera proceedings and the protection of the victim's identity.

#### Article 22

##### Judgement

1. The Trial Chambers shall pronounce judgements and impose sentences and penalties on persons convicted of serious violations of international humanitarian law.

2. The judgement shall be rendered by a majority of the judges of the Trial Chamber, and shall be delivered by the Trial Chamber in public. It shall be accompanied by a reasoned opinion in writing, to which separate or dissenting opinions may be appended.

#### Article 23

##### Penalties

1. The penalty imposed by the Trial Chamber shall be limited to imprisonment. In determining the terms of imprisonment, the Trial Chambers shall have recourse to the general practice regarding prison sentences in the courts of Rwanda.

2. In imposing the sentences, the Trial Chambers should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.

3. In addition to imprisonment, the Trial Chambers may order the return of any property and proceeds acquired by criminal conduct, including by means of duress, to their rightful owners.

#### Article 24

##### Appellate proceedings

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1. The Appeals Chamber shall hear appeals from persons convicted by the Trial Chambers or from the Prosecutor on the following grounds:

- (a) An error on a question of law invalidating the decision; or
- (b) An error of fact which has occasioned a miscarriage of justice.

2. The Appeals Chamber may affirm, reverse or revise the decisions taken by the Trial Chambers.

#### Article 25

##### Review proceedings

Where a new fact has been discovered which was not known at the time of the proceedings before the Trial Chambers or the Appeals Chamber and which could have been a decisive factor in reaching the decision, the convicted person or the Prosecutor may submit to the International Tribunal for Rwanda an application for review of the judgement.

#### Article 26

##### Enforcement of sentences

Imprisonment shall be served in Rwanda or any of the States on a list of States which have indicated to the Security Council their willingness to accept convicted persons, as designated by the International Tribunal for Rwanda. Such imprisonment shall be in accordance with the applicable law of the State concerned, subject to the supervision of the International Tribunal for Rwanda.

#### Article 27

##### Pardon or commutation of sentences

If, pursuant to the applicable law of the State in which the convicted person is imprisoned, he or she is eligible for pardon or commutation of sentence, the State concerned shall notify the International Tribunal for Rwanda accordingly. There shall only be pardon or commutation of sentence if the President of the International Tribunal for Rwanda, in consultation with the judges, so decides on the basis of the interests of justice and the general principles of law.

#### Article 28

Cooperation and judicial assistance

1. States shall cooperate with the International Tribunal for Rwanda in the investigation and prosecution of persons accused of committing serious violations of international humanitarian law.

2. States shall comply without undue delay with any request for assistance or an order issued by a Trial Chamber, including, but not limited to:

- (a) The identification and location of persons;
- (b) The taking of testimony and the production of evidence;
- (c) The service of documents;
- (d) The arrest or detention of persons;
- (e) The surrender or the transfer of the accused to the International Tribunal for Rwanda.

Article 29The status, privileges and immunities of the  
International Tribunal for Rwanda

1. The Convention on the Privileges and Immunities of the United Nations of 13 February 1946 shall apply to the International Tribunal for Rwanda, the judges, the Prosecutor and his or her staff, and the Registrar and his or her staff.

2. The judges, the Prosecutor and the Registrar shall enjoy the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

3. The staff of the Prosecutor and of the Registrar shall enjoy the privileges and immunities accorded to officials of the United Nations under articles V and VII of the Convention referred to in paragraph 1 of this article.

4. Other persons, including the accused, required at the seat or meeting place of the International Tribunal for Rwanda shall be accorded such treatment as is necessary for the proper functioning of the International Tribunal for Rwanda.

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Article 30Expenses of the International Tribunal for Rwanda

The expenses of the International Tribunal for Rwanda shall be expenses of the Organization in accordance with Article 17 of the Charter of the United Nations.

Article 31Working languages

The working languages of the International Tribunal shall be English and French.

Article 32Annual report

The President of the International Tribunal for Rwanda shall submit an annual report of the International Tribunal for Rwanda to the Security Council and to the General Assembly.



## ANNEX II

## METHODS OF WORK

I. The internal methods of work of the Commission

1. The internal methods of work of the Commission are defined in its internal rules of procedure. (See Annex III).
2. The Commission anticipates holding four (4) sessions during which it will examine a certain number of issues of substance, procedure and organization relating to its mandate.
3. At its last session, the Commission will adopt its final report.
4. The Commission, to the extent possible, will present to the UN Secretary-General its final report no later than 30 November 1994.

II. The Commission's investigative methods

5. The Commission will adopt a selective approach in its work, taking account of time available as well as availability of staff and financial resources.
6. The Commission shall endeavour to proceed with exhaustive investigation and shall try to verify each allegation of grave violation of international humanitarian law committed in the territory of Rwanda.
7. In its choice and in the course of its enquiries and investigations, the Commission shall endeavour always to be impartial and fair.
8. The Commission will employ three methods of enquiry:
  - a) collection and analysis of information sent to the Commission or requested by it;
  - b) the undertaking of investigative missions on the territory of Rwanda or in other countries in order to obtain supplementary information, to gather testimony and to the extent possible to verify the facts;
  - c) the collection of information gathered by governments for the Commission.

III. Collection and analysis of information

9. The Commission shall endeavour to give full effect to Resolution 935(1994) of the Security Council which invites States and international humanitarian organizations to make available all reliable information, documentation, video tapes etc. containing allegations of serious violations of international humanitarian law and in particular of the Convention for the Prevention and

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Punishment of the Crime of Genocide, committed in the territory of Rwanda during the armed conflict.

10. The Commission shall create a data base intended to be a complete and standardized record on alleged grave violations of international humanitarian law committed on the territory of Rwanda including possible acts of genocide.

#### IV. Investigative missions

11. Another method to be employed by the Commission will consist of making investigative missions in the territory of Rwanda and in countries in which Rwandans have taken refuge to obtain supplementary information and to verify the facts.

12. The Commission will undertake two investigative missions to obtain supplementary information in accordance with the Commission's mandate.

#### V. Collection of information gathered by governments for the Commission

13. The Commission will solicit the assistance of all governments able to aid in the gathering of evidence in particular in their own territory.

#### VI. Confidentiality of information

14. Where the Commission receives confidential information by witnesses or evidence of serious violations of international humanitarian law, the Commission shall, to ensure this confidentiality, put in effect certain provisions in respect of security.

## ANNEX III

RULES OF PROCEDURE OF THE COMMISSION OF EXPERTS ESTABLISHED  
PURSUANT TO PARAGRAPH 1 OF SECURITY COUNCIL RESOLUTION 935 (1994)Article 1 - Mandate

The Commission shall examine and analyze information submitted to it by States, international humanitarian organizations or other persons or bodies pursuant to Security Council Resolutions 918 (1994), 925 (1994) and 935 (1994), as well as such further information as the Commission may obtain through its investigations or efforts with a view to providing the Secretary General with its conclusions on the evidence of grave violations of international humanitarian law committed in the territory of Rwanda, including possible acts of genocide.

Article 2 - Meetings and Quorum

1. The Commission shall hold its meetings in private but may open them to the public as and when it deems it necessary for the enhancement of the effectiveness of its work.
2. The Commission shall meet at such times as it may designate; meetings may be otherwise be called by the Chairman, as a rule with at least one week's notice.
3. The Chairman may declare a meeting open when at least a majority of the members of the Commission are present. The presence of a majority of the members shall be required for any decision to be taken.

Article 3 - Restraint in the disclosure of information

Members of the Commission shall exercise restraint in disclosing information. They shall refrain from taking a stand in public on any confidential question under discussion in the Commission. The Chairman will make information on the work of the Commission available to the extent he deems it appropriate.

Article 4 - Powers of the Chairman

The Chairman shall declare the opening and closing of each meeting of the Commission and, at such meetings, shall direct the discussions, accord the right to speak, put questions to the vote, announce decisions, rule on points of order and have complete control of the proceedings.

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The Commission will make every effort to take its decisions by consensus. In the absence of consensus, decisions of the Commission will be taken by a majority of the members present and voting.

Article 10 - Reports

1. The Commission may designate a Rapporteur for any question of a general or specific nature.
2. The Commission shall report its conclusions to the Secretary-General in accordance with Security Council resolution 935 (1994).
3. Members of the Commission who wish to make a separate statement, may have such a statement appended to the report.

Article 11 - Other Procedural Matters

Any procedural matters arising at a meeting which are not covered by these rules shall be dealt with by the Chairman in the light of the rules of procedure applicable to Committees of the General Assembly.

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## ANNEX IV

DOCUMENTATION PROCEDURES FOR THE COMMISSION  
OF EXPERTS ON RWANDA

The Commission in order to ensure the confidentiality of its work and in order to protect its sources and the identity and information of victims and witnesses has devised the following practical measures:

1. Incoming documents will be categorized as "open source", "limited access" or "confidential". "Open sources" documents are published articles, UN reports and materials in the public domain. "Limited access" documents are internal UN memoranda, UNAMIR documents, etc. "Confidential" documents are materials received from any source not intended to be made public, such as affidavits of witnesses, correspondence from governments, etc.
2. The Secretariat will make a determination as to how the documentation received will be categorized and will refer to the Chairman for guidance, if necessary.
3. A stamp will mark the document with the respective category selected in the special log which will contain the "confidential" material.
4. Incoming "open source" and "limited access" documents from Member States of the United Nations, intergovernmental and non-governmental organizations and other sources will be kept by the Secretariat in a log book (indicating the source of the submission type / subject and date of receipt) and made available upon request to Commission Members and staff.
5. The original of all documents shall be primarily in the custody of the Secretary of the Commission. In his / her absence, the Assistant Secretary of the Commission will be responsible for the control of the documentation.
6. The original "confidential" documents will be kept in a combination-lock safe in the office of the Secretary at the Commission Secretariat at UNOG. The number of the combination lock to the safe will be kept by the Secretary, the Assistant Secretary and the Chairman of the Commission only.
7. All Commission Members, Secretariat staff and assistants to the Commission are bound by this confidentiality agreement vis-a-vis the Commission and the information that it receives.
8. "Confidential" documents will not be released from the Commission Secretariat premises. Commission Members may consult these documents at the Commission Secretariat.

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9. After the mandate of the Commission terminates, the Commission Secretariat will make arrangements for the transmittal of the documentation in its custody at the Commission Secretariat at UNOG to the Secretary-General.

10. All Commission Secretariat offices at UNOG shall be locked after office hours, on weekends. Windows shall be closed when the offices are locked.

11. All Members of the Commission and staff shall use the shredder (to be purchased) for disposal of all their papers and notes.

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## ANNEX V

## PLAN OF ACTION

On-site investigation on allegations of grave violations  
of international humanitarian law, including possible acts of genocide

1. In accordance with the Security Council mandate the Commission of Experts plans to gather evidence and report to the Secretary-General. The primary objective of this Plan of Action is to produce specific evidence likely to be used for prosecution and to identify individuals responsible for having perpetrated grave violations of international humanitarian law as well as possible acts of genocide.
2. In addition to the information and assistance provided or which may be provided to the Commission of Experts by the Special Rapporteur of the Commission of Human Rights, Mr. René Degni-Ségui and by the human rights officers deployed to Rwanda by the High Commissioner for Human Rights, the Commission intends to conduct its own on-site investigations for the purpose of determining the responsibility of individuals for acts committed within the territory of Rwanda pursuant to Security Council resolution 935 (1994).
3. According to the report of the Secretary-General to the Security Council (S/1994/879) the Commission is to complete its work no later than 30 November 1994. In these circumstances, the Commission launched an urgent appeal for assistance to Member States to help to meet its mandate.
4. In view of the above and to comply with the request of the Secretary-General and of the Security Council, the Commission determined it necessary that services, rather than cash contributions should be provided directly to the Commission by the governments for the following purposes:
  - a. Forensic experts and a logistics for the investigation of mass grave sites;
  - b. Investigatory teams for hearing of witnesses;
  - c. Security personnel, in particular, at locations where exhumations are to be carried out or in other places the Commission may consider it necessary.

Accordingly, on 23 August 1994, the Chairman stated that this assistance should be provided to the Commission at no cost to the United Nations. Member States should indicate as soon as possible the contributions they intend to make and to inform the Secretariat no later than 1 September 1994. The above-mentioned services will be supervised by the Commission of Experts and coordinated in Rwanda by the Head of the team of human rights officers deployed to the area by the High Commissioner for Human Rights.

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Forensic experts and logistical support

5. Based on existing information, it appears that mass graves appear are located in several places in the territory of Rwanda. For the purpose of determining the facts, the Commission aims to deploy two or three investigatory teams of specialized forensic experts to these areas for no more than three weeks. The purpose of this exercise will be to determine the existence of the mass graves, gather physical evidence, interview witnesses, to take pictures and video recordings. The results, together with a report shall be submitted to the Commission of Experts no later than 15 October 1994.

Investigatory teams for hearing witnesses

6. The Commission will require a large number of police investigators and prosecutors to be deployed to the territory of Rwanda for a period of three weeks and no later than 15 September 1994. The investigatory teams will be provided upon their arrival in Rwanda with briefings for interviews of witnesses as well as a check-list and guidelines for conducting such hearings.

Security personnel

7. The Commission will require security personnel from UNAMIR for its investigatory teams as well as for the forensic experts.

Administrative Matters

8. In order to make the best use of the time available, the Commission would welcome replies from Member States, with a minimum of delay, that specify their pledges with the understanding that all costs related to personnel, travel and subsistence, as well as all the equipment required by different teams for on-site investigations, will be made available to the Commission at no cost to the United Nations. Appropriate agreements will be signed between the Organisation, Member States and / or organizations assisting the Commission in these efforts.

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