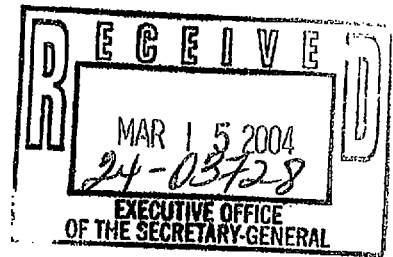


Prevention of genocide
STR



Note to Mr. Riza

RESPONSE TO DR. DAVID HAMBURG'S LETTER

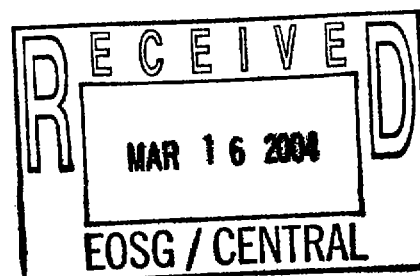
(# 24-03222)

As requested by the Secretary-General, I am pleased to attach, for his signature and approval, a draft reply to Dr. Hamburg's letter.

D-6752

Danilo Türk
15 March 2004

SG Personal sig if approved plz
16/3





SECRETARY-GENERAL

16 March 2004

Dear David,

Thank you for your letter of 4 March and your kind words regarding my speech at the Stockholm Forum.

I am glad to be able to report that we have made good progress since then and I hope to be able to announce the appointment of a Special Adviser on the Prevention of Genocide on 7 April. Your ideas about the role of such an adviser were very useful, and I must say that they go in the same direction as ours.

My proposal is to have a prominent personality, of high moral stature, that would report through me to the Security Council, as well as to other organs. His or her mandate would refer not only to genocide but also to mass murder and other massive human rights violations. His or her functions would be to collect existing information, act as an early-warning mechanism and make recommendations to the Security Council on actions to be taken to prevent or halt genocide.

Rather than focusing on making a determination of whether a situation could be described as genocide, the methodology employed would entail a careful verification of facts and serious political analyses and consultations, without excessive publicity. This would help me define steps necessary to prevent the deterioration of existing situations into genocide. The purpose is to be practical and to enable the United Nations to act in a timely fashion.

May I suggest that you contact Danilo Türk, Assistant Secretary-General for Political Affairs, who has been working on this project?

*With warmest
personal regards*

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Kofi A. Annan'.

Kofi A. Annan

Dr. David Hamburg
President Emeritus
Carnegie Corporation
New York

CORNELL
UNIVERSITY

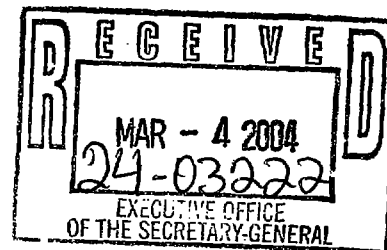
NEW YORK
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HOSPITAL

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525 East 68th Street, Box 171
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Telephone: 212 746-3750
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March 4, 2004



Via Facsimile: 212/963-2155 (total pages: 2)

His Excellency Kofi Annan
The Secretary-General
The United Nations
One United Nations Plaza
New York City

From: Corbin L.
#24-02276
212-746-8087

cc Mr. Türk
MIN/C

Dear Kofi:

I continue to get good feedback on your speech to the Stockholm conference dealing with the prevention of genocide from well-informed, thoughtful people in several countries and a variety of institutions. The reaction is very positive to your suggestion of a special rapporteur who would deal directly with the Security Council in reporting serious human rights abuses and other threats to peace. There is a widespread, positive expectation that this suggestion will be fleshed out in ways that could make a major contribution to the prevention of mass violence.

It strikes me that it would be advantageous for such a person to report not only to the Security Council but to the Secretary-General. Perhaps this is an underlying assumption in your speech, but I think it would be worthwhile to make that an explicit point. Moreover, I hope you will consider the possibility of locating this person directly in your office with a title that might carry somewhat more weight than "Special Rapporteur." Perhaps "Special Adviser" or "Senior Adviser to the Secretary-General on Prevention of Genocide" would be appropriate. In my view, such an individual should be someone of clearly recognizable stature based on extensive, relevant experience and a mastery of the concepts and operations of preventing deadly conflict.

Such an appointment would gain greatly from the unique stature, legitimacy and commitment of the Secretary-General to the great mission of preventing mass violence. Its distinctive linkage with genocide, on the tenth anniversary of Rwanda, might well make it politically compelling to many member states as the Stockholm meeting indicated.

DT
Please review and may be
brief, David on where we stand
in fact - this committee to remind me
to advise for the level should use/aff
to have a brief response drafted for my signature
04/03/04 THU 14:30 C-ITX/RX NO 59341 001
5 Mar
6/21

His Excellency Kofi Annan

- 2 -

March 4, 2004

This appointment would signify beyond any doubt the seriousness of your intent to follow through on this terrible, recurrent problem. Such a person would not be in a command and control position, but rather could have a highly informative and stimulating effect on the Secretary-General, the Security Council and the various components of the U.N. system. Moreover, the person in this position could play a valuable role in eliciting appropriate cooperation from member states, U. N. agencies and others who can help to prevent genocide. In short, this formulation builds on your excellent proposal in Stockholm that was so well received and could set a precedent of profound significance for the international community.

I hope these reflections are useful to you. If you would like me to pursue them with any of your colleagues, I would, of course, be happy to do so.

With every good wish,

As always,



Dr. David A. Hamburg
President Emeritus
Carnegie Corporation of New York

DAH:egm

DT

Special Adviser/Rapporteur on the Prevention of Genocide

1. Background

At the Stockholm International Forum (26 January 2004), the Secretary-General proposed *"establishing a Special Rapporteur on the prevention of genocide (...) who would report directly to the Security Council – making clear the link, which is often ignored until too late, between massive and systematic violations of human rights and threats to international peace and security"*. The idea has generated a serious degree of support among some member States and the NGO community, and there are now expectations that the Secretary-General will consult the Security Council with a view to taking a decision in the coming days.

2. Sources of Mandate

SC Resolution 1366 (2001)

- pp 18 *acknowledging the lessons to be learned from the failure of preventive efforts that preceded such tragedies as the genocide in Rwanda [...] and resolving to take appropriate action within its competence [...] to prevent the recurrence of such tragedies;*
- op5 *Expresses its willingness to give prompt consideration to early warning or prevention cases brought to its attention by the Secretary-General [...]*
- op 10 *Invites the Secretary-General to refer to the Council information and analyses from within the United Nations system on cases of serious violations of international law, including international humanitarian law and human rights law and on potential conflict situations arising, inter alia, from ethnic, religious and territorial disputes, poverty and lack of development and expresses its determination to give serious consideration to such information and analyses regarding situations in which it deems to represent a threat to international peace and security.*
- op 22 [...] *supports the development of a system-wide coordinated and mutually supportive approach to prevention of armed conflict.*

GA Resolution 57/337 (2003)

- op13 *Calls for strengthening the capacity of the United Nations in order to carry out more effectively its responsibilities for the prevention of armed conflict [...]*
- Annex 21 *Encourages the SC to give prompt consideration to early-warning or prevention cases brought to its attention by the Secretary-General [...]*
- Annex 36 *Supports the intention of the Secretary-General to improve the use of means placed at its disposal and within its authority to facilitate the prevention of armed conflict [...]*

3. Title

- "Special Adviser" would probably be more appropriate than "Special Rapporteur" since the latter seems to tie her/him more to the Commission on Human Rights, while the primary reporting line in this case would be, through the Secretary-General, to the Security Council.
- Moreover, "Rapporteur" would imply that she/he would be reporting to inter-governmental bodies, not just to the Security Council, whereas it would be

pk
cc KP
TK
AK

Proceed as discussed.

~~AK~~ → 1/2

cc: LS

preferable to establish that the Secretary-General – who has been asked by the Security Council and the General Assembly in the resolutions quoted above to increase his activities and communication with the Council on this issue – has clear authority over the new mechanism.

- The third option would be Special Representative of the Secretary-General. However, this often refers to a resident representative attached to a particular mission and duty station outside New York (but there are exceptions: SRSG Children in Armed Conflict, Human rights defenders, IDPs, LDCs).

4. Reporting: The SA/SR would report, through the Secretary-General, primarily to the Security Council, but also to other inter-governmental bodies such as the Commission on Human Rights and the General Assembly.

5. Financing: Initially, she/he could be funded through the unforeseen fund, while the Trust Fund for Preventive Action could be used to receive voluntary contributions. Then a situation similar to that of the SRSG/CAC (Mr. Otunnu) could be envisaged.

6. Secretariat Support: to be provided by DPA and OHCHR, using existing capacities. Initially, one or two professionals (one P4, or one P5 and one P3) and 1 GS. Later on, as circumstances require, additional posts might be requested.

7. Status: ASG. The appointment could be on a when actually employed basis, though the very nature of the work (permanent examination of current situations so as to act as an early-warning mechanism) supposes a continuous involvement.

8. Duty Station: The support staff would be based in New York but would liaise closely with OHCHR/Geneva.

9. Appointment

- SA or SR would be appointed by the Secretary-General, after consultation with the Security Council. Formal consultation would take place on Security Council luncheon on 11 March.
- Before the Security Council lunch, the Secretary-General and, as appropriate, the Secretariat (ASG Türk or Kalomoh) may wish to brief African Members of the Security Council on the initiative to secure their support. Statement by these members during the luncheon could help sway some council members who may be reluctant to support the proposal.
- An announcement could be made on 7 April, to coincide with the date of the 10th anniversary of the Rwanda genocide.
- If consultations show that more time is needed for preparations and appointment, the Secretary-General could just refer to his intention to consider an appointment on 7 April and the Council could adopt a presidential statement welcoming the Secretary-General's intention to appoint the SA/SR. This scenario would have to be discussed with the President of the Security Council for the month of April (Germany).

10. Terms of Reference:

- collect existing information on potential or existing situations of genocide or threats of genocide and their links to international peace and security (both from within and outside UN System).
- act as an early-warning mechanism to the SC and other parts of the UN system, (DPA, OHCHR, DPKO, OCHA, CHR, General Assembly...) by bringing to their attention potential situations that could constitute genocide.
- make recommendations to the Security Council, through the Secretary-General, on actions to be taken to prevent or halt genocide.
- liaise with the UN system on the implementation of the action plan on the prevention of genocide (follow-up to the Carlsson Report) and work to enhance the UN capacity to analyse and manage information relating to genocide or related crimes.

11. Issues of concern:

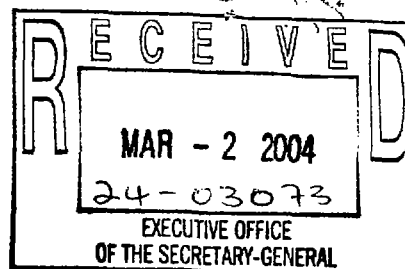
- How to define genocide in this context¹? What would be the threshold? If the SA/SR is to function as an early warning mechanism, what would be the criteria to bring a case to the attention of the Security Council? What would be the scope of his/her recommendations (regarding the issue of cases where the use of force might be considered an option)? How to establish criteria to distinguish between threats to the peace resulting from imminent or ongoing genocide and other situations in which States may be tempted to use military force pre-emptively?
- It is understood that satisfactory answers to the questions above should be provided in the context of actual situations, with the knowledge of pertinent facts. However, as a matter of general policy, it would be advisable to follow a prudent approach – careful verification of facts, serious political analyses and consultations, without excessive publicity.
- An important concern of some Member States would be that she/he would not make a determination of whether a situation of genocide exists but would concentrate on the fullest possible ascertainment and analysis of the facts.
- Consideration should be given to ensure that the SA/SR's activities do not undermine the authority of the High Commissioner for Human Rights nor of the USG/DPA.

2 March 2004

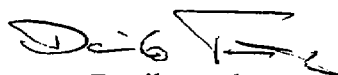
¹ According to the 1948 Convention on the prevention of genocide, "genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, such as: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members 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".

Note to the Secretary-General

Special Adviser on the Prevention of Genocide



1. Following our conversation in Tokyo and Mr. Riza's note of today, I am attaching a note on your proposal to establish a Special Adviser or Rapporteur on the Prevention of Genocide.
2. The purpose of the note is to specify sources for the mandate for such an appointment, to present options as to the person's title, her/his reporting lines, financing, support, status, duty station and terms of reference. The note also suggests how to prepare for the appointment and presents a number of political concerns that the appointment is likely to raise. Mr. Riza's request for terms of reference and budgetary implications are covered in paragraphs 5 and 9.
3. Your approval of the approach taken and your guidance regarding consultations prior to the Security Council luncheon on 11 March would be appreciated.


Danilo Türk
2 March 2004





cc: Mr. Prendergast