

UNAMIR

SECURITY COUNCIL REPORTS

[6 DEC 1994] - 17 OCT 1995

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SECURITY COUNCIL SC/6114
3588TH MEETING (PM) 17 OCTOBER 1995
SECURITY COUNCIL WELCOMES RWANDA'S RECONCILIATION PROGRESS
SECRETARY-GENERAL'S REPORT CITES PROBLEMS OF REPATRIATION,
SECURITY

THE SECURITY COUNCIL THIS AFTERNOON RESPONDING TO THE SECRETARY-GENERAL'S RECENT REPORT ON THE UNITED NATIONS ASSISTANCE MISSION FOR RWANDA (UNAMIR) WELCOMED PROGRESS MADE IN THE PAST TWO MONTHS BY THE GOVERNMENT OF RWANDA IN THE NATIONAL RECONCILIATION PROCESS, INCLUDING THE INTEGRATION OF MORE THAN 2,000 FORMER RWANDESE GOVERNMENT FORCES (RGF) TROOPS INTO THE RWANDA PATRIOTIC ARMY (RPA).

IN A STATEMENT READ OUT ON ITS BEHALF BY ITS PRESIDENT, IBRAHIM GAMBARI (NIGERIA), THE COUNCIL CALLED ON THE GOVERNMENT OF RWANDA TO INTENSIFY ITS CONTACTS WITH ALL SECTORS OF RWANDESE SOCIETY, EXCEPTING THOSE DIRECTLY RESPONSIBLE FOR THE GENOCIDE. IT REITERATED ITS CONCERN AT REPORTS OF CONTINUING CROSS-BORDER INFILTRATION FROM NEIGHBOURING COUNTRIES INTO RWANDA, AS WELL AS ITS CONCERN AT THE DANGER THAT WOULD BE POSED FOR PEACE AND STABILITY IN THE GREAT LAKES REGION BY UNCONTROLLED ARMS FLOWS.

IN HIS REPORT TO THE COUNCIL (S/1995/848), THE SECRETARY-GENERAL FOCUSES ON THE PROBLEMS OF REPATRIATION AND SECURITY. THE COUNCIL THIS AFTERNOON CONDEMNED ALL ACTS OF VIOLENCE IN RWANDA. FURTHER, IT WELCOMED THE FACT THAT RWANDA'S GOVERNMENT HAD INITIATED AN INVESTIGATION INTO THE RECENT KILLING OF CIVILIANS AT KANAMA, AND EXPECTED THAT PROSECUTION OF THOSE RESPONSIBLE WOULD FOLLOW. IN THAT INCIDENT, CITED BY THE SECRETARY-GENERAL AS ONE OF THE MAJOR EVENTS OF THE PERIOD THAT COULD INFLUENCE THE GOVERNMENT'S POLICY OF NATIONAL RECONCILIATION, 110 VILLAGERS WERE KILLED, BUT THE GOVERNMENT HAD QUICKLY VISITED THE VILLAGE, ACKNOWLEDGE RPA EXCESSES AND PROMISED PUNISHMENT OF THE GUILTY.

THE COUNCIL AGAIN CALLED ON ALL STATES TO ACT IN ACCORDANCE WITH THE CONCLUSIONS OF THE JANUARY 1995 NAIROBI SUMMIT MEETING OF THE LEADERS IN THE SUBREGION, AS WELL AS THE RECOMMENDATIONS BY THE FEBRUARY 1995 BUJUMBURA REGIONAL CONFERENCE ON ASSISTANCE TO REFUGEES, RETURNEES AND DISPLACED PERSONS IN THE GREAT LAKES REGION.

THE COUNCIL, REAFFIRMING THAT RECONCILIATION AND STABILITY IN THE REGION COULD NOT BE ATTAINED WITHOUT THE SAFE RETURN TO THEIR COUNTRY OF ALL RWANDESE REFUGEES WHO WISHED TO RETURN,

SRSG *FC* *OAD*

COUNCIL REITERATES ITS CONCERN AT REPORTS ABOUT CONTINUING CROSS-BORDER INFILTRATIONS FROM NEIGHBOURING COUNTRIES WHICH HAVE A DESTABILIZING EFFECT WITHIN RWANDA. THE COUNCIL ALSO REITERATES ITS CONCERN AT THE DANGER FOR PEACE AND STABILITY IN THE GREAT LAKES REGION WHICH WOULD BE CAUSED BY UNCONTROLLED ARMS FLOWS AND IN THIS CONTEXT REAFFIRMS THE RELEVANT PROVISIONS OF ITS RESOLUTION 1013 (1995). THE COUNCIL CONDEMNS ALL ACTS OF VIOLENCE IN RWANDA. THE COUNCIL WELCOMES THE FACT THAT THE GOVERNMENT OF RWANDA HAS VOLUNTARILY AND WITHOUT DELAY INITIATED AN INVESTIGATION INTO THE KILLING OF CIVILIANS AT KANAMA AND EXPECTS THAT PROSECUTION OF THOSE RESPONSIBLE WILL FOLLOW.

"THE SECURITY COUNCIL CALLS AGAIN UPON ALL STATES TO ACT IN ACCORDANCE WITH THE CONCLUSIONS OF THE SUMMIT MEETING OF THE LEADERS IN THE SUBREGION IN NAIROBI IN JANUARY 1995 AND THE RECOMMENDATIONS BY THE REGIONAL CONFERENCE ON ASSISTANCE TO REFUGEES, RETURNEES AND DISPLACED PERSONS IN THE GREAT LAKES REGION, HELD IN BUJUMBURA IN FEBRUARY 1995. THE COUNCIL WELCOMES RECENT EFFORTS TO IMPROVE RELATIONS AMONG THE STATES IN THE REGION, WHICH SHOULD HELP PAVE THE WAY FOR THE PROPOSED REGIONAL CONFERENCE ON PEACE, SECURITY AND DEVELOPMENT. IN THIS REGARD, THE COUNCIL SUPPORTS THE EFFORTS OF THE SPECIAL ENVOY OF THE SECRETARY-GENERAL TO THE GREAT LAKES REGION FOR THE PREPARATION AND CONVENING OF SUCH A CONFERENCE. IT REQUESTS THE SECRETARY-GENERAL TO SUBMIT HIS REPORT ON THE RESULTS OF THE FIRST ROUND OF CONSULTATIONS OF THE SPECIAL ENVOY IN THE REGION AS SOON AS POSSIBLE.

"THE SECURITY COUNCIL REAFFIRMS THE IMPORTANT ROLE UNAMIR HAS PLAYED IN RWANDA AND THE SUBREGION. IN THIS RESPECT, THE COUNCIL UNDERLINES ITS COMMITMENT TO UNAMIR WHICH, INTER ALIA, ASSISTS THE GOVERNMENT OF RWANDA IN FACILITATING THE VOLUNTARY RETURN AND RESETTLEMENT OF REFUGEES AND HAS MADE AVAILABLE TO THE RWANDAN AUTHORITIES ITS ENGINEERING AND LOGISTICS CAPACITY. THE COUNCIL UNDERLINES THAT UNAMIR CAN EFFECTIVELY IMPLEMENT ITS CURRENT MANDATE ONLY IF IT HAS AN ADEQUATE FORCE LEVEL AND SUFFICIENT MEANS. THE COUNCIL STANDS READY TO STUDY CAREFULLY ANY FURTHER RECOMMENDATIONS THAT THE SECRETARY-GENERAL MIGHT MAKE ON THE ISSUE OF FORCE REDUCTIONS IN RELATION TO THE FULFILMENT OF THE MANDATE OF UNAMIR.

"THE SECURITY COUNCIL REAFFIRMS ITS VIEW THAT GENUINE RECONCILIATION AS WELL AS LONG-LASTING STABILITY IN THE REGION AS A WHOLE CANNOT BE ATTAINED WITHOUT THE SAFE, VOLUNTARY AND ORGANIZED RETURN TO THEIR COUNTRY OF ALL RWANDAN REFUGEES. IN THIS RESPECT, THE COUNCIL WELCOMES THE JOINT EFFORTS OF RWANDA, NEIGHBOURING COUNTRIES AND UNHCR TO SPEED UP THE VOLUNTARY RETURN OF REFUGEES THROUGH, INTER ALIA, THE WORK OF THE TRIPARTITE COMMISSIONS. THE COUNCIL UNDERLINES THAT, IN ORDER TO FOSTER THE PROCESS OF NATIONAL RECONCILIATION, AN EFFECTIVE AND CREDIBLE NATIONAL JUDICIARY HAS TO BE ESTABLISHED. IN THIS RESPECT, IT WELCOMES THE APPOINTMENT OF THE MEMBERS OF THE RWANDAN SUPREME COURT. THE COUNCIL FURTHER UNDERLINES THAT THE INTERNATIONAL TRIBUNAL FOR RWANDA SHOULD BEGIN ITS PROCEEDINGS AS SOON AS POSSIBLE. THE COUNCIL CALLS ON MEMBER STATES TO COMPLY WITH THEIR OBLIGATIONS WITH REGARD TO COOPERATION WITH THE TRIBUNAL IN ACCORDANCE WITH RESOLUTION 955 (1994). IT URGES ONCE MORE ALL STATES TO ARREST AND

DETAIN PERSONS SUSPECTED OF GENOCIDE AND OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW IN ACCORDANCE WITH RESOLUTION 978 (1995). THE COUNCIL UNDERLINES THE NECESSITY FOR THE TRIBUNAL TO BE FULLY FINANCED, AS A MATTER OF PRIORITY, AND FOR CONTINUED ACCESS TO THE VOLUNTARY TRUST FUND ESTABLISHED FOR THE TRIBUNAL. THE COUNCIL CONTINUES TO SUPPORT THE WORK OF HUMAN RIGHTS MONITORS IN RWANDA IN COOPERATION WITH THE RWANDAN GOVERNMENT.

"THE SECURITY COUNCIL REAFFIRMS ITS CONCERN AT THE APPALLING SITUATION IN THE RWANDAN PRISONS. IN THIS RESPECT, IT WELCOMES MEASURES INITIATED BY THE DEPARTMENT OF HUMANITARIAN AFFAIRS, IN COORDINATION WITH THE INTERNATIONAL COMMUNITY AND THE GOVERNMENT OF RWANDA, TO ALLEVIATE THE INTOLERABLE CONDITIONS IN RWANDAN PRISONS. IT CALLS ON THE INTERNATIONAL COMMUNITY TO CONTINUE ITS ASSISTANCE IN THIS REGARD AND ENCOURAGES THE RWANDAN GOVERNMENT TO CONTINUE ITS EFFORTS TO IMPROVE THE SITUATION IN THE PRISONS. THE COUNCIL UNDERLINES THE IMPORTANCE OF PARALLEL ACTION BY THE RWANDAN GOVERNMENT TO RESTORE THE RWANDAN JUDICIAL SYSTEM AND REQUESTS THE INTERNATIONAL COMMUNITY TO ASSIST THE RWANDAN GOVERNMENT IN THIS URGENT TASK.

"THE SECURITY COUNCIL UNDERLINES THAT SOUND ECONOMIC FOUNDATIONS ARE ALSO VITAL FOR ACHIEVING LASTING STABILITY IN RWANDA. IN THIS RESPECT, IT WELCOMES THE INCREASED COMMITMENTS AND FUNDS PLEDGED FOR THE GOVERNMENT'S PROGRAMME OF NATIONAL RECONCILIATION AND SOCIO-ECONOMIC REHABILITATION AND RECOVERY FOLLOWING THE MID-TERM REVIEW OF THE GENEVA ROUND-TABLE CONFERENCE, AND CALLS ON THE INTERNATIONAL COMMUNITY TO CONTINUE TO SUPPORT RWANDA'S REHABILITATION PROCESS.

"THE SECURITY COUNCIL WILL REMAIN SEIZED OF THE MATTER."

SECRETARY-GENERAL'S REPORT ON UNAMIR

THE SECRETARY-GENERAL'S PROGRESS REPORT (S/1995/848) STATES THAT PROBLEMS RELATING TO REPATRIATION AND SECURITY HAD AGAIN HIGHLIGHTED THE REMAINING CHALLENGES FACING RWANDA. IT WARNS THAT THE BENEFITS OF CONTINUED RWANDESE COOPERATION WITH THE UNITED NATIONS AND THE INTERNATIONAL COMMUNITY WOULD BE LIMITED AS LONG AS THE RWANDESE REMAINED DIVIDED BY FEAR AND MISTRUST AND THE SPECTRE OF RENEWED CONFLICT HUNG OVER THE COUNTRY.

IN A REVIEW OF RECENT POLITICAL DEVELOPMENTS IN RWANDA, THE REPORT STATES THAT THE GOVERNMENT'S DECLARED POLICY OF PROMOTING BROAD-BASED PARTICIPATION AND NATIONAL RECONCILIATION HAD BEEN INFLUENCED BY TWO MAJOR EVENTS. THE FIRST WAS THE DEPARTURE OF PRIME MINISTER FAUSTIN TWAGIRAMUNGU, WHO LEFT OFFICE ON 28 AUGUST TOGETHER WITH FOUR OTHER CABINET MINISTERS. THE SECOND WAS THE KILLING OF 110 VILLAGERS AT KANAMA ON 11 AND 12 SEPTEMBER. HOWEVER, THE GOVERNMENT HAD MOVED QUICKLY TO CONTAIN AND COUNTERACT THOSE EVENTS. FIRST, IT HAD APPOINTED A NEW PRIME MINISTER AND REPLACED THE DEPARTING CABINET MINISTERS. SECOND, VICEPRESIDENT AND DEFENCE MINISTER MAJOR-GENERAL PAUL KAGAME HAD VISITED KANAMA THE DAY AFTER THE KILLINGS, HAD ACKNOWLEDGED RWANDA PATRIOTIC ARMY (RPA) EXCESSES, AND HAD PROMISED PUNISHMENT OF THE GUILTY.

THE REPORT NOTES THE "EFFICIENT MANNER" IN WHICH THE

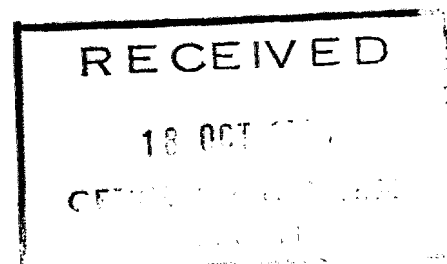
GOVERNMENT OF RWANDA HAD HANDLED THE FORCIBLE REPATRIATION BY
ZAIRE OF SOME 13,000 RWANDESE REFUGEES IN AUGUST -- TESTIMONY,
SAYS THE REPORT, TO PROGRESS MADE IN STABILIZING THE COUNTRY.
IT NOTES THE FORMAL INTEGRATION INTO THE RPA OF 1,200 FORMER
MEMBERS OF THE RWANDESE GOVERNMENT FORCES (RGF), BRINGING THE
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TOTAL OF FORMER RGF TROOPS NOW SERVING WITH THE RPA TO 2,000. IT FURTHER NOTES THE CONTINUATION OF GOVERNMENT NORMALIZATION EFFORTS IN THE COUNTRYSIDE, ESPECIALLY IN THE COMMUNES, WHERE MOST RWANDESE LIVED AND FROM WHERE MOST REFUGEES HAD FLED.

FOLLOWING THE MISSION OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) TO RWANDA AND THE GREAT LAKES REGION FROM 31 AUGUST TO 7 SEPTEMBER, UNDERTAKEN AT THE SECRETARY-GENERAL'S REQUEST, OFFICIALS IN RWANDA HAD REAFFIRMED THEIR DESIRE TO SEE REFUGEES RETURN AND HAD PROMISED TO DO EVERYTHING IN THEIR POWER TO FACILITATE VOLUNTARY RETURN IN CONDITIONS OF SAFETY AND DIGNITY. AT A MEETING OF THE TRIPARTITE COMMISSION INVOLVING TANZANIA, RWANDA AND ZAIRE, HELD FROM 18 TO 21 SEPTEMBER AT ARUSHA, PRACTICAL MEASURES HAD BEEN AGREED ON FOR STARTING LARGE-SCALE REPATRIATION OF THE MORE THAN 600,000 RWANDESE REFUGEES IN TANZANIA.

AT A SECOND MEETING OF THE TRIPARTITE COMMISSION, INVOLVING ZAIRE, RWANDA AND UNHCR, A JOINT COMMUNIQUE HAD REAFFIRMED COMMITMENTS TO CREATE CONDITIONS FOR REPATRIATION TO RWANDA IN A SAFE AND ORGANIZED MANNER. THE GOVERNMENT OF RWANDA HAD AGREED TO STRENGTHEN RECEPTION FACILITIES, REDUCE BORDER CONTROLS AND PROVIDE SECURITY AND PROTECTION TO RETURNEES IN COLLABORATION WITH UNHCR AND OTHER HUMAN RIGHTS ORGANIZATIONS. THE GOVERNMENT OF ZAIRE HAD AGREED TO REDUCE ALL FORMS OF INTIMIDATION IN THE CAMPS WITHIN ITS BORDERS. THOSE DECISIONS WOULD BE IMPLEMENTED THROUGH TECHNICAL MEETINGS TO BE HELD AT GISENYI LATER THIS MONTH, AND THE PROCESS WOULD BE EVALUATED BY THE TRIPARTITE COMMISSION AT GENEVA OR IN ZAIRE.

IN RESPONSE TO THE ANTICIPATED INCREASE IN THE RATE OF RETURN OF REFUGEES TO RWANDA, THE REPORT STATES, UNHCR WAS AUGMENTING ITS FACILITIES AT OFFICIAL ENTRY POINTS TO ENSURE THE PROPER RECEPTION OF ALL RETURNEES. FROM 5 TO 25 SEPTEMBER, MORE THAN 4,000 REFUGEES WERE REPATRIATED UNDER UNHCR AUSPICES FROM THE CAMPS IN NORTHERN BURUNDI, FOR A TOTAL OF SOME 18,000 REFUGEES ASSISTED BY UNHCR SINCE JUNE OF THIS YEAR. THE UNHCR FURTHER ESTIMATED THAT AN EQUAL NUMBER HAD REPATRIATED SPONTANEOUSLY. THE NUMBER OF RWANDESE REFUGEES REMAINING IN BURUNDI WAS 155,000.

FROM ZAIRE, CURRENTLY HOST TO 1 MILLION RWANDESE REFUGEES, 3,500 NEW CASELOAD AND 5,934 OLD CASELOAD REFUGEES HAD BEEN REPATRIATED UNDER UNHCR AUSPICES DURING SEPTEMBER. DURING THE SAME PERIOD, 147 REFUGEES RETURNED TO RWANDA FROM BUKAVU. AS A RESULT OF RECENT DEVELOPMENTS, HOWEVER, AND IN VIEW OF

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REPATRIATION DEADLINES IMPOSED BY THE GOVERNMENT OF ZAIRE --31

DECEMBER 1995 -IT WAS HOPED THAT THE PACE OF REPATRIATION WOULD SUBSTANTIALLY QUICKEN. HOWEVER, FOLLOWING HER RECENT VISIT TO THE REGION, THE HIGH COMMISSIONER FOR REFUGEES BELIEVED THAT A REALISTIC TARGET FOR VOLUNTARY REPATRIATION WAS BETWEEN 500,000 AND 600,000 PEOPLE BY THE END OF THE YEAR.

HOWEVER, THE REPORT WARNS THAT, CRUCIAL AS THOSE DEVELOPMENTS WERE, NATIONAL RECONCILIATION DEPENDED NOT ONLY ON REPATRIATION AND SAFE REINTEGRATION OF REFUGEES, BUT ON THE ESTABLISHMENT OF AN EFFECTIVE AND CREDIBLE NATIONAL JUDICIARY TO ENSURE JUSTICE AND EQUAL TREATMENT FOR ALL RWANDESE NATIONALS. CURRENTLY THE JUDICIARY REMAINED LARGELY INOPERATIVE IN A "DANGEROUS SITUATION", WITH UPWARD OF 500 PEOPLE ADDING WEEKLY TO THE MORE THAN 50,000 DETAINED IN INHUMAN CONDITIONS IN RWANDA'S OVERCROWDED JAILS.

THE REPORT NOTES THAT THE UNITED NATIONS HUMAN RIGHTS FIELD OPERATION FOR RWANDA HAD CONTINUED ITS MONITORING ACTIVITIES, TECHNICAL ASSISTANCE TO THE JUDICIAL SYSTEM, IMPROVEMENT OF PRISON CONDITIONS AND EDUCATIONAL SEMINARS. A DATABASE HAD BEEN CREATED WITH OTHER UNITED NATIONS AGENCIES TO PROVIDE ACCURATE INFORMATION ON REFUGEE MOVEMENTS.

ON THE LEGAL AND INSTITUTIONAL ARRANGEMENTS FOR THE INTERNATIONAL TRIBUNAL FOR RWANDA, THE REPORT NOTED THE RECENT THREE-DAY VISIT TO RWANDA BY THE PRESIDENT, PROSECUTOR AND REGISTRAR OF THE TRIBUNAL. IT ALSO NOTED THE HEADQUARTERS AGREEMENT RELATING TO THE SEAT OF THE TRIBUNAL, SIGNED ON 31 AUGUST BETWEEN THE UNITED NATIONS AND THE UNITED REPUBLIC OF TANZANIA.

THE SECRETARY-GENERAL'S REPORT STATES THAT THE GRADUAL REDUCTION OF UNAMIR FORCE LEVELS, AUTHORIZED BY COUNCIL RESOLUTION 997 (1995), WAS PROCEEDING. BY THAT RESOLUTION OF 9 JUNE, THE COUNCIL EXTENDED UNAMIR'S MANDATE UNTIL 8 DECEMBER 1995. IT AUTHORIZED A FORCE REDUCTION TO 2,330 TROOPS BY 9 SEPTEMBER AND TO 1,900 TROOPS BY 9 OCTOBER, WITH MILITARY OBSERVERS AND CIVILIAN POLICE PERSONNEL MAINTAINED AT CURRENT LEVELS. AS OF 30 SEPTEMBER, THE FORCE LEVEL STOOD AT 1,836. A TOTAL OF 288 MILITARY OBSERVERS OUT OF AN AUTHORIZED LEVEL OF 320 WERE ALSO DEPLOYED IN THE COUNTRY.

THE UNAMIR CONTINUED TO ASSIST THE GOVERNMENT OF RWANDA IN FACILITATING THE VOLUNTARY AND SAFE RETURN AND RESETTLEMENT OF REFUGEES AND IN PROMOTING A CLIMATE OF CONFIDENCE AND TRUST, THE REPORT STATES. MEANWHILE, THE CIVILIAN POLICE COMPONENT OF UNAMIR HAD CONTINUED TO FOCUS ON TRAINING OF THE RWANDESE NATIONAL POLICE FORCE. TRAINING OF A THIRD GROUP OF 515 GENDARMES WAS IN PROGRESS AND WAS SCHEDULED TO END EARLY IN DECEMBER, GIVING RWANDA ABOUT 900 OF THE ESTIMATED 6,000 TRAINED GENDARMES IT NEEDED.

WITH MORE THAN 52,000 PEOPLE CURRENTLY INCARCERATED, AND WITH ARRESTS CONTINUING TO TAKE PLACE -- USUALLY ON SUSPICION OF COMPLICITY IN THE 1994 GENOCIDE -- THE REPORT NOTES THAT CONDITIONS IN THE PRISONS CONSTITUTED A MAJOR HUMANITARIAN CRISIS. IN AUGUST, THE SECRETARY-GENERAL REQUESTED THE UNDERSECRETARY-GENERAL FOR HUMANITARIAN AFFAIRS, IN COORDINATION WITH THE GOVERNMENT OF RWANDA AND THE INTERNATIONAL COMMUNITY, TO INITIATE URGENT MEASURES TO ALLEVIATE THAT "APPALLING SITUATION".

IN CONCLUSION, SAYS THE REPORT, UNAMIR HAD CONTINUED TO DISCHARGE THE TASKS ENTRUSTED TO IT UNDER COUNCIL RESOLUTION 997 (1995). ITS EFFORTS HAD MADE AN IMPORTANT CONTRIBUTION TO RWANDA'S REHABILITATION PROGRAMME. ALTHOUGH MUCH REMAINED TO BE DONE, VISIBLE PROGRESS TOWARDS NORMALIZATION AND STABILITY HAD BEEN ACHIEVED. HOWEVER, SUSTAINABLE RECOVERY WAS POSSIBLE ONLY IN CONDITIONS OF GENUINE PEACE AND STABILITY. CREATING AND SUSTAINING SUCH CONDITIONS WAS A MATTER PRIMARILY FOR THE RWANDESE THEMSELVES. THE RECENT CRISES CREATED BY THE EXPULSION OF RWANDESE REFUGEES FROM ZAIRE AND THE KILLINGS OF CIVILIANS NEAR GISENYI HAD UNDERLINED THE FRAGILITY OF THE REHABILITATION PROCESS.

PERHAPS THE MOST IMMEDIATE CAUSE AND CONSEQUENCE OF THE INSTABILITY AND POLITICAL DIVISIONS CONFRONTING RWANDA AND THE GREAT LAKES REGION, SAYS THE REPORT, WAS THE REFUGEE PROBLEM. TO ADDRESS ITS UNDERLYING POLITICAL CAUSES WOULD REQUIRE GENUINE NATIONAL RECONCILIATION BETWEEN THE VARIOUS SEGMENTS OF RWANDESE SOCIETY AS ENVISAGED UNDER THE ARUSHA PEACE AGREEMENT.

NOTING THAT THE ISSUES CONFRONTING THE INTERNATIONAL COMMUNITY WENT BEYOND RWANDA'S BORDERS, THE SECRETARY-GENERAL'S REPORT STATES THAT LONG-TERM PEACE IN RWANDA WOULD REMAIN ELUSIVE AS LONG AS LARGE CONCENTRATIONS OF RWANDESE WERE ENCAMPED IN NEIGHBOURING COUNTRIES. THE SECRETARY-GENERAL EXPRESSES THE HOPE THAT THE COMMISSION OF INQUIRY RECENTLY APPOINTED BY THE SECURITY COUNCIL TO INVESTIGATE REPORTS OF MILITARY TRAINING AND ARMS TRANSFERS TO FORMER RWANDESE GOVERNMENT FORCES WOULD HELP DEFUSE TENSIONS AND PROMOTE MUTUAL CONFIDENCE ALONG RWANDA'S BORDERS. THE SECRETARY-GENERAL WELCOMES RECENT EFFORTS TO IMPROVE RELATIONS AMONG THE STATES IN THE REGION, WHICH SHOULD HELP PAVE THE WAY FOR THE PROPOSED REGIONAL CONFERENCE ON PEACE, SECURITY AND DEVELOPMENT. IN THAT REGARD, HE WOULD SOON BE REPORTING TO THE COUNCIL ON THE RESULTS OF HIS SPECIAL ENVOY'S FIRST ROUND OF CONSULTATIONS IN THE GREAT LAKES REGION.

THE REPORT STATES THAT, WHILE RWANDA HAD MADE VISIBLE PROGRESS IN ITS EFFORTS TO OVERCOME THE PROBLEMS CREATED BY THE TRAGIC EVENTS OF 1994, THE COUNTRY STILL HAD A LONG ROAD TO TRAVEL IN ITS SEARCH FOR RECONCILIATION AND RECOVERY. THE UNAMIR'S MANDATE WAS SET TO EXPIRE ON 8 DECEMBER 1995, AND IT WAS NOW TIME FOR THE GOVERNMENT OF RWANDA AND THE INTERNATIONAL COMMUNITY TO GIVE SERIOUS CONSIDERATION TO THE FUTURE ROLE OF THE UNITED NATIONS IN RWANDA.

MEANWHILE, IN VIEW OF THE ACUTE FINANCIAL CRISIS CURRENTLY FACED BY THE ORGANIZATION, THE SECRETARY-GENERAL HAD INSTRUCTED ALL THE HEADS OF PEACE-KEEPING OPERATIONS TO EXPLORE WAYS TO EFFECT IMMEDIATE SAVINGS, INCLUDING POSSIBLE TROOP REDUCTIONS. IN THE CASE OF UNAMIR, THE SECRETARY-GENERAL'S SPECIAL ENVOY, SHAHARYAR KHAN, WAS CURRENTLY STUDYING, IN CONSULTATION WITH THE GOVERNMENT, THE POSSIBILITY OF A "VERY SUBSTANTIAL" TROOP REDUCTION. THE SECRETARY-GENERAL WOULD IN DUE COURSE BE REPORTING ON THE MATTER TO THE SECURITY COUNCIL.

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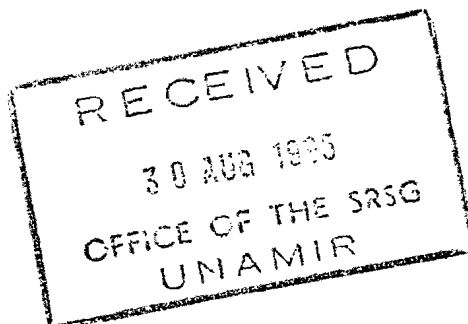
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OUTGOING FACSIMILE

DATE: 29 August 1995

TO: KHAN UNAMIR Kigali	FROM: ANNAN DPKO New York <i>H. Annan</i>
FAX NO: 3-3090	FAX NO: (212) 963-4879 ROOM S-3720
SUBJECT: International Tribunal for Rwanda	
TOTAL NUMBER OF TRANSMITTED PAGES INCLUDING THIS PAGE: 9	

Please find attached, for your information, copy of the Third Report of the Secretary-General pursuant to paragraph of Security Council resolution 995 (1994), which deals with the arrangements concerning the seat, premises and financing of the International Tribunal for Rwanda. The report, dated 25 August 1995, was issued today as document S/1995/741. Regards.





Security Council

Distr.
GENERAL

S/1995/741
25 August 1995

ORIGINAL: ENGLISH

THIRD REPORT OF THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 5
OF SECURITY COUNCIL RESOLUTION 955 (1994)

I. INTRODUCTION

1. In paragraph 5 of resolution 955 (1994) of 8 November 1994, I was asked to report periodically to the Security Council on the implementation of the resolution establishing the International Tribunal for Rwanda. In my first report on 13 February 1995 (S/1995/134), I informed the Council of the steps envisaged for the practical implementation of the resolution and made my recommendation that Arusha, United Republic of Tanzania, should be selected as the seat of the Tribunal. In my second report on 30 June 1995 (S/1995/533), I provided updated information regarding the arrangements made for the seat of the Tribunal at Arusha, and set out the status as regards the financing of the Tribunal. In the present report, it is my intention to brief the Council on the progress made regarding the practical and legal arrangements for the seat of the Tribunal, its financing, the status of contributions in funds and personnel and the activities of its various organs.

II. ARRANGEMENTS CONCERNING THE SEAT AND PREMISES
OF THE TRIBUNAL

2. As indicated in my last report (S/1995/533), a number of issues remained to be resolved in the headquarters agreement for the seat of the Tribunal between the United Nations and the Government of the United Republic of Tanzania. Following discussions held in New York between the Office of Legal Affairs of the Secretariat and the Permanent Representative of the United Republic of Tanzania to the United Nations, the parties are considering including in a side exchange of letters their understanding regarding the interpretation and implementation of certain provisions of the agreement. Pending a final reaction from the Government of the United Republic of Tanzania, it is expected that the headquarters agreement between the United Nations and the Government will be signed shortly.

3. Given the institutional links between the International Tribunal for Rwanda and 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 (i.e., a common Appeals Chamber and a common Prosecutor), it is envisaged that certain activities and proceedings of the Rwanda Tribunal will be undertaken at The Hague from time to time. In order to facilitate such activities and proceedings of the Tribunal, a draft exchange of letters has been submitted to the Netherlands authorities whereby the pertinent provisions of the agreement between the United Nations and the Netherlands concerning the Yugoslav Tribunal were made applicable to activities and proceedings of the Rwanda Tribunal in the territory of the Netherlands. In that connection, there would be a small liaison office for the Rwanda Tribunal at The Hague, staffed by one Professional and one or two secretariat support staff. Occasionally, the Deputy Prosecutor would also visit The Hague for consultations, together with collaborators from Kigali, as appropriate. Otherwise, I have jointly with the Prosecutor taken the position that investigations should be conducted from the Prosecutor's office at Kigali and at Arusha, when the latter becomes operational.

4. In order to speed up the conclusion of the lease arrangements for the premises of the Tribunal and the necessary reconstruction works at the Arusha International Conference Centre, a task force has been established to oversee the lease arrangements and the processes of contracting, reconstruction and procurement. The phased-in approach adopted to the establishment of the Tribunal would enable it to commence its operation later in 1995.

III. FINANCING

5. In its resolution 49/251 of 20 July 1995, the General Assembly established the mode of financing of the Tribunal. The Assembly adopted a \$13.5 million budget for the Tribunal for the period ending 31 October 1995, and as an ad hoc and exceptional arrangement, decided to split the \$13.5 million between the regular budget and the peace-keeping special account assessment. It also specifically authorized me to make the necessary arrangements, including the signing of a lease agreement and construction contracts for the premises of the Tribunal and granting of contracts of up to 12 months for its staff, to ensure that it is provided with adequate facilities and necessary staff resources. With the approval of the budget by the General Assembly in July 1995, the Tribunal has now a sound financial basis that will enable it to enter into long-term financial and other commitments, including construction works and recruitment of staff.

6. In addition to the funds available in the budget, a total amount of \$6.3 million worth of cash contributions and pledges is now available in the Voluntary Fund to Support the Activities of the Tribunal.

7. As for contributions in kind, certain countries have donated the services of qualified personnel to the Tribunal to assist in the work of the Prosecutor or the Registrar, as the case may be. An agreement for the contribution of personnel to the Tribunal has been signed with the United Kingdom of Great Britain and Northern Ireland. Similar agreements are currently being negotiated with Canada, Denmark, the Netherlands, Norway, Switzerland and the United States of America and with one non-governmental organization.

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IV. THE TRIBUNAL

A. The judges

8. On 30 June 1995, the judges of the Tribunal adopted the rules of procedure and evidence in accordance with article 14 of the Statute. Judges were assigned to the two Trial Chambers and a list of assignment of judges for review of indictments for the months of October to December 1995 was established. Having thus completed the agenda of their first meeting, the judges are now prepared to serve on the Tribunal on short notice as soon as the first indictment is presented.

B. The Registry

9. I am currently consulting with the President of the Tribunal in accordance with article 16 of the Statute in order to be able to appoint the Registrar. It is my hope that the Registrar can be appointed within the next few days.

C. Staffing of the Tribunal

10. With respect to staffing, the situation is currently as follows. A total of 18 Professional staff are working for the Tribunal, including the Prosecutor in The Hague. The Office of the Prosecutor at Kigali is staffed by the Deputy Prosecutor and 10 Investigators/Legal Officers. In addition, the Liaison Officer attached to the Prosecutor's Office at The Hague frequently travels to Kigali in the performance of his functions. Seven investigators are personnel contributed by Member States. The Administrative Office of the Registry is staffed by an Acting Chief of Administration, a Procurement Officer and two Administrative Assistants. It should be noted that seven additional candidates have accepted offers of appointments and will travel to Kigali as soon as they are medically cleared and their travel documents processed, and that offers of appointments will be sent to another nine candidates in the next few days. Additionally, approximately 40 personnel contributed by Member States are expected to arrive during the next three months.

D. Ongoing investigations

11. As far as the ongoing investigations are concerned, the Prosecutor has informed me that in view of the current staffing levels, present inquiries centre around a small number of individuals who are suspected of being principally responsible for the planning, incitement or commission of crimes. The investigators are assessing and analysing a large volume of material that has been collected by the Tribunal and other bodies during the past months. Additionally, witnesses are being interviewed on the African, European and North American continents. Pending the full development of the Arusha site with air-conditioned facilities for the computer equipment, the Prosecutor has indicated that in order to continue to meet his goal of the first indictments being issued later in 1995, a small Documents Processing Centre, using the premises identified above, will be established on a temporary basis at

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The Hague. The Prosecutor has informed me that neither his own investigations nor the information made available to him by the Rwandan authorities have so far served to identify suspects appropriate for investigation by him amongst persons currently being held in Rwandan prisons. The first indictments are still expected before the end of 1995.

12. Next week the President of the Tribunal and the Prosecutor will travel together to Kigali and Arusha. They will meet with representatives of the Government of Rwanda, with my Special Representative there and with the Deputy Prosecutor to discuss various questions concerning the establishment of the Tribunal. They will also consult among themselves on the work programme for investigations, the preparation of indictments and the holding of trials. At Arusha, they will meet with representatives of the International Conference Centre and see the premises to be used by the Tribunal.



Conseil de sécurité

Distr.
GÉNÉRALE

S/1995/741
25 août 1995
FRANÇAIS
ORIGINAL : ANGLAIS

TROISIÈME RAPPORT PRÉSENTÉ PAR LE SECRÉTAIRE GÉNÉRAL EN APPLICATION
DU PARAGRAPHE 5 DE LA RÉOLUTION 955 (1994) DU CONSEIL DE SÉCURITÉ

I. INTRODUCTION

1. Au paragraphe 5 de sa résolution 955 (1994) du 8 novembre 1994, le Conseil de sécurité m'a prié de lui présenter des rapports périodiques sur la mise en oeuvre de la résolution portant création du Tribunal international pour le Rwanda. Dans mon premier rapport daté du 13 février 1995 (S/1995/134), j'ai informé le Conseil des mesures envisagées pour l'application concrète de la résolution et recommandé de choisir Arusha (République-Unie de Tanzanie) comme siège du Tribunal. Dans mon deuxième rapport daté du 30 juin 1995 (S/1995/533), j'ai fourni des renseignements à jour sur les arrangements concernant le siège du Tribunal à Arusha, et dressé le bilan du financement du Tribunal. Dans le présent rapport, je compte informer le Conseil de ce qui a été fait sur le plan pratique et juridique concernant le siège du Tribunal, son financement, l'état des contributions (ressources financières et humaines) et les activités de ses différents organes.

II. ARRANGEMENTS CONCERNANT LE SIÈGE ET LES LOCAUX DU TRIBUNAL

2. Comme je l'indiquais dans mon rapport précédent (S/1995/533), un certain nombre de questions restaient à résoudre concernant l'accord de siège à conclure entre l'Organisation et le Gouvernement tanzanien. Suite aux consultations qui ont eu lieu à New York entre des fonctionnaires du Bureau des affaires juridiques du Secrétariat et le Représentant permanent de la République-Unie de Tanzanie auprès de l'Organisation des Nations Unies, les parties envisagent de consigner dans un échange de lettres ce dont elles sont convenues concernant l'interprétation et l'application de certaines dispositions de l'accord. L'accord de siège entre l'Organisation et le Gouvernement tanzanien devrait être signé prochainement, dès que celui-ci aura communiqué sa décision finale.

3. Étant donné les liens institutionnels existant entre le Tribunal international pour le Rwanda et le Tribunal international pour l'ex-Yougoslavie (ces deux instances ont en commun la Chambre d'appel et le Procureur), certaines activités et procédures du Tribunal pour le Rwanda devraient se dérouler occasionnellement à La Haye. Afin de faciliter lesdites activités et procédures, un projet d'échange de lettres a été présenté aux autorités

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néerlandaises, en vertu duquel les dispositions pertinentes de l'accord de siège entre l'Organisation et les Pays-Bas concernant le Tribunal pour la Yougoslavie ont été étendues aux activités et procédures du Tribunal pour le Rwanda sur le territoire néerlandais. Dans ce cadre, il est prévu de mettre en place un bureau de liaison du Tribunal pour le Rwanda à La Haye, dont l'effectif consisterait en un administrateur, assisté d'un ou deux secrétaires. Le Procureur adjoint et, le cas échéant, certains de ses collaborateurs de Kigali, seront appelés à se rendre de temps en temps à La Haye pour des consultations. Pour le reste, j'ai décidé, en accord avec le Procureur, que les enquêtes seraient menées à partir du Bureau du Procureur à Kigali et dès que les locaux du Tribunal seront opérationnels, à partir d'Arusha.

4. Afin d'accélérer la définition des modalités de location des locaux du Tribunal et l'achèvement des travaux de reconstruction à mener au Centre de conférences international d'Arusha, un groupe spécial a été créé pour superviser les modalités de location ainsi que les procédures de sous-traitance, les travaux de reconstruction et les achats. Comme le Tribunal sera établi progressivement, il devra commencer à fonctionner dans le courant de 1995.

III. FINANCEMENT

5. Dans sa résolution 49/251 du 20 juillet 1995, l'Assemblée générale a arrêté le mode de financement du Tribunal. Pour la période s'achevant au 31 octobre 1995, elle a adopté un budget de 13,5 millions de dollars, cette somme étant répartie à titre d'arrangement spécial et exceptionnel entre le budget ordinaire et le compte spécial des opérations de maintien de la paix. Par ailleurs, elle m'a expressément autorisé à prendre les dispositions nécessaires, notamment à signer un contrat de location des locaux du Tribunal et de contrats relatifs aux travaux à y effectuer, et à offrir au personnel des contrats pour des périodes pouvant atteindre 12 mois, pour que le Tribunal dispose des locaux et des ressources en personnel nécessaires. L'Assemblée générale ayant approuvé le budget en juillet 1995, le Tribunal est à présent doté d'une base financière solide qui lui permettra de prendre des engagements financiers et autres à long terme, s'agissant notamment de travaux de construction et de recrutement du personnel.

6. En sus des crédits budgétaires, le Fonds de contributions volontaires à l'appui des activités du Tribunal a reçu en espèces un montant de 6,3 millions de dollars sous la forme de contributions versées ou annoncées.

7. En ce qui concerne les contributions en nature, certains pays ont mis gratuitement à la disposition du Tribunal les services d'un personnel qualifié qui épaulera le procureur ou le greffier, selon le cas. Un accord concernant la fourniture de personnel au Tribunal a été signé avec le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord. Des accords similaires sont en cours de négociation avec le Canada, le Danemark, les États-Unis d'Amérique, la Norvège, les Pays-Bas et la Suisse, ainsi qu'avec une organisation non gouvernementale.

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IV. LE TRIBUNAL

A. Les juges

8. Le 30 juin 1995, les juges ont adopté le règlement du Tribunal, comme le prévoit l'article 14 du statut. Les juges des deux chambres de première instance ont été désignés et la liste des juges qui seront chargés d'examiner les actes d'accusation d'octobre à décembre 1995 a été établie. S'étant ainsi acquittés des tâches prévues pour la première réunion, les juges sont désormais à même de siéger au Tribunal dès que leur sera présenté le premier acte d'accusation.

B. Le Greffe

9. Conformément à l'article 16 du statut, je suis actuellement en consultation avec le Président du Tribunal en vue de nommer un greffier. J'ai l'espoir de pouvoir désigner le greffier du Tribunal dans les tout prochains jours.

C. Personnel du Tribunal

10. En ce qui concerne le personnel, la situation est la suivante : au total, 18 administrateurs, dont le Procureur à La Haye, travaillent actuellement pour le Tribunal. Le Bureau du Procureur à Kigali se compose du Procureur adjoint et de 10 enquêteurs/juristes. De plus, l'attaché de liaison du Bureau du Procureur à La Haye se rend fréquemment à Kigali dans l'exercice de ses fonctions. Sept enquêteurs ont été mis à la disposition du Tribunal par les États Membres. Le service administratif du Greffe est doté d'un chef adjoint de l'administration, d'un fonctionnaire chargé des achats et de deux assistants administratifs. Il convient de noter que sept candidats supplémentaires, qui ont déjà accepté leur nomination, se rendront à Kigali dès qu'ils auront reçu leur certificat médical d'aptitude physique et que leurs documents de voyage seront prêts; par ailleurs, des offres d'emploi seront adressées à neuf autres candidats dans les prochains jours. De plus, une quarantaine de personnes qui ont été mises à la disposition du Tribunal par les États Membres devraient se rendre à Kigali au cours des trois prochains mois.

D. Enquêtes en cours

11. En ce qui concerne les enquêtes en cours, le Procureur m'a fait savoir qu'étant donné l'effectif réduit dont il disposait, les enquêtes en cours ne portaient que sur un petit nombre d'individus soupçonnés d'avoir planifié, fomenté ou commis des crimes au Rwanda. Les enquêteurs examinent actuellement la masse de documents que le Tribunal et d'autres organes ont recueillis au cours des derniers mois. De plus, on interroge des témoins en Afrique, en Europe et en Amérique du Nord. En attendant que les locaux d'Arusha soient équipés de climatiseurs pour le matériel informatique, le Procureur a indiqué qu'un petit centre de traitement des documents serait mis en place temporairement à La Haye, afin que les premiers actes d'accusation puissent être dressés avant la fin de l'année. Le Procureur m'a fait savoir que, jusqu'à présent, ni les enquêtes menées par ses services ni les renseignements communiqués par les autorités rwandaises ne lui avaient permis d'identifier des

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suspects qui relèveraient de sa compétence parmi les personnes qui sont actuellement détenues au Rwanda. Les premiers actes d'accusation devraient quand même être dressés d'ici à la fin de 1995.

12. La semaine prochaine, le Président du Tribunal et le Procureur se rendront ensemble à Kigali et à Arusha. Ils rencontreront des représentants du Gouvernement rwandais, ainsi que mon Représentant spécial au Rwanda et le Procureur adjoint pour s'entretenir de diverses questions concernant la création du Tribunal. Ils se consulteront également sur le déroulement du travail d'enquête, l'élaboration des actes d'accusation et l'organisation des procès. À Arusha, ils rencontreront des représentants du Centre international de conférences et visiteront les locaux qui abriteront le Tribunal.

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18 July 1995

ENGLISH

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Forty-ninth session
Agenda item 146

FINANCING OF 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

Report of the Fifth Committee (Part IV)

Rapporteur: Mr. Larbi DJACTA (Algeria)

I. INTRODUCTION

1. The previous recommendations made by the Fifth Committee to the General Assembly under agenda item 146 appear in the report of the Committee contained in documents A/49/810 and Add.1 and 2.

2. The Committee considered the item further at its 66th meeting, on 14 July 1995. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary record (A/C.5/49/SR.66).

3. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/C.5/49/42) and the report of the Advisory Committee on Administrative and Budgetary Questions (A/49/7/Add.12).

II. CONSIDERATION OF DRAFT RESOLUTIONS A/C.5/49/L.44 and L.66

4. At the 66th meeting, on 14 July, the representative of Austria introduced a draft resolution entitled "Financing of 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" (A/C.5/49/L.66), which was submitted by

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the Chairman on the basis of informal consultations.

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5. At the same meeting, the Committee adopted draft resolution A/C.5/49/L.66 without a vote (see para. 6). Subsequently, draft resolution A/C.5/49/L.44 entitled "Financing of 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" was withdrawn by its sponsors.

III. RECOMMENDATION OF THE FIFTH COMMITTEE

6. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Financing of 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

The General Assembly,

Recalling its resolutions 47/235 of 14 September 1993 and 48/251 of 14 April 1994,

Recalling also its decision 49/471 of 23 December 1994, by which it authorized the Secretary-General to enter into commitments in the additional amount of 7 million United States dollars to allow 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 to continue its activities until 31 March 1995, without prejudice to any decisions that the Assembly might take with regard to budgetary and administrative matters and to the mode of financing,

Affirming that the International Tribunal must be assured of secure and stable financing so that it may fulfil its role in full and effectively,

Having considered the report of the Secretary-General A/C.5/49/42. on the financing of the International Tribunal and the related report of the Advisory Committee on Administrative and Budgetary Questions, A/49/7/Add.12.

1. Endorses the observations and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions, 2/ subject to the provisions of the present resolution;

2. Decides, subject to the completion of the reclassification process, to approve the three posts of senior investigators to undertake substantive highlevel investigations and to oversee the nine investigation teams in the Office of the Prosecutor, pending a further review of the question by the Advisory Committee in the context of estimates for the International Tribunal for 1996-1997;

3. Requests the Secretary-General to review the staffing requirements of the electronic support services and communications in the Registry to ensure that its organizational structure is commensurate with the tasks to be performed;

4. Reaffirms that questions related to the rules of procedure and evidence of the International Tribunal are matters to be decided by the International Tribunal;

5. Requests the Secretary-General to provide, in the context of the next budget presentation for the International Tribunal, additional information on the costs of ensuring free legal assistance, as outlined in paragraph 30 of the report of the Advisory Committee; 2/

6. Also requests the Secretary-General to include in the context of the next budget presentation for the International Tribunal information and/or proposals for the long-term requirements for the carrying out of sentences and for the protection of witnesses;

7. Requests the International Tribunal and the International Court of Justice to continue negotiations on common administrative arrangements with the aim of obtaining economies of administrative services;

8. Also requests the International Tribunal to establish guidelines to govern recourse to and use of expertise in the Chambers;

9. Notes that the estimated requirements for payment to the host Government for detention facilities for the accused reflect actual fixed and estimated variable costs in 1994-1995;

10. Emphasizes the importance of ensuring that recruitment for the International Tribunal be implemented strictly in accordance with the Staff Regulations and Rules of the United Nations, taking account of Articles 8, 100 and 101 of the Charter of the United Nations, and that, in recruiting consultants and experts, the International Tribunal should avail itself of sources of expertise on as wide a geographical basis as possible;

11. Expresses its appreciation to the Governments and others that have provided voluntary contributions to the International Tribunal;

12. Invites Member States and others to make further voluntary contributions to the International Tribunal that are acceptable to the Secretary-General;

13. Requests the Secretary-General to issue specific guidelines on the requirements for receipt of contributions and application of funds for the International Tribunal;

14. Also requests the Secretary-General to include in future budget presentations for the International Tribunal information on voluntary contributions in cash and in kind and to indicate where they are assigned;

15. Reaffirms that the acceptance of voluntary contributions in kind or in personnel, as well as voluntary financial contributions, must be consistent with the need to ensure the impartiality and independence of the International Tribunal at all times and that such contributions should be considered supplementary to the assessed contributions;

16. Requests the Secretary-General to include detailed information in his next report on the International Tribunal on the acceptance and use of voluntary contributions, particularly those in kind or in personnel, pursuant to paragraph 15 above;

17. Reaffirms the role of the General Assembly, as set out in Article 17 of the Charter, as the organ to consider and approve the budget of the Organization and the apportionment of its expenses among Member States;

18. Again expresses its concern that advice given to the Security Council by the Secretariat on the nature of the financing of the International Tribunal did not respect the role of the General Assembly as set out in Article 17 of the Charter;

19. Reaffirms that the expenses of the International Tribunal should be met through additional resources on the basis of assessed contributions and that they shall be financed through a separate special account outside the regular budget;

20. Decides to appropriate to the special account for the International Tribunal referred to in General Assembly resolution 47/235 a total amount of 43,991,600 United States dollars gross (39,095,900 dollars net) for the period from 1 January 1994 to 31 December 1995, inclusive of the commitment authority of 26,175,000 dollars authorized under the provisions of General Assembly resolutions 48/251 of 14 April 1994 and 49/242 of 13 April 1995 and decisions 49/471 A and B of 23 December 1994 and 6 April 1995 and the amount of 276,200 dollars expended in 1993;

21. Decides also, as an ad hoc and exceptional arrangement, that Member States will waive their respective shares in the credits arising from previous budgets of the United Nations Protection Force in the total amount of 21,995,800 dollars gross (19,547,950 dollars net) and hence accept an equivalent increase in the assessments for a future budget period of the United Nations Protection Force in an amount of 21,995,800 dollars gross (19,547,950 dollars net), to be transferred to the special account for the International Tribunal from the special account established for the United Nations Protection Force pursuant to General Assembly resolution 46/233 of 19 March 1992;

22. Decides further to apportion 21,995,800 dollars gross (19,547,950 dollars net) for the period from 1 January 1994 to 31 December 1995

among Member States in accordance with the scale of assessments for the year 1994 See resolutions 46/221 A and 48/223 A and decision 47/456. to be applied against a portion thereof, that is, 6,130,350 dollars gross (5,528,100 dollars net), which is the amount pertaining to the period ending 31 December 1994, and the scale of assessments for the year 1995 See resolution 49/19 B. to be applied against the balance, that is, 15,865,450 dollars gross (14,019,850 dollars net), for the period from 1 January to 31 December 1995;

23. Decides that, in accordance with the provisions of its resolution 973 (X) of 15 December 1955, there shall be set off against the apportionment among Member States, as provided for in paragraph 22 above, their respective share in the Tax Equalization Fund of the estimated staff assessment income of 2,447,850 dollars approved for the International Tribunal for the period from 1 January 1994 to 31 December 1995, 602,250 dollars being the amount pertaining to the period ending 31

December 1994 and the balance, that is, 1,845,600 dollars, to
the period from 1 January to 31 December 1995;
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24. Requests the Secretary-General to administer these resources with a maximum of economy and efficiency;

25. Decides that appropriations for 1996-1997 under the special account referred to in paragraph 19 above, the amount of which shall be determined during the fiftieth regular session of the General Assembly, shall be financed equally through the modes of financing referred to in paragraphs 21 and 22 above;

26. Requests the Secretary-General to submit a performance report at the end of each biennium no later than May 1996 and May 1998 respectively;

27. Decides to review the mode of financing of the International Tribunal at its fifty-second regular session;

28. Requests the Secretary-General to submit estimates for the requirements of the International Tribunal for 1996-1997 by 30 November 1995;

29. Decides to include in the provisional agenda of its fiftieth session the item entitled "Financing of 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".

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9 July 1995

ORIGINAL: ENGLISH

REPORT OF THE SECRETARY-GENERAL ON THE IMPLEMENTATION OF
PARAGRAPH 6 OF SECURITY COUNCIL RESOLUTION 997 (1995) OF
9 JUNE 1995

I. INTRODUCTION

1. In resolution 997 (1995) adopted on 9 June 1995, the Security Council affirmed that the restrictions imposed under Chapter VII of the Charter of the United Nations by resolution 918 (1994) applied to the sale or supply of arms and matériel specified therein to persons in the States neighbouring Rwanda, if that sale or supply was for the purpose of the use of such arms or matériel within Rwanda. It called upon the States neighbouring Rwanda to take steps, with the aim of putting an end to factors contributing to the destabilization of Rwanda, to ensure that such arms and matériel were not transferred to Rwandan camps within their territories. It requested the Secretary-General to consult the Governments of neighbouring countries on the possibility of the deployment of United Nations military observers, and to consult, as a matter of priority, the Government of Zaire on the deployment of observers, including at the airfields located in eastern Zaire, in order to monitor the sale or supply of arms and matériel. It further requested the Secretary-General to report to the Council on the matter within one month of the adoption of the resolution. The present report is submitted in response to that request.

II. MISSION OF THE SPECIAL ENVOY OF THE SECRETARY-GENERAL
TO RWANDA AND NEIGHBOURING COUNTRIES

2. I appointed Mr. Aldo Ajello as my Special Envoy to carry out the consultations requested by the Security Council. He visited the neighbouring countries from 20 to 28 June 1995, accompanied by the senior political adviser of the United Nations Assistance Mission for Rwanda (UNAMIR) and a military assistant to its Force Commander, and met with the following senior government officials: in Burundi, Mr. Sylvestre Ntibantunganya, President, Lt. Col. Sinzoyiheba Firmin, Minister of National Defence, Mr. Nicolas Mayugi, Secretary of State for Foreign Affairs and International Cooperation, Lt. Col. Bayaganakandi Epitace, Administrator General of the "Police de l'air, des frontières et des étrangers", Mr. Audifax Ndabitoreye, Administrator General

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of National Documentation; in Rwanda, Major-General Paul Kagame, Vice-President and Minister of Defence; in Uganda, Mr. Kintu Musoke, Prime Minister, Mr. Ben Mbonye, Secretary of Defence; in the United Republic of Tanzania, Mr. David Cleopa Mbuya, First Vice-President and Prime Minister, Mr. Richard Mariki, Permanent Secretary in the Ministry of Home Affairs; and in Zaire, Mr. Kengo wa Dondo, Prime Minister, Admiral Mavua Mudima, Vice-Prime Minister and Minister of National Defence, Mr. Diur Katondi, Vice-Minister of International Cooperation. He also met with my Special Representatives in Burundi and Rwanda. He reviewed the current situation in the region, with particular reference to repatriation, reconciliation and reconstruction in Rwanda, with representatives of United Nations agencies and non-governmental organizations (NGOs) and with members of the diplomatic corps in Rwanda. In addition, he visited Rwandan refugee camps in the Goma area of North Kivu in eastern Zaire. He was briefed on various aspects of the refugee situation, including security, by representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR).

3. In his meetings with officials of the neighbouring countries, my Special Envoy emphasized the Security Council's great concern over increasing reports of military activities that threatened to destabilize Rwanda.

4. The Special Envoy's consultations confirmed that the countries concerned shared some important common points of view. All reiterated their support for efforts to prevent the resumption of armed conflict in Rwanda, to ensure the return and resettlement of its refugees and to promote lasting reconciliation. They stressed the link between stability in Rwanda and the situation in the subregion generally and referred to the negative impact the Rwandan crisis was having on humanitarian and environmental conditions. The uncontrolled circulation of arms, including to civilians and refugees in the subregion, was seen as a major cause of destabilization, especially in Rwanda and Burundi. At the same time, measures needed to be taken to halt and reverse the drift towards conflict in the subregion by enhancing inter-State confidence-building, such as the recent decision by the Defence Ministers of Burundi, Rwanda and Zaire to conduct joint military patrols along their common borders. There was agreement that a broader approach, with the involvement of Rwanda and its neighbours and the support of the international community as a whole, would offer better opportunities for a lasting solution to the Rwandan crisis. The authorities in the neighbouring countries expressed the wish to receive concrete assistance from the international community to help them both to deal with the main problems that had followed the conflict in Rwanda and prevent any repetition of such conflict.

5. Officials in Rwanda welcomed the Security Council's initiative in proposing the deployment of military observers in neighbouring countries and characterized it as a step in the right direction. However, they emphasized the need to bring to justice those who had masterminded the genocide. That was required not only to end impunity but also to facilitate genuine reconciliation and promote security by helping to eliminate arbitrary and individual measures of vengeance.

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III. RESPONSE OF THE NEIGHBOURING COUNTRIES TO THE
PROPOSED DEPLOYMENT OF UNITED NATIONS MILITARY
OBSERVERS IN THEIR RESPECTIVE TERRITORIES

6. There were mixed reactions from the Governments of neighbouring countries to the proposal to deploy military observers in their respective countries. Some questioned the utility, relevance and feasibility of the proposed deployment, arguing that it was in Rwanda that international observers should be stationed in order to help to create a climate of confidence that would encourage the refugees to return home and thus reduce the danger of destabilization from refugee camps. It was also stressed that effective political measures to remove fear and suspicion in refugee communities and the countries of asylum were necessary. Even the countries that supported the proposed deployment saw the initiative as essentially a political first step by the international community to underscore its concern over the possible destabilization of Rwanda by military means.

7. The Government of Burundi welcomed the Security Council's initiative. However, President Ntibantunganya said that the creation in Rwanda of conditions conducive to the safe return and resettlement of the refugees could help to deny to the hardliners who wanted to destabilize the country the possibility of arguing that return by force was the only viable option. He welcomed recent statements by the Government of Rwanda that opened up possibilities for contact with the refugees and invited them to visit the country to assess conditions and encourage others in the camps to return home.

8. The Government of the United Republic of Tanzania refused to consider the deployment of military observers in its territory. It suggested instead that the United Nations should strengthen its military presence in Rwanda to ensure that refugees could return home safely and in dignity, and noted that the main obstacle to the return was not in the neighbouring countries but in Rwanda. It felt that the Council's proposal addressed only a minor problem while ignoring the major one. It was ready to consider the deployment of military observers only in a wider context. It suggested the following measures to promote repatriation of refugees and reduce threats of armed action against Rwanda from the refugee camps: the Rwandan Government should issue a public statement declaring unequivocally that it wanted to see all refugees return home; the Government should declare a general amnesty for all Rwandans except "a few who would be tried" for having masterminded the genocide; the Government should accept the deployment inside Rwanda of international observers, who would help to create a climate of confidence by monitoring the situation throughout the country to promote respect for human rights and prevent incidents like that at Kibeho, which tended to hinder repatriation while generating new refugees; and the international community should assist the Government with the smooth resettlement of returnees.

9. Uganda neither objected to the Security Council's proposal nor demonstrated enthusiasm for it. It was sceptical about the effectiveness of such deployment and what it could achieve. It stressed that, instead of tackling the effects of the crisis, the Council should address its causes and identify the countries that were providing support for the delivery of weapons and military training to the former Rwandan government forces. It reaffirmed its commitment to do its

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best to consolidate peace in Rwanda and to ensure the peaceful return of the refugees.

10. The Government of Zaire, while expressing support for any effective action that could prevent the destabilization of Rwanda, reiterated its strong denial of recent accusations that it was aiding the former Rwandan government forces with arms and training to enable them to attack Rwanda. It pointed out that it had called for an international commission of inquiry under United Nations auspices to investigate the allegations and clarify the situation conclusively. It had welcomed millions of refugees from Rwanda and Burundi in accordance with applicable international conventions despite the resentment of its own population, which had called for the immediate and unconditional repatriation of the refugees. Instead of being criticized, Zaire felt that it should be assisted by the international community to cope with the immense ecological, socio-economic, security and political burdens imposed on the Government and the country by the refugees.

11. Zaire's views were also conveyed to me in a letter dated 23 June 1995, in which Prime Minister Kengo wa Dondo pointed to his country's contribution, in response to a request by UNHCR, of 1,500 troops, who are deployed for security protection in the Rwandan refugee camps, and to its unilateral action in disarming the former Rwandan government forces soldiers who had fled to Zaire. These actions were evidence of Zaire's cooperation and its determination to prevent insecurity in the camps and the destabilization of Rwanda from Zairian territory.

12. My Special Envoy's visit to the refugee camps in the Goma area suggested that the relocation of camps farther away from the borders with Rwanda could facilitate efforts to curb the threat of destabilization. However, the huge costs and logistical difficulties of such an operation, as well as the fear that it would be resisted by the population of the countries of refuge, have prevented concrete action in this regard. Government officials in Zaire explained that to move the refugees further inside their territory could be seen by the population as implying, that rather than the repatriation, which the population had called for, the refugees were being resettled for a longer and perhaps permanent stay in Zaire. The Tanzanian authorities, citing recent attempts by thousands of Rwandan refugees in Burundi to enter Tanzanian territory, criticized any effort aimed at transferring refugees from one country of refuge to another.

IV. CONCLUSION

13. There is growing recognition in the Great Lakes region not only of the urgency and gravity of the risks confronting the countries of the region but also of the need for the Governments concerned to take individual and collective measures to address these dangers. While many of the Governments consulted by my Special Envoy took the view that the primary responsibility lay with the Government of Rwanda, there was general acknowledgement also of the value of action at the regional level. However, the Special Envoy's consultations indicated that in some countries there was strong opposition to the deployment of United Nations observers as proposed in Security Council resolution

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997 (1995). While I am in the region in the coming days, I shall explore further the positions of the Governments concerned.

**NATIONS
UNIES**

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Conseil de sécurité

DISTR.
GÉNÉRALE

S/1995/552
9 juillet 1995
FRANÇAIS
ORIGINAL : ANGLAIS

**RAPPORT DU SECRÉTAIRE GÉNÉRAL SUR LA SUITE DONNÉE AU
PARAGRAPHE 6 DE LA RÉSOLUTION 997 (1995) DU CONSEIL
DE SÉCURITÉ, EN DATE DU 9 JUIN 1995**

I. INTRODUCTION

1. Dans la résolution 997 (1995) qu'il a adoptée le 9 juin 1995, le Conseil de sécurité a souligné que les restrictions imposées par la résolution 918 (1994) en vertu du Chapitre VII de la Charte des Nations Unies s'appliquaient à la vente ou la livraison des armements et des matériels qui y étaient spécifiés à des personnes se trouvant dans des États voisins si l'objet de cette transaction était l'utilisation au Rwanda des armements ou des matériels concernés. Il a demandé aux États voisins du Rwanda, de façon à éliminer des facteurs contribuant à la déstabilisation de ce pays, de prendre des mesures pour veiller à ce que les armements et matériels susmentionnés ne soient pas fournis aux camps de réfugiés rwandais se trouvant sur leur territoire. Il a prié le Secrétaire général de tenir des consultations avec les gouvernements de pays voisins concernant la possibilité de déployer des observateurs militaires des Nations Unies, et de consulter en priorité le Gouvernement zaïrois concernant le déploiement d'observateurs, y compris dans les aérodrômes situés dans l'est du Zaïre, afin de contrôler la vente ou la livraison des armements et des matériels susmentionnés. Il a également prié le Secrétaire général de lui faire rapport sur cette question un mois au plus tard après l'adoption de la présente résolution. Le présent rapport est soumis en réponse à cette demande.

II. MISSION DE L'ENVOYÉ SPÉCIAL DU SECRÉTAIRE GÉNÉRAL AU RWANDA ET DANS LES ÉTATS VOISINS

2. J'ai nommé M. Aldo Ajello mon Envoyé spécial et je l'ai chargé de mener les consultations demandées par le Conseil de sécurité. Il s'est rendu dans les pays voisins du Rwanda du 20 au 28 juin 1995, accompagné du Conseiller politique principal de la Mission des Nations Unies pour l'assistance au Rwanda (MINUAR) et d'un assistant militaire du commandant de la Force de la Mission, et il s'est entretenu avec les hauts responsables gouvernementaux suivants : au Burundi, M. Sylvestre Ntibantunganya, Président, le lieutenant-colonel Sinzoyiheba Firmin, Ministre de la défense nationale, M. Nicolas Mayugi, Secrétaire d'État aux affaires étrangères et à la coopération internationale, le lieutenant-colonel Bayaganakandi Epitace, Administrateur général de la police de l'air, des frontières et des étrangers, M. Audifax Njabitoroye, Administrateur général de la documentation nationale; en Ouganda, M. Kintu Musoke, Premier Ministre,

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M. Ben Mbonye, Secrétaire d'État à la défense; au Rwanda, le général Paul Kagame, Vice-Président et Ministre de la défense; en République-Unie de Tanzanie, M. David Cleopa Muya, Premier Vice-Président et Premier Ministre, M. Richard Mariki, Secrétaire permanent au Ministère de l'intérieur; au Zaïre, M. Kengo wa Dondo, Premier Ministre, l'amiral Navua Mudina, Vice-Premier Ministre et Ministre de la défense nationale, M. Diur Katondi, Vice-Ministre de la coopération internationale. M. Ajello a également rencontré mes Représentants spéciaux au Burundi et au Rwanda. Il a fait le point de la situation actuelle dans la région, notamment en ce qui concerne le rapatriement, la réconciliation et la reconstruction au Rwanda, avec les représentants d'organismes des Nations Unies et d'organisations non gouvernementales (ONG), ainsi qu'avec des membres du corps diplomatique au Rwanda. Il a en outre visité des camps de réfugiés rwandais près de Goma, au nord du lac Kivu, dans l'est du Zaïre. Il a été informé de divers aspects de la situation des réfugiés, notamment sur le plan de la sécurité, par des représentants du Haut Commissariat des Nations Unies pour les réfugiés (HCR).

3. Au cours de ses entretiens avec les responsables de pays voisins, mon Envoyé spécial a souligné la vive inquiétude du Conseil de sécurité devant des informations qui, de plus en plus, faisaient état d'activités militaires risquant de déstabiliser le Rwanda.

4. Les consultations tenues par mon Envoyé spécial ont confirmé que les pays concernés s'accordaient sur un certain nombre de points importants. Tous ont renouvelé leur appui aux efforts déployés pour éviter la reprise des hostilités au Rwanda, garantir le retour et la réinstallation des réfugiés et promouvoir une réconciliation durable. Ils ont souligné qu'il existait un lien entre la stabilité au Rwanda et la situation dans la sous-région de manière générale et ils ont évoqué l'effet néfaste de la crise rwandaise sur la situation humanitaire et sur l'environnement. Ils considéraient la circulation incontrôlée des armes dans la sous-région, notamment parmi les civils et les réfugiés, comme un facteur important de déstabilisation, en particulier au Rwanda et au Burundi. Ils estimaient indispensable par ailleurs de prendre des mesures en vue de redresser la situation dans la sous-région et l'empêcher de dégénérer en conflit, en instaurant entre les États un climat de confiance accrue, comme l'avaient fait récemment les Ministres de la défense burundais, rwandais et zaïrois en décidant d'instituer des patrouilles militaires conjointes le long de leurs frontières communes. De l'avis général, la crise rwandaise aurait plus de chances d'être résolue de façon durable si, élargissant les perspectives, on associait le Rwanda et ses voisins à la recherche d'une solution et si l'on faisait appel à la communauté internationale dans son ensemble. Les autorités des pays voisins ont exprimé le vœu que celle-ci les aide concrètement à la fois à faire face aux principaux problèmes soulevés par le conflit au Rwanda et à éviter qu'un tel conflit ne se reproduise.

5. Les responsables rencontrés au Rwanda se sont félicités de l'initiative prise par le Conseil de sécurité en proposant de déployer des observateurs militaires dans les pays voisins, ce qui était, à leur avis, un pas dans la bonne direction. Ils ont toutefois souligné qu'il était indispensable de traduire en justice les instigateurs du génocide, non seulement pour mettre fin à l'impunité mais encore pour promouvoir une réconciliation véritable et

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renforcer la sécurité en aidant à éliminer les actes de vengeance arbitraires et individuels.

III. RÉPONSE DES PAYS VOISINS À LA PROPOSITION DE DÉPLOYER
DES OBSERVATEURS MILITAIRES DES NATIONS UNIES SUR
LEURS TERRITOIRES RESPECTIFS

6. Les gouvernements des pays voisins ont eu des réactions mitigées à la proposition de déployer des observateurs militaires sur leurs territoires. Certains se sont demandé si cela était utile, opportun et faisable, faisant valoir que c'était au Rwanda qu'il fallait stationner les observateurs internationaux si l'on voulait instaurer un climat de confiance qui encouragerait les réfugiés à retourner chez eux et qui réduirait donc les risques de déstabilisation émanant des camps de réfugiés. On a également souligné qu'il était nécessaire d'adopter des mesures politiques efficaces pour dissiper les craintes et les soupçons, tant dans les communautés de réfugiés que dans les pays d'asile. Même les pays qui étaient favorables à la proposition de déploiement y voyaient essentiellement un premier pas à caractère politique par lequel la communauté internationale entendait exprimer sa préoccupation devant le risque de déstabilisation du Rwanda par des moyens militaires.

7. Le Gouvernement burundais a salué l'initiative du Conseil de sécurité. Toutefois, le Président Ntibantunganya a déclaré que si des conditions propices au retour et à la réinstallation sans danger des réfugiés étaient créées au Rwanda, les extrémistes partisans de la déstabilisation du pays ne pourraient plus dire que le retour par la force constituait la seule solution viable. Il s'est félicité des récentes déclarations dans lesquelles le Gouvernement rwandais créait des possibilités de contact avec les réfugiés et invitait ceux-ci à se rendre dans le pays pour juger de la situation et inciter ceux qui étaient restés dans les camps à rentrer chez eux.

8. Le Gouvernement tanzanien a refusé d'envisager un déploiement d'observateurs militaires sur son territoire. Il a proposé que l'Organisation des Nations Unies renforce plutôt sa présence militaire au Rwanda pour s'assurer que les réfugiés puissent rentrer chez eux en toute sécurité et dans la dignité, notant que le principal obstacle à leur retour se trouvait au Rwanda et non dans les pays voisins. Il estimait que la proposition du Conseil ne s'attaquait qu'à un problème mineur et laissait de côté le problème principal. Il était prêt à envisager un déploiement d'observateurs militaires seulement dans un contexte plus large. Il a suggéré les mesures ci-après pour faciliter le rapatriement des réfugiés et réduire les risques d'opérations militaires lancées contre le Rwanda à partir des camps de réfugiés : le Gouvernement rwandais devrait publier une déclaration publique par laquelle il se prononcerait sans équivoque en faveur du retour de tous les réfugiés; il devrait aussi décréter une amnistie générale pour tous les Rwandais, à l'exception de "quelques-uns qui seraient traduits en justice pour avoir organisé le génocide"; de plus, il devrait accepter le déploiement, à l'intérieur du Rwanda, d'observateurs internationaux qui aideraient à instaurer un climat de confiance en surveillant la situation dans l'ensemble du pays, à assurer le respect des droits de l'homme et à empêcher des incidents tels que ceux de Kibeho qui pourraient entraver les opérations de rapatriement et provoquer de nouveaux mouvements de réfugiés;

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enfin, la communauté internationale devrait aider les autorités rwandaises à assurer la réinstallation sans heurts des réfugiés rentrés dans leurs foyers.

9. L'Ouganda n'était pas hostile à la proposition du Conseil de sécurité mais n'a manifesté aucun enthousiasme. Il doutait de l'efficacité du déploiement proposé et des résultats qu'il permettrait d'obtenir. Au lieu de chercher à remédier aux effets de la crise, le Conseil de sécurité devait à son avis s'attaquer à ses causes et identifier les pays qui apportent leur concours aux livraisons d'armes aux ex-forces gouvernementales rwandaises et à l'entraînement militaire de ces troupes. L'Ouganda a réaffirmé sa détermination à faire de son mieux pour consolider la paix au Rwanda et assurer le retour pacifique des réfugiés.

10. Le Gouvernement zaïrois s'est déclaré favorable à toute action efficace qui pourrait empêcher la déstabilisation du Rwanda et il a une fois encore vigoureusement rejeté les récentes accusations selon lesquelles il aidait les ex-forces gouvernementales rwandaises en leur fournissant des armes et en assurant leur entraînement, pour leur permettre d'attaquer le Rwanda. Il a fait observer qu'il avait demandé la création, sous les auspices de l'ONU, d'une commission internationale d'enquête chargée d'examiner les accusations portées et de clarifier définitivement la situation. Le Zaïre avait accueilli des millions de réfugiés du Rwanda et du Burundi, conformément aux conventions internationales applicables, et ce, malgré le mécontentement de sa propre population, qui réclamait leur rapatriement immédiat et inconditionnel. Le Zaïre estimait qu'au lieu de le critiquer, la communauté internationale devrait l'aider à assumer l'immense fardeau que représentent les réfugiés pour le Gouvernement et le pays, sur les plans écologique, socio-économique, politique et de sécurité.

11. Les vues du Zaïre m'ont également été communiquées dans une lettre datée du 23 juin 1995, dans laquelle le Premier Ministre Kengo wa Dondo a fait valoir qu'à la demande du HCR le Zaïre avait fourni 1 500 soldats pour assurer la protection des camps de réfugiés rwandais et qu'il avait unilatéralement pris des mesures pour désarmer les soldats des ex-forces gouvernementales rwandaises qui s'étaient réfugiés sur son territoire. Il avait ainsi donné la preuve de sa coopération et de sa détermination à mettre un terme à l'insécurité dans les camps et aux actes de déstabilisation du Rwanda lancés depuis le territoire zaïrois.

12. Il ressort de la visite de mon Envoyé spécial dans les camps de réfugiés du secteur de Goma qu'il serait plus facile de contenir la menace de déstabilisation si les camps étaient réinstallés plus loin de la frontière rwandaise. Toutefois, étant donné le coût énorme et les difficultés logistiques d'une telle opération et la crainte d'une résistance de la population du pays d'accueil, aucune mesure concrète n'a été prise. Des personnalités gouvernementales zaïroises ont expliqué qu'au lieu du rapatriement qu'elle réclamait, la population risquait d'y voir une réinstallation à plus long terme, peut-être définitive des réfugiés au Zaïre. Les autorités tanzaniennes, rappelant que récemment des milliers de réfugiés rwandais au Burundi avaient tenté de pénétrer en territoire tanzanien, étaient hostiles à tout effort de transfert des réfugiés d'un pays d'accueil à un autre.

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IV. CONCLUSION

13. Il est de plus en plus largement reconnu dans la région des Grands Lacs que la situation présente des risques urgents et graves pour les pays de la région et que les gouvernements intéressés doivent prendre individuellement et collectivement des mesures pour y faire face. Si beaucoup des gouvernements consultés par mon Envoyé spécial ont estimé que la responsabilité principale incombait au Gouvernement rwandais, l'intérêt d'une action au niveau régional était généralement reconnu. Toutefois, les consultations menées par l'Envoyé spécial ont mis en lumière, dans certains pays, une forte opposition au déploiement d'observateurs des Nations Unies, proposé par le Conseil de sécurité dans sa résolution 997 (1995). Puisque je serai dans la région ces jours prochains, j'étudierai plus avant des positions des gouvernements en cause.

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GENERAL

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9 July 1995

ORIGINAL: ENGLISH

REPORT OF THE SECRETARY-GENERAL ON THE IMPLEMENTATION OF
PARAGRAPH 6 OF SECURITY COUNCIL RESOLUTION 997 (1995) OF
9 JUNE 1995

I. INTRODUCTION

1. In resolution 997 (1995) adopted on 9 June 1995, the Security Council affirmed that the restrictions imposed under Chapter VII of the Charter of the United Nations by resolution 918 (1994) applied to the sale or supply of arms and materiel specified therein to persons in the States neighbouring Rwanda, if that sale or supply was for the purpose of the use of such arms or materiel within Rwanda. It called upon the States neighbouring Rwanda to take steps, with the aim of putting an end to factors contributing to the destabilization of Rwanda, to ensure that such arms and materiel were not transferred to Rwandan camps within their territories. It requested the Secretary-General to consult the Governments of neighbouring countries on the possibility of the deployment of United Nations military observers, and to consult, as a matter of priority, the Government of Zaire on the deployment of observers, including at the airfields located in eastern Zaire, in order to monitor the sale or supply of arms and materiel. It further requested the Secretary-General to report to the Council on the matter within one month of the adoption of the resolution. The present report is submitted in response to that request.

II. MISSION OF THE SPECIAL ENVOY OF THE SECRETARY-GENERAL
TO RWANDA AND NEIGHBOURING COUNTRIES

2. I appointed Mr. Aldo Ajello as my Special Envoy to carry

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out the consultations requested by the Security Council. He visited the neighbouring countries from 20 to 28 June 1995, accompanied by the senior political adviser of the United Nations Assistance Mission for Rwanda (UNAMIR) and a military assistant to its Force Commander, and met with the following senior government officials: in Burundi, Mr. Sylvestre Ntibantunganya, President, Lt. Col. Sinzoyiheba Firmin, Minister of National Defence, Mr. Nicolas Mayugi, Secretary of State for Foreign Affairs and International Cooperation, Lt. Col. Bayaganakandi Epitace, Administrator General of the "Police de l'air, des frontieres et des etrangers", Mr. Audifax Ndabitoreye, Administrator General

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of National Documentation; in Rwanda, Major-General Paul Kagame, Vice-President and Minister of Defence; in Uganda, Mr. Kintu Musoke, Prime Minister, Mr. Ben Mbonye, Secretary of Defence; in the United Republic of Tanzania, Mr. David Cleopa Msuya, First Vice-President and Prime Minister, Mr. Richard Mariki, Permanent Secretary in the Ministry of Home Affairs; and in Zaire, Mr. Kengo wa Dondo, Prime Minister, Admiral Mavua Mudima, Vice-Prime Minister and Minister of National Defence, Mr. Diur Katondi, Vice-Minister of International Cooperation. He also met with my Special Representatives in Burundi and Rwanda. He reviewed the current situation in the region, with particular reference to repatriation, reconciliation and reconstruction in Rwanda, with representatives of United Nations agencies and non-governmental organizations (NGOs) and with members of the diplomatic corps in Rwanda. In addition, he visited Rwandan refugee camps in the Goma area of North Kivu in eastern Zaire. He was briefed on various aspects of the refugee situation, including security, by representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR).

3. In his meetings with officials of the neighbouring countries, my Special Envoy emphasized the Security Council's great concern over increasing reports of military activities that threatened to destabilize Rwanda.

4. The Special Envoy's consultations confirmed that the countries concerned shared some important common points of view. All reiterated their support for efforts to prevent the resumption of armed conflict in Rwanda, to ensure the return and resettlement of its refugees and to promote lasting reconciliation. They stressed the link between stability in Rwanda and the situation in the subregion generally and referred to the negative impact the Rwandan crisis was having on humanitarian and environmental conditions. The uncontrolled circulation of arms, including to civilians and refugees in the subregion, was seen as a major cause of destabilization, especially in Rwanda and Burundi. At the same time, measures needed to be taken to halt and reverse the drift towards conflict in the subregion by enhancing inter-State confidence-building, such as the recent decision by the Defence Ministers of Burundi, Rwanda and Zaire to conduct joint military patrols along their common borders. There was agreement that a broader approach, with the involvement of

Rwanda and its neighbours and the support of the international community as a whole, would offer better opportunities for a lasting solution to the Rwandan crisis. The authorities in the neighbouring countries expressed the wish to receive concrete assistance from the international community to help them both to deal with the main problems that had followed the conflict in Rwanda and prevent any repetition of such conflict.

5. Officials in Rwanda welcomed the Security Council's initiative in proposing the deployment of military observers in neighbouring countries and characterized it as a step in the right direction. However, they emphasized the need to bring to justice those who had masterminded the genocide. That was required not only to end impunity but also to facilitate genuine reconciliation and promote security by helping to eliminate arbitrary and individual measures of vengeance.

III. RESPONSE OF THE NEIGHBOURING COUNTRIES TO THE PROPOSED DEPLOYMENT OF UNITED NATIONS MILITARY OBSERVERS IN THEIR RESPECTIVE TERRITORIES

6. There were mixed reactions from the Governments of neighbouring countries to the proposal to deploy military observers in their respective countries. Some questioned the utility, relevance and feasibility of the proposed deployment, arguing that it was in Rwanda that international observers should be stationed in order to help to create a climate of confidence that would encourage the refugees to return home and thus reduce the danger of destabilization from refugee camps. It was also stressed that effective political measures to remove fear and suspicion in refugee communities and the countries of asylum were necessary. Even the countries that supported the proposed deployment saw the initiative as essentially a political first step by the international community to underscore its concern over the possible destabilization of Rwanda by military means.

7. The Government of Burundi welcomed the Security Council's initiative. However, President Ntibantunganya said that the creation in Rwanda of conditions conducive to the safe return and resettlement of the refugees could help to deny to the hardliners who wanted to destabilize the country the possibility of arguing that return by force was the only viable option. He welcomed recent statements by the Government of Rwanda that opened up possibilities for contact with the refugees and invited them to visit the country to assess conditions and encourage others in the camps to return home.

8. The Government of the United Republic of Tanzania refused to consider the deployment of military observers in its territory. It suggested instead that the United Nations should strengthen its military presence in Rwanda to ensure that refugees could return home safely and in dignity, and noted that the main obstacle to the return was not in the neighbouring countries but in Rwanda. It felt that the Council's proposal addressed only a minor problem while ignoring the major one. It was ready to consider the deployment of military observers only in a wider context. It

suggested the following measures to promote repatriation of refugees and reduce threats of armed action against Rwanda from the refugee camps: the Rwandan Government should issue a public statement declaring unequivocally that it wanted to see all refugees return home; the Government should declare a general amnesty for all Rwandans except "a few who would be tried" for having masterminded the genocide; the Government should accept the deployment inside Rwanda of international observers, who would help to create a climate of confidence by monitoring the situation throughout the country to promote respect for human rights and prevent incidents like that at Kibeho, which tended to hinder repatriation while generating new refugees; and the international community should assist the Government with the smooth resettlement of returnees.

9. Uganda neither objected to the Security Council's proposal nor demonstrated enthusiasm for it. It was sceptical about the effectiveness of such deployment and what it could achieve. It stressed that, instead of tackling the effects of the crisis, the Council should address its causes and identify the countries that were providing support for the delivery of weapons and military training to the former Rwandan government forces. It reaffirmed its commitment to do its best to consolidate peace in Rwanda and to ensure the peaceful return of the refugees.

10. The Government of Zaire, while expressing support for any effective action that could prevent the destabilization of Rwanda, reiterated its strong denial of recent accusations that it was aiding the former Rwandan government forces with arms and training to enable them to attack Rwanda. It pointed out that it had called for an international commission of inquiry under United Nations auspices to investigate the allegations and clarify the situation conclusively. It had welcomed millions of refugees from Rwanda and Burundi in accordance with applicable international conventions despite the resentment of its own population, which had called for the immediate and unconditional repatriation of the refugees. Instead of being criticized, Zaire felt that it should be assisted by the international community to cope with the immense ecological, socio-economic, security and political burdens imposed on the Government and the country by the refugees.

11. Zaire's views were also conveyed to me in a letter dated 23 June 1995, in which Prime Minister Kengo wa Dondo pointed to his country's contribution, in response to a request by UNHCR, of 1,500 troops, who are deployed for security protection in the Rwandan refugee camps, and to its unilateral action in disarming the former Rwandan government forces soldiers who had fled to Zaire. These actions were evidence of Zaire's cooperation and its determination to prevent insecurity in the camps and the destabilization of Rwanda from Zairian territory.

12. My Special Envoy's visit to the refugee camps in the Goma area suggested that the relocation of camps farther away from the borders with Rwanda could facilitate efforts to curb the threat of destabilization. However, the huge costs and logistical difficulties of such an operation, as well as the

fear that it would be resisted by the population of the countries of refuge, have prevented concrete action in this regard. Government officials in Zaire explained that to move the refugees further inside their territory could be seen by the population as implying, that rather than the repatriation, which the population had called for, the refugees were being
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resettled for a longer and perhaps permanent stay in Zaire. The Tanzanian authorities, citing recent attempts by thousands of Rwandan refugees in Burundi to enter Tanzanian territory, criticized any effort aimed at transferring refugees from one country of refuge to another.

IV. CONCLUSION

13. There is growing recognition in the Great Lakes region not only of the urgency and gravity of the risks confronting the countries of the region but also of the need for the Governments concerned to take individual and collective measures to address these dangers. While many of the Governments consulted by my Special Envoy took the view that the primary responsibility lay with the Government of Rwanda, there was general acknowledgement also of the value of action at the regional level. However, the Special Envoy's consultations indicated that in some countries there was strong opposition to the deployment of United Nations observers as proposed in Security Council resolution 997 (1995). While I am in the region in the coming days, I shall explore further the positions of the Governments concerned.

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REPORT OF THE SECRETARY-GENERAL ON THE UNITED NATIONS
ASSISTANCE MISSION FOR RWANDA

I. INTRODUCTION

1. The present report is submitted in pursuance of paragraph 1 of Security Council resolution 965 (1994) of 30 November 1994, in which the Council decided to extend the mandate of the United Nations Assistance Mission for Rwanda (UNAMIR) until 9 June 1995. Since the adoption of that resolution, I reported to the Council on the situation in Rwanda on 6 February (S/1995/107) and 9 April (S/1995/297), and on security in the Rwandese refugee camps on 25 January (S/1995/65) and 14 April (S/1995/304). I have also provided the Council with oral briefings on current developments in Rwanda. The present report provides an update on the situation since my progress report of 9 April, as well as recommendations regarding the role of the United Nations in Rwanda.

II. POLITICAL DEVELOPMENTS

2. Since my last report to the Security Council, a climate of relative stability has prevailed in Rwanda. The country is now largely at peace, electricity, water and communications have been partly restored, primary and secondary schools have reopened and economic and agricultural activities have resumed. The long and arduous process of recovery has begun.

3. The Government has recently taken a number of positive actions. It recently submitted to the National Assembly a list of 12 candidates from among whom the Assembly will select the 6 highest-ranking judges in the country, i.e. the President of the Supreme Court and his 5 deputies. Under the Arusha peace agreement, these judges are to be selected by the National Assembly from a list presented by the Government nominating two candidates for each post. The National Assembly has also begun discussions on a new Constitution to replace the 1992 Constitution currently in force. On 2 May, a military court also began sitting in Kigali to try the cases of 14 soldiers accused of involvement in murder and armed robbery. After preliminary internal investigations, two senior military officers involved in the Kibeho tragedy have been suspended.

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4. None the less, the situation remains tense, with no significant advances in the process of national reconciliation, grossly overcrowded prisons, arbitrary arrests, tension over property rights and the lack of an effective judicial system. The causes of Rwanda's current tensions and frustrations need to be analysed. First, the military activities and reports of arms deliveries to elements of the former Rwandese government forces in neighbouring countries are sources of serious concern for the Government. Increasingly organized incursions into Rwanda by the former Rwandese government forces have led to security alerts and the arrest of suspected sympathizers. The Government is concerned that no effective limitations are seen to be placed on military training of, and delivery of arms supplies to, elements of the former Rwandese government forces, while the arms embargo continues to apply to Rwanda.

5. The delay in bringing those responsible for the genocide to justice, both through the International Tribunal and at the national level, is another cause of deep frustration. The Rwandan Government points out that many of those responsible for the genocide continue to operate openly from abroad, despite the adoption of Security Council resolution 978 (1995) and the transmittal of lists of alleged criminals to the countries concerned. Nor has the Tribunal yet begun its work, and the national judicial system, which has the responsibility for processing most of the detainees currently in Rwandan prisons, is severely short of personnel and resources and is also dependent on international support. A third element which is stressed in Rwandan government circles is the slow delivery of the economic assistance pledged at the round table held by the United Nations Development Programme (UNDP) at Geneva on 18 and 19 January 1995. Although \$634 million was pledged on that occasion, only \$69 million has actually been disbursed, of which \$26 million has been utilized for debt repayment. It is important that these problems be addressed.

6. The safe return of refugees has been acknowledged as a vital element in promoting stability and harmony in the country. This concept was accepted at the Nairobi Summit, at the Bujumbura Conference and in trilateral agreements between Rwanda, the Office of the United Nations High Commissioner for Refugees (UNHCR) and neighbouring countries. The sense of security and confidence that is needed to persuade refugees to return depends not only on improved conditions inside the country but also on better relations among the countries of the Great Lakes region. I continue to believe that a regional conference, which the Security Council has endorsed on a number of occasions, should be convened as soon as possible and in consultation with the Organization of African Unity (OAU), with a view to resolving the broader and interrelated issues of peace, security and stability in the region.

III. SECURITY ASPECTS

7. Since I last reported to the Council, the Government has continued to report military preparations and incursions by elements of the former regime. The number of arrests for alleged complicity in the genocide has remained high. As a result, the sense of insecurity prevailing within the communes has inhibited the repatriation of refugees. The prisons continue to be seriously overcrowded (see para. 26 below). Acrimonious criticism of the international community in general, and UNAMIR in particular, has also continued unabated and

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this has encouraged an attitude of non-cooperation, even hostility, at the middle and lower levels of the Rwandan Government.

8. During the period under review, the Rwandese Patriotic Army has continued to deny UNAMIR access to parts of the country, has searched and seized UNAMIR vehicles and other equipment and has participated in anti-UNAMIR demonstrations. These activities, many of them in violation of the status-of-mission agreement, have hampered UNAMIR in the discharge of its tasks on the ground. There have been continuing difficulties over troop rotations, with UNAMIR personnel being delayed or denied entry at Kigali airport. Joint meetings between UNAMIR and the Rwandese Patriotic Army, which had been held on a fortnightly basis, have not taken place during the past three months.

9. The anniversary of last year's genocide was commemorated in a week of mourning beginning on 7 April. On that occasion, I addressed a message of sympathy to President Bizimungu. Mass rallies, speeches and demonstrations were held all over Rwanda. Some of these targeted the international community and UNAMIR in particular. The President and Vice-President assured my Special Representative that these hostile outbursts would be controlled. However, the level of cooperation with UNAMIR remains unsatisfactory.

10. The Kibeho tragedy underscored the tensions and fears that remain just beneath the surface in Rwanda. On 18 April, the Rwandan Government took action to cordon off and close the eight remaining camps for internally displaced persons in the Gikongoro region, of which Kibeho was by far the largest. The Government considered that since these camps were being used as sanctuaries by elements of the former Rwandese government forces and militia, they were a destabilizing factor and represented a security threat. Negotiations were taking place between the Government and United Nations for the voluntary closure of the camps when the decision to act was taken without notice or consultation. Seven of the camps were nevertheless closed without serious incident. However, at Kibeho an estimated 80,000 internally displaced persons attempted to break out on 22 April, after spending 5 days on a single hill without adequate space, shelter, food or sanitation. A large number of deaths occurred from firing by government forces, trampling and crushing during the stampede and machete attacks by hard-liners in the camp, who assaulted and intimidated those who wished to leave.

11. When the Rwandese Patriotic Army launched its operation, UNAMIR reacted immediately and within 24 hours took the following measures: trucks were deployed to transport internally displaced persons; 2 casualty collection posts were established by the Australian medical unit to provide emergency medical assistance; and a UNAMIR command post with communication facilities was set up to enhance communication and contact between the forces on the ground and UNAMIR headquarters. At the same time, UNAMIR engineers improved the Butare-Kibeho road to facilitate movement of convoys of internally displaced persons and humanitarian assistance. Sick and injured internally displaced persons were evacuated by UNAMIR troops to medical facilities operated by non-governmental organizations (NGOs) in Butare. This evacuation procedure was at times hindered by restrictions on movement and denial of passage to UNAMIR and relief agencies. The presence of UNAMIR troops at open relief centres, way stations and transit centres was increased. Patrols were intensified to facilitate the reception and

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further evacuation of internally displaced persons from these temporary facilities to their various home communes. UNAMIR also increased its military observer presence to facilitate monitoring and enhance its escort capability.

12. From the establishment of the Rwandese Patriotic Army cordon on 18 April to the tragic events of 22 April, senior UNAMIR officials, including my Special Representative, the Force Commander and the Deputy Force Commander, visited Kibeho and the surrounding areas on several occasions to assess the situation on the ground, urge restraint and help to coordinate the activities of UNAMIR personnel and relief agencies.

13. Following the Kibeho tragedy, I immediately dispatched Mr. Aldo Ajello to Kigali as my Special Envoy to convey my concern to the Rwandan leaders and urge the Government to undertake an impartial investigation. On 27 April, the Government announced that an independent International Commission of Inquiry would be set up to investigate the circumstances and causes of the events and that the Commission would consist of representatives of Belgium, Canada, France, Germany, the Netherlands, the United Kingdom of Great Britain and Northern Ireland, the United States of America, OAU, the United Nations and the Government of Rwanda.

14. My Special Envoy visited Rwanda from 28 to 30 April. He welcomed the decision to set up the Commission of Inquiry and urged the Rwandan authorities to cooperate in the distribution of humanitarian relief at Kibeho and in the communes. He also stressed that those not suspected of contributing to the genocide be allowed to return to their homes in conditions of safety.

15. I am glad to report that my Special Envoy was assured that the Rwandan Government would cooperate fully with the Commission of Inquiry and that humanitarian agencies would be given full cooperation in providing humanitarian aid in the communes. This commitment has been fulfilled, with the result that large numbers of internally displaced persons are now in the process of resettling in their communes. After 3 weeks of persuasion through the combined efforts of UNAMIR and the Government of Rwanda, the approximately 2,500 internally displaced persons who had remained in Kibeho have also returned to their communes.

16. The Independent Commission of Inquiry has published its report (S/1995/411) and concluded that the tragedy of Kibeho was neither premeditated nor an accident that could not have been prevented. It recognized the efforts made by my Special Representative, UNAMIR, the Government of Rwanda and other organizations to keep the situation under control. It concluded that there was sufficient reliable evidence that unarmed internally displaced persons were subjected to serious human rights abuses committed by both the Rwandese Patriotic Army and armed elements in the camp. The Commission welcomed the initiative taken by the Rwandan Government to carry out an investigation at the national level. It also recommended that the international community continue encouraging and assisting Rwanda in its efforts to achieve justice, national reconciliation and reconstruction.

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IV. MILITARY ASPECTS

17. As of 31 May 1995, UNAMIR's force strength stood at 5,586 troops and 317 military observers (see annex). The rotation of the Nigerian, Ethiopian and Ghanaian contingents has been completed. Parts of the Zambian and Indian contingents have also been rotated on schedule.

18. In spite of the resources diverted to cope with the internally displaced persons emergency, UNAMIR's military component continued to perform its other tasks, including the provision of security to human rights monitors, staff of the International Tribunal, United Nations agency personnel and NGOs. Because of the deteriorating security situation in Kigali and the increase in armed robberies, UNAMIR has had to make some adjustments in the deployment of formed troops in order to reinforce security in the capital. The detailed deployment of UNAMIR troops is shown on the attached map.

19. In addition to performing the tasks outlined in Security Council resolution 965 (1994), troops and military observers have continued to escort humanitarian relief convoys and to provide emergency medical assistance to Rwandan citizens at UNAMIR locations around the country and to internally displaced persons during the closure of internally displaced person camps in south-western Rwanda. UNAMIR logistic resources have been made available throughout the country, particularly to transport internally displaced persons and returning refugees. Its engineers assisted in the restoration of essential services and facilities, including the reconstruction of bridges, the repair of roads and water supply schemes. UNAMIR military observers maintain constant contact and coordination with the Government, human rights observers and United Nations agencies for the purpose of smooth and efficient movement and follow-up monitoring of resettled refugees and internally displaced persons. Support has also been provided to the Government of Rwanda for improving the administration of, and alleviating the terrible conditions in, the prisons. The presence of UNAMIR troops and military observers helps to create an atmosphere of security and confidence throughout the country.

V. CIVILIAN POLICE

20. During the reporting period, a major activity of UNAMIR's civilian police component continued to be the training of a new integrated national police force, as mandated under Security Council resolution 965 (1994). A group of 300 gendarmes and 20 instructors completed an intensive 16-week training programme on 29 April. They are expected to be deployed by the Government to gendarmerie brigades throughout the country. Arrangements had been made to start training 400 additional candidates in June over a period of four months. This was to be followed by the training of 100 instructors selected from the already trained gendarmes. However, as indicated in paragraph 56 below, the Rwandese Government has taken the position that the activities of the civilian police component should be terminated.

21. UNAMIR has also assisted the Chief of Staff of the National Gendarmerie in designing the organization and operational requirements of the new police force. A final orientation document has been completed and will serve as a basic guide

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for the elaboration of formal requests to be submitted by the Government to its bilateral and multilateral partners for equipment and other logistic support for the National Gendarmerie.

22. In addition to their training tasks, the UNAMIR civilian police observers continue to maintain close liaison with local authorities in the 11 prefectures of Rwanda and to carry out monitoring and investigative activities. The observers are working closely with United Nations agencies and NGOs and are, in particular, assisting human rights monitors and UNAMIR personnel in their daily activities around the country.

23. Member States have not so far responded to the Secretariat's repeated requests for French-speaking police trainers. Out of an authorized strength of 120, only 64 police observers from 8 countries were deployed as of 31 May (see annex).

VI. HUMAN RIGHTS ASPECTS

24. The Human Rights Field Operation in Rwanda has continued its activities in the three main areas that constitute its mandate: investigations into the genocide and serious violations of international human rights and humanitarian law; monitoring of the human rights situation and promoting a climate of confidence, especially as regards the return of internally displaced persons; and technical cooperation and human rights education. As of 25 May 1995, the Field Operation had 121 members and 11 field offices located throughout the country.

25. The investigations into the genocide of 1994 continue to be an important component of the Field Operation's mandate. The reports and the extensive evidence gathered at massacre sites throughout Rwanda have been made available to the Special Rapporteur for Rwanda and to the International Tribunal. During his visit to Rwanda from 31 March to 3 April 1995, the High Commissioner for Human Rights handed over additional material to the Deputy Prosecutor. As further reports are received by the investigative teams, they are duly forwarded to the Special Rapporteur and to the International Tribunal.

26. During the period under review, the distressing conditions in Rwanda's prisons have remained a matter of serious concern. There are now approximately 42,000 detainees throughout the country, many of whom are being held in inhumane conditions. While efforts are under way to increase the capacity of the prisons, this can only be a partial solution unless detainees are brought to justice in a timely manner and according to basic international norms and standards. There are indications of a temporary lull in arrests in certain areas because of the overcrowding in the prisons. The Special Rapporteur has expressed regret that this policy was limited territorially and has suggested that it should apply generally to the whole country.

27. In its efforts to cope with the crisis arising from the forcible closure of internally displaced person camps in south-western Rwanda, the Field Operation reinforced its teams with the deployment of an additional 24 field officers to the principal affected areas of Gikongoro, Butare and Bugesera and appointed an

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emergency coordinator in Butare. The Government of Rwanda and the international organizations concerned have been regularly briefed on the human rights situation in the communes of origin to which the internally displaced persons were returning. Throughout the crisis, the Field Operation encouraged the relevant government ministers to visit the affected areas. It also maintained close contacts with local authorities, with a view to improving access to villages by human rights field officers and facilitating the establishment of joint committees entrusted with the resettlement process.

28. The technical cooperation unit of the Field Operation has continued to develop its efforts to rehabilitate the justice system and rebuild civic society. Several specific projects have been initiated, in particular the sending of 50 international legal professionals to assist in the preparation of case files against those accused of having participated in the genocide. Another important effort is the provision of assistance to the Government of Rwanda to bring its legislation into closer conformity with international human rights law. The technical cooperation programme is also fostering human rights awareness in the country through the education of the military personnel, police, other government officials and the general public.

29. The Rwandan Government is considering the establishment of a national commission on human rights, as provided for under the Arusha peace agreements. Under these accords, the commission, which is composed of seven independent members serving for a three-year term, is expected to investigate human rights violations committed on Rwandan territory, including acts committed by organs or agents of the State.

VII. INTERNATIONAL TRIBUNAL FOR RWANDA

30. With the appointment of the Deputy Prosecutor of the International Tribunal for Rwanda, the process of investigating acts of genocide and other serious violations of international humanitarian law committed in Rwanda has begun. Investigations will be carried out inside and outside Rwanda, notably in other African countries, Europe and North America, covering 400 identified suspects, most of whom have sought refuge abroad. Under article 28 of the statute of the Rwanda Tribunal (see resolution 955 (1994), annex), States are under an obligation to cooperate with the International Tribunal and to comply with any of its requests, including the arrest or detention of persons and the surrender or transfer of suspects.

31. The Prosecutor's Office is currently recruiting investigators and prosecutors. In the meantime, Governments have begun to contribute the services of qualified personnel for short periods until such time as the Tribunal is fully staffed.

32. The Prosecutor's Office has been operating on the basis of a commitment authority of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) in the amount of \$2.9 million, granted for the period from 1 January to 31 March 1995. The budgetary submission for the year 1995 will be presented to the General Assembly at its resumed forty-ninth session in June 1995. Pledges

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and contributions to the Trust Fund for the International Tribunal currently amount to \$1,034,959.

33. A United Nations mission recently visited the United Republic of Tanzania to discuss the technical and legal issues relating to the establishment of the seat of the International Tribunal at Arusha. The mission discussed the Tribunal's space requirements and negotiated headquarters and lease agreements. A report on this matter will be submitted to the Council shortly.

34. By resolution 989 (1995) of 24 April 1995, the Security Council established a list of 12 candidates for judges of the International Tribunal. On 25 May, six judges for the Trial Chambers were elected by the General Assembly. An extraordinary session of the Tribunal is scheduled for 26 June at The Hague to adopt its rules of procedure and evidence.

35. The Prosecutor for the International Tribunal, Judge Goldstone, paid his second visit to Rwanda from 18 to 20 May. He met with senior government officials and with my Special Representative and discussed practical arrangements for the functioning of the Tribunal. On 19 May, a one-day conference of donors was convened to discuss international support, especially funding, for the Tribunal. I wish to thank those Member States that have made voluntary contributions to the Trust Fund for the Tribunal and to appeal for continued and additional assistance to permit its effective operation.

VIII. HUMANITARIAN ASPECTS

36. Since my last report, the humanitarian community's efforts have been directed mainly at dealing with the consequences of the forced closure of internally displaced person camps in south-west Rwanda. The rapid and coordinated response of UNAMIR, the United Nations Rwanda Emergency Office, United Nations agencies, intergovernmental organizations, in particular the International Organization for Migration (IOM), and NGOs undoubtedly prevented greater casualties and suffering as a result of the internally displaced persons emergency. These efforts were undertaken in cooperation with several government ministries in Kigali and with the Butare and Gikongoro prefectures. Transportation assistance was provided by UNHCR, IOM, UNAMIR and NGOs to over 70,000 people; emergency medical facilities were set up to tend to the sick and wounded, mainly in Butare; way-stations and open relief centres, managed and supported by NGOs, served as first-aid points and provided food, water and other emergency items to the former occupants of internally displaced person camps.

37. Although the initial phase of the emergency has now passed, problems related to the closures remain to be solved. Initially, there were reports of former camp populations being beaten, stoned and harassed either en route to or in their home communes. Lately, following the increased presence in the home communes of UNAMIR and other international personnel, as well as intercessions by the Minister of Interior, some improvement in the assimilation of the internally displaced persons has been reported. However, the massive return of internally displaced persons, many of whom were forced to leave their possessions in the camps or were robbed on their way home, has placed heavy demands on the communes, many of which are already in fragile condition. There

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is an increasingly urgent need for the international community to accelerate its rehabilitation assistance in the communes, particularly in those areas where the largest numbers of internally displaced persons have returned. In this respect, assessment teams, comprised of government officials, United Nations and NGO personnel, have visited most of the communes in the Butare prefecture to identify the pressing requirements and priority areas for intervention. In Kigali, through the Integrated Operations Centre jointly operated by the Government, the United Nations Rwanda Emergency Office, United Nations agencies, UNAMIR and NGOs, sectoral cells have been activated to ensure effective planning and coordination of rehabilitation activities.

38. Although the World Food Programme (WFP) and the International Committee of the Red Cross (ICRC) and some NGOs have begun food distribution to returning internally displaced persons and to other needy people in the communes, many people lack the means to produce food until the next agricultural season from September 1995 to January 1996. As a result, they will require food assistance, as well as seeds and tools for the next planting season. In addition to the returning internally displaced persons, other vulnerable groups will require sustained food aid for the foreseeable future. These include the "new" and "old" caseload returnees, many of whom have not yet been resettled and who therefore have no land to cultivate. Other vulnerable groups include hospital patients, orphans and unaccompanied children. During the month of May, WFP is planning to distribute 3,046 tons of cereals, 1,214 tons of pulses, 244 tons of oil and 85 tons of other food items to a total of 420,000 beneficiaries from the above-mentioned groups. Emergency non-food assistance, such as plastic sheeting, cooking pots, blankets, soap and clothing, has already been provided to former camp populations and will be continued.

39. Health facilities throughout the country need urgent rehabilitation and additional staff in order to ensure adequate delivery of health services, especially for returning internally displaced persons. Under its programmes of assistance to returnees, UNHCR is rehabilitating 8 district hospitals and 42 health centres in areas where returnees have settled in great numbers. Other health programmes include a training programme of the World Health Organization (WHO) for 20 health workers in epidemiological surveillance and epidemic control and another programme for 32 trainers elaborated by the Government, the United Nations Population Fund (UNFPA) and WHO on human immunodeficiency virus/acquired immunodeficiency syndrome prevention and safe motherhood.

40. For water and sanitation, the United Nations Children's Fund (UNICEF) is supporting the rehabilitation of the water supply system in the north-eastern part of the country, an area to which the majority of "old" caseload refugees from Uganda are returning with their herds of cattle. The construction of over 20 shallow wells in the area is under way and should be completed before the end of July to cater for the needs of over 20,000 people. In other areas of the country, approximately 150 springs will be tapped by 31 December 1995 in order to benefit some 30,000 people in three prefectures.

41. The closure of the camps has also increased the number of unaccompanied minors, many of whom were either left in the camps or found along the roads. UNICEF reports that there are nearly 2,000 unaccompanied minors, of whom

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approximately 70 per cent are under the age of 5. Most are severely traumatized by their experiences and the UNICEF Trauma Unit is helping them.

42. In order to carry out projects that will enable people to have adequate access to health care, potable water, sanitation and education, as well as the means to resume agricultural activities, substantial funding from the donor community continues to be required. As I reported in April, the inadequate level of response to the consolidated inter-agency appeal for Rwanda and the subregion has hampered relief activities and the commencement of rehabilitation and reconstruction. As of 15 May, only \$80 million had been pledged against a total requirement of \$219 million for Rwanda. For the subregion, pledges amounted to \$34 million against a total requirement of \$587 million.

43. The total contributions actually received so far from government and private sources amount to \$6.3 million only. Of this amount, the Netherlands has contributed more than \$5.4 million for a UNDP programme to support the Government. Some resources have also been allocated specifically to the Ministry of Rehabilitation and Social Integration to facilitate emergency assistance to the communes. This includes the procurement of equipment and supplies for local administrative authorities and for the judicial system.

44. A number of events have raised concern about respect for the principles related to protection and treatment of refugees and internally displaced persons. At the end of March, the Tanzanian authorities closed their border with Burundi to thousands of asylum-seekers, including many Rwandan refugees who were fleeing camps in Burundi following disturbances in that country. There are also indications that some of the internally displaced persons fleeing the recent camp closures in Rwanda were not allowed into Burundi or were returned against their will to Rwanda after entering the country. The forcible closure of internally displaced person camps could create further obstacles to the voluntary return of refugees from neighbouring countries, as evidenced by the recent decrease in the number of organized voluntary repatriations from camps in Zaire.

45. The Rwandan Government's decision to close the border with Zaire to all traffic, including food destined to refugee camps in the Bukavu area of Zaire, has further complicated an already difficult supply and logistics chain. In both Goma and Bukavu, food distribution has dropped by as much as 50 per cent of normal requirements.

46. As regards security in the refugee camps in Zaire, I am pleased to report that the deployment of Zaire's security contingent has now reached its full strength of 1,500 men and that, as a result, security conditions in the camps have greatly improved. At the same time, discussions are continuing with the Zairian authorities on the possibility of relocating those camps that are situated too close to the border.

47. In this connection, I support the Security Council's recent invitation to States to deliver on their earlier financial commitments and to increase their assistance for humanitarian activities in Rwanda, as well as its call to all Governments in the region to maintain open borders for this purpose. I would also like to stress the Security Council's request to the Government of Rwanda

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to facilitate the delivery and distribution of humanitarian assistance to refugees and displaced persons in conformity with international principles (S/PRST/1995/22).

IX. ADMINISTRATIVE AND FINANCIAL ASPECTS

48. The General Assembly, by its decision of 6 April 1995, authorized me to enter into commitments up to \$19,342,000 gross (\$18,989,000 net) for the period from 10 June to 9 July 1995, subject to the extension of the mandate of UNAMIR beyond 9 June 1995. Should the Council decide to extend the mandate of UNAMIR, I shall request the General Assembly at its resumed forty-ninth session to make adequate financial provision for the operation of the Mission.

49. As of 17 May 1995, unpaid assessments to the UNAMIR Special Account amounted to \$70.1 million, and the total amount of outstanding assessed contributions for all peace-keeping operations amounted to \$1,854.1 million.

X. CONCLUSIONS AND RECOMMENDATIONS

50. The Rwandan people have endured the most horrific and unspeakable suffering. The political goal of the United Nations in Rwanda is to assist them to achieve peace, stability and reconstruction in accordance with the principles of the Arusha peace agreements. This goal can be attained only if those who are guilty of genocide are brought to trial and if the leaders and people of Rwanda have the political will to achieve national reconciliation through mutual respect and understanding. The United Nations is prepared to continue its efforts to assist in this difficult process. UNAMIR has made a significant contribution to the relative stability and normalization achieved in Rwanda over the past year. However, the complex situation described in sections II and III above has led the Government of Rwanda to raise questions about the future role of this operation.

51. The current mandate of UNAMIR was designed at a time when Rwanda was in the midst of a devastating genocide and civil war. The main responsibility entrusted to UNAMIR under Security Council resolution 918 (1994) of 17 May 1994 was to contribute to the security and protection of displaced persons, refugees and civilians at risk in Rwanda. The war and the genocide came to an end with the establishment of the present Government of Rwanda on 19 July 1994. Since that time, the situation has changed radically. The changes undoubtedly call for adjustments in the mandate of UNAMIR, so that its role can reflect the present situation.

52. In anticipation of the expiry of the mandate of UNAMIR on 9 June 1995, my Special Representative has engaged in extensive consultations with the Government of Rwanda, with a view to achieving a common understanding of the role that the United Nations could usefully play in the future. At the outset, the Government made it clear that it would insist on a sharp reduction both in the scope of UNAMIR's tasks and in troop levels.

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53. During these consultations, my Special Representative discussed with the Government a new mandate comprising tasks which, in my judgement, should be performed by UNAMIR during the next six months. These tasks would continue to be carried out with full respect for the Government's sovereign authority. They would entail shifting the focus of UNAMIR's mandate from a peace-keeping to a confidence-building role. On this basis, UNAMIR would undertake the following tasks:

(a) Tasks specifically required to sustain a United Nations peace-keeping presence in Rwanda, mainly in Kigali. These would include the protection of United Nations premises, protection of International Tribunal personnel and, as required, of United Nations agencies and NGOs, including a ready reserve and the necessary command, control and support elements;

(b) Tasks aimed at assisting the Government of Rwanda in confidence-building and in the promotion of a climate conducive to stability and to the return of refugees and displaced persons. These would entail monitoring throughout the country with military/police observers, as a complement to human rights monitors; helping in the distribution of humanitarian assistance; facilitating the return and reintegration of refugees in cities and communes; providing assistance and expertise in engineering, logistics, medical care and demining; and stationing a limited reserve of formed troops in certain provinces. These troops would not undertake any patrolling duties but would assist in the performance of the above tasks, as required.

54. Following consultations with my Special Representative and the Force Commander, it is estimated that, in order to carry out these functions, UNAMIR would require approximately 2,330 formed troops, 320 military observers and 65 civilian police. This would constitute a substantial reduction from the present authorized strength of 5,500 troops, 320 military observers and 120 civilian police. The reduction would begin as soon as possible and be implemented gradually over the next two to three months, on the understanding that, after 9 June 1995, the infantry battalions currently deployed in the provinces would change over from their present tasks to those outlined above.

55. The proposed force would be structured along the following lines: an infantry battalion of 800 all ranks, based in Kigali and reinforced by essential support units such as headquarters staff (50), communications (50), engineering (200), medical (100), logistics (100) and military police (30). In addition, one independent infantry company would be deployed in each of the present UNAMIR sectors of operation. These 5 independent companies, totalling about 1,000 troops, would include elements from the support units or specialists, as required for specific humanitarian tasks.

56. However, during the consultations held with my Special Representative, the Rwandan Government proposed a different and more limited role for UNAMIR, arguing that the present conditions on the ground called for a drastic reduction in the number of United Nations troops. It took the position that most of the peace-keeping functions heretofore discharged by UNAMIR had become redundant. The concept of promoting security and confidence through the presence of UNAMIR could no longer be accepted, since the Government had assumed responsibility for national security throughout the country. The protection of humanitarian

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convoys was also the responsibility of the Government and UNAMIR's role should be a monitoring one only. The issue of border monitoring was discussed, but the Government considered that there was no need for UNAMIR to play such a role in Rwanda. In addition, it expressed the view that the present training programme carried out by the UNAMIR civilian police component should be replaced by bilateral arrangements and could continue only until those arrangements were in place.

57. In short, the Rwandan Government has proposed that UNAMIR should be reduced to a maximum of 1,800 formed troops, to be deployed in Kigali as well as in the provinces. UNAMIR's mandate would be extended for six months, on the understanding that there would be no further extension and that steps to reduce UNAMIR troops outside Kigali should commence immediately.

58. An analysis of this proposal has indicated that, with a total of 1,800 formed troops, plus 65 civilian police, UNAMIR would not have the strength to perform adequately the tasks described in paragraph 53 above. While I understand the position of the Government of Rwanda, I am convinced that UNAMIR remains an essential component of the international community's efforts to assist the Government and people of Rwanda and that it must have the capability to discharge its functions effectively. At the same time, since UNAMIR is a peace-keeping operation established under Chapter VI of the Charter, its continued presence in Rwanda depends on the consent and active cooperation of the Government. I therefore intend to continue consultations with the Government of Rwanda and shall report orally to the Council on the outcome of these consultations before the Council decides on the future mandate of UNAMIR.

59. Subject to that report, I recommend that the Security Council renew the mandate of UNAMIR, adjusted to accommodate the tasks outlined in paragraph 53 above, for a period of six months, ending on 9 December 1995. During that period, my Special Representative would continue to exercise his good offices to facilitate, in consultation with the Government of Rwanda, the process of national reconciliation, in accordance with the principles set out in the Arusha peace agreements. UNAMIR, in cooperation with UNDP, United Nations agencies and NGOs, would also assist in the implementation of an integrated multifunctional plan of action in the field of rehabilitation, resettlement, repair of infrastructure and the revival of justice. The funds committed to such projects could be channelled by donor countries through the Rwanda Trust Fund, in order to allow for a prompt, flexible and efficient utilization of resources.

60. In accordance with the Nairobi Summit Declaration of January 1995, the Bujumbura Declaration of February 1995 and formal agreements signed by Rwanda, a major effort needs to be made to persuade the two million Rwandan refugees to return to their homes in safety and dignity. This should be without prejudice to effective action, under due process of law, against criminals accused of genocide, in accordance with Security Council resolution 978 (1995). In this connection, immediate steps should be taken by the international community to support the earliest activation of the International Tribunal and the rehabilitation of the Rwandan national system of justice. At the same time, effective measures should be taken to ensure that Rwandan nationals currently in neighbouring countries are not allowed to receive arms supplies or to undertake military activities aimed at destabilizing Rwanda. I am, in particular,

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concerned that, unless more vigorous action is taken to prevent such activities, there could be a serious escalation in cross border clashes that would add a new dimension to the tragedy of Rwanda and lead to unpredictable consequences.

61. The implementation of the steps mentioned in paragraphs 59 and 60 above will contribute to peace and security in Rwanda. However, much more needs to be done. International assistance to Rwanda needs to be accelerated if the vital institutions in the country are to have any chance of recovering. It is essential that we find ways to improve the procedures that have delayed the disbursement of assistance to resolve situations that require priority attention. With respect to the long-term solution of the refugee and related problems in the Great Lakes States, I intend to appoint a special envoy to carry out consultations with countries concerned, as well as OAU, on the preparation and convening of the Regional Conference on Security, Stability and Development at the earliest possible time.

62. In concluding this report, I wish to express my appreciation to my Special Representative, Mr. Shaharyar Khan, to the Force Commander, Major General Guy Tousignant, and to all UNAMIR military and civilian personnel for their outstanding contribution to the United Nations and to the cause of peace and stability in Rwanda.

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Annex

Composition of UNAMIR as of 31 May 1995

Country	Military personnel			Civilian police	Grand total
	Troops	Observers	Total		
Argentina		1	1		1
Australia	302		302		302
Austria		15	15		15
Bangladesh	1	36	37		37
Canada	105	19	124		124
Chad	2		2		2
Congo		8	8		8
Djibouti			0	7	7
Ethiopia	834		834		834
Fiji		1	1		1
Germany			0	9	9
Ghana	784	35	819	10	829
Guinea		17	17		17
Guinea-Bissau		2	2	5	7
India	934	20	954		954
Jordan			0	3	3
Malawi	183	14	197		197
Mali	198	31	229	10	239
Nigeria	339	17	356	10	366
Poland		2	2		2
Russian Federation		17	17		17
Senegal	238	2	240		240
Tunisia	834	10	844		844
United Kingdom of Great Britain and Northern Ireland	1		1		1
Uruguay		26	26		26
Zambia	831	20	851	10	861
Zimbabwe		24	24		24
Total	5 586	317	5 903	64	5 967

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RAPPORT INTÉrimAIRE DU SECRÉTAIRE GÉNÉRAL SUR LA MISSION
DES NATIONS UNIES POUR L'ASSISTANCE AU RWANDA

I. INTRODUCTION

1. Le présent rapport est présenté en application du paragraphe 1 de la résolution 965 (1994) du 30 novembre 1994, par laquelle le Conseil de sécurité a décidé de proroger le mandat de la Mission des Nations Unies pour l'assistance au Rwanda (MINUAR) jusqu'au 9 juin 1995. Depuis l'adoption de cette résolution, j'ai fait rapport au Conseil sur la situation au Rwanda le 6 février (S/1995/107) et le 9 avril (S/1995/297), et sur la sécurité dans les camps de réfugiés rwandais le 25 janvier (S/1995/65) et le 14 avril (S/1995/304). J'ai aussi tenu le Conseil oralement informé des événements qui se déroulent actuellement au Rwanda. Le présent rapport expose l'évolution intervenue depuis mon rapport intérimaire du 9 avril, et contient des recommandations quant au rôle de l'Organisation des Nations Unies au Rwanda.

II. ASPECTS POLITIQUES

2. Depuis mon dernier rapport au Conseil de sécurité, un climat de stabilité relative prévaut au Rwanda. Le pays connaît une paix pratiquement totale, l'électricité, l'eau et les communications ont été partiellement rétablies, les écoles primaires et secondaires ont rouvert leurs portes et les activités agricoles et économiques ont repris. Le long et difficile processus de relèvement est engagé.

3. Le Gouvernement a pris récemment un certain nombre de mesures positives. Il vient de présenter à l'Assemblée nationale une liste de 12 candidats parmi lesquels l'Assemblée doit choisir les six plus hauts magistrats du pays, c'est-à-dire le Président et les cinq vice-présidents de la Cour suprême. En vertu de l'accord de paix d'Arusha, ces juges doivent être choisis par l'Assemblée nationale sur une liste de 12 candidats (deux pour chaque poste) présentée par le Gouvernement. L'Assemblée nationale a également commencé à travailler à l'élaboration d'une nouvelle constitution qui doit remplacer la Constitution de 1992, actuellement en vigueur. Le 2 mai, un tribunal militaire a commencé à siéger à Kigali pour juger 14 soldats accusés d'avoir participé à des meurtres et des vols à main armée. À l'issue d'une enquête préliminaire interne, deux officiers de haut rang impliqués dans la tragédie de Kibeho ont été suspendus.

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4. Néanmoins, la situation demeure tendue : la réconciliation nationale n'a guère progressé, les prisons sont outrageusement surpeuplées, les arrestations arbitraires continuent, les titres de propriété sont source de tensions, et il n'y a pas de système judiciaire efficace. Les causes des tensions et des frustrations que connaît actuellement le Rwanda doivent être analysées. Premièrement, les activités militaires et les rapports faisant état de livraisons d'armes à des éléments des ex-forces gouvernementales rwandaises dans des pays voisins préoccupent gravement le Gouvernement. Comme suite aux incursions organisées, de plus en plus nombreuses, des ex-forces gouvernementales rwandaises au Rwanda, des alertes ont été déclenchées et des personnes suspectées d'être des sympathisants arrêtées. Le Gouvernement s'inquiète de ce que l'instruction militaire d'éléments des ex-forces gouvernementales rwandaises et les livraisons d'armes dont ils bénéficient ne semblent pas faire l'objet de restrictions effectives, alors que l'embargo sur les armes continue de s'appliquer au Rwanda.

5. Le fait que les responsables du génocide n'ont pas encore été traduits en justice, que ce soit devant le Tribunal international ou au niveau national, est aussi une source de frustration profonde. Le Gouvernement rwandais fait observer que nombre des responsables du génocide continuent d'opérer ouvertement de l'étranger, malgré l'adoption par le Conseil de sécurité de la résolution 978 (1995) et la transmission aux pays concernés de listes de personnes accusées d'avoir commis des crimes. En outre, le Tribunal n'a pas encore commencé ses travaux, et le système judiciaire national, appelé à juger la plupart des détenus se trouvant actuellement dans les prisons rwandaises, manque cruellement de personnel et de ressources et est lui aussi tributaire de l'appui international. Un troisième élément invoqué dans les milieux gouvernementaux rwandais est la lenteur avec laquelle arrive l'assistance économique annoncée lors de la table ronde organisée par le Programme des Nations Unies pour le développement (PNUD) à Genève les 18 et 19 janvier 1995. Bien que des contributions de 634 millions de dollars aient été annoncées à cette occasion, 69 millions seulement ont effectivement été décaissés, dont 26 millions ont été utilisés pour le service de la dette. Il est important de s'attaquer à ces problèmes.

6. Il est admis que le retour des réfugiés dans de bonnes conditions de sécurité est un élément essentiel pour promouvoir la stabilité et l'harmonie dans le pays. Cette idée a été acceptée lors du Sommet de Nairobi, lors de la Conférence de Bujumbura et dans les accords trilatéraux conclus par le Rwanda, le Haut Commissariat des Nations Unies pour les réfugiés (HCR) et les pays voisins. Le sentiment de sécurité et de confiance qui persuadera les réfugiés de revenir dépend non seulement de l'amélioration de la situation à l'intérieur du pays mais aussi de l'amélioration des relations entre les pays des Grands Lacs. J'estime qu'une conférence régionale, dont le Conseil de sécurité a approuvé le principe en plusieurs occasions, devrait être convoquée aussi tôt que possible et en consultation avec l'Organisation de l'unité africaine (OUA) en vue de résoudre les problèmes plus larges et intimement liés de la paix, de la sécurité et de la stabilité dans la région.

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III. SITUATION EN MATIÈRE DE SÉCURITÉ

7. Depuis mon dernier rapport au Conseil, le Gouvernement a continué de signaler des préparatifs et des incursions militaires d'éléments de l'ancien régime. Le nombre des arrestations pour complicité de génocide est demeuré élevé. De ce fait, le sentiment d'insécurité qui règne dans les communes a sérieusement freiné le retour des réfugiés. Les prisons demeurent gravement surpeuplées, ce qui cause beaucoup de souffrances. Les critiques acrimonieuses à l'encontre de la communauté internationale en général et de la MINUAR en particulier ne se sont pas atténuées, suscitant une atmosphère de non-coopération, voire d'hostilité, aux niveaux inférieur et intermédiaire des autorités gouvernementales.

8. Durant la période à l'examen, l'Armée patriotique rwandaise (APR) a continué de refuser à la MINUAR l'accès à certaines parties du pays, a procédé à des fouilles et à des saisies de véhicules et d'autre matériel de la MINUAR et a participé à des manifestations anti-MINUAR. Ces activités, dont beaucoup violent l'Accord sur le statut de la Mission, ont gêné la MINUAR dans l'accomplissement de ses tâches sur le terrain. Il y a eu des difficultés continuelles pour la relève des troupes, le personnel de la MINUAR ayant été retenu ou stoppé à l'aéroport de Kigali. En outre, les réunions bimensuelles entre la MINUAR et l'APR n'ont plus eu lieu ces trois derniers mois.

9. L'anniversaire du génocide de l'an dernier a été marqué par une semaine de deuil qui a commencé le 7 avril. En cette occasion, j'ai adressé un message de sympathie au Président Bizimungu au nom de la communauté internationale. Des rassemblements et des manifestations ont été organisés, et des discours prononcés, dans tout le Rwanda. Certaines de ces manifestations visaient la communauté internationale et la MINUAR en particulier. Le Président et le Vice-Président ont assuré à mon Représentant spécial que ces mouvements d'hostilité seraient contrôlés. Néanmoins, la coopération avec la MINUAR demeure insatisfaisante.

10. La tragédie de Kibeho a mis en lumière les tensions et les peurs latentes qui subsistent au Rwanda. Le 18 avril, le Gouvernement rwandais a pris des mesures pour encercler et fermer les huit derniers camps de personnes déplacées à l'intérieur du pays de la région de Gikongoro, dont Kibeho était de loin le plus grand. Le Gouvernement a estimé que puisque ces camps étaient utilisés comme sanctuaires par des éléments des ex-forces gouvernementales rwandaises et des milices, ils constituaient un facteur déstabilisant et menaçaient la sécurité dans la région. Des négociations se déroulaient entre le Gouvernement et l'Organisation des Nations Unies en vue de la fermeture volontaire des camps lorsque la décision d'agir a été prise sans préavis ni consultation. Il faut admettre que sept des camps ont été fermés sans incident grave. À Kibeho, toutefois, environ 80 000 personnes déplacées ont tenté une sortie le 22 avril, après avoir passé cinq jours sur une colline où ils manquaient d'espace, d'abris, de nourriture et d'hygiène. Un grand nombre d'entre elles ont péri sous le feu des forces gouvernementales, ont été piétinées ou écrasées lors de la panique qui a suivi ou ont été tuées par des extrémistes se trouvant dans le camp, qui ont agressé et intimidé ceux qui avaient indiqué qu'ils souhaitaient partir.

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11. Lorsque l'APR a lancé son opération, la MINUAR a réagi immédiatement et a pris dans les 24 heures les mesures suivantes : des camions ont été déployés pour transporter les personnes déplacées; deux postes de ramassage des victimes ont été établis par le groupe médical australien pour fournir une assistance médicale d'urgence; un poste de commandement de la MINUAR doté de systèmes de transmissions a été mis en place pour améliorer les communications et les contacts entre les forces se trouvant sur le terrain et le siège de la MINUAR. Dans le même temps, des troupes du génie de la MINUAR ont réparé la route reliant Butare à Kibeho pour faciliter la circulation des convois de personnes déplacées et l'acheminement de l'aide humanitaire. Les malades et les blessés ont été évacués par des soldats de la MINUAR vers les centres de soins des ONG à Butare. Cette procédure d'évacuation a parfois été entravée parce que les mouvements de la MINUAR et des organismes de secours ont fait l'objet de restrictions ou parce que le passage leur a été refusé. La présence de troupes de la MINUAR dans les centres de secours, les postes de secours et les centres de transit a été renforcée. Les patrouilles ont été multipliées pour faciliter la réception des personnes déplacées dans ces installations temporaires et leur évacuation vers leurs diverses communes d'origine. La MINUAR a aussi accru le nombre de ses observateurs militaires sur le terrain pour faciliter le contrôle et renforcer sa capacité de convoyage.

12. Durant tout le temps qu'a duré la crise, soit entre l'encerclement du camp par l'APR le 18 avril et les événements tragiques du 22 avril, de hauts fonctionnaires de la MINUAR, dont mon Représentant spécial, le commandant de la force et le commandant adjoint de la force se sont rendus à Kibeho et dans les environs en plusieurs occasions pour évaluer la situation sur le terrain, prôner la retenue et aider à la coordination des activités du personnel de la MINUAR et des organismes de secours.

13. À la suite de la tragédie de Kibeho, j'ai immédiatement dépêché M. Aldo Ajello à Kigali en qualité d'Envoyé spécial pour faire part de mes préoccupations aux dirigeants rwandais et pour engager le Gouvernement à mener une enquête impartiale. Le 27 avril, le Gouvernement a annoncé qu'une Commission internationale d'enquête indépendante serait créée pour enquêter sur les circonstances et les causes des événements, et qu'elle serait composée de représentants de l'Allemagne, de la Belgique, du Canada, des États-Unis d'Amérique, de la France, des Pays-Bas, du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, de l'OUA, de l'Organisation des Nations Unies et du Gouvernement rwandais.

14. Mon Envoyé spécial s'est rendu au Rwanda du 28 au 30 avril. Il s'est félicité de la décision de créer la Commission d'enquête et a engagé les autorités rwandaises à coopérer à la distribution des secours humanitaires à Kibeho et dans les communes. Il a aussi souligné que ceux qui n'étaient pas soupçonnés d'avoir participé au génocide devraient être autorisés à regagner leurs foyers en toute sécurité.

15. Je suis heureux d'indiquer qu'on a assuré à mon Envoyé spécial que le Gouvernement rwandais coopérerait pleinement avec la Commission d'enquête et que les organisations humanitaires bénéficieraient d'une pleine coopération pour la distribution de l'aide humanitaire dans les communes. Cet engagement a été honoré et par voie de conséquence un grand nombre de personnes déplacées sont

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maintenant en train de se réinstaller dans leurs communes. Les quelque 2 500 qui étaient restées à Kibeho sont également rentrées chez elles, après trois semaines d'efforts concertés de la MINUAR et du Gouvernement rwandais pour les en persuader.

16. La Commission indépendante d'enquête a publié son rapport (S/1995/411) et conclu que la tragédie de Kibeho n'a pas été le résultat d'une action préméditée, et qu'il ne s'agissait pas non plus d'un accident inévitable. Elle a reconnu que des efforts avaient été accomplis par mon Représentant spécial, la MINUAR, le Gouvernement rwandais et d'autres organisations pour contrôler la situation. Elle a conclu qu'il existait suffisamment de preuves fiables pour établir que des personnes déplacées non armées avaient été victimes de graves violations des droits de l'homme, commises tant par l'APR que par des éléments armés se trouvant dans le camp. La Commission s'est félicitée de l'initiative prise par le Gouvernement rwandais de mener une enquête au niveau national. Elle a aussi recommandé que la communauté internationale continue à encourager et à aider le Rwanda dans les efforts que celui-ci déploie pour instaurer la justice, amener la réconciliation nationale et reconstruire le pays.

IV. ASPECTS MILITAIRES

17. Au 31 mai 1995, les effectifs de la force de la MINUAR comprenaient 5 586 soldats et 317 observateurs militaires (voir annexe). La rotation des contingents nigérian, éthiopien et ghanéen a été achevée. Une partie des contingents zambien et indien a été également relevée dans les délais prévus.

18. Malgré les prélèvements de ressources destinés à répondre aux besoins urgents des personnes déplacées à l'intérieur du pays, la composante militaire de la MINUAR a continué à accomplir ses autres tâches, notamment à assurer la sécurité des observateurs des droits de l'homme et du personnel du Tribunal international, des organismes des Nations Unies et des organisations non gouvernementales. En raison de la détérioration de la sécurité à Kigali et de la multiplication des vols à main armée, la MINUAR a dû apporter quelques modifications au déploiement des unités constituées afin de renforcer la sécurité dans la capitale. On trouvera sur la carte annexée des renseignements détaillés concernant le déploiement des troupes de la MINUAR.

19. En plus des tâches qu'ils doivent accomplir aux termes de la résolution 965 (1994) du Conseil de sécurité, les troupes et les observateurs militaires ont continué d'escorter les convois de secours humanitaires et de fournir une assistance médicale d'urgence à la population rwandaise dans les antennes de la MINUAR situées sur l'ensemble du territoire, ainsi qu'aux personnes déplacées lors de la fermeture de leurs camps au sud-ouest du pays. Les moyens logistiques de la MINUAR ont été disponibles dans l'ensemble du Rwanda, en particulier pour assurer le transport des personnes déplacées et des réfugiés regagnant leurs foyers. Les troupes du génie ont aidé à rétablir les services essentiels, notamment en reconstruisant les ponts et en réparant les routes et les systèmes d'adduction d'eau. Les observateurs militaires assurent en permanence la liaison et la coordination avec le Gouvernement, les observateurs des droits de l'homme et les organismes des Nations Unies afin de permettre le déplacement sans entrave des réfugiés et des personnes déplacées et de surveiller leur réinstallation. Un appui a été également fourni au Gouvernement

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rwandais afin d'améliorer l'administration pénitentiaire et de rendre moins pénibles les conditions de vie qui règnent dans les prisons. La présence des troupes et des observateurs militaires de la MINUAR entretient un climat de sécurité et de confiance dans l'ensemble du pays, comme le montre le fait que de nombreux Rwandais cherchent fréquemment protection dans les installations de la MINUAR.

V. POLICE CIVILE

20. Durant la période considérée, une activité importante de la police civile de la MINUAR a consisté à poursuivre la formation d'une nouvelle force de police nationale intégrée, comme le Conseil de sécurité l'a demandé dans sa résolution 965 (1994). Un groupe de 300 gendarmes et de 20 instructeurs ont terminé le 29 avril 1995 un cours intensif de 16 semaines. Le Gouvernement devrait déployer ce contingent dans les brigades de gendarmerie en poste sur l'ensemble du territoire. Des dispositions avaient été prises pour commencer à former en juin 1995 400 autres candidats durant une période de quatre mois et pour former ensuite 100 instructeurs choisis parmi les gendarmes ayant achevé le stage. Toutefois, comme il est indiqué au paragraphe 56 du présent rapport, le Gouvernement rwandais a estimé qu'il devait être mis fin aux activités de la police civile.

21. La MINUAR a également aidé le chef d'état-major de la gendarmerie nationale à déterminer l'organisation et les besoins opérationnels de la nouvelle force de police. On a mis au point un document d'orientation qui servira à élaborer les demandes officielles que le Gouvernement présentera à ses partenaires bilatéraux et multilatéraux afin d'obtenir du matériel et d'autres éléments de soutien logistique destinés à la gendarmerie nationale.

22. En plus de ces fonctions d'instruction, les observateurs de la police civile de la MINUAR continuent de maintenir une liaison étroite avec les autorités locales dans les 11 préfectures du Rwanda et de mener des activités de surveillance et d'enquête. Ils collaborent étroitement avec les organismes des Nations Unies et les organisations non gouvernementales et aident en particulier les observateurs des droits de l'homme et le personnel de la MINUAR à accomplir leurs tâches quotidiennes dans l'ensemble du pays.

23. Les États Membres n'ont pas répondu jusqu'ici aux démarches que le Secrétariat a faites à plusieurs reprises en vue d'obtenir des instructeurs de police francophones. Sur l'effectif autorisé de 120 observateurs de police, seuls 64, en provenance de huit pays, étaient déployés au 31 mai (voir annexe).

VI. DROITS DE L'HOMME

24. L'Opération pour les droits de l'homme au Rwanda a poursuivi ses activités au titre des trois principaux volets de son mandat, qui consistent à enquêter sur le génocide et les violations graves des droits de l'homme et du droit international humanitaire, à surveiller le respect des droits de l'homme et favoriser l'instauration d'un climat de confiance, en particulier pour le retour des personnes déplacées, et à accomplir des tâches de coopération technique et d'éducation en matière de droits de l'homme. Au 25 mai 1995, l'Opération disposait de 121 membres et de 11 antennes situées dans l'ensemble du pays.

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25. Les enquêtes sur le génocide de 1994 continuent de constituer un volet important du mandat de l'Opération. Les rapports et les nombreux éléments d'information recueillis sur les lieux des massacres dans l'ensemble du pays ont été mis à la disposition du Rapporteur spécial et du Tribunal international. Durant la visite qu'il a effectuée au Rwanda du 31 mars au 3 avril 1995, le Haut Commissaire aux droits de l'homme a remis des documents supplémentaires au Procureur adjoint. Au fur et à mesure qu'ils sont reçus par les équipes d'enquête, les nouveaux rapports sont dûment communiqués au Rapporteur spécial et au Tribunal international.

26. Durant la période considérée, les conditions déplorables qui règnent dans les prisons rwandaises ont continué de donner lieu à une grande préoccupation. Il existe maintenant dans l'ensemble du pays environ 42 000 détenus, dont beaucoup vivent dans des conditions inhumaines. Des efforts sont en cours pour accroître la capacité des prisons, mais il ne peut s'agir là que d'une solution partielle tant que les détenus ne seront pas traduits en justice dans les délais voulus et conformément aux normes fondamentales appliquées sur le plan international. Il semble que les arrestations se soient provisoirement ralenties dans certaines régions en raison du surpeuplement des prisons. Le Rapporteur spécial a déploré que cette politique soit territorialement limitée et a suggéré qu'elle soit appliquée d'une manière générale à l'ensemble du Rwanda.

27. S'efforçant de répondre à la crise provoquée par la fermeture forcée des camps de personnes déplacées au sud-ouest du pays, l'Opération pour les droits de l'homme au Rwanda a renforcé ses équipes en déployant 24 spécialistes dans les régions principalement touchées de Gikongoro, Butare et Bugesera et a nommé un coordonnateur pour les cas d'urgence à Butare. Le Gouvernement rwandais et les organisations internationales intéressées ont été régulièrement tenus au courant de la situation concernant les droits de l'homme dans les communes d'origine où retournent les personnes déplacées. Tout au long de la crise, l'Opération a encouragé les ministres compétents à se rendre dans les zones touchées. Elle a également maintenu des contacts étroits avec les autorités locales en vue d'améliorer l'accès aux villages des spécialistes des droits de l'homme et de faciliter la mise en place de comités conjoints chargés du processus de réinstallation.

28. Le Groupe de la coopération technique de l'Opération a continué de développer ses activités visant à rétablir l'appareil judiciaire et à rebâtir la société civile du pays. Plusieurs projets ont été entrepris, notamment en vue d'envoyer 50 juristes internationaux qui aideront à préparer les dossiers concernant les personnes accusées d'avoir participé au génocide. Un autre effort important consiste à aider le Gouvernement rwandais à aligner davantage sa législation sur le droit international en matière de droits de l'homme. Le programme de coopération technique vise également à renforcer la sensibilisation aux droits de l'homme dans le pays en éduquant le personnel militaire, la police, les fonctionnaires et le public.

29. Le Gouvernement rwandais envisage de créer une commission nationale des droits de l'homme, comme il est prévu dans les accords de paix d'Arusha. Au titre de ces accords, la commission, composée de sept membres indépendants dont le mandat est de trois ans, doit enquêter sur les violations des droits de

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l'homme perpétrés sur le territoire rwandais, y compris les actes commis par des organes d'État ou leurs agents.

VII. TRIBUNAL INTERNATIONAL POUR LE RWANDA

30. La nomination du Procureur adjoint du Tribunal international a permis de faire démarrer le processus d'instruction concernant les actes de génocide et autres violations graves du droit international humanitaire commis au Rwanda. Les enquêtes seront effectuées à l'intérieur et à l'extérieur du Rwanda, notamment dans d'autres pays d'Afrique, en Europe et en Amérique du Nord, et porteront sur 400 accusés identifiés, dont la plupart se sont réfugiés à l'étranger. En vertu de l'article 28 du statut du Tribunal, les États sont tenus de coopérer avec le Tribunal et de répondre à toute demande concernant notamment l'arrestation ou la détention des personnes et le transfert ou la traduction des accusés devant le Tribunal.

31. Le bureau du Procureur recrute actuellement du personnel qui sera chargé de l'instruction et des poursuites. Entre-temps, les gouvernements ont commencé à fournir les services de personnes qualifiées pour de courtes périodes jusqu'à ce que le Tribunal dispose de son effectif complet.

32. Le bureau du Procureur a fonctionné sur la base d'un engagement de dépenses de 2,9 millions de dollars autorisé par le Comité consultatif pour les questions administratives et budgétaires pour la période allant du 1er janvier au 31 mars 1995. Les demandes de crédits pour l'année 1995 seront présentées à l'Assemblée générale à la reprise de sa quarante-neuvième session en juin 1995. Les contributions fournies ou promises au Fonds d'affectation spéciale pour le Tribunal international s'élèvent actuellement à 1 034 959 dollars.

33. Une mission des Nations Unies s'est récemment rendue en République-Unie de Tanzanie pour examiner les aspects techniques et juridiques concernant l'établissement du siège du Tribunal international à Arusha. Elle a examiné la question des locaux nécessaires pour le Tribunal et a négocié à cet égard un accord de siège et un contrat de location de bureaux. Un rapport sur cette question sera présenté sous peu au Conseil.

34. Par sa résolution 989 (1995) du 24 avril 1995, le Conseil de sécurité a établi une liste de 12 candidats aux charges de juge au Tribunal international. Le 25 mai, l'Assemblée générale a élu six juges pour siéger dans les chambres de jugement. Le 26 juin, le Tribunal doit tenir une séance spéciale à La Haye pour adopter son règlement intérieur et fixer les règles en matière de preuve.

35. Le Procureur du Tribunal international, le juge Goldstone, s'est rendu une deuxième fois au Rwanda, où il a séjourné du 18 au 20 mai. Il s'est entretenu avec de hauts fonctionnaires du Gouvernement ainsi qu'avec mon Représentant spécial et a étudié divers arrangements pratiques relatifs au Tribunal. Une conférence de donateurs, d'une durée d'un jour, a été convoquée le 19 mai pour examiner le soutien international à apporter au Tribunal, et en particulier la question de son financement. Je tiens à remercier les États Membres qui ont versé des contributions volontaires au Fonds d'affectation spéciale pour le Tribunal et je lance un appel aux donateurs éventuels pour qu'ils poursuivent

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leur aide et fournissent un appui supplémentaire afin de permettre au Tribunal de fonctionner de façon efficace.

VIII. ASPECTS HUMANITAIRES

36. Depuis mon dernier rapport, les efforts des organismes humanitaires ont visé essentiellement à faire face aux conséquences de la fermeture forcée des camps de personnes déplacées dans le sud-ouest du Rwanda. La réaction rapide et coordonnée de la MINUAR, du Bureau des Nations Unies pour les secours d'urgence au Rwanda, des organismes des Nations Unies, des organisations intergouvernementales, en particulier l'Organisation internationale pour les migrations (OIM), et des ONG ont sans aucun doute empêché que les événements ayant frappé les personnes déplacées ne fassent davantage de victimes et ne causent des souffrances encore plus grandes. Ces efforts ont été entrepris en coopération avec plusieurs ministères du Gouvernement à Kigali et dans les préfectures de Butare et de Gikongoro. Pour les transports, une assistance a été fournie par le HCR, l'OIM, la MINUAR et les ONG pour environ 70 000 personnes; des installations médicales d'urgence ont été aménagées pour soigner les malades et les blessés, essentiellement à Butare; des postes de secours et des centres d'aide d'urgence, gérés et aidés par les ONG, ont permis de fournir les premiers secours aux anciens occupants des camps et de leur distribuer des vivres, de l'eau et divers articles de première nécessité.

37. La phase initiale de la crise est maintenant terminée, mais il faut encore régler divers problèmes provoqués par la fermeture des camps. Au début, d'anciens occupants des camps auraient été, selon certaines informations, battus, lapidés et harcelés soit en route, soit dans leurs communes d'origine. Plus récemment, du fait de la présence accrue dans ces communes de personnel de la MINUAR et d'autre personnel international, du fait également de l'intercession du Ministre de l'intérieur, il semblerait que l'insertion des personnes déplacées se soit quelque peu améliorée. Toutefois, le retour massif de personnes déplacées, dont beaucoup ont été obligées d'abandonner dans les camps tout ce qu'elles possédaient ou ont été dévalisées pendant le voyage de retour, a beaucoup aggravé les conditions déjà difficiles qui existent dans de nombreuses communes. Il est de plus en plus urgent que la communauté internationale intensifie son aide en vue de la réinsertion dans les communes, en particulier dans les zones où les retours de personnes déplacées ont été les plus nombreux. À cet égard, des équipes d'évaluation, composées de fonctionnaires du Gouvernement, de personnel de l'Organisation des Nations Unies et de membres des ONG, se sont rendues dans la plupart des communes de la préfecture de Butare pour déterminer les besoins pressants et les domaines de priorité aux fins d'intervention. À Kigali, des cellules de secteur ont été créées, par l'intermédiaire du Centre d'opérations intégrées, qui est géré en commun par le Gouvernement, le Bureau des Nations Unies pour les secours d'urgence au Rwanda, les organismes des Nations Unies, la MINUAR et les ONG, afin d'assurer la planification et la coordination efficaces des activités de réinsertion.

38. Bien que le Programme alimentaire mondial (PAM) et le Comité international de la Croix-Rouge (CICR), ainsi que quelques ONG, aient commencé à distribuer des vivres aux rapatriés et aux personnes nécessiteuses dans les communes, de nombreuses personnes manquent des moyens nécessaires pour assurer leur

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subsistance jusqu'à la prochaine campagne agricole, de septembre 1995 à janvier 1996. Elles auront donc besoin de vivres, ainsi que d'outils et de semences pour planter les prochaines récoltes. Outre les rapatriés, d'autres groupes vulnérables devront également recevoir une aide alimentaire pendant un temps assez long. Il s'agit notamment des "nouveaux" et des "anciens" rapatriés, dont beaucoup n'ont pas encore été réinstallés et qui n'ont donc pas de terre à cultiver. Les autres groupes vulnérables sont notamment les malades hospitalisés, les orphelins et les enfants non accompagnés. En mai, le PAM envisage de distribuer 3 046 tonnes de céréales, 1 214 tonnes de légumineuses, 244 tonnes d'huile et 85 tonnes d'autres articles alimentaires à un total de 420 000 bénéficiaires appartenant aux groupes susmentionnés. Des articles non alimentaires, tels que bâches en matière plastique, casseroles, couvertures, savon et vêtements, ont déjà été distribués à d'anciens occupants des camps et ces distributions devront se poursuivre.

39. Les établissements sanitaires doivent de toute urgence être réaménagés et dotés de personnel supplémentaire dans l'ensemble du pays pour permettre la fourniture de services sanitaires satisfaisants, en particulier aux personnes déplacées rentrant chez elles. Dans le cadre de ses programmes d'assistance aux rapatriés, le HCR assure la remise en état de huit hôpitaux de district et de 42 centres sanitaires dans des zones où les rapatriés se sont installés en grand nombre. Un autre programme sanitaire organisé par l'Organisation mondiale de la santé (OMS) vise à donner à 20 agents sanitaires une formation en matière de surveillance épidémiologique et de lutte contre les épidémies, cependant qu'un autre programme destiné à 32 formateurs est mis en place par le Gouvernement, le FNUAP et l'OMS dans les domaines de la prévention VIH/sida et de la maternité sans risque.

40. En ce qui concerne l'alimentation en eau et l'assainissement, le Fonds des Nations Unies pour l'enfance (UNICEF) fournit une assistance destinée à remettre en état le réseau d'alimentation en eau dans la partie nord-est du pays, où la majorité des réfugiés du contingent "ancien" en provenance de l'Ouganda retournent avec leurs troupeaux. On travaille à la construction d'une vingtaine de puits peu profonds qui devraient être achevés avant la fin juillet et répondre aux besoins de plus de 20 000 personnes. Dans d'autres régions, 150 points d'eau environ auront été aménagés d'ici le 31 décembre 1995 et desserviront environ 30 000 personnes dans trois préfectures.

41. Du fait de la fermeture des camps, le nombre des mineurs non accompagnés a également augmenté, beaucoup d'entre eux ayant été soit abandonnés dans les camps, soit trouvés le long des routes. Selon l'UNICEF, il y a près de 2 000 mineurs non accompagnés, dont 70 % environ ont moins de 5 ans. La plupart sont gravement perturbés à la suite des événements qu'ils ont vécus et sont pris en charge par le groupe d'aide aux personnes traumatisées de l'UNICEF.

42. Pour exécuter les projets qui permettront d'offrir à ceux qui en ont besoin un accès satisfaisant en ce qui concerne les soins médicaux, l'eau potable, l'assainissement et l'enseignement, et qui leur permettront également de reprendre leurs activités agricoles, il est nécessaire que la communauté des donateurs continue à fournir un important financement. Comme je l'ai déclaré en avril, l'appel consolidé interinstitutions en faveur du Rwanda et de la sous-région n'a pas donné les résultats escomptés, ce qui a compromis

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l'organisation des secours et le début des activités de réinstallation et de reconstruction. Au 15 mai, le montant des promesses de contributions était de 80 millions de dollars, contre un montant total de 219 millions de dollars nécessaire pour le Rwanda. Pour la sous-région, les promesses de contributions s'élevaient à 34 millions de dollars, le montant total nécessaire étant de 587 millions.

43. Le montant total des contributions reçues jusqu'ici de divers pays et donateurs privés s'élève à 6,3 millions de dollars. Sur cette somme, les Pays-Bas ont versé une contribution de plus de 5,4 millions de dollars destinée à un programme de soutien au Gouvernement du PNUD. Des ressources ont aussi été attribuées spécialement au Ministère du relèvement et de l'intégration sociale pour faciliter l'octroi d'une assistance d'urgence aux communes. Cette assistance prévoit notamment l'achat de matériel et de fournitures à l'intention des autorités administratives locales et de l'appareil judiciaire.

44. Un certain nombre d'événements ont suscité des inquiétudes au sujet du respect des principes relatifs à la protection et au traitement des réfugiés et des personnes déplacées. À la fin mars, les autorités tanzaniennes ont fermé la frontière avec le Burundi à des milliers de demandeurs d'asile, y compris de nombreux réfugiés rwandais qui étaient partis de camps situés au Burundi à la suite des troubles survenus dans ce pays. Il semble également que certaines des personnes ayant quitté les camps du Rwanda après leur fermeture n'ont pas été autorisées à entrer au Burundi ou, si elles ont réussi à le faire, ont été refoulées contre leur gré au Rwanda. La fermeture forcée des camps de personnes déplacées pourrait susciter de nouveaux obstacles au rapatriement librement consenti des réfugiés se trouvant dans des pays voisins, comme le montre la diminution récente du nombre des rapatriements organisés à partir des camps se trouvant au Zaïre.

45. La décision du Gouvernement rwandais de fermer à la circulation la frontière avec le Zaïre, et notamment d'interdire le transport des vivres destinés aux camps de réfugiés dans la région de Bukavu au Zaïre, a rendu plus difficile encore l'organisation de la fourniture des secours et des transports. À Goma et à Bukavu, les distributions de vivres ont diminué et ne répondent plus qu'à 50 % environ des besoins normaux.

46. Pour ce qui est de la situation en matière de sécurité dans les camps de réfugiés au Zaïre, j'ai appris avec satisfaction que les 1 500 hommes du contingent zaïrois étaient maintenant entièrement déployés et que la situation s'était de ce fait considérablement améliorée dans les camps. On continue en même temps à étudier avec les autorités zaïroises la possibilité de déplacer les camps qui se trouvent trop près de la frontière.

47. Je demande instamment aux États Membres de ne pas perdre de vue les principes humanitaires sur lesquels repose l'action des Nations Unies. À cet égard, j'appuie la demande que le Conseil de sécurité a adressée récemment aux États pour qu'ils honorent les engagements qu'ils ont pris antérieurement et qu'ils accroissent leur assistance aux activités humanitaires au Rwanda, et j'appuie également l'appel que le Conseil a lancé à tous les gouvernements de la région pour qu'ils laissent leurs frontières ouvertes à cet effet. Je voudrais aussi rappeler la demande adressée par le Conseil de sécurité au Gouvernement

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rwandais pour qu'il facilite l'acheminement et la distribution des secours humanitaires aux réfugiés et aux personnes déplacées, conformément aux principes internationaux régissant ces questions (S/PRST/1995/22).

IX. ASPECTS ADMINISTRATIFS ET FINANCIERS

48. L'Assemblée générale, par sa décision du 6 avril 1995, m'a autorisé à engager des dépenses jusqu'à concurrence d'un montant brut de 19 342 000 dollars (soit un montant net de 18 989 000 dollars) pour la période allant du 10 juin au 9 juillet 1995, au cas où le mandat de la MINUAR serait prorogé après le 9 juin 1995. Si le Conseil décide de proroger le mandat de la MINUAR, je demanderai à l'Assemblée générale, à la reprise de sa quarante-neuvième session, d'ouvrir les crédits nécessaires pour assurer le fonctionnement de la mission.

49. Au 17 mai 1995, les quotes-parts non acquittées au Compte spécial de la MINUAR s'élevaient à 70,1 millions de dollars, et le montant total des quotes-parts restant dues au titre de l'ensemble des opérations de maintien de la paix se chiffrait à 1 854 100 000 dollars.

X. CONCLUSIONS ET RECOMMANDATIONS

50. Le peuple rwandais a enduré les indicibles souffrances de l'horreur absolue. Sur le plan politique, l'objectif de l'ONU au Rwanda est d'aider ce peuple à recouvrer la paix et l'équilibre et à reconstruire sa société conformément aux principes des accords de paix d'Arusha. Cela ne pourra se faire que si les coupables du génocide passent en jugement et que si le peuple rwandais et ses dirigeants ont la volonté politique qu'exige une réconciliation nationale faite de respect mutuel et de bonne intelligence. L'ONU est disposée à poursuivre ses efforts pour les seconder dans cette difficile entreprise. La part qui revient à la MINUAR dans le retour à la normale et à une stabilité relative que le Rwanda a connu l'année passée ne peut être sous-estimée. Pourtant, la situation complexe décrite dans les sections II et III ci-dessus a amené le Gouvernement rwandais à s'interroger sur le rôle que la Mission devait jouer à l'avenir.

51. Le mandat actuel de la MINUAR a été défini à l'heure où la marée dévastatrice du génocide et de la guerre civile battait son plein au Rwanda. La mission principale que le Conseil de sécurité lui a confiée dans sa résolution 918 (1994) du 17 mai 1994 consistait à assurer la sécurité et la protection des personnes déplacées, des réfugiés et des civils en danger dans le pays. La guerre et le génocide ont pris fin avec la mise en place du gouvernement actuel, le 19 juillet 1994. La situation a alors radicalement changé. Cette évolution appelle indéniablement à modifier le mandat de la MINUAR, pour adapter le rôle de celle-ci à la conjoncture actuelle.

52. Comme le mandat de la MINUAR expire le 9 juin 1995, mon Représentant spécial a procédé à titre préalable à des consultations très suivies avec le Gouvernement rwandais, afin de s'entendre avec lui sur le rôle que l'ONU pourrait utilement jouer à l'avenir. Dès le départ, le Gouvernement a bien marqué qu'il insisterait pour que l'on réduise considérablement non seulement l'étendue des fonctions mais aussi les effectifs militaires de la MINUAR.

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53. Au cours de ces consultations, mon Représentant spécial a étudié avec le Gouvernement un nouveau mandat composé des fonctions que la MINUAR doit à mon avis assurer pendant les six prochains mois. Ces fonctions seraient accomplies comme auparavant dans le plein respect de l'autorité souveraine du Gouvernement rwandais. Elles amèneraient à recentrer le mandat de la MINUAR, qui passerait du maintien de la paix à l'instauration de la confiance. La MINUAR serait ainsi chargée des fonctions suivantes :

a) Fonctions directement nécessaires au maintien de la présence de l'ONU au Rwanda, à Kigali surtout, aux fins du maintien de la paix : il s'agirait de protéger les locaux de l'ONU, le personnel du Tribunal international et, le cas échéant, celui des organismes des Nations Unies et des ONG, et notamment de tenir une réserve disponible et de s'assurer des moyens de commandement, de contrôle des opérations et d'appui nécessaires;

b) Fonctions consistant à aider le Gouvernement rwandais à instaurer la confiance et un climat de stabilité favorable au retour des réfugiés et des personnes déplacées : ces fonctions comprendraient la surveillance assurée par les observateurs militaires et les observateurs de police dans tout le pays en complément de la surveillance du respect des droits de l'homme; l'aide à la distribution des secours; la facilitation du retour et de la réinsertion des réfugiés dans les villes et les communes; la fourniture d'aide et de services spécialisés en matière de génie civil, de logistique, d'action médico-sanitaire et de déminage; le stationnement dans certaines provinces d'une petite réserve de soldats exercés. (Ces soldats n'auraient pas à patrouiller, mais ils aideraient au besoin à l'accomplissement des tâches ci-dessus.)

54. Il ressort des consultations avec mon Représentant spécial et le commandant de la force que pour assumer de telles fonctions la MINUAR aurait besoin d'environ 2 330 soldats formés, de 320 observateurs militaires et de 65 policiers civils. Soit une réduction substantielle de l'effectif autorisé, qui est actuellement de 5 500 soldats, 320 observateurs militaires et 120 policiers civils. On procéderait à cette compression de manière graduelle sur les deux ou trois prochains mois en commençant dès que possible, étant entendu qu'après le 9 juin 1995 les bataillons d'infanterie actuellement déployés en province cesseraient leurs activités présentes pour entreprendre les tâches définies ci-dessus.

55. La force envisagée serait composée de la manière suivante : un bataillon d'infanterie de 800 hommes, encadrement compris, stationné à Kigali et soutenu par les unités d'appui indispensables : services au siège (50 personnes), transmissions (50 personnes), génie (200 personnes), action médico-sanitaire (100 personnes), logistique (100 personnes) et police militaire (30 personnes). En outre, une compagnie d'infanterie indépendante serait déployée dans chacun des secteurs d'opération actuels de la MINUAR. Ces compagnies, d'un effectif total de 1 000 hommes, comprendraient du personnel des services d'appui ou des spécialistes, selon les besoins particuliers des tâches humanitaires à entreprendre.

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56. Toutefois, au cours de ses consultations avec mon Représentant spécial, le Gouvernement rwandais a proposé de donner à la MINUAR un rôle différent, plus limité, en arguant que les conditions qui règnent actuellement sur le terrain justifiaient une réduction massive du nombre de soldats de l'ONU. Il a soutenu que la plupart des fonctions de maintien de la paix assumées jusqu'à présent par la MINUAR étaient désormais superflues. On ne pouvait plus accepter l'idée que la promotion de la sécurité et de la confiance passait par la présence de la MINUAR, puisque le Gouvernement avait pris la responsabilité d'assurer la sécurité dans tout le pays. La protection des convois humanitaires incombait également au Gouvernement, et la MINUAR ne devait plus avoir qu'une fonction de contrôle. Il a aussi été question de la surveillance des frontières, mais le Gouvernement a estimé que la MINUAR n'avait aucun rôle à jouer dans ce domaine au Rwanda. D'autre part, le programme de stages actuellement administré par la police civile de la MINUAR devait à son avis laisser place à des arrangements bilatéraux, et il ne pourrait se poursuivre que lorsque ces arrangements auraient été pris.

57. En résumé, le Gouvernement rwandais a proposé de réduire l'effectif de la MINUAR à un maximum de 1 800 soldats formés, qui seraient déployés à Kigali et en province. Le mandat de la MINUAR serait prorogé de six mois, étant entendu que ce serait la dernière fois et que l'on entreprendrait immédiatement de réduire la présence de la MINUAR hors de Kigali.

58. L'analyse de cette proposition a fait apparaître qu'avec 1 800 soldats formés et 65 policiers civils, la MINUAR ne serait plus assez nombreuse pour assumer convenablement les tâches définies au paragraphe 53 ci-dessus. Si je comprends la position du Gouvernement rwandais, je reste convaincu que la MINUAR est l'un des piliers de l'aide que la communauté internationale apporte au Gouvernement et au peuple rwandais et qu'elle doit avoir les moyens d'accomplir effectivement sa tâche. D'un autre côté, la MINUAR étant une opération de maintien de la paix lancée sous le couvert du Chapitre VI de la Charte, son maintien au Rwanda dépend du consentement et de la coopération active du Gouvernement de ce pays. J'ai donc l'intention de poursuivre mes consultations avec celui-ci, et j'informerai oralement le Conseil de mes résultats avant qu'il ne se prononce sur l'avenir de la MINUAR.

59. Sous réserve donc du rapport que je ferai à ce moment-là, je recommande au Conseil de sécurité de proroger le mandat de la MINUAR, en y apportant les modifications qu'appellent les fonctions définies au paragraphe 53 ci-dessus, pour une période de six mois se terminant le 9 décembre 1995. Pendant cette période, mon Représentant spécial continuera à user de ses bons offices pour favoriser, en consultation avec le Gouvernement rwandais, la réconciliation nationale conformément aux principes consacrés dans les accords de paix d'Arusha. La MINUAR participera également avec le PNUD, les institutions des Nations Unies et les ONG à la réalisation d'un plan d'action intégré à objectifs multiples dans le domaine de la rénovation, de la réinsertion sociale, de la réparation des infrastructures et de la restauration de l'appareil judiciaire. Les fonds fournis à cette fin par les pays donateurs devraient être acheminés par le Fonds d'affectation spéciale pour le Rwanda, ce qui permettrait une utilisation rapide, souple et efficace.

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60. Comme prévu dans la Déclaration du Sommet de Nairobi de janvier 1995, dans la Déclaration de Bujumbura de février 1995 et dans les accords officiels signés par le Rwanda, il faut engager un effort majeur pour convaincre les 2 millions de réfugiés rwandais de retourner dans leurs foyers, en toute sécurité et dans la dignité. Cet effort ne devrait pas compromettre l'efficacité de l'action entreprise, avec toutes les garanties de la justice, contre les criminels accusés de génocide, conformément à la résolution 978 (1995) du Conseil de sécurité. À cet égard, la communauté internationale doit prendre des mesures immédiates pour favoriser l'entrée en fonctions du Tribunal international aussi tôt que possible et la restauration de l'appareil judiciaire rwandais. Il faut en même temps agir pour empêcher les Rwandais qui se trouvent dans des pays voisins de se fournir en armes ou de lancer des opérations militaires pour déstabiliser le Rwanda. Je crains particulièrement, si on ne met pas plus d'énergie à obvier à de tels agissements, de voir gravement dégénérer des incidents de frontière, qui pourraient ajouter une dimension de plus à la tragédie rwandaise et ouvrir sur d'imprévisibles conséquences.

61. Les mesures exposées aux paragraphes 59 et 60 ci-dessus vont dans le sens de la paix et de la sécurité au Rwanda. Il reste pourtant beaucoup à faire encore. Il faut intensifier l'aide internationale si l'on veut que les institutions du Rwanda aient quelque chance de se relever. Il faut trouver comment corriger des procédures qui ont retardé le déblocage de l'aide, afin de résoudre les cas qui appellent une attention immédiate. Pour ce qui est de la solution à long terme du problème des réfugiés et des questions qui lui sont liées dans les États des Grands Lacs, j'ai l'intention de nommer un envoyé spécial pour consulter les pays concernés et l'OUA à propos de la préparation et de la tenue à une date aussi rapprochée que possible d'une conférence régionale sur la sécurité, la stabilité et le développement.

62. Au moment de conclure ce rapport, je tiens à exprimer ma gratitude à mon Représentant spécial, M. Shaharyar Khan, au commandant de la force, le général de division Guy Tousignant, et à tout le personnel civil et militaire de la MINUAR, pour la contribution exceptionnelle qu'ils ont apportée à la cause des Nations Unies et à celle de la paix et de la stabilité au Rwanda.

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Annexe

COMPOSITION DE LA MINUAR AU 31 MAI 1995

Pays	Personnel militaire			Police civile	Total général
	Soldats	Observateurs	Total		
Allemagne			0	9	9
Argentine		1	1		1
Australie	302		302		302
Autriche		15	15		15
Bangladesh	1	36	37		37
Canada	105	19	124		124
Congo		8	8		8
Djibouti			0	7	7
Éthiopie	834		834		834
Fédération de Russie		17	17		17
Fidji		1	1		1
Ghana	784	35	819	10	829
Guinée		17	17		17
Guinée-Bissau		2	2	5	7
Inde	934	20	954		954
Jordanie			0	3	3
Malawi	183	14	197		197
Mali	198	31	229	10	239
Nigéria	339	17	356	10	366
Pologne		2	2		2
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord	1		1		1
Sénégal	238	2	240		240
Tchad	2		2		2
Tunisie	834	10	844		844
Uruguay		26	26		26
Zambie	831	20	851	10	861
Zimbabwe		24	24		24
Total	5 586	317	5 903	64	5 967

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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.

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 and 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 19 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 of 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. Haby Dieng (Guinea); and Mr. Salifou Fomba (Mali), to serve in their personal capacities.

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. Kimbimbi (Senior Legal Advisor for Africa) and Mr. Garsony (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, Sava, 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.

8. 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 Rwandan 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 UWANIR, the report of an

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inquiry by UNAMIR 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 MRND 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-3/1 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.4/1995/76 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 XXI, 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 50 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.

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 Rwandais 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 Ntaryamira, 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 1993, 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 Tutsi 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 program there - which lasted for three weeks each - involved indoctrination of groups of 300 men in ethnic hatred against the Tutsi minority. The program 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 imukamugambiri (which means "those who have a single aim") of the Coalition for the Defense of the Republic (CDR). The imukamugambiri 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 Shamakiga, Fidele Kanyabugoyi, Ignace Ruhatana and Patrick Gahizi. Soldiers also attacked a Roman Catholic Centre in Kigali and murdered 17 Tutsi, mostly priests and nuns, including Father Chrysologue Mahane (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 Milles 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 Shangi 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 10 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 Gicumbi

- 3 persons were killed in a camp at Burungé (6 to 10 April);
- 5 persons working for Doctors without Borders were assassinated at Burungé, 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 15 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 Vascon 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, 2,500 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 Mubirizi Roman Catholic church, Cyangugu prefecture, Cyimbogo district.

80. On 19 April, the President of the provisional Rwandese government, Theodore 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, Kwamagana district. Interahamwe militia used grenades, machine-guns, R4 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 100 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 Byumba prefecture. In the commune of Bwisiga, it is alleged that the following massacres were perpetrated: 30 Hutus killed in Bwisiga sector; 49 in Myarurama sector; 52 in Kabongoya sector; 52 in Buhanga sector; 77 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, Shorgi, 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.^{4/}

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^{5/} additional thereto (intended to develop and supplement common article 3 but without modifying its existing conditions of application)^{6/} 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".^{7/} 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"^{8/} involving strategic planning and tactical sophistication.^{9/}

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 people;

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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/Q/ 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 with 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.^{14/}

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'.^{15/} 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.^{16/} 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."^{17/}

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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."^{18/}

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'.^{19/} It is based on the Greek word *genos* meaning 'race' and the Latin word *cide* which refers to 'killing'.

148. On 11 December 1946, the UN General Assembly adopted unanimously resolution 96(I) of 6 June 1947^{20/} which refers to genocide as 'the denial of the right of existence of entire human groups'.^{21/} 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.^{22/}

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.^{23/}

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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.^{24/} 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.^{25/}

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 recognise 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."25/

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.29/ 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 ius cogens.20/

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 915 (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.11/

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.^{12/}

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.^{13/} 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.

182. 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. Reshetov, "Development of Norms of International Law on Crimes against Humanity" in The Nuremberg Trial and International Law, Ginsburgs and Kudriavtsev (eds.) 1990, p. 199. See also, Bassiouni, 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 Nijhoff, 1982).

17/ See Article 4(3)(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 1992/9-1/1 of 14 August 1992," Commission on Human Rights, 1993, at para. 85.

19/ Larkin 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(I), U.N. Doc. A/231 (1946).

22/ For a good account of the drafting process of the Genocide Convention, refer to Part I (17-28) see Robinson, Wehewiah, 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 16.3 (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).

13/ 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 955 (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/1994/906), 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 915 (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;

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(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 9Non 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 12Qualification 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.

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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.

3. 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

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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 11Working languages

The working languages of the International Tribunal shall be English and French.

Article 12Annual 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.

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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 915(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.

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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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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 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 UNOC. 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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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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