

9. THE SITUATION IN BURUNDI

INITIAL PROCEEDINGS

By a letter¹ dated 25 October 1993, addressed to the President of the Security Council, the representatives of Cape Verde, Djibouti and Morocco requested the convening of an urgent meeting of the Council to consider the situation in Burundi, following the military *coup d'état* of 21 October in that country. Similar requests were received from the representatives of Burundi and of Zimbabwe, the latter in his capacity as Chairman of the Group of African States, by letters² of the same date, addressed to the President of the Council. The representative of Burundi also asked the Council to take urgent and energetic measures to restore peace and ensure the return of constitutional order in his country.

At its 3297th meeting on 25 October 1993, the Security Council included the above letters in its agenda. Following the adoption of the agenda, the Council invited the representatives of Burundi, Egypt, Mali and Zimbabwe. The President (Brazil) then drew the attention of the members of the Council to several other documents³, including a letter dated 22 October 1993 addressed to the Secretary-General in which the representative of Burundi informed him that, on the night of 20-21 October 1993, a group of soldiers had attacked the Presidential palace and the residences of a number of political leaders and that the President and other Government leaders had been executed.

1 S/26625.

2 S/26626 and S/26630, respectively.

3 Letter dated 22 October 1993 from the representative of Egypt addressed to the President of the Security Council (S/26623); letter dated 22 October 1993 from the representative of Burundi addressed to the President of the Security Council (S/26628); and letter dated 25 October 1993 from the representative of Mali addressed to the Secretary-General (S/26632).

Decision of 25 October 1993 (3297th meeting): statement by the President

The President then stated that, after consultations among the members of the Council, he had been authorized to make the following statement⁴ on behalf of the Council:

“The Security Council expresses its grave concern at the military coup of 21 October 1993 against the democratically elected Government of Burundi.

“The Council deeply regrets and strongly condemns the acts of violence and the loss of life which have been caused by the perpetrators of the military coup. It demands that they desist forthwith from taking any action which would exacerbate tension and plunge the country into more violence and bloodshed, which could have serious implications for peace and stability in the region.

“The Council demands that the perpetrators of the military coup cease all acts of violence, reveal the whereabouts and fate of Government officials, release all prisoners, return to their barracks and put an immediate end to their illegal act, with a view to the immediate reinstatement of democracy and constitutional rule in Burundi.

“The Council pays tribute to the deceased President of Burundi, Mr. Melchior Ndadaye, and members of his Government for their supreme sacrifice for democracy. Those responsible for their violent deaths and other acts of violence should be brought to justice.

“The Council requests the Secretary-General to monitor and follow closely the situation in Burundi, in close association with the Organization of African Unity, and report to the Council thereon urgently. In this context, it takes note with appreciation of the dispatch by the Secretary-General of a Special Envoy to Burundi.

“The Council will remain seized of the matter.”

By a letter⁵ dated 2 November 1993, addressed to the President of the Security Council, the Secretary-General informed the Council that his Special Envoy had arrived in Bujumbura on 27 October and had met with the surviving members of the Government which had taken refuge in the French Embassy compound. They had informed him that the *coup d'état* was continuing and that they had no intention of resuming their functions until an international force was deployed in the country to protect them and to ensure that the army, in which they no longer had any confidence, returned to barracks. His Special

⁴ S/26631.

⁵ S/26745.

Envoy had subsequently met with the Army Command. As one of the confidence-building measures, he had suggested the appointment of a Special Representative; the suggestion had received general support. On 29 October, his Special Envoy was informed that the Government had re-established its authority but would continue to operate from the French Embassy compound.

The Secretary-General recalled that, in a Presidential statement⁶ issued on 25 October 1993, the Council had requested him to monitor the situation in Burundi, in close association with the Organization of African Unity (OAU). In that context, he informed the members of the Council that in a communiqué⁷ adopted by the Regional Summit on the situation in Burundi, held at Kigali, Rwanda on 28 October 1993, the Summit, *inter alia*, had asked him, in consultation with the OAU Secretary-General, to set up an international force for confidence-building and for stabilizing the situation in Burundi, to be composed of forces drawn essentially from African countries chosen in consultation with the Government of Burundi. He therefore announced his intention to hold consultations with the OAU Secretary-General, to explore common areas of cooperation, and to appoint a Special Representative for Burundi.

Decision of 16 November 1993 (3316th meeting): statement by the President

By a letter⁸ dated 4 November 1993, addressed to the President of the Security Council, the representative of Burundi reiterated his Government's request for the dispatch of an international force to Burundi. He contended that the presence of such force would help to dispel mistrust and would encourage the hundreds of thousands of Burundian refugees and the many displaced persons to return to their homes. He therefore requested the convening of an urgent meeting of the Council to examine his Government's request.

6 S/26631.

7 S/26676.

8 S/26703.

At its 3316th meeting, on 16 November 1993, the Security Council included the above letter in its agenda. Following the adoption of the agenda, the Council invited the representatives of Burundi and Rwanda, at their request, to participate in the discussion without the right to vote.

The President (Cape Verde) then stated that, after consultations with the members of the Council, he had been authorized to make the following statement⁹ on behalf of the Council:

“The Security Council continues to follow with deep concern the developments in Burundi, which have threatened that country's nascent democracy, and caused widespread violence and bloodshed.

“The Council reiterates its condemnation of the abrupt and violent interruption of the democratic process initiated in Burundi and demands the immediate cessation of acts of violence.

“The Council warmly commends the Prime Minister and the other members of the Government of Burundi for their courage, and the spirit of reconciliation they have demonstrated at this very difficult moment.

“The Council is alarmed at the grave humanitarian consequences of this tragedy, which has resulted in the movement of over 700,000 refugees into neighbouring countries and an increasing number of internally displaced persons throughout the country. The Council appeals to all States, international agencies and other humanitarian organizations to provide prompt humanitarian assistance to the affected civilian population in Burundi and neighbouring countries.

“The Council notes with satisfaction the immediate response of the Secretary-General to this situation by the dispatch of a Special Envoy on a good offices mission to facilitate the return of the country to constitutional rule, and welcomes the appointment by the Secretary-General of a Special Representative for Burundi. The Security Council also welcomes the efforts of the Organization of African Unity to assist the Government of Burundi in its efforts to restore democratic institutions, rebuild confidence and stabilize the situation.

“The Council expresses gratitude to the States which provided shelter in their diplomatic compounds to the members of the Government of Burundi and also expresses its gratitude for the technical assistance provided by those countries to ensure the security and safety of the members of the Government.

“The Council encourages the Secretary-General to continue using his good offices through his Special Representative and to consider dispatching in his support as soon as possible a small United Nations team, within existing resources, to Burundi for fact-finding

⁹ S/26757.

and advice with a view to facilitating the efforts of the Government of Burundi and the Organization of African Unity.

“The Council requests the Secretary-General to keep it informed as appropriate on the situation and the progress of the United Nations good offices mission. It also requests the Secretary-General to report, at the earliest, with recommendations on the possible establishment of a voluntary fund to assist in the dispatch of an Organization of African Unity mission as announced by the Secretary-General of this organization.

“The Council will remain seized of the matter.”

Decision of 29 July 1994 (3410th meeting): statement by the President

At its 3410th meeting, on 29 July 1994, the Security Council resumed its consideration of the item on its agenda. After the adoption of the agenda, the Council invited the representative of Burundi.

The President (Pakistan) then stated that, after consultations among the members of the Council, he had been authorized to make the following statement¹⁰ on behalf of the Council:

"For the last few months, the Security Council has been following closely the tense and volatile situation in Burundi, based on briefings by the Secretariat. The Council appreciates the efforts made in Burundi to maintain peace in the country under very difficult circumstances and, in this context, commends the civilian and military authorities concerned.

"The Council welcomes the ongoing cooperation between the Organization of African Unity and the United Nations to assist in maintaining peace in Burundi. In this connection, the Council encourages the Secretary-General to continue using his good offices through his Special Representative.

"The Council is deeply concerned by the humanitarian problems created as a result of the arrival of tens of thousands of refugees in the northern provinces of Burundi.

"The Council supports the ongoing political dialogue in Burundi aimed at reaching an early agreement on presidential succession. It calls upon all parties to reach rapidly a settlement based on democratic principles.

¹⁰ S/PRST/1994/38.

"The Council condemns those extremist elements who continue to reject the ongoing negotiations and seek to block progress towards a peaceful settlement. In this context, the Council is alarmed by the recent violence in Bujumbura and reiterates the terms of its presidential statements of 25 October and 16 November 1993. The Council demands that all parties cease immediately any incitement to violence or ethnic hatred.

"The Council encourages all those who support a peaceful solution to persist in their efforts. It further calls upon all Burundians, especially political, military and religious leaders, to do their utmost for the success of the ongoing political dialogue.

"The Council looks forward to reports on Burundi from the Secretary-General and will remain actively seized of the matter."

Decision of 25 August 1994 (3419th meeting): statement by the President

At its 3419th meeting, on 25 August 1994, the Security Council continued its consideration of the item entitled "The situation in Burundi". After the adoption of the agenda, the Council invited the representative of Burundi, at his request, to participate in the discussion without the right to vote.

The President (Russian Federation) then stated that, after consultations among the members of the Council, he had been authorized to make the following statement¹¹ on behalf of the Council:

"The Security Council considered the oral report¹² of its fact-finding mission to Burundi which visited Bujumbura on 13 and 14 August 1994 and the subsequent briefing by the Secretary-General. The Council takes note of the observations and recommendations contained therein.

¹¹ S/PRST/1994/47.

¹² The Security Council decided on 11 August 1994 during informal consultations that members of its mission to Mozambique should proceed to Burundi for a two - day fact - finding mission . The mission, composed of the representatives of Nigeria, the Czech Republic, the Russian Federation and the United States, visited Bujumbura from 13 to 14 August 1994. It recommended that the international community encourage the establishment of democratic institutions in Burundi, including the nomination of a President, and an operational airlift capability; convene an international conference on the crisis and the problems of the subregion; provide immediate assistance to restore the judicial system; induce the Zairian authorities to disarm former Rwandese government forces and remove them from the border with Burundi; deploy human rights observers throughout the country; bring to justice the perpetrators of the October 1993 *coup d'état* and subsequent massacres; and investigate violations of international humanitarian law. The mission also recommended periodic high-level visits to Burundi by United Nations officials and the strengthening of the office of the Special Representative for Burundi.

"The Council welcomes the ongoing negotiations in Burundi aimed at reaching an early agreement on presidential succession, overcoming the long-lasting constitutional crisis and establishing stable democratic institutions in the country. The Council urges all parties to these negotiations to display maximum political will for a speedy settlement of existing differences and to make every effort to accomplish this objective by the scheduled date of 26 August 1994.

"The Council follows closely the current negotiations and deplores the attempts of any party to block progress towards political settlement, which is essential for stability in the country and for the prevention of outbreaks of violence.

"The Council reaffirms its condemnation of those extremist elements who attempt to undermine the national reconciliation. The Council calls upon all the parties in Burundi to reject any undemocratic or extremist solutions in the settlement of their political differences.

"The Council considers that impunity from justice is one of the most serious problems which contribute to the deterioration of the security situation in Burundi. For this reason, it attaches importance to the strengthening of the national judicial system. The Council also attaches importance to the deployment in Burundi of civilian observers responsible for monitoring the establishment of a more secure environment.

"The Council is alarmed at the extent of the humanitarian crisis in Burundi. It is concerned with recent attacks against foreigners in Burundi, including those involved in humanitarian relief operations and belonging to the diplomatic community. It calls upon the authorities and all parties in Burundi to provide safety and security for all personnel involved in the relief efforts and other international personnel.

"The Council encourages the Secretary-General to continue to keep under close review ways and means of using available resources to sustain and enhance the international humanitarian efforts in Burundi and to promote national reconciliation there. It likewise encourages the Organization of African Unity and States Members of the United Nations to redouble their efforts in this regard, including through political contacts.

"The Council commends the Secretary-General and his Special Representative for Burundi, as well as the United Nations High Commissioner for Human Rights and the United Nations High Commissioner for Refugees, for their tireless efforts, within their respective competences, to contribute to the resolution of political, humanitarian and other problems of this country.

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

Decision of 21 October 1994 (3441st meeting): statement by the President

On 11 October 1994, pursuant to a decision taken by the Security Council following informal consultations on 16 September 1994, the Secretary-General submitted to the Council a report¹³ on the situation in Burundi. On the political level, the Secretary-General noted that since 6 April 1994, the date on which the Presidents of Burundi and Rwanda were killed in a plane crash when returning from a regional peace conference held in Tanzania, there had been constant rumours that Burundi was on the verge of succumbing to a crisis as serious as that which Rwanda had just experienced. He had therefore followed the situation very closely. His Special Representative had set himself the task of convincing the political class in Burundi that there was no advantage in giving an ethnic or political connotation to that accidental tragedy. He appeared to have succeeded since the situation, although still fragile, was not really explosive. Political life had revolved around the selection of a president. A forum of recognized political parties and representatives of the civil society, called Forum of the Negotiations, was established to deal with power-sharing and the modalities for the election of a new president and was able to reach, on 10 September, a first agreement on power-sharing. 10 of the 13 political parties signed a Convention of Government, which provided for a Government of 25 members (55 per cent from the Hutu majority) appointed by the President; a four-year transitional period; the appointment of a Prime Minister from among the opposition; and the creation of a National Security Council of 10 members, equitably divided between the Front pour la démocratie au Burundi (FRODEBU) and the opposition. On 18 September, a second agreement was reached on the modalities for appointing a new president. Mr. Sylvestre Ntibantunganya was sworn in as President on 1 October, following his election by the National Assembly, and two days later, Mr. Anatole Kanyenkiko was confirmed as Prime Minister. A new coalition Government was constituted on 5 October 1994.¹⁴

The Secretary-General further reported that the security situation in the country remained extremely unstable. Clashes between security forces and armed Hutu rebels

¹³ S/1994/1152.

¹⁴ S/1994/1152, annex II.

occurred very frequently and armed attacks on notables, especially Hutus, were common. He noted that the climate of insecurity was linked to the investigations and revenge in connection with the crisis of October 1993: the Hutu believed that the investigations were not impartial, were essentially directed against them and disregarded the civilian and military personnel involved in the *coup d'état* whereas the Tutsi believed that they were partial and did not take into account the perpetrators of the massacres subsequent to the *coup d'état*. In the meantime, a clandestine radio was operating intermittently, inciting hatred among the Hutu population and encouraging it to take up arms against the Tutsi.

The Secretary-General also noted that over one million people from Burundi and Rwanda needed humanitarian assistance. The High Commission for Refugees was continuing to look for lasting solutions. However, it was clear that those solutions could only be found within the framework of a comprehensive political solution and a regional approach. Therefore he had sent a mission to the area to examine the situation from a regional angle.

The Secretary-General observed that although the situation had stabilized somewhat with the election of a new President, it nevertheless remained precarious and the international community should therefore continue encouraging the moderates to re-establish democracy in Burundi. He therefore recommended the following: the maintenance in Zaire, with the Government's agreement, of a military presence capable of rapid intervention should the situation in Burundi deteriorate suddenly; deployment of a contingent of guards to protect personnel from the humanitarian organizations; stepping-up of technical assistance to enable the Government of Burundi to begin reconstruction; deployment of human rights observers to facilitate the process of national reconciliation; strengthening the office of his Special Representative; organization of a regional summit; and increased visits to Burundi by eminent persons to show the support of the international community.

At its 3441st meeting, on 21 October 1994, the Security Council included the report of the Secretary-General in its agenda. Following the adoption of the agenda, the Council invited the representative of Burundi.

The President (United Kingdom) then stated that, after consultations among the members of the Council, he had been authorized to make the following statement¹⁵ on behalf of the Council:

"The Security Council has considered the situation in Burundi, on the basis of the report of the Secretary-General of 11 October 1994. It recalls its earlier presidential statements on this subject, most recently that made on 25 August 1994. It warmly welcomes the election and swearing in of the President, the confirmation in office of the Prime Minister and the formation of the new coalition Government. It believes that this represents an important step forward in the stabilization of the situation in Burundi. It calls upon all parties in Burundi to cooperate in the work of re-establishing democracy and stability.

"The Council remains concerned that, despite the important political progress that has been made, much remains to be done if the climate of insecurity described by the Secretary-General in his report is to be dispelled and the country set firmly on the path of reconciliation and reconstruction. The Council deplores the fact that extremist elements continue to threaten national reconciliation, including through the operation of a clandestine radio station inciting ethnic hatred and violence. It reaffirms the importance of bringing to justice those responsible for the *coup d'état* of 21 October 1993 and subsequent inter-ethnic massacres and other violations of international humanitarian law. In this regard, it also encourages the Secretary-General to pursue his suggestion that United Nations assistance be provided to the Government of Burundi in strengthening its judicial system.

"The Council commends the role played by the Special Representative of the Secretary-General, including in helping the new coalition Government to organize a national debate early in 1995 on the problems of relations between the two communities. The Council attaches importance to the success of this initiative. In this regard, it welcomes the Secretary-General's intention to strengthen the office of the Special Representative.

"The Council believes the international community must continue to give priority to the restoration of stability and the promotion of national reconciliation in Burundi. In this context, it recognizes the work of the United Nations High Commissioner for Human Rights and the office he has established in Burundi and notes the important role human

¹⁵ S/PRST/1994/60.

rights monitors might play. It welcomes the recent increase in the number of Organization of African Unity military observers in Burundi. It encourages the Organization of African Unity, United Nations agencies and Member States to continue their involvement in Burundi and to intensify political contacts and visits. It notes the importance of increased technical assistance from the international community as the coalition Government tackles the critical tasks of reconciliation and reconstruction.

"The Council remains deeply concerned at the plight of refugees and displaced persons in Burundi. It commends the continuing efforts of the United Nations High Commissioner for Refugees and other humanitarian bodies to address this problem. It welcomes the Secretary-General's sending of a special envoy to study the refugee crisis from a regional perspective and looks forward to any recommendations that the Secretary-General may have as a result of that initiative.

"The Council calls upon the authorities and all parties in Burundi to ensure the safety and security of all personnel involved in the relief efforts and other international personnel.

"In the statement made by the President of the Security Council on 14 October 1994 on the situation in Rwanda, the Council encouraged the Secretary-General to pursue consultations as to how the United Nations could assist in the preparation and convening of an international conference to look into the problems of the subregion. The Council believes that the holding of such a conference would be of real value in the context of Burundi.

"The Council stands ready to consider further any detailed proposals which the Secretary-General may have.

The Council will remain actively seized of the matter."

By a letter¹⁶ of 26 October 1994 addressed to the Secretary-General, the representative of Burundi, referring to paragraph 48 of the report of the Secretary-General dated 11 October 1994, said that his Government welcomed the suggestion to establish a "humanitarian base" at Bujumbura airport, but that consideration should be given to those persons already displaced and to the question of coordinating humanitarian aid. Concerning the proposal to maintain a military presence in Zaire, it expressed confidence in its own ability to deal with any eventuality and contended that such presence should be designed to help the Government of Zaire to maintain peace and security in the Zairian province of Kivu, disarm the armed bands and deter any

¹⁶ S/1994/1218.

subversive elements from moving towards Burundi and Rwanda. His Government rejected the deployment of a contingent of guards to protect the humanitarian organization teams in Burundi, since the OAU observer mission in Burundi and the security forces were already performing that task. While it did not object in principle to the strengthening of the office of the Special Representative, it preferred that such action focus on logistical aspects and to have the human contribution in the form of missions by consultants. His Government supported the deployment of human rights observers in Burundi.

Decision of 22 December 1994 (3485th meeting): statement by the President

At its 3485th meeting, on 22 December 1994, the Security Council continued its consideration of the item on its agenda.

After the adoption of the agenda, the President (Rwanda) stated that, following consultations among the members of the Council, he had been authorized to make the following statement¹⁷ on behalf of the Council:

"The Security Council continues to follow closely developments in Burundi. It is concerned about the escalation of violence in Burundi, both in Bujumbura and in the countryside, which threatens to destabilize further an already fragile situation and could endanger the stability of the subregion. It calls upon all those concerned to refrain from violence. It supports fully the efforts of the Burundian authorities in seeking to ensure that those committing or inciting the commission of acts of violence are held accountable for their actions and that the militias that are still operating both in Bujumbura and in the countryside are disarmed.

"The Council encourages the Government, the National Assembly, the political parties and all others concerned in Burundi, and in particular the army, to respect and give support to the Convention on Governance of 10 September 1994 and thus avoid jeopardizing the delicate balance and relative stability in place since its implementation.

"The Council welcomes the continuing efforts being made to bring about further political progress in Burundi, and underlines the importance of continuing to resolve all outstanding issues through dialogue on the basis of the agreements reached thus far by

¹⁷ S/PRST/1994/82.

the political parties. It urges all sides to reject confrontational tactics, violence or extremism and to work towards compromise and conciliation in a spirit of national unity which transcends ethnic origins.

"The Council commends the Secretary-General for his efforts and expresses appreciation for the work done by his Special Representative, and the Organization of African Unity, the United Nations High Commissioner for Refugees and the United Nations High Commissioner for Human Rights, for their efforts, within their respective competences, to contribute to the resolution of the problems of Burundi.

"The Council requests the Secretary-General to keep it fully informed of developments in Burundi.

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

Decision of 31 January 1995 (3497th meeting): statement by the President

At its 3497th meeting, on 31 January 1995, the Security Council resumed its consideration of the item on its agenda. After the adoption of the agenda, the President (Argentina) drew the attention of the members of the Council to a letter¹⁸ dated 25 January 1995 from the representative of Burundi, addressed to the President of the Security Council.

He then stated that, after consultations among the members of the Council, he had been authorized to make the following statement¹⁹ on behalf of the Council:

"The Security Council, which has been following closely developments in Burundi, has learned with concern that the situation in the country has deteriorated considerably over the last few days.

"In this context, the Council deeply deplores the pronouncements made by the leadership of one political party which calls for the withdrawal of the Prime Minister and the overthrow of his Government by all means available.

"The Council denounces such attempts to threaten by way of intimidation the coalition Government which was established in line with the Convention on Governance

18 S/1995/76.

19 S/PRST/1995/5.

of 10 September 1994. It further condemns the extremist groups that continue to undermine the national reconciliation process.

"The Council calls upon all parties and others concerned, in particular the national security forces, to refrain from committing acts of violence and to give support to the Government institutions established in line with the above-mentioned Convention.

"The Council requests the Secretary-General to continue to keep it fully informed of developments in Burundi. The Council will remain actively seized of the matter."

Decision of 9 March 1995 (3506th meeting): statement by the President

By a letter²⁰ dated 28 February 1995 addressed to the President of the Security Council, the members²¹ of the Security Council mission to Burundi transmitted the report of their mission to Bujumbura, from 10 to 11 February 1995, in accordance with a decision taken by the Security Council during informal consultations on 6 February 1995.²² The Mission had followed up on work done by an earlier Council Mission to Burundi.²³

The Mission noted that the political and security situation in the country remained precarious and was potentially explosive due to the unwillingness of Tutsi and Hutu extremist elements, both within the coalition Government and outside it, to accept the power-sharing arrangements contained in the Convention on Governance. Those extremists had usurped the political initiative, at the expense of the moderate elements who constituted the majority of the population and had been silenced through threat and intimidation. Further aggravating the situation was the fact that the security forces, which were mainly Tutsi, formed an independent power centre, and their support of the coalition Government could not be taken for granted. Moreover, the culture of impunity persisted and there had been no political or judicial accountability of those directly involved in the coup attempt and subsequent massacres. In addition, the judicial system,

20 S/1995/163.

21 Nigeria, China, Czech Republic, Germany, Honduras, Indonesia and the United States.

22 For the mandate and terms of reference of the Mission, see S/1995/112.

23 S/1994/1039.

which had largely collapsed, was often perceived as being partial. Those factors jeopardized the survival of the coalition Government, the Convention, and peace and security in Burundi and in the region as a whole.

The Mission therefore recommended the prompt establishment of an international commission of inquiry into the October 1993 events, as proposed by the Government and augmenting the United Nations presence in Burundi to assist the Government in building an impartial judicial system, training civilian police forces and establishing an effective administrative presence in the provinces. It also recommended that the number of OAU observers should be substantially increased and that human rights monitors should be deployed throughout the country, as requested by Burundi.

The Mission supported the holding of a national debate with the participation of all segments of the society, as a means of fostering political dialogue. It further recommended the continuation of visits to Burundi of high-level international delegations to underscore international concern and diffuse tension. Some members of the Mission were of the opinion that, in order to promote political stability and national reconciliation, the Security Council should explore the possibility of imposing selective sanctions against individuals believed to belong to extremist groups in Burundi.

******At its 3506th meeting, on 9 March 1995, the Security Council included the report of the Security Council mission to Burundi in its agenda and invited the representative of Burundi, at his request, to participate in the discussion without the right to vote. The President (China) then drew the attention of the members of the Council to the following documents: a letter²⁴ dated 23 February 1995 from the Secretary-General, addressed to the President of the Security Council, transmitting the report of the preparatory fact-finding mission²⁵ to Burundi dated 20 May 1994; a letter²⁶ dated 6

²⁴ S/1995/157. For further details, see also Chapter V of the present *Supplement*.

²⁵ The Preparatory Fact-Finding Mission was sent by the Secretary-General, in response to a request made by the Government of Burundi, to investigate the coup d'état of October 1993 and to consider what activities future missions or an expanded United Nations political presence could undertake to encourage return to civil peace.

²⁶ S/1995/185.

March 1995 from the representative of Burundi, addressed to the President of the Security Council transmitting the reaction of his Government to the Mission's report; and a letter²⁷ dated 8 March 1995 from the representative of Burundi, addressed to the Secretary-General, transmitting a copy of the Agreement embodying the Convention on Governance of 10 September 1994.

The President then stated that, following consultations among the members of the Council, he had been authorized to make the following statement²⁸ on behalf of the members of the Council:

"The Security Council has considered the reports of its mission to Burundi which visited Bujumbura on 10 and 11 February 1995 and welcomes the observations and recommendations contained in the report of the mission of 28 February 1995. It expresses its appreciation to the mission members for their efforts.

"The Council recalls its earlier statements on the situation in Burundi, in particular that of 31 January 1995. It remains deeply concerned that a climate of insecurity continues to prevail in Burundi. It condemns the activities of those, both within and outside the country, who seek to nullify the agreed power-sharing arrangements contained in the Convention on Governance of 10 September 1994 by resorting to undemocratic methods such as intimidation and incitement to violence, as well as guerilla activities and subversive political activity. Such actions have threatened peace, stability and national reconciliation.

"The Council reaffirms its support for the Convention on Governance and for the coalition Government established under it. In this connection, it notes the appointment of the Prime Minister and his Cabinet and urges all parties in Burundi to work together to ensure stability in the country.

²⁷ S/1995/190, annex.

²⁸ S/PRST/1995/10.

"The Council reaffirms the view that impunity is a fundamental problem in Burundi, one which seriously endangers security in the country, and stresses the importance it attaches to assistance being given to help strengthen the national judicial system. In this context, it underlines the role that could be played by an international commission of inquiry into the 1993 attempted *coup d'état* and into the massacres that followed, established in accordance with the Convention on Governance.

"The Council strongly reaffirms its support for the implementation of the provisions of the Convention on Governance calling for the holding of a national debate with the participation of all segments of the society in Burundi, as a means of fostering political dialogue.

"The Council underlines the importance of assisting the Government of Burundi in its efforts to restore stability and promote national reconciliation. In this context, it encourages the Secretary-General, in consultation with the Government of Burundi, to augment the United Nations presence in the country, in order to assist the Government of Burundi in strengthening the national judicial system, training civilian police forces and establishing an effective administrative presence in the provinces. It commends the important role played by the Special Representative of the Secretary-General.

"The Council reiterates that improving the security situation in Burundi must be given high priority. It encourages the United Nations High Commissioner for Human Rights, in consultation with the Government of Burundi and in close coordination with the Special Representative of the Secretary-General, to reinforce the office he had established in Burundi. Consideration could also be given to the role human rights monitors could play.

"The Council also recognizes the significant contribution made by the military observers of the Organization of African Unity. It encourages the Organization of African Unity, in consultation with the Government of Burundi, to increase their number further and calls upon the international community to assist the Organization of African Unity in this regard.

“The Council further calls upon all parties in Burundi to cooperate with international observers and other personnel by ensuring unimpeded access to all parts of the country.

“The Council requests the Secretary-General to continue to keep it fully informed of developments in Burundi. The Council will remain actively seized of the matter.”

Decision of 29 March 1995 (3511th meeting): statement by the President

At its 3511th meeting on 29 March 1995, the Security Council resumed its consideration of the item on its agenda. Following the adoption of the agenda, the President (China) stated that, after consultations among the members of the Council, he had been authorized to make the following statement²⁹ on behalf of the Council:

"The Security Council is deeply concerned about the escalation of violence in Burundi. It condemns the murders of the Minister of Energy and Mines and of the former Mayor of Bujumbura by extremists and deplors the ensuing ethnic killings of many people, which have caused thousands to flee their homes. It stresses the futility of resorting to violence and condemns the activities of the extremist elements who try to destabilize the country and threaten the whole region. It encourages all States to take the measures deemed necessary to prevent them from travelling abroad and receiving any kind of support. It reaffirms its determination to support the Convention on Governance of 10 September 1994, the provisions of which constitute the institutional framework for the necessary national reconciliation. The Council calls on all political parties, military forces and all elements of civil society fully to respect and implement the Convention in a spirit of dialogue, moderation and compromise.

"The Council urges all parties to work together to further the dialogue. It underlines the urgency of organizing, in accordance with the Convention on Governance, a national debate with the participation of all elements of the nation with a view to consolidating national reconciliation and restoring democracy. It invites the Secretary-General to help

²⁹ S/PRST/1995/13.

the various political parties and elements of civil society to initiate this comprehensive consultation.

"The Council warns that those who commit crimes against humanity are individually responsible for their crimes and will be brought to justice. The Council specifically warns that, if acts of genocide are committed in Burundi, it will consider taking appropriate measures to bring to justice under international law any who may have committed such acts.

"The Council reaffirms its view that the perception of impunity is a fundamental problem in Burundi, one which seriously endangers security in the country. The Council expresses once again its grave concern at reports indicating that systematic, widespread and flagrant violations of international humanitarian law have been committed in Burundi.

"The Council recalls the statement by the President of the Security Council of 9 March 1995, in which the Council, *inter alia*, underlined the role that could be played in Burundi by an international commission of inquiry into the October 1993 attempted *coup d'état* and into the massacres that followed. It requests the Secretary-General to report to the Council on an urgent basis on what steps should be taken to establish such an impartial commission of inquiry.

"The Council favours measures to restore a state of law and improve the functioning of the judicial system. It also favours the organization of a round table of donors. It urges States to provide for these projects financial contributions directly or through a trust fund to be created for this purpose.

"The Council supports the reinforcement of the action decided by the United Nations High Commissioner for Human Rights and welcomes the dispatching of experts.

"The Council pays tribute to the actions taken by the Organization of African Unity. It calls upon the Organization of African Unity and its members in the subregion to continue to use their influence to help stabilize the situation in Burundi. It further calls upon all States, in particular neighbouring States, to refrain from supplying or allowing the

transit of arms and to deny sanctuary and any other assistance to those extremist elements which seek to destabilize the situation in Burundi.

"Aware of the close interconnection between various humanitarian and political problems in the region and of the risk of subsequent destabilization, the Council reaffirms its support for a regional conference on peace, stability and security and calls upon the countries of the region to convene such a conference as a matter of urgency.

"The Council remains seized of the matter. It will consider taking action as the situation demands."

Decision of 28 August 1995 (3571st meeting): resolution 1012 (1995)

By a letter³⁰ dated 28 July 1995, addressed to the President of the Security Council, the Secretary-General transmitted to the Council the report of the Special Envoy appointed to examine the feasibility of establishing either a commission on the truth or a judicial fact-finding commission in Burundi.³¹ The report concluded that neither a commission on the truth on the Salvadorian model nor an international judicial commission of inquiry, with a mandate limited to purely judicial matters, would be an adequate response to put an end to impunity in Burundi. However, an international judicial commission of inquiry could be viable and useful if its mandate guaranteed that its conclusions and recommendations would be implemented. The commission would be empowered not only to undertake a judicial inquiry but also to make recommendations of an institutional nature in the legal, political, and/or administrative fields. The cooperation of the Burundian authorities, including their explicit commitment to implement the commission's recommendations would be required. Finally, the commission should be established by a resolution of the Security Council and the United Nations should verify that its recommendations were implemented.

³⁰ S/1995/631.

³¹ In the statement by the President of the Security Council of 29 March 1995 (S/PRST/1995/13), the Security Council requested the Secretary-General to report to the Council on an urgent basis on what steps should be taken to establish an impartial commission of inquiry into the October 1993 attempted *coup d'état* in Burundi and into the massacres that followed.

On that basis, the Secretary-General recommended the establishment of a three-member commission of inquiry, appointed by him, with a threefold mandate: i) to establish the facts relating to the assassination of the President of Burundi, the subsequent massacres, and other serious acts of violence and political crimes committed since that date; ii) to recommend modalities for the trial and punishment of persons it had identified as being responsible for those offences; and iii) to recommend measures of a legal, political or administrative nature, including those requiring legislative or constitutional reform, to prevent any repetition of those acts and eradicate impunity in Burundi. He further observed that the full cooperation of the Burundian Government would be needed and described the modalities for such cooperation.

At its 3571st meeting on 28 August 1995, the Security Council included the letter from the Secretary-General in its agenda. After the adoption of the agenda, the Council invited the representative of Burundi, at his request, to participate in the discussion without the right to vote.

The President (Indonesia) then drew the attention of the members of the Council to the text of a draft resolution³² submitted by Argentina, the Czech Republic, France, Germany, Honduras, Italy, the Russian Federation, Rwanda, the United Kingdom and the United States. He also drew their attention to the following other documents: letter³³ dated 23 February 1995 from the Secretary-General, addressed to the President of the Security Council, transmitting a copy of the report of the preparatory fact-finding mission to Burundi; the report³⁴ of the Security Council mission to Burundi; and letters³⁵ dated 8 and 23 August 1995 from the representative of Burundi addressed to the President of the Security Council on the establishment and the terms of reference of the international judicial commission of inquiry for Burundi.

³² S/1995/724.

³³ S/1995/157.

³⁴ S/1995/163.

³⁵ S/1995/673 and S/1995/731.

The representative of Burundi said that the initiative for the establishment of the commission of inquiry came from his Government in search of an impartial international arbiter. He stated that, following the President's assassination in October 1993, the political parties that clung to the notion that he had been assassinated because of his Hutu origins, had shown themselves to be avid proponents of "ethnic cleansing" aimed at the Tutsi, who were wrongly accused of being allied with the army. That view had been firmly rejected by the opposition, which objected that the President had been elected Head of State of all the national groups. Faced with those opposing positions, Burundi's political leadership had decided to turn to an international forum in order to determine those guilty of murdering the President and part of the population. Clearly, the President's assassination was a political crime and the systematic annihilation of social and human groupings on the basis of their ethnic affiliation a crime against humanity. The speaker further stressed that the success of the work of the commission would depend on close cooperation with the Government of Burundi, its security forces, and the national judicial system. The commission would have to resist any temptation to exceed its mandate, as delineated in the terms of reference proposed by the Government, and set out in the draft resolution before the Council. Moreover, it should avoid any compromise of national sovereignty and any interference in the internal affairs of his country.³⁶

Speaking before the vote, the representative of China stated that his delegation endorsed the proposed establishment of an international commission of inquiry in principle and would therefore support the draft resolution. The international community should, however, fully respect the independence and sovereignty of Burundi and should not interfere in its internal affairs. It must also heed and respect the views of the Burundian Government in connection with the establishment of the commission. In that context, he expressed his delegation's reservations in relation to some elements of the commission's mandate, which was rather extensive and, in certain aspects, touched upon Burundi's sovereignty and internal affairs.³⁷

³⁶ S/PV.3571, pp. 2-4.

³⁷ Ibid., pp. 5-6.

The representative of Botswana contended that failure to deliver justice on time had now resulted in a self-perpetuating situation. His delegation was deeply distressed by the politically motivated killings that had become a feature of life in Burundi and shared the concern that the creeping culture of killings which threatened to take root in Burundi, must be stopped and reversed. He emphasized that the perpetrators of the coup attempt of October 1993 and the massacres which followed, had to be brought to justice. At the same time, he warned that the matter must be dealt with carefully. The work of an international, independent and impartial Commission should at the end of the day help foster national reconciliation and political stability in Burundi. He stressed that the cooperation of the Government of Burundi was not only vital but the key to the successful outcome of the commission's work and the follow-up mechanisms since it would have to implement the recommendations. Operative paragraph 1 (a) and (b) and operative paragraph 5 (a) to (f) constituted the spirit and essence of the work of the commission.³⁸

The draft resolution was thereupon put to the vote and was adopted unanimously as resolution 1012 (1995), which reads as follows:

The Security Council,

Having considered the report of the Preparatory Fact-finding Mission to Burundi dated 20 May 1994,

Having further considered the report of the Security Council's mission to Burundi of 28 February 1995,

Recalling the statement by the President of the Security Council of 29 March 1995, in which the Council, *inter alia*, underlined the role that could be played in Burundi by an international commission of inquiry into the 1993 attempted *coup d'état* and into the massacres that followed,

Welcoming the letter dated 28 July 1995 from the Secretary-General to the President recommending that such a commission of inquiry be created by resolution of the Council,

³⁸ S/PV.3571, pp. 6-7.

Taking into account the initiative of the Government of Burundi in calling for the establishment of an international judicial commission of inquiry as referred to in the Convention on Governance,

Recalling the letter dated 8 August 1995 from the Permanent Representative of Burundi to the United Nations addressed to the President of the Security Council, noting with interest the letter of the Secretary-General dated 28 July 1995,

Taking note of the fact that the parties in Burundi, in the Convention on Governance, agreed, without prejudice to the outcome of the independent national and international investigations, to call the massacres which followed the assassination of the President of Burundi on 21 October 1993 genocide,

Deeply concerned that impunity creates contempt for law and leads to violations of international humanitarian law,

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

Stressing the importance of strengthening, in cooperation with the Government of Burundi, the Burundian judicial system,

Reiterating its profound concern over the resumption of radio broadcasts inciting ethnic hatred and violence, and recognizing the need for ending such broadcasts,

Recalling that all persons who commit or authorize the commission of serious violations of international humanitarian law are individually responsible for these violations and should be held accountable,

1. *Requests* the Secretary-General to establish, as a matter of urgency, an International Commission of Inquiry, with the following mandate:

(a) To establish the facts relating to the assassination of the President of Burundi on 21 October 1993, the massacres and other related serious acts of violence which followed;

(b) To recommend measures of a legal, political or administrative nature, as appropriate, after consultation with the Government of Burundi, and measures with regard to the bringing to justice of persons responsible for those acts, to prevent any repetition of deeds similar to those investigated by the Commission and, in general, to eradicate impunity and promote national reconciliation in Burundi;

2. *Recommends* that the Commission of Inquiry be composed of five impartial and internationally respected, experienced jurists who shall be selected by the Secretary-General and shall be furnished with adequate expert staff, and that the Government of Burundi be duly informed;

3. *Calls upon* States, relevant United Nations bodies and, as appropriate, international humanitarian organizations to collate substantiated information in their possession relating to acts covered in paragraph 1 (a) above, to make such information available as soon as possible and to provide appropriate assistance to the Commission of Inquiry;

4. *Requests* the Secretary-General to report to the Council on the establishment of the Commission of Inquiry, and further requests the Secretary-General, within three months from the establishment of the Commission, to submit an interim report to the Council on its work and to submit a final report when it completes its work;

5. *Calls upon* the Burundian authorities and institutions, including all Burundian political parties, to cooperate fully with the Commission of Inquiry in the accomplishment of its mandate, including responding positively to requests from the Commission for security, assistance and access in pursuing investigations, including:

- (a) Adoption by the Government of Burundi of any measures needed for the Commission and its personnel to carry out their functions throughout the national territory with full freedom, independence and security;
- (b) Provision by the Government of Burundi of all information in its possession which the Commission requests or is otherwise needed to carry out its mandate and free access for the Commission and its staff to any official archives related to its mandate;

(c) Freedom for the Commission to obtain any information the Commission considers relevant and to use all sources of information which the commission considers useful and reliable;

(d) Freedom for the Commission to interview, in private, any persons the Commission judges necessary;

(e) Freedom for the Commission to visit any establishment or place at any time;

(f) Guarantee by the Government of Burundi of full respect for the integrity, security and freedom of witnesses, experts and any other persons who help the Commission in its work;

6. *Calls upon* all States to cooperate with the Commission in facilitating its investigations;

7. *Requests* the Secretary-General to provide adequate security for the Commission in cooperation with the Government of Burundi;

8. *Also requests* the Secretary-General to establish, as a supplement to financing as an expense of the Organization, a trust fund to receive voluntary contributions to finance the Commission of Inquiry;

9. *Urges* States and intergovernmental and non-governmental organizations to contribute funds, equipment and services to the Commission of Inquiry including the offer of expert personnel in support of the implementation of the present resolution;

10. *Decides* to remain actively seized of the matter.

Speaking after the vote, the representative of the United States pointed out that the resolution had been drafted in close consultation with the Burundian authorities. His delegation had acted out of its abiding humanitarian concern in stemming the systematic, widespread and flagrant violations of international humanitarian law which had plagued Burundi in the aftermath of the October 1993 assassination of its President. The continuing instability in the area demonstrated the importance and the urgency of fostering reconciliation and accountability for human rights abuses. He hoped that the commission would establish the facts and recommend measures to prevent any repetition of deeds similar to those being investigated and to eradicate impunity in Burundi. It was however up to the Government to decide on what measures were taken. He trusted that the Secretary-General would appoint commissioners from different judicial backgrounds and that all in Burundi would cooperate fully and openly with them.³⁹

The representative of France stated that the Commission's mandate would be to make recommendations so that the guilty would be brought to justice and that the acts of violence would not be repeated. However, attempting to break the cycle of impunity would not be enough to restore stability to Burundi and the rest of the region. National reconciliation in Burundi, as well as in other countries of the region, required the implementation of measures on a vaster scale. The questions of refugees, regional overarmament, economic development and institutional consolidation in all those countries had to be viewed in a larger framework. He hoped that the Security Council would soon consider the idea supported by his Government of organizing a regional conference on peace, stability and development in the Great Lakes region, as a first step towards healing the wounds of that part of Africa.⁴⁰

³⁹ S/PV.3571, pp. 9-10.

⁴⁰ Ibid., pp. 10-11.

The representative of the United Kingdom said that the resolution sent a clear message that those responsible for grave violations of humanitarian law would be held responsible for their actions. His Government therefore strongly supported the establishment of a Commission of Inquiry. It also believed that the strengthening of the Burundian judicial system was vital to the stability of the country and looked forward to receiving the Commission's recommendations on the measures necessary to prevent any repetition of the 1993 events. He announced that his country would make a 20,000 sterling pounds contribution to the Commission's Trust Fund.⁴¹

The representative of Rwanda said that Burundi was part of the Great Lakes region and as such its problems could not be resolved without taking into account the current events in other countries of the subregion. Unlike the other subregions of Africa, the countries of the Great Lakes had experienced the institutionalization of a culture of impunity. The region was now considered a powder keg and a source of refugees. He reiterated that the United Nations and the Security Council could not solve the problems of the subregion without involving the regional and subregional organizations. It was therefore necessary to provide them with material, technical and financial support so that they could better fulfil their role which was indispensable and complemented that of the United Nations and the Security Council. Noting that Burundians bore primary responsibility for their future, he appealed to the United Nations and to the international community to support the existing institutions in the country. While having voted in favour of the resolution, his delegation had important questions on the role of the Commission and the results it would be able to achieve.⁴²

41 S/PV.3571, p. 11.

42 Ibid., pp. 12-13.