

view to exploring effective measures for restoring peace, assisting the Angolan people in the area of capacity-building, humanitarian assistance and the promotion of human rights, and coordinating other activities;

2. *Decides* that, pending further consultations between the United Nations and the Government of Angola, the United Nations Office in Angola shall consist of up to thirty substantive professional staff, as well as the necessary administrative and other support personnel;

3. *Stresses* that the United Nations Humanitarian Assistance Coordination Unit will continue to operate and to be funded in its present configuration;

4. *Calls upon* all parties concerned and in particular the União Nacional para a Independência Total de Angola to ensure the safety, security and freedom of movement of United

Nations and associated personnel and to respect fully their status;

5. *Calls upon* the Government of Angola and the Secretary-General to conclude as soon as possible a status-of-mission agreement;

6. *Expresses its readiness* to review the configuration and mandate of the United Nations presence in Angola upon the recommendation of the Secretary-General in consultation with the Government of Angola;

7. *Requests* the Secretary-General to provide every three months a report on developments in Angola, including his recommendations about additional measures the Council might consider to promote the peace process in Angola;

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

5. Items relating to the situation in Rwanda

A. The situation concerning Rwanda

Decision of 8 March 1996 (3640th meeting): resolution 1050 (1996)

At its 3640th meeting held on 8 March 1996 in accordance with the understanding reached in its prior consultations, the Security Council included the report of the Secretary-General dated 29 February 1996 on the United Nations Assistance Mission for Rwanda (UNAMIR),¹ submitted pursuant to Security Council resolution 1029 (1995), in its agenda. Following the adoption of the agenda, the President (Botswana), with the consent of the Council, invited the representative of Rwanda, at his request, to participate in the discussion without the right to vote.

In his report, the Secretary-General observed that when Rwanda emerged from civil war and genocide with the establishment of the Government of National Unity on 19 July 1994, conditions in the country were nothing short of disastrous. There was no administration, no functioning economy, no judicial or education system, no water or electricity supply and no transport; the population, moreover, was still in a state of profound shock. Nevertheless, conditions in Rwanda had begun to return to normal, though a significant portion of the population was still refugees or displaced persons. Along with the efforts of the Rwandan people themselves, UNAMIR, other United Nations and international agencies and non-governmental organizations had also

worked with the Government to restore basic infrastructure and to rehabilitate vital sectors of the economy, clear mines, construct transit camps, and provide humanitarian assistance. The Mission by its presence had provided a sense of security and confidence to the representatives of the United Nations agencies, intergovernmental institutions and non-governmental organizations who, throughout the country and sometimes under very difficult circumstances, had worked for the recovery of Rwanda. The Secretary-General, in recalling his report of 30 January 1996, reiterated his view that the United Nations would still have a useful role to play even after the expiry of the UNAMIR mandate.² He gave three options for a continued United Nations presence: a small political office to support the efforts by the Government of Rwanda to promote national reconciliation, strengthen the judicial system, facilitate the return of refugees and rehabilitate the country's infrastructure; a political office plus a military component consisting of military observers to monitor and support the return of refugees; or the establishment of a regional office with responsibilities for promoting peace, stability and development in the Great Lakes region as a whole. He informed the Council that despite the significant progress towards normalcy in Rwanda the relative peace that prevailed would be under constant threat as long as the 1.5 million refugees, mixed with elements of the former Rwandan army and militias, were camped along the border. The

¹ S/1996/149.

² S/1006/61.

security situation was a major factor discouraging the refugees from returning and, therefore, the deployment of United Nations military personnel in those areas to which large numbers of refugees were expected to return, could speed up the process of return both by building confidence and by providing much needed logistic support. However, the above options required the consent of the Rwandan Government; with that consent not forthcoming, there appeared no alternative to the complete withdrawal of all the civilian and military components of UNAMIR, in accordance with paragraph 5 of resolution 1029 (1995). Notwithstanding the withdrawal of UNAMIR, other United Nations agencies and programmes would remain in the country, carrying out their respective mandates.

At the same meeting the President also drew the attention of the Council to a draft resolution prepared in the course of the Council's prior consultations.³

The President, at the same meeting, further drew the attention of the Council to a letter dated 23 February 1996 from the representative of Zaire addressed to the President of the Security Council,⁴ transmitting Zaire's position on the interim report of the International Commission of Inquiry into the allegations of the supply by Zaire of arms or training to former Rwandan government forces, and a letter dated 6 March 1996 from the Secretary-General addressed to the President of the Security Council,⁵ transmitting the text of a letter dated 1 March 1996 from Rwanda accepting the offer of the Secretary-General to maintain the office of the Special Representative for six months and providing a list of areas for the United Nations agencies to concentrate on.

The representative of Rwanda thanked the Secretary-General for his report which showed the positive evolution of the situation in Rwanda. He stated that the setting up of a coalition Government and Parliament representative of all groups was a major sign of the beginning of a process of national reconciliation. He informed the Council that the Government had for the first time established a policy of repatriation of refugees and had translated its commitment into action by a variety of measures. Those had already led to the return of 2.3 million

refugees in one year including those who had been outside the country since 1959. In terms of reforms, the rehabilitation of the judicial system also continued to be one of their main priorities; they had also started to reorganize and strengthen the gendarmerie and the police and intended to proceed with the demobilization of part of the army. He stated that they were looking forward to the effective implementation of the International Tribunal for Rwanda as a major step in healing the wounds of genocide. He expressed his hope that the Secretariat would engage in a serious analysis of its most recent experience with UNAMIR in Rwanda both before and after the genocide and would learn the right lessons. As they were handing the UNAMIR troops back to the United Nations in a generally secure environment, they expected the Secretariat to comply with its obligation to Rwanda, as some issues raised by his Government had never received satisfactory attention. He informed the Council that the Government had accepted the Secretary-General's proposal for a small political office to support the efforts to strengthen the judicial system, facilitate the return of refugees and rehabilitate the country's infrastructure as a follow-up to UNAMIR.⁶

The representative of Italy, speaking on behalf of the European Union and associated countries,⁷ stated that despite the relative calm and stability prevailing in the country, serious issues with refugees, the judicial system and prison crowding needed to be addressed as a matter of priority in order to achieve national reconciliation and future stability. He underlined the importance of the International Tribunal for Rwanda, which was fundamental to restoring a climate of trust and confidence, and the need to assure protection for its personnel and premises. He stated his agreement with the assessment of the Secretary-General that Rwanda could have benefited from a further phase of United Nations involvement to consolidate peace and security, but welcomed their agreement to the maintenance of a political office. One of the main priorities of the future United Nations presence in Rwanda would remain supporting the efforts of the Government to promote national reconciliation. He noted with satisfaction the continuation of the United

³ S/1996/177.

⁴ S/1996/132.

⁵ S/1996/176.

⁶ S/PV.3640, pp. 2-4.

⁷ Bulgaria, Czech Republic, Estonia, Latvia, Malta, Poland, Romania and Slovakia.

Nations human rights operation in Rwanda, to which the European Union attached a fundamental importance. In conclusion, he stressed the importance of the continuation of efforts for the careful preparation and convening of a Regional Conference for Peace, Security and Development in the Great Lakes Region, which was mentioned in the draft resolution.⁸

Before the vote, the representative of Germany noted that Rwanda's call for "post-genocide peacebuilding" had enabled the Security Council to draft the draft resolution based on Chapter VI of the United Nations Charter. He stressed the importance of the Human Rights Field Operation in Rwanda, which constituted a true confidence-building measure. While welcoming the fact that UNAMIR would contribute to the protection of the International Tribunal, he noted that after their withdrawal new arrangements would be needed. In conclusion, he informed the Council that the Secretary-General would submit a recommendation for the release of non-lethal UNAMIR equipment to Rwanda and he hoped that any decision would take into account the tremendous needs in that respect.⁹

The representative from the United Kingdom stated his support for the draft resolution, which would place the weight of the Security Council behind the Secretary-General's proposal for the continued maintenance of the office of the Special Representative. He also noted the particular importance of the security that UNAMIR would provide to the International Tribunal until the withdrawal. Early clarification from the Secretariat of the precise arrangements for protection of the Tribunal after the withdrawal was also an area of great importance. He expressed his hope that while it was important that United Nations rules be followed in the disposition of UNAMIR equipment, some flexibility could be shown to benefit Rwanda. In conclusion he encouraged all States in the region to cooperate closely with each other, particularly in the return of refugees, to help bring about a real prospect of lasting peace and stability in the Great Lakes region.¹⁰

The representative of the Russian Federation stated their support for the resolution and noted with satisfaction the partial stabilization of the situation.

⁸ S/1996/177.

⁹ S/PV.3640, pp. 6-7.

¹⁰ *Ibid.*, p. 7.

However, he noted that many problems remained to be solved, the most acute of which was the problem of almost 2 million displaced persons and refugees and the resulting potential threat of destabilization. That complex, large-scale problem could not be resolved without the active cooperation of the international community and they therefore attached importance to the establishment of the United Nations political office to support the Government of Rwanda, strengthen confidence and stability, and keep the United Nations abreast of developments. He stated that he trusted that the safety of the personnel of the International Tribunal, specialized agencies and other international organizations would be assured after the withdrawal of UNAMIR.¹¹

Several other speakers also spoke, stating their support for the resolution, noting the positive development in the country, and expressing concern over the unresolved issues, particularly the problem of the 1.7 million refugees. Most speakers expressed support for the work of the International Tribunal and the Field Operation and the continuation of the political office and called on States and agencies to provide humanitarian assistance and support for the other United Nations missions.¹² Several countries also hoped that a way could be found to permit Rwanda to retain non-lethal UNAMIR equipment for productive purposes.¹³

At the same meeting the draft resolution was put to the vote and adopted unanimously as resolution 1050 (1996), which reads:

The Security Council,

Recalling its previous resolutions on the situation in Rwanda,

Having considered the report of the Secretary-General of 29 February 1996 on the United Nations Assistance Mission for Rwanda,

Welcoming the letter dated 1 March 1996 from the Minister for Foreign Affairs and Cooperation of Rwanda addressed to the Secretary-General,

¹¹ *Ibid.*, pp. 7-8.

¹² *Ibid.*, pp. 5-6 (Chile); pp. 8-9 (Republic of Korea); pp. 9-10 (Guinea-Bissau); p. 10 (China); pp. 10-11 (Poland); pp. 11-12 (Indonesia); and p. 13 (Honduras).

¹³ *Ibid.*, pp. 11-12 (Indonesia); and pp. 8-9 (Republic of Korea).

Paying tribute to the work of the Mission and to the personnel who have served in it,

Stressing the continued importance of the voluntary and safe repatriation of Rwandan refugees and of genuine national reconciliation,

Emphasizing the importance it attaches to the role and responsibility of the Government of Rwanda in the promotion of a climate of confidence, security and trust and the safe return of Rwandan refugees,

Emphasizing also the importance it attaches to States acting in accordance with the recommendations adopted by the Regional Conference on Assistance to Refugees, Returnees and Displaced Persons held in Bujumbura from 15 to 17 February 1995, the summit of heads of State of the Great Lakes region held in Cairo on 28 and 29 November 1995 and the follow-up conference held on 29 February 1996 in Addis Ababa, and the importance it attaches to the continuation of efforts to convene a regional conference for peace, security and development in the Great Lakes region,

Encouraging all States to cooperate fully with the International Commission of Inquiry established by resolution 1013 (1995) of 7 September 1995,

Recognizing the importance of the Human Rights Field Operation in Rwanda in contributing to the establishment of confidence in the country, and concerned that it may not be possible to maintain its presence throughout Rwanda unless sufficient funds for that purpose are secured in the very near future,

Concerned about ensuring the effective operation of 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, established by resolution 955 (1994) of 8 November 1994,

Commending the continuing efforts of the Government of Rwanda to maintain peace and security as well as to reconstruct and rehabilitate the country,

Stressing its concern that the United Nations should continue to play an active role in assisting the Government of Rwanda in promoting the return of refugees, in consolidating a climate of confidence and stability and in promoting the rehabilitation and reconstruction of Rwanda,

Reiterating the responsibility of the Government of Rwanda for the safety and security of all United Nations personnel and other international staff serving in the country,

1. *Takes note* of the arrangements made by the Secretary-General for the withdrawal, starting on 9 March 1996, of the United Nations Assistance Mission for Rwanda pursuant to Council resolution 1029 (1995) of 12 December 1995;

2. *Authorizes* elements of the Mission remaining in Rwanda prior to their final withdrawal to contribute, with the agreement of the Government of Rwanda, to the protection of the personnel and premises of the International Tribunal for Rwanda;

3. *Welcomes* the intention of the Secretary-General to submit recommendations to the General Assembly regarding non-lethal equipment of the Mission that may be released for use in Rwanda in accordance with paragraph 7 of its resolution 1029 (1995), and calls upon the Government of Rwanda to take all necessary steps to ensure that Mission personnel, and equipment which is not remaining in Rwanda, can be withdrawn without impediment and in an orderly and safe manner;

4. *Encourages* the Secretary-General, in agreement with the Government of Rwanda, to maintain in Rwanda a United Nations office, to be headed by his Special Representative and to include the present United Nations communications system and radio station, for the purpose of supporting the efforts of the Government of Rwanda to promote national reconciliation, strengthen the judicial system, facilitate the return of refugees and rehabilitate the country's infrastructure, and of coordinating the United Nations efforts to that end;

5. *Commends* the efforts of States, including neighbouring States, the United Nations and its agencies, the European Union and non-governmental organizations which have provided humanitarian assistance to refugees and displaced persons, and underlines the importance it attaches to continued efforts by the Government of Rwanda, neighbouring States, the international community and the United Nations High Commissioner for Refugees to facilitate the early, safe, voluntary and organized return of Rwandan refugees to their own country in accordance with the recommendations of the Bujumbura Conference;

6. *Calls upon* States and organizations to continue to give assistance for the reconstruction of Rwanda and the rehabilitation of the infrastructure of the country, including the Rwandan justice system, directly or through the United Nations trust funds for Rwanda, and invites the Secretary-General to consider whether there is a need to adjust the scope and purposes of those funds to bring them into line with current requirements;

7. *Also calls upon* States to contribute urgently to the costs of the Human Rights Field Operation in Rwanda, and encourages the Secretary-General to consider what steps might be taken to place the Operation on a more secure financial basis;

8. *Requests* the Secretary-General to report to the Council by 5 April 1996 on the arrangements that have been agreed upon with the Government of Rwanda for the protection of the personnel and premises of the International Tribunal for Rwanda after the withdrawal of the Mission and on the arrangements he has made pursuant to paragraph 4 above, and to keep the Council closely informed thereafter of developments in the situation;

9. *Decides to remain seized of the matter.*

Following the vote, the representative of France stated that it was urgent that war criminals be brought before the International Tribunal, a process which would exonerate many of the thousands of men and women currently in prison. He stated that they would have preferred if UNAMIR had been entrusted to continue its many tasks, as the Secretary-General had outlined. However, the political office would allow the United Nations to continue to give assistance to Rwanda in needed areas, particularly national reconciliation. He maintained that national reconciliation in Rwanda implied dialogue with Rwandans outside the country who wished to return, though not with the perpetrators of genocide. He noted that there would be no real security in the region unless all the humanitarian and political problems of the region found an overall solution. He expressed his belief that a Conference on Peace, Security and Development in the Great Lakes Region, under the auspices of the United Nations, and in cooperation with the Organization of African Unity would be useful and he hoped that that would be the outcome from the negotiations of the group of five at Tunis, where the United Nations was involved as an observer.¹⁴

The representative of the United States stated that there could not be long-lasting peace and stability for Rwanda and the entire region, unless the 1.7 million refugees returned. He urged the Special Representative to encourage repatriation as one of his highest priorities. He praised the work of the human rights monitors and the Rwandan Government for accepting them. He maintained that the international community had to ensure that sufficient resources were available for the International Tribunal, including additional funds for security, and ensure that thousands of prisoners in Rwanda's jails received a speedy trial. As the Commission of Inquiry to investigate reports of the sale or supply of arms to former Rwandan government forces had not had the benefit of full cooperation from all Rwanda's neighbours, he called on all States to offer the Commission their fullest support. He noted that differences between the Secretariat and the Government of Rwanda remained concerning the

disposition of equipment and financing and he urged them to resolve those differences as soon as possible.¹⁵

The representative of Egypt reiterated that the successful repatriation of the refugees was key to stability in Rwanda. He stressed the need to ensure complete implementation of the decisions of the Bujumbura Conference, the Cairo Summit and the Addis Ababa follow-up conference and of convening an international conference on peace, stability and development in the Great Lakes region. He noted that the experience of Rwanda had taught them a critical lesson about the importance of preventive diplomacy and the need to remain committed to preventive measures in averting crises. Despite their concerns about facilitating the return of refugees, Egypt supported the resolution in solidarity with the Government of Rwanda.¹⁶

The representative of Botswana noted that they were one of the delegations that had not favoured a precipitous departure of UNAMIR from Rwanda, and they were delighted that the United Nations would continue to play a significant role. He noted that the refugee problem and the need to strengthen the judicial system were two key elements in the process that needed the support of the international community. He stated that the problems facing Rwanda had a subregional dimension, which needed to be addressed urgently by the countries of the region. The return of the refugees could proceed smoothly only with close consultation and cooperation with the States hosting them. He maintained that it was an established fact that there was intimidation in the refugee camps by elements of the former Government against those intending to return to Rwanda and that those elements harboured intentions of undertaking military incursions into Rwanda. He urged the international community to make it clear to those elements that the withdrawal of UNAMIR did not in any way mean the abrogation of the measures it undertook through the relevant Security Council resolutions to bring an end to intimidation in the refugee camps and to the military activities against Rwanda: the arms embargo under resolutions 918 (1994) and resolution 1011 (1995) remained in force.

¹⁴ *Ibid.*, p. 14.

¹⁵ *Ibid.*, pp. 14-15.

¹⁶ *Ibid.*, pp. 15-16.

Finally, he stated their support for the convening of a regional conference.¹⁷

Decision of 23 April 1996 (3656th meeting): resolution 1053 (1996)

By a letter dated 13 March 1996 addressed to the President of the Security Council,¹⁸ the Secretary-General, transmitted the final report of the International Commission of Inquiry authorized under Security Council resolution 1013 (1995) to investigate, *inter alia*, reports relating to sale or supply of arms and related materiel to former Rwandan government forces in the Great Lakes region in violation of Council resolutions 918 (1994), 997 (1995) and 1011 (1995). The report contained the Commission's conclusions, as well as its recommendations regarding possible measures to curb the illegal flow of arms in the Great Lakes region. He stated that in the light of those recommendations, the Security Council might wish to decide whether the Commission should continue its investigations or whether other measures should be put in place to promote compliance with the relevant resolutions of the Council.

At the 3656th meeting of the Security Council, held on 23 April 1996 in accordance with the understanding reached in its prior consultations, the President (Chile), with the consent of the Council, invited the representatives of Burundi, Rwanda, and Zaire, at their request, to participate in the discussion without the right to vote.

At the same meeting the President drew the attention of the Council to the following documents: a letter dated 14 March 1996 from the Secretary-General addressed to the President of the Security Council;¹⁹ a letter dated 27 March 1996 from Rwanda addressed to the President of the Security Council,²⁰ giving their position on the International Commission of Inquiry and calling on the Council to strengthen the Commission to better investigate a situation that fell under Chapter VII of the Charter; and a letter dated 3 April 1996 from Zaire addressed to the President of the Security Council,²¹ denying the allegations against

them presented in the final report of the Commission of Inquiry.

At the same meeting the President also drew the attention of the Council to a draft resolution prepared in the course of the Council's prior consultations.²²

The representative of Rwanda noted the important fact that the first report of the International Commission of Inquiry differed remarkably from the second. The latter report brought to light "elements of incontestable information and pieces of evidence". He maintained that control over the implementation of a resolution formulated under Chapter VII could only be exercised with the authority granted under another, stronger resolution and that the draft resolution was too weak to allow the Commission to be effective. He expressed his belief that the Council was aware of the consequences of the failure of the Commission, including the destabilization of the region due to the arms and militia infiltrating Rwanda and Burundi, loss of life, displaced persons and refugees, economic regression, and the possibility of the sub-region "going up in flames". He requested that the Council cease taking a "sectoral" approach to Rwanda as the problems of the subregion were interlinked and interdependent. The problem of the rearming of former Rwandan troops was linked to the arms embargo against the people who committed genocide, yet the sectoral approach obliged them to treat the matter as if it were "a simple offence committed by some businessman carrying out some sort of illicit operation". He noted that the word "genocide" appeared nowhere, which contributed to further playing down the offence; nor did the International Tribunal mention it, a fact which had further weakened its role and importance. He asked how they could encourage the refugees to return when "their self-proclaimed leaders" were in the process of rearming themselves and were receiving "various kinds of support from member countries of this Organization". He urged the Council to consider the question holistically, which would then make it clear that the Commission had more importance than the draft resolution attributed to it. He denied the information in the Secretary-General's report suggesting that negotiations with respect to establishing a small political office had become difficult. In fact, he was

¹⁷ *Ibid.*, pp. 17-18.

¹⁸ S/1996/195.

¹⁹ S/1996/202.

²⁰ S/1996/222.

²¹ S/1996/241.

²² S/1996/298.

pleased to inform the Council that the Under-Secretary-General for Political Affairs had arrived in Kigali and that the outstanding questions had been resolved that morning. He reminded the Council that it was customary for the Government of Rwanda to be consulted in every matter of interest to the country. On the subject of the request of the Secretary-General that Rwanda be given non-military materiel from the departing Mission to speed up the reconstruction, he informed the Council that the equipment, inaccurately valued at \$15.3 million, was of such a nature, and in such a state of disrepair that the Government could not receive it. He stated that they could only conclude that there had been a deliberate desire not to give the proper equipment to Rwanda to help it reconstruct the country and to keep the Government in a difficult situation. He expressed his hope that the new political office would be able to do what the United Nations had so far been unable to do to help Rwanda.²³

The representative of Burundi stated that the violations of the arms embargo had had serious consequences and that the report of the Commission of Inquiry confirmed that there were people, still embracing genocide, who were preparing to attack Rwanda. He maintained that a major indicator of the danger posed by the former forces of the Rwandan army and the militias was their alliance with factions in Burundi. A large number of these soldiers had infiltrated Burundi and were preying on the most vulnerable sectors of society. He noted that certain Governments and foreign circles were demanding that his Government negotiate with those responsible for those atrocities, and some were even making their assistance contingent on that. He praised France's realistic position and the "official and vigorous" condemnation by the United States of the recent atrocities and contrasted them with the "European Union's inclination to deprive both Rwanda and Burundi of foreign aid" at the time when they needed it most. He maintained that the Charter of the United Nations and the Charter of the Organization of African Unity as well as resolutions 918 (1994), 997 (1995) and 1011 (1995) enjoined all countries of asylum and all States and companies providing weapons to abide strictly by the letter and the spirit of the arms embargo, as did the commitments entered into by the Heads of State of the Great Lakes region at the Cairo and Tunis

²³ S/PV.3656, pp. 2-5.

summits. In that regard, he welcomed the recently adopted policy of Tanzania. He maintained that the primary *raison d'être* of the Economic Community of the Great Lakes Countries, Rwanda, Burundi and Zaire, was to prohibit acts of subversion in any of the Member countries against any of the others and Burundi would automatically stand in solidarity with the legal Government of Zaire to disarm and neutralize the groups opposing it in the eastern region. In conclusion he underlined that the proliferation of weapons, war materiel and armed terrorist groups could lead to widespread insecurity and instability. He called on the Economic Community of the Great Lakes Countries to convene a special summit dedicated to urgently finding solutions.²⁴

The representative of Zaire stated that the interim and final reports drafted by the Commission of Inquiry could not be considered separately from each other and that he would recall facts he considered essential from both. The Commission noted that new weapons had been found on Iwawa Island in Rwanda, but had no information as to where those weapons had come from. People interrogated by the Commission informed them that they were Rwandans and had been trained in weapons at the Mugunga camp in Zaire under the supervision of former Rwandan government forces and that no foreigners were involved. This was cited in paragraphs 18, 19, and 20 of the interim report. He wondered how his Government could be implicated in an affair that was occurring entirely on the territory of another State with actors who were nationals of that country. He maintained that his Government had been subjected to discriminatory treatment partially due to their refusal to provide suitable housing to the Commission, despite their having the resources to arrange it on its own. He also informed the Council that the report, in paragraph 35, had stated that Zaire seemed to wish to renegotiate the mandate of the Commission and be present at talks with potential witnesses, which was untrue. In fact, his Government had only suggested that the Commission refrain from making any press conferences, that it reserve its conclusions for the Secretary-General and the Security Council and that it reside in Zaire while working in north and south Kivu. Despite those requests, the Commission had held multiple press conferences and had demanded to stay in Rwanda. During the

²⁴ *Ibid.*, pp. 5-8.

Commission's inspection missions in Rwanda, it was aided by officers of the Rwandese Patriotic Army (RPA) but this favourable treatment was refused Zaire. These examples were representative of the discriminatory treatment of Zaire by the Commission. He noted that most of the final report dealt with a single case, an arms purchase in Seychelles, while it was content with a single letter denying violation of the embargo from other countries that actually produced weapons. He went on to mention several inaccuracies, inconsistencies and omissions in the report that called its validity into question. He commented that the draft resolution also contained inaccuracies and inconsistencies, specifically mentioning paragraphs 10 and 11, and calling attention to his Government's alternative draft of paragraph 12.²⁵ He denied the claims that 8,000 Zairian refugees had entered Rwanda, stating that these were in fact Rwandan refugees from 1927 and 1959 who had decided to return to their native land. He maintained that the arms traffic in the region was being exaggerated and noted that the worst of the killing in Rwanda was done by machete, not by modern weapons. In conclusion he noted that operative paragraphs 9 and 10 of the draft resolution and operative paragraph 1 (c) of resolution 1013 (1995) called upon States whose nations had been implicated to carry out their own reports and make them available. Since the embargo had been decreed under Chapter VII of the Charter, banking institutions could not hide behind a "screen of financial secrecy" and he called on those countries to help identify and bring down all the people involved. He called on the Council to provide answers to the many questions his Government had asked in its letter of 3 April 1996²⁶ and stated that while they were eagerly awaiting the return of the Commission of Inquiry, which would enjoy the open cooperation of the Government, he hoped that it would leave its prejudices behind.²⁷

The representative of the Russian Federation expressed his belief that the tasks of restoring peace, security and stability to that country and to the region as a whole could be achieved only through a well-thought-out and comprehensive approach. An integral part of that needed to be the establishment of an

impregnable barrier against the illegal dissemination of weapons, the continuing inflow of which was undermining mutual trust and preventing national reconciliation, and was also capable of provoking a new spiral of bloody violence with all its devastating implications for the people of the region. They supported the work of the International Commission of Inquiry and would vote in favour of the draft resolution. He underlined that it was particularly important to take specific steps to ensure the effective implementation of the embargo on arms supplies to illegal militia forces, as well as to appeal to all countries of the region not to allow their territories to be used as bases for launching attacks on any other State. He expressed their belief that it was extremely important that the measures proposed should be implemented in coordination with countries neighbouring Rwanda. They regarded that as a means of guaranteeing the efforts of the international community to resolve that complicated problem, which could also become an important precondition for stabilizing the situation in the region, in particular by implementing the provisions of the Tunis Declaration of Heads of State of the Great Lakes Region of 18 March 1996.²⁸

The representative of the United Kingdom stated his support for the draft resolution. He noted that the Commission of Inquiry had done a very professional job but that it had not always met with the cooperation that it needed. He expressed his belief that the draft resolution would ensure that the Commission could remain in being, though in reduced strength, to complete its earlier investigations and to pursue any further allegations of violations, which he believed would be possible within existing resources. The resolution would also send a signal that the Council expected fuller cooperation with the Commission, in particular from Zaire and that it wished to see other mechanisms put in place in the region to ensure that the arms embargo was fully effective. He underlined the great importance his country paid to the implementation of resolution 1050 (1996), the establishment of a United Nations political office in Rwanda, the retention of a United Nations radio station there, the fullest support for former President Nyerere's efforts to further political dialogue in Burundi and for

²⁵ S/1996/298.

²⁶ S/1996/241.

²⁷ S/PV.3656, pp. 8-13.

²⁸ *Ibid.*, p. 14.

holding a regional conference to address the wider problems of the region.²⁹

The representative of Guinea-Bissau stated their support for the resolution and reiterated the importance of resolutions 918 (1994), 997 (1995) and 1011 (1995), which imposed an embargo on the sale or delivery of weapons and related material to Rwanda, under Chapter VII of the Charter, in putting an end to the conflict. He expressed his concern over the statement of the Commission that certain Rwandan elements were receiving military training for the purpose of conducting destabilizing incursions into Rwanda. He expressed his concern over the radio broadcasts that were disseminating hatred and fear and appealed to all States to cooperate in order to halt those broadcasts without delay, in keeping with the relevant resolutions of the Council and the Declaration of Heads of State of the Great Lakes region, adopted on 29 November 1995.³⁰

The representative of Botswana underlined the importance of the arms embargo, imposed by the Council in resolutions 918 (1994), 997 (1995) and 1011 (1995), being effectively implemented. He expressed their appreciation for the work of the Commission and recognized the efforts of non-governmental organizations, including Human Rights Watch and Amnesty International. He called upon all the States in the region to provide support and cooperation to the Commission, in accordance with operative paragraphs 8, 9 and 10 of the draft resolution. He stated that it would be an important step if the States neighbouring Rwanda would agree to the deployment of United Nations observers, in line with operative paragraph 7 of the draft resolution.³¹

The representative of Egypt stated their appreciation for the work of the International Commission, commended those Governments that had cooperated in a positive fashion with International Commission of Inquiry and appealed to all other parties to lend even greater support and cooperation so that the Commission could fulfil its mandate. He appealed to all States to ensure the effective implementation of the arms embargo on shipments to non-Government forces in Rwanda, as provided for in

resolution 1011 (1995). He expressed his hope that no State in the Great Lakes region would allow any group to use its territory as a staging ground for attacks against any neighbouring State, in violation of international treaties and the Charter. He noted that in operative paragraph 7 of the draft resolution before the Council, the Council had requested the Secretary-General of the United Nations to consult with States neighbouring Rwanda on measures for the purpose of better implementation of the embargo. While fully supporting that request, he expressed his confidence that in the context of any accord to be discussed to deploy United Nations observers at airports and border checkpoints, there would be full compliance with the principle of national sovereignty of all States, and that securing the consent of the Government concerned would be a *sine qua non* condition for dispatching observers.³²

The representative of China stated that they believed that the illegal flow of arms to the Great Lakes region constituted a potential threat to peace and stability in the region and that it would impede the cause of reconstruction and development in the countries concerned, particularly Rwanda. They therefore favoured the adoption by the Council of appropriate measures to reduce or even stem the illegal flow of arms into the region and to work to increase mutual confidence between the countries of the Great Lakes region. They believed that in adopting actions in that area the Council should heed and respect the views of the country concerned and of the other countries concerned in the region. He also noted that those measures had already received wide support among African countries, including Rwanda.³³

Several other speakers spoke, stating their support for the draft resolution, underlining the need to address the illegal flow of arms to the region and the question of refugees; expressing concern over reports that elements were receiving training for destabilizing incursions into Rwanda; supporting the convening of an international conference; and maintaining the importance of cooperation of all interested countries in the region and of sufficient funding for the Commission and other initiatives.³⁴

²⁹ Ibid., pp. 14-15.

³⁰ Ibid., p. 15.

³¹ Ibid., pp. 15-16.

³² Ibid., pp. 17-18.

³³ Ibid., p. 18.

³⁴ Ibid., pp. 13-14 (Indonesia); p. 16 (Italy); and pp. 16-17 (Republic of Korea).

At the same meeting the draft resolution was put to the vote and adopted unanimously as resolution 1053 (1996), which reads:

The Security Council,

Recalling all its previous resolutions on the situation in Rwanda, in particular resolutions 918 (1994) of 17 May 1994, 997 (1995) of 9 June 1995, 1011 (1995) of 16 August 1995 and 1013 (1995) of 7 September 1995,

Having considered the letter dated 13 March 1996 from the Secretary-General to the President of the Security Council and the report of the International Commission of Inquiry established by resolution 1013 (1995), annexed to that letter, as well as the interim report of the Commission of 17 January 1996,

Expressing its support for the Tunis Declaration of Heads of State of the Great Lakes Region of 18 March 1996,

Expressing once again its grave concern at allegations of the sale and supply of arms and related *matériel* to former Rwandan government forces in violation of the embargo imposed under its resolutions 918 (1994), 997 (1995) and 1011 (1995), and underlining the need for Governments to take action to ensure the effective implementation of the embargo,

Commending the members of the Commission for the excellent investigation they have conducted,

Welcoming the assistance given to the Commission by some Governments,

Noting with concern the continuing lack of full cooperation the Commission has received from other Governments,

Gravely concerned by the finding of the Commission that certain Rwandan elements are receiving military training to conduct destabilizing raids into Rwanda,

Deeply disturbed by the strong evidence presented by the Commission leading to the conclusion that it is highly probable that a violation of the arms embargo occurred, in particular by the sale of arms which took place in Seychelles in June 1994 and the subsequent two shipments of arms from Seychelles to Goma, Zaire, destined for former Rwandan government forces,

Noting that the Commission received strong indications from its sources that aircraft are continuing to land at Goma and Bukavu with arms for former Rwandan government forces and that senior figures among those forces are still actively raising money apparently for the purpose of funding an armed struggle against Rwanda,

Noting also that the Commission has not yet been able to investigate thoroughly these allegations of continuing violations of the arms embargo,

Reaffirming the need for a long-term solution to the refugee and related problems in the Great Lakes States,

Reaffirming also the importance of terminating radio broadcasts which spread hate and fear in the region, and emphasizing the need for States to assist the countries of the region in terminating such broadcasts as stated by the Cairo Declaration adopted by the heads of State of the Great Lakes region on 29 November 1995,

1. *Reaffirms* the importance it attaches to the work of the International Commission of Inquiry, to the investigations it has conducted to date, and to continued effective implementation of the relevant Council resolutions;

2. *Requests* the Secretary-General to maintain the Commission, on the basis set out in paragraph 91 (c) of its report, to follow up its earlier investigations and to stand ready to pursue any further allegations of violations, especially of current and expected arms shipments;

3. *Expresses its determination* that the prohibition on the sale or supply of arms and related matériel to non-governmental forces for use in Rwanda should be implemented fully in accordance with resolution 1011 (1995);

4. *Calls upon* States in the Great Lakes region to ensure that their territory is not used as a base for armed groups to launch incursions or attacks against any other State in violation of principles of international law and the Charter of the United Nations;

5. *Urges* all States, in particular those in the region, to intensify their efforts to prevent military training and the sale or supply of weapons to militia groups or former Rwandan government forces and to take the steps necessary to ensure the effective implementation of the arms embargo, including by the creation of all necessary national mechanisms for implementation;

6. *Encourages* States of the Great Lakes region to ensure the effective implementation of the Tunis Declaration of Heads of State of the Great Lakes Region of 18 March 1996;

7. *Requests* the Secretary-General to consult with States neighbouring Rwanda, in particular Zaire, on appropriate measures, including the possible deployment of United Nations observers in the airfields and other transportation points in and around border crossing points, for the purpose of better implementation of the arms embargo and deterrence of the shipment of arms to former Rwandan government forces in violation of Council resolutions;

8. *Expresses concern* at the lack of response by certain States to the Commission's inquiries, and calls upon those States that have not yet done so to cooperate fully with the Commission in its inquiries and to investigate fully reports of their officials and nationals suspected of violating the relevant Council resolutions;

9. *Calls upon* States, in particular those whose nationals have been implicated by the report of the Commission, to investigate the apparent complicity of their officials or private citizens in the purchase of arms from Seychelles in June 1994,

and in other suspected violations of the relevant Council resolutions;

10. *Also calls upon* States to make available to the Commission the results of their investigations, and to cooperate fully with the Commission, including by providing to the Commission at any time any access they request to airfields and to witnesses, in private and without the presence of officials or representatives of any Government;

11. *Encourages* States to make voluntary contributions to the United Nations Trust Fund for Rwanda, established by the Secretary-General, to support the work of the Commission, and to contribute equipment and services to the Commission, through the Secretary-General;

12. *Requests* the Secretary-General to submit to the Council by 1 October 1996 a report on the implementation of the present resolution;

13. *Reiterates its concern* that the uncontrolled illegal flows of arms and related *matériel* in violation of Council resolutions would pose a threat to peace and stability in the Great Lakes region, and declares its willingness to consider further measures in this regard;

14. *Decides* to remain seized of the matter.

Following the vote, the representative from France stated that the resolution would make it possible for the International Commission to shed light on the rumoured arms traffic that was poisoning the political climate in the Great Lakes region. The report of the Commission had emphasized the existence of recent arms trafficking in violation of resolution 918 (1994) and 1011 (1995), a revelation which was a great cause for worry. He stated that the very existence of the Commission had a deterrent effect on illicit trafficking and he hoped that resolution 1053 would prolong the effect. He noted that the idea of creating an International Commission of Inquiry had been in an amendment submitted by France to resolution 1011 (1995) and that they had supported establishing the Commission in resolution 1013 (1995). They had invited the Council to Paris and that the report established the “total absence of substance in the allegations” against France. He called on all countries in the region to cooperate fully with the Commission.³⁵

The representative of Germany stated the importance of the Commission in working to stop the flow of arms to the area and strongly encouraged the countries mentioned in the report to do their utmost to investigate the sources of their nationals who might

have been involved in purchasing and supplying arms to the region. He also underlined the importance of the intensification of efforts by the countries in the region to prevent any military activities by members of the former Rwandan regime. He agreed with the Secretary-General that the Commission should be provided with sufficient funds to carry out its mission and expressed his hope that the Tunis Declaration would be implemented.³⁶

The representative of Honduras stated that the report of the Commission had confirmed reports of the sale of embargoed material to former Rwandan government forces, something which threatened the peace and stability of the entire region. Considering this, he called on the Council to strengthen the mandate of the Commission so that it could carry out a thorough investigation of all reports, past and present, on the sale and provision of arms to elements of the former Rwandan government forces. It also needed the effective cooperation of the entire international community, particularly those that were implicated in the alleged violations. He also stated the necessity of all parties to observe the commitments undertaken in the Tunis Declaration of 18 March. He had voted in favour of the resolution bearing in mind the imperative need for all States to effectively implement the embargo and to observe the principles of international law and of the United Nations Charter, while avoiding at all times the use of their territories by armed groups to launch attacks against another State.³⁷

The representative of the United States praised the work of the Commission despite the inadequate cooperation from several key Governments. He expressed his shock at the evidence of violations of the embargo on arms sales to members of the former Rwandan forces in June 1994, when the genocide was ongoing. He called for the thorough investigation of continuing violations and for all Governments to cooperate fully with the Commission's investigations. He noted that the terms of the mandate were clear and robust: the Commission had the authority to interview witnesses in private, without representatives of any Government; it was free to choose its own interpreters; United Nations members were obligated to assist the Commission and to provide the security and access it

³⁶ *Ibid.*, p. 19.

³⁷ *Ibid.*, pp. 19-20.

³⁵ *Ibid.*, pp. 18-19.

had requested. He underlined that the embargo on arms to former Rwandan armed forces had been imposed under Chapter VII of the Charter of the United Nations, and that such sales were a threats to international peace and security. The armed insurgency needed to be stopped and the leaders of the ex-Rwandan armed forces who committed genocide needed to be prosecuted by the International Tribunal for Rwanda. He maintained that the embargo on arms sales to ex-Rwandan armed forces would be enforced, and the evidence the Commission would uncover would be used by Member States to investigate, arrest and prosecute the arms traffickers.³⁸

**Decision of 9 April 1998 (3870th meeting):
resolution 1161 (1998)**

At the 3870th meeting of the Security Council, held on 9 April 1998 in accordance with the understanding reached in its prior consultations, the President (Japan), with the consent of the Council, invited the representatives of Belgium and Germany, at their request, to participate in the discussion, without the right to vote.³⁹ The President then drew the attention of the Council to a draft resolution prepared in the course of the Council's prior consultations.⁴⁰

At the same meeting the representative of the United Kingdom spoke on behalf of the European Union, and the associated and aligned countries.⁴¹ He expressed his great concern at the recurrent violence in Rwanda which was contributing to the persistent instability in the Great Lakes region as a whole and unequivocally condemned the continued armed insurgency and acts of brutality against vulnerable groups by elements with a genocidal motive. He welcomed the action of the Security Council to reactivate the International Commission of Inquiry on illegal arms flows to Rwanda, and informed the Council that the European Union had affirmed its support and full cooperation for the work of the Commission as an important means to help bring an end to the continuing destabilizing conflict. The European Union was committed to working together

with the Government of Rwanda to secure an end to conflict and recovery from genocide, promote national reconciliation and the democratic process, protect human rights and foster economic prosperity.⁴²

The representative of Germany stated that the illegal flow of small arms and light weapons was a serious obstacle to the lasting resolution of conflict and was of particular concern to his Government. He noted that they had been active in the General Assembly on this issue, especially in the context of the General Assembly resolution, initiated by Germany, "Consolidation of peace through practical disarmament measures" and that a German expert was a member of the Commission of Inquiry from October 1995 until April 1996.⁴³

The representative of Belgium welcomed the reactivation of the International Commission and noted the destabilizing effect of arms sales to the former Rwandan Government forces and militias in the Great Lakes. He hoped that the International Commission would be able to complete its inquiry and to make specific recommendations to put an end to the illegal flow of arms.⁴⁴

The representative of the United States of America stated that the United States remained extremely concerned about the continuing violence in the Great Lakes region and the renewed threat of genocide, and noted that the fluid traffic in small arms had been a contributing factor. She noted that the final report of the Commission had been released just as fighting had begun in the Rwandan refugee camps in what was then eastern Zaire. The work of the Commission was overtaken by the dramatic events in the region and the Council had taken no action on the Commission's recommendations. At the regional summit in Kampala, the President of the United States and six heads of State from the Great Lakes region had affirmed their commitment to take concrete steps to combat the culture of ethnic violence that pervaded Rwanda and endorsed the reactivation of the International Commission of Inquiry on arms flows as a means to identify and to stop illegal arms trafficking to the former Rwandan army and militia forces. She expressed her hope that the work of the Commission

³⁸ Ibid., p. 20.

³⁹ For details see S/PV.3870, p. 2 and Chap. III.

⁴⁰ S/1998/306.

⁴¹ S/PV.3870, p. 2 (Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia, and Cyprus and Iceland).

⁴² Ibid., p. 2.

⁴³ Ibid., pp. 2-3.

⁴⁴ Ibid., p. 3.

and the subsequent reports by the Secretary-General would place the Commission's findings within a broader regional context and provide both an accurate assessment and specific recommendations for further action.⁴⁵

The representative of Portugal, while supporting the reactivation of the mandate of the Commission, and underlining that the fragile process of reconciliation in Rwanda required the unequivocal support of the international community, expressed his firm belief that a more comprehensive and global framework in regulating the flow of small arms would be a significant contribution to the problem. He welcomed the proposals of the President of Mali and the work of the Oslo Conference, convened by the Norwegian Initiative on Small Arms Transfers and the United Nations Development Programme. He stated that his Government considered that the reactivation of the International Commission also constituted an important signal of the interest and concern on the part of the United Nations towards the region and that it was also designed to impress on those forces intent on undermining peace in the region that their actions would not be tolerated.⁴⁶

The representative of Japan stated that the illegal flow of arms, in violation of the embargo imposed by the Council in resolution 918 (1994), 997 (1995) and 1011 (1995) appeared to be increasing. If this flow of arms into the hands of former government forces, militias and other groups were to be left unchecked there was a real danger of a resurgence of armed conflict and a serious destabilization of the entire Great Lakes region. As Chairman of the Sanctions Committee under Security Council resolution 918 (1994) on Rwanda, he welcomed the decision to reactivate the Commission of Inquiry and stated that the information it gathered would help the Council to determine what concrete measures to take to stem the illegal flow of arms in the region. At the same time, his delegation found it judicious that the draft resolution took a carefully balanced approach, allowing the Commission to present to the Council its recommendations on measures related to the illegal flow of arms without actually expanding the Commission's mandate itself. He also stated Japan's

belief that the international community should seriously consider the overall question of how to address the illegal flow of arms, which due to the complex and sensitive nature of the issue might need to be approached within the context of their efforts to build a comprehensive framework for preventive strategy.⁴⁷

In the course of the debate several other speakers stated their support for the resolution and for reactivating the Commission of Inquiry and underlined the importance of all States cooperating with the Commission and not allowing their territory to be used as a base for armed groups. Most speakers also noted their concern over the reports of persistent violence in Rwanda and other parts of the Great Lakes region and the complex dimension that had been added to the situation since the last report of the Commission and expressed their hope that any measures recommended would contribute to the stabilization of the region.⁴⁸

At the same meeting the draft resolution was put to the vote and adopted unanimously as resolution 1161 (1998), which reads:

The Security Council,

Recalling all its previous resolutions on the situation in Rwanda, in particular resolutions 918 (1994) of 17 May 1994, 997 (1995) of 9 June 1995, 1011 (1995) of 16 August 1995, 1013 (1995) of 7 September 1995 and 1053 (1996) of 23 April 1996,

Condemning the continuing violence in Rwanda, including the massacre of civilians, including refugees, at Mudende in December 1997, and similar acts of violence observed in the Great Lakes region, including in Burundi,

Expressing grave concern at reports of the sale and supply of arms and related *matériel* to the former Rwandan government forces and militias, in violation of the embargo imposed under its resolutions 918 (1994), 997 (1995) and 1011 (1995), and underlining the need for Governments to take action to ensure the effective implementation of the embargo,

Commending the members of the International Commission of Inquiry established by resolution 1013 (1995) on the investigation they conducted and, in particular on their final report and the addendum thereto,

⁴⁷ *Ibid.*, pp. 9-10.

⁴⁸ *Ibid.*, p. 5 (Brazil); p. 5 (Kenya); pp. 5-6 (Sweden); p. 7 (France); p. 6 (Bahrain); pp. 6-7 (Slovenia); p. 7 (China); pp. 7-8 (Gabon); pp. 8-9 (Gambia); p. 9 (Costa Rica); and p. 9 (Russia).

⁴⁵ *Ibid.*, pp. 3-4.

⁴⁶ *Ibid.*, pp. 4-5.

Noting that widespread violence in the eastern region of the former Zaire in October 1996 caused the suspension of effective follow-up to the work of the Commission, but recognizing the need for a renewed investigation of the illegal flow of arms to Rwanda, which is fuelling violence and could lead to further acts of genocide, with specific recommendations to the Security Council for action,

Reaffirming the need for a long-term solution to the refugee and related problems in the territories of States of the Great Lakes region,

Reaffirming also the importance of countering radio broadcasts and pamphlets which spread hate and fear in the region, and emphasizing the need for States to assist countries in the region to counter such broadcasts and publications,

1. *Requests* the Secretary-General to reactivate the International Commission of Inquiry, with the following mandate:

(a) To collect information and investigate reports relating to the sale, supply and shipment of arms and related *matériel* to former Rwandan government forces and militias in the Great Lakes region of central Africa, in violation of Security Council resolutions 918 (1994), 997 (1995) and 1011 (1995);

(b) To identify parties aiding and abetting the illegal sale to or acquisition of arms by former Rwandan government forces and militias, contrary to the resolutions referred to above;

(c) To make recommendations relating to the illegal flow of arms in the Great Lakes region;

2. *Calls upon* all States, relevant United Nations bodies, including the Committee established pursuant to resolution 918 (1994) and, as appropriate, other organizations and interested parties, to collate information in their possession relating to the mandate of the Commission, and to make this information available to the Commission as soon as possible;

3. *Calls upon* the Governments of the States concerned in which the Commission will carry out its mandate to cooperate fully with the Commission in the fulfilment of its mandate, including by responding positively to requests from the Commission for security, assistance and access in pursuing investigations, as specified in paragraph 5 of resolution 1013 (1995);

4. *Calls upon* all States in the Great Lakes region to ensure that their territory is not used as a base for armed groups to launch incursions or attacks against any other State in violation of the Charter of the United Nations and other provisions of international law;

5. *Urges* all States and relevant organizations to cooperate in countering radio broadcasts and publications that incite acts of genocide, hatred and violence in the region;

6. *Encourages* States to make voluntary contributions to the United Nations Trust Fund for Rwanda to provide the

financing for the work of the Commission and to contribute equipment and services to the Commission;

7. *Recommends* that the Commission resume its work as soon as possible, requests the Secretary-General to report to the Council on the reactivation of the Commission, and further requests him to submit an interim report to the Council on the initial conclusions of the Commission within three months of its reactivation, to be followed by a final report containing its recommendations three months later;

8. *Reiterates* its concern that the uncontrolled illegal flows of arms and related *matériel* in violation of its above-mentioned resolutions pose a threat to peace and stability in the Great Lakes region, and declares its willingness to consider further other measures in this regard, including the recommendations referred to in paragraph 1 (c) above, and any other related recommendations offered by the Commission;

9. *Decides* to remain seized of the matter.

B. International Tribunal for the 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

Decision of 30 April 1998 (3877th meeting): resolution 1165 (1998)

At its 3877th meeting, held on 30 April in accordance with the understanding reached in its prior consultations, the Security Council included in its agenda without objection the item entitled "Establishment of an international tribunal for the 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".

At the same meeting the President (Japan) drew the attention of the Council to a draft resolution submitted by Costa Rica, France, the Gambia, Kenya, Portugal, Slovenia, Sweden, the United Kingdom of Great Britain and Northern Ireland and the United States.⁴⁹ The President also drew the attention of the

⁴⁹ S/1998/353.

Council to a letter dated 15 October 1997 from the Secretary-General,⁵⁰ transmitting a letter dated 1 August 1997 from the President of the International Criminal Tribunal for Rwanda, requesting the creation of a third Trial Chamber of the Tribunal.

The representative of the United Kingdom spoke on behalf of the European Union and the associated and aligned countries.⁵¹ He stated that the International Tribunal for Rwanda had been established by the Security Council in its resolution 955 (1994) with the aim of putting an end to the impunity of persons responsible for genocide and other serious violations of humanitarian law committed in Rwanda in 1994. The European Union had cooperated closely with the Tribunal through the arrest and transfer of suspects to the Tribunal, through voluntary contributions to the Trust Fund in surplus of assessed contributions and through the provision of staff and continued strong support. He noted that in paragraph 7 of resolution 955 (1994), the Council had agreed that it would consider increasing the number of judges and Trial Chambers of the Tribunal if it became necessary. In this context, he emphasized the importance of respecting the human rights of the individual and the need to try those accused of crimes within the jurisdiction of the Tribunal without undue delay. He therefore expressed his concern with the current situation regarding the number of accused persons in pre-trial detention in the Tribunal's prison quarters in Arusha. Considering the need for a speedy trial of these and other persons who might yet be brought to the Tribunal, he stated that it was important to create a third Trial Chamber for the International Tribunal for Rwanda, consisting of three judges, in order that the administration of justice by the Tribunal could be accelerated. However he reiterated their position that the Tribunal must be able to function efficiently and that while he was pleased to recall that the Office of Internal Oversight Services had recently reported significant improvements, many problems remained, notably in the areas of financial and administrative control, recruitment of personnel and the establishment of an effective witness-protection program. He stressed

⁵⁰ S/1997/812.

⁵¹ S/PV.3877, p. 2 (Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia, and Cyprus and Norway).

the importance of continued improvement in these areas.⁵²

The representative of China stated that the International Tribunal had done a lot of work and played a positive role in the stabilization of the situation in the Great Lakes region as well as Rwanda and that he fully understood the need for a third Trial Chamber to help expedite the trial of the indicted. He stated his support for the draft resolution and expressed his hope that the Tribunal would take measures to improve its efficiency. However, he maintained that his Government's position regarding the creation of international tribunals remained unchanged and that the reference to Chapter VII of the Charter in the draft resolution was only a technical reaffirmation of the content of resolution 955 (1994) and did not constitute a precedent.⁵³

The representative of the Russian Federation stated that the Tribunal was an important element in the process of national reconciliation and welcomed the request to create a third Trial Chamber to accelerate the process. He also stated that if the Tribunal was to function effectively, further measures would have to be taken to improve its procedures and methods of work and to rectify the situation with regard to the lack of administrative and technical personnel and the construction of additional facilities. Finally, he noted that while they supported the draft resolution, they believed that the reference made in it to Chapter VII of the Charter of the United Nations was a purely technical one and would not set a precedent for the Security Council's consideration of similar situations.⁵⁴

The representative of the United States stated that the International Tribunal for Rwanda had to carry out its mission more effectively, more efficiently and more productively, and the trials and judgments needed to be rendered in a timely manner. She informed the Council that the United Nations Office of Internal Oversight Services had made extensive recommendations for reforms of the Tribunal, some of which had been implemented. She remained deeply concerned that, despite efforts, serious problems remained. She expressed her hope that the third Trial Chamber added by the draft resolution would enable the Tribunal to

⁵² *Ibid.*, p. 2.

⁵³ *Ibid.*, p. 7.

⁵⁴ *Ibid.*, p. 8.

render prompt justice. However, this needed to be carried out at the same time as ongoing reform efforts. She also noted that bringing to justice those responsible for crimes against humanity was equally urgent in the cases of the former Yugoslavia and Cambodia and stated that her Government was working to expand the tribunal in the former Yugoslavia and establishing one for Cambodia.⁵⁵

The representative of Japan noted the importance of the Tribunal in establishing the primacy of justice based on the principle of the rule of law. Noting his concern over reports that standard judicial procedures had not necessarily been observed in Rwanda, he maintained that the Tribunal needed to provide a model mechanism for bringing criminals to justice. The Tribunal was more than a judicial mechanism: it could show how a judicial system should function under the rule of law, assuring due process even to those accused of committing the most heinous of crimes. Peace could be preserved only if it was accompanied by justice, based on the rule of law and the respect for the human rights of all. He acknowledged that the Tribunal had not always been successful in performing in an exemplary manner and maintained that the letter from the President of the Council to the President of the Tribunal pointing to the need to facilitate the efficient functioning of the Tribunal needed to be part of the decision to authorize expansion of the Tribunal. He expressed his hope that the expansion would allow the Tribunal to meet the expectations of the international community.⁵⁶

Speaking before the vote, several other speakers maintained the importance of the International Tribunal for Rwanda in bringing peace and justice to the region; the need for a third Chamber to allow them to try suspects without undue delay; and the importance of continued efforts to improved the efficiency of its work.⁵⁷

At the same meeting the draft resolution was put to the vote and adopted unanimously as resolution 1165 (1998), which reads:

⁵⁵ Ibid., p. 9.

⁵⁶ Ibid., pp. 9-10.

⁵⁷ Ibid., p. 3 (Sweden); pp. 3-4 (Portugal); p. 4 (Slovenia); pp. 4-5 (Kenya); pp. 5-6 (Costa Rica); p. 6 (Brazil); p. 7 (Bahrain); pp. 7-8 (Gabon); p. 8 (France); and p. 8 (Gambia).

The Security Council,

Reaffirming its resolution 955 (1994) of 8 November 1994,

Recalling its decision in that resolution to consider increasing the number of judges and Trial Chambers of the International Tribunal for Rwanda if it becomes necessary,

Remaining convinced that in the particular circumstances of Rwanda, the prosecution of persons responsible for serious violations of international humanitarian law will contribute to the process of national reconciliation and to the restoration and maintenance of peace in Rwanda and in the region,

Stressing 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 a large number of accused awaiting trial,

Having considered the letter from the President of the International Tribunal for Rwanda, transmitted by identical letters dated 15 October 1997 from the Secretary-General to the Presidents of the Security Council and the General Assembly,

Convinced of the need to increase the number of judges and Trial Chambers, in order to enable the International Tribunal for Rwanda to try without delay the large number of accused awaiting trial,

Noting the progress being made in improving the efficient functioning of the International Tribunal for Rwanda, and convinced of the need for its organs to continue their efforts to further such progress,

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

1. *Decides* to establish a third Trial Chamber of the International Tribunal for Rwanda, and to this end decides to amend articles 10, 11 and 12 of the statute of the Tribunal, replacing those articles with the text set out in the annex to the present resolution;

2. *Decides* that the elections for the judges of the three Trial Chambers shall be held together, for a term of office to expire on 24 May 2003;

3. *Also decides* that, as an exceptional measure to enable the third Trial Chamber to begin to function at the earliest possible date and without prejudice to article 12, paragraph 5, of the statute of the International Tribunal for Rwanda, three newly elected judges, designated by the Secretary-General in consultation with the President of the Tribunal, shall commence their term of office as soon as possible following the elections;

4. *Urges* all States to cooperate fully with the International Tribunal for Rwanda and its organs in accordance with resolution 955 (1994), and welcomes the cooperation already extended to the Tribunal in the fulfilment of its mandate;

5. *Urges* the organs of the International Tribunal for Rwanda actively to continue their efforts to increase further the efficiency of the work of the Tribunal in their respective areas, and in this connection further calls upon them to consider how their procedures and methods of work can be enhanced, taking into account relevant recommendations in this regard;

6. *Requests* the Secretary-General to make practical arrangements for the elections mentioned in paragraph 2 above and for enhancing the effective functioning of the International Tribunal for Rwanda, including the timely provision of personnel and facilities, in particular for the third Trial Chamber and related offices of the Prosecutor, and further requests him to keep the Security Council closely informed of progress in this regard;

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

Deliberations of 15 July 1998 (3908th meeting)

By a letter dated 8 July 1998 addressed to the President of the Security Council,⁵⁸ the Secretary-General proposed extending the deadline for nominations of judges for the Trial Chambers of the International Tribunal for Rwanda until 4 August 1998.

At its 3908th meeting, held on 15 July 1998 in accordance with the understanding reached in its prior consultations, the Security Council included the letter in its agenda. Following the adoption of the agenda, the President (Russian Federation) drew the attention of the Council to a draft of a letter, endorsing the proposed extension of the deadline for nominating Judges, from the President of the Security Council to the Secretary-General. The Security Council endorsed the proposal and agreed that the letter should be sent to the Secretary-General as drafted.⁵⁹

Deliberations of 18 August 1998 (3917th meeting)

By a letter dated 7 August 1998 addressed to the President of the Security Council,⁶⁰ the Secretary-General forwarded to the Security Council the fourteen nominations for judges of the Trial Chambers of the Tribunal which had been received from States Members of the United Nations within the period specified in paragraph 3 (b) of article 12 of that statute, as extended by the Security Council in the decision taken at its 3908th meeting. He also noted that the number of candidates was short of the minimum

number of eighteen which is required by paragraph 3 (c) of article 12 of the statute.

At its 3917th meeting, held on 18 August 1998 in accordance with the understanding reached in its prior consultations, the Security Council included the letter in its agenda. Following the adoption of the agenda, the President drew the attention of the Council to a draft of a letter from the President of the Security Council to the Secretary-General, informing him of the decision by the Council to extend the deadline for nominations of judges of the Tribunal until 14 September 1998. The Security Council agreed that the letter should be sent to the Secretary-General as drafted.⁶¹

Decision of 30 September 1998 (3934th meeting): resolution 1200 (1998)

At its 3877th meeting, held on 30 September 1998 in accordance with the understanding reached in its prior consultations, the Security Council included in its agenda without objection the item entitled "Establishment of the list of candidates for judges of the International Tribunal for Rwanda".

At the same meeting the President (Japan) drew the attention of the Council to a draft resolution prepared in the course of the Council's prior consultations.⁶² The draft resolution was then put to the vote and adopted unanimously as resolution 1200 (1998), which reads:

The Security Council,

Recalling its resolutions 955 (1994) of 8 November 1994, 989 (1995) of 24 April 1995 and 1165 (1998) of 30 April 1998,

Having considered the nominations for judges of the International Tribunal for Rwanda received by the Secretary-General,

Forwards the following nominations to the General Assembly in accordance with paragraph 3 (d) of article 12 of the statute of the International Tribunal for Rwanda:

Ms. Eugénie Liliane Arivony (Madagascar)

Mr. Pavel Dolenc (Slovenia)

Mr. Salifou Fomba (Mali)

Mr. Willy C. Gaa (Philippines)

Mr. Asoka de Z. Gunawardena (Sri Lanka)

⁵⁸ S/1998/640.

⁵⁹ S/1998/646.

⁶⁰ S/1998/760.

⁶¹ S/1998/761.

⁶² S/1998/903.

Mr. Mehmet Güney (Turkey)
Mr. Aka Edoukou Jean-Baptiste Kablan (Côte d'Ivoire)
Mr. Laïty Kama (Senegal)
Mr. Dionysios Kondylis (Greece)
Mr. Bouba Mahamane (Niger)
Mr. Erik Møse (Norway)
Mr. Yakov Ostrovsky (Russian Federation)
Mr. Cheick Dimkinsedo Ouédraogo (Burkina Faso)
Ms. Navanethem Pillay (South Africa)
Ms. Indira Rana (Nepal)
Mr. William Sekule (United Republic of Tanzania)
Mr. Tilahun Teshome (Ethiopia)
Mr. Lloyd George Williams (Jamaica and St. Kitts and Nevis)

**Decision of 19 May 1999 (4006th meeting):
resolution 1241 (1999)**

By a letter dated 17 May 1999 addressed to the President of the Security Council, the Secretary-General⁶³ requested an extension of the term of office of a non-elected judge of the Tribunal in order to allow him to dispose of two ongoing cases. In view

⁶³ S/1999/566.

of the very short time which was available before the judge's term of office was due to come to an end, he asked if the letter and its annex could be brought to the immediate attention of the members of the General Assembly and of the Security Council for their speedy approval in the manner that they deemed fit.

At its 4006th meeting, held on 19 May 1999 in accordance with the understanding reached in its prior consultations, the Security Council included the letter in its agenda.

At the same meeting the President drew the attention of the Council to a draft resolution prepared in the course of the Council's prior consultations.⁶⁴ The draft resolution was then put to the vote and adopted unanimously as resolution 1241 (1999), which reads:

The Security Council,

Taking note of the letter dated 17 May 1999 from the Secretary-General to the President of the Security Council, to which he attached a letter to him dated 14 May 1999 from the President of the International Tribunal for Rwanda,

Endorses the recommendation of the Secretary-General that Judge Aspegren, once replaced as a member of the Tribunal, finish the Rutaganda and Musema cases which he has begun before expiry of his term of office, and takes note of the intention of the Tribunal to finish these cases if possible before 31 January 2000.

⁶⁴ S/1999/576.

6. The situation in Burundi

**Decision of 5 January 1996 (3616th meeting):
statement by the President**

By a letter dated 29 December 1995 addressed to the President of the Security Council,¹ the Secretary-General shared his deep concern about the persistence of violence and the further escalation of human rights violations. According to his report, Burundi was the scene of a smouldering civil war. The situation had continued to deteriorate since May 1995 and was characterized by daily killings, massacres, torture and arbitrary detention. The deteriorating situation was underscored by recent decisions of international organizations including the International Committee of

¹ S/1995/1068.

the Red Cross (ICRC), the World Food Programme (WFP) and most non-governmental organizations to curtail or suspend their activities following a spate of violent attacks against their personnel and assets. Furthermore, Burundi's borders with Zaire and the United Republic of Tanzania had remained closed for several days. In the existing circumstances, he felt that there was a real danger of the situation in Burundi degenerating to the point where it might explode into ethnic violence on a massive scale. He recalled the proposals he had made in his report on 11 October 1994.² He suggested the maintenance in Zaire, subject to the agreement of the Government, of a military

² S/1994/1152.