



Security Council

Distr.
GENERAL

S/1996/682
22 August 1996

ORIGINAL: ENGLISH

LETTER DATED 25 JULY 1996 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to Security Council resolution 1012 (1995), of 28 August 1995, in which the Council requested the Secretary-General to establish an international commission of inquiry concerning the assassination of the President of Burundi on 21 October 1993 and the massacres that followed.

The members of the Security Council will recall that on 5 January 1996 I submitted an interim report on the work of the Commission (S/1996/8).

On 23 July 1996, the Chairman of the Commission, accompanied by the three remaining Commissioners and the Commission's Executive Secretary, delivered to me the Commission's final report. I enclose the text of the report.

(Signed) Boutros BOUTROS-GHALI

ANNEX 1

Second revised edition, 13 April 1996

RULES OF PROCEDURE

1. The members of the Commission are required to make the following solemn declaration: "I solemnly undertake to perform my duties and exercise my powers honourably, faithfully, impartially and conscientiously" (Article 20 of the Statute and Article 5 of the Rules of Procedure of the International Court of Justice). Should a judge be replaced for any reason, the new member shall make the same declaration before the President or his deputy.
2. The Commission shall, in the manner it deems appropriate, invite the Government, members of the Government, any political or apolitical, governmental or non-governmental organization, any association, group, or other body, to produce within a period to be determined by the Commission any documentation or communication that they may wish to transmit to the Commission within the scope of its mandate.
3. The Commission shall announce that it is prepared to examine requests from the Government and other interested organizations for any person likely to contribute to the mandate of the Commission to be heard. In such cases, the person's name and position and a brief description of the events about which he or she wishes to testify should reach the Commission within a period of four (4) days.
4. The Commission shall give notification in writing, or by other appropriate means, within a period of three (3) days, to any witness whom it deems necessary to hear within the scope of its mandate. Such notification shall specify the date and time at which the Commission will receive the testimony.
5. The Commission may entertain a request for postponement, for reasons considered sufficient, within any period it judges to be reasonable.
6. The Commission shall give notification in writing, within a period of four (4) days, that it will hear the testimony of the authorities and Government officials who may have knowledge of the events covered by its mandate. The absence of any witness, or his or her refusal to testify, shall be entered in the minutes of the Commission and mentioned in the case file.
7. The proceedings of the Commission shall be held in private, unless it decides otherwise.
8. The Commission may authorize representatives of the Government and of the organizations mentioned in paragraph 2 to attend specific hearings.
9. All information, evidence and testimony shall be treated in strict confidence within the scope of the mandate of the Commission.

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10. The Commission shall give witnesses all reasonable latitude to provide full testimony on any matter considered relevant to the mandate of the Commission.

11. Any person appearing before the Commission shall have the right to be assisted by a lawyer, if he or she so chooses.

12. Each witness shall, before giving evidence, take the following oath: "I swear that I will speak the truth, the whole truth, and nothing but the truth." He or she shall then state his or her name, address, civil status, and official position (if any).

13. The Commission shall permit the witness to make any statement he or she considers necessary. However, the Commission may end the statement at any time if it considers it to be inappropriate or irrelevant to its mandate.

14. Any member of the Commission may at any time question the witness.

15. The Commission reserves the right to recall witnesses if necessary.

16. The Commission shall meet with five members present. However, it may meet with a minimum of three members present. Decisions of the Commission shall be made by an absolute majority of its members.

17. In case of absence or incapacity of the President, the Commission shall designate an acting president.

18. 2/ Testimony may be heard by one or more members of the Commission, according to circumstances.

19. In exceptional circumstances, the Commission may designate two members of its staff to hear testimony or gather other evidence. In such cases, the rules to be followed are set out in appendix I.

20. Should a report of the Commission not express the unanimous opinion of its members, any of the latter may append a statement of his separate opinion.

2/ Version adopted unanimously by the Commission, by amendment, at its meeting on 13 April 1996.

APPENDIX I

Pursuant to article 19 of the Rules of Procedure of the Commission, the two members of staff designated to gather evidence, including testimony, required by the Commission shall comply with the following rules:

1. Each designated member of staff shall, in addition to the oath required of staff members, take the oath of the Commissioner for Oaths, as follows: "I solemnly swear that I will perform my duties and exercise my powers honourably, faithfully, impartially and conscientiously."

2. The Commissioners for Oaths who gather evidence shall:

(a) In the case of oral testimony, make a tape recording of the testimony, including any preliminary remarks and concluding remarks;

(b) In the case of a written statement, take possession of the entire document and place it in a sealed envelope;

(c) In the case of photographs or other exhibits, take possession of the items and record in the minutes the nature and number of the items and a brief description of each item.

3. Exhibits, written statements, documents or other items gathered by special mandate from the Commission shall in all cases be handed as soon as practically possible, together with the original of the minutes, to the Executive Secretary of the Commission, who shall make such use of them as may be directed by the Commission.

MINUTES OF A HEARING

Present: (1)
(2)
(3)
(4)
(5)

Date:

Hearing began at:

Hearing ended at:

Registrar:

Interpreters: (1)
(2)

Name of the witness:

Age:

Address:

Official position (if any):

Record below: (1) Any order of the Commission;
(2) Any exhibit, document or other item of evidence, with its
serial number and description;
(3) Any other comment, if expressly requested by the Commission
or one of its members.

Signature of the Registrar

MINUTES

(Commissioners for Oaths)

Commissioners: Last name _____ First name _____
Last name _____ First name _____
Last name _____ First name _____
Last name _____ First name _____
Last name _____ First name _____

Title or position within the Commission:

Time of departure:

Time of return:

Place visited:

Duration of interview:

Name of informant (witness):

Status (or official position):

Address (if possible):

Age:

REMARKS:

Assessment of the witness:

Description of the place visited:

If interview was discontinued, give reason
and, if possible, identification:

Any exhibit, photograph or other item, with its serial number, should be
enclosed with these documents and accompanying evidence.

ANNEX 2

CONSTITUTION OF THE REPUBLIC OF BURUNDI

March 1992 version

Section IV

THE EXECUTIVE POWER

1. The President of the Republic

Article 85

In the absence or temporary impediment of the President of the Republic, the Prime Minister shall manage the affairs of State.

In case of vacancy by reason of resignation, death or any other cause terminating definitively the functions of the President, the remainder of the term of office shall be exercised by the President of the National Assembly or by the Government, if the President of the National Assembly is in turn impeded from exercising his duties.

The vacancy shall be confirmed by the Constitutional Court upon notification by the Government.

The interim authority may not form a new Government.
