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**REPORT OF THE CHAIRPERSON OF THE COMMISSION
ON THE SITUATION IN BURUNDI**

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I. INTRODUCTION

1. The situation in Burundi was examined by the 9th meeting of the Peace and Security Council held on 25 May 2004. On this occasion, Council, while welcoming the significant strides made in the peace process in Burundi, encouraged the parties to pursue their efforts until the completion of the said process, particularly by agreeing on modalities for organizing and holding democratic elections and by facilitating the process of disarming and reintegrating the combatants. Council urged PALIPEHUTU/FNL of Agathon Rwasa to put an end to his attacks and to join the peace process in conformity with the decision of the 20th Summit of the Regional Initiative in Burundi held on 16 November 2003. Council commended the African Mission in Burundi (AMIB) for fulfilling its mandate with competence in spite of the very meagre financial resources put at its disposal and expressed satisfaction at the adoption by the United Nations Security Council on 21 May 2004 of Resolution 1545(2004) authorizing the deployment of a United Nations Operation in Burundi (UNOB).

2. This report depicts the development of the situation since 25 May . The report particularly gives an account of the efforts made to overcome the differences between the Burundian parties on the problem of elections and those made to induce PALIPEHUTU/FNL of Agathon Rwasa to join the peace process.

II. DEVELOPMENT IN THE POLITICAL SITUATION

3. During the period under review, the issue of elections till dominated public discussions in Burundi. In this regard, it is necessary to recall that elections which should conclude the thirty six (36) months transitional period currently in progress in conformity with the Arusha Peace and Reconciliation Accord of August 2000, must in principle be held at the end of October 2004. While some Burundian parties requested that this timetable be respected, others had suggested that it should be postponed, on the grounds that the necessary conditions had not been met for the smooth organization of the elections. After convening a forum of the Burundian parties – which was however inconclusive, President Domitien Ndayizey , proposed that the transition be extended for one year and the elections be postponed.

4. It is against this background that the 21st regional Summit on Burundi was held in Dar es Salaam in Tanzania on 5 June 2004. The summit at which the AU was represented by a delegation led by the Commissioner for Peace and Security and including my Special Representative in Burundi, Ambassador

Mamadou Bah, decided in favour of the timetable provided for by the Arusha Accord. However, in order to take into account the concerns expressed by President Ndayizey  and other parties, the Summit underlined that the process should have a certain measure of flexibility.

5. This Summit decision was interpreted by the Burundian political parties in diverse ways. Consequently, UPRONA, RADDES, PSD, PRP and ANADDE, of the Tutsi political ethnic family rejected the conclusions of the 21 Summit in Dar-es-Salaam. These five parties, signatories to a “Manifesto for the reconstruction of the nation through democracy and the fight against genocide,” held a press conference on Thursday 10 June 2004, during which they voiced their sentiments on democracy, the elections and the elaboration of the pertinent texts on the elections.

6. According to these parties, “in a society like Burundi, democracy by the majority can neither reconcile nor reunite the segments of the nation. An adapted model of democracy, capable of healing wounds, managing antagonisms, revitalizing social cohesion, national reconciliation and the sense of citizenship is what is needed. It is therefore necessary to establish an inclusive political system based on co-management at all levels. In this perspective, the political stakeholders must elaborate political and electoral systems which promote compromise between political and ethnic families.” The authors of the “Manifesto” stressed “that they are not against elections, but it has never been a question of considering that a committee of foreign experts would elaborate the electoral code.” In this regard, it is necessary to recall that it had never been proposed that a committee of foreign experts be set up to draft the post transitional constitution and the electoral code.

7. At the opening of the deliberations of the 2nd Ordinary Session of the transitional Parliament of Burundi for 2004 on 7 June 2004, the Speaker of the National Assembly and the President of the Senate also voiced their opinions on the conclusions of the Dar-es-Salaam Summit. The President of the transitional Senate who belongs to UPRONA, harshly criticized the conclusions of the Summit, stating that “on the whole, the recent deliberations focused on one secondary issue, ignored the most important one and dealt with the trivial issue. Prior to the holding of elections, the major task must be discussed or more precisely negotiate a post transitional constitution, an electoral code and a community law. These projects must be discussed by the Government, the National Assembly and the transitional senate in accordance with the operational norms and regulations of these institutions. It is therefore out of the question as some people speculate, that such fundamental texts would be elaborated by experts and what is more by foreigners”. It should be recalled that considering the difficulties which the Burundian parties faced in subscribing to the post transitional constitution and the electoral code, it had been proposed that a group of international experts be constituted to assume this responsibility.

8. Contrary to these reactions, other political parties welcomed the conclusions of the Dar-es-Salaam Summit. In a communiqué published on 6 June 2004, FRODEBU “Congratulated the Heads of State and Government for their wisdom and vision”. FRODEBU moreover requested the transitional government to leave no stone unturned and mobilize all the national forces as well as the international partners with a view to implementing this decision in the region. It should however be noted that FRODEBU, for its part has been experiencing the same divergences which cut across the political class in regard to elections.

9. All the parties formed after the Arusha Accord were also among the parties which welcomed the decision of the Heads of State to abide by the initial timetable. These parties intended to take advantage of the elections to adopt a position on the political scene. These included particularly the MRC of Colonel Epitace BAYAGANAKANDI and other parties such as ALIDE, MADDEBU, PAJUDE, PACENA, UPD, RUSANGI, PADER and SONOVI. These nine parties wrote to the President of the regional initiative and the Mediator to submit proposals on the establishment of an independent electoral commission.

10. In this regard, account must be taken of the statement made by Domitien Ndayizéyé. Contrary to this strong reaction after the Summit, he affirms today that “on the whole, we subscribe to the contents of the communiqué because we are really committed to see to it that elections can be held within the timeframe; but we clearly stated that it is more useful to discuss the issue of removing obstacles which hamper elections rather than dates”.

11. The South African Vice President, Jacob Zuma travelled to Burundi in the middle of June in accordance with the mandate entrusted to him, in his capacity as Mediator by the 21st regional Summit, to assist the Burundian parties reach a compromise on the pertinent issues related to power sharing. The Vice President met the parties and the armed political movements which are signatories and non signatories to the Arusha Accord, the follow-up committee on the implementation of the Arusha Accord as well as members of the civil society, the United Nations Mission in Burundi and the African Union Mission.

12. At the end of these meetings, the Vice President stated that, in their majority, the Burundian political stakeholders were favourable to the holding of the elections. A certain number of issues were however raised, particularly by the parties which are not signatories to the Arusha Accord. Among these issues, two were particularly crucial for the elections: the funding of political parties and the review of the provisions of Article 263 of the transitional

constitution which prohibit the free exercise of political freedom because of the absence of security throughout the national territory.

13. In regard to the funding of political parties, Mr. Zuma reported the grievances of the parties which are not represented in the Government and which accuse the Government of using to its advantage, national resources for election campaign purposes although this campaign had not officially started. He underlined the complexity of the issue and cited the example of South Africa where funding of political parties is not provided for and where the political parties themselves have to find the money needed for their operations.

14. Concerning the second issue, Vice President Zuma stressed that it could not be a matter of vouching for the provisions of the transitional constitution which ban parties from organizing public meetings, whereas they would have to look aimlessly for funding for the elections, adding that in other words, one could not talk about democracy on the one hand and ban an essential aspect of this democracy on the other hand. He requested the African Union to consider this issue with a view to finding a solution.

15. The Vice President took note of the position of the Burundian parties and promised to consider with President Thabo Mbeki, ways and means of assisting the Burundians to find a solution to the current problems. He could subsequently invite the Key-Players to discuss proposals tabled by South Africa.

16. One of the difficulties of the peace process relates to the refusal of PALIPEHUTU-FNL to join the peace process. At its 20th Summit, the regional Initiative requested PALIPEHUTU/FNL to join the peace process within three months, failing which sanctions would be impose on this movement. The PSC had supported the position adopted by the regional Initiative and reiterated its appeal to PALIPEHUTU/FNL to join the peace process.

17. When it observed that this movement had not responded to the ultimatum given to it, the 21st Summit decided to impose, with immediate effect, restrictions on the movements of the leaders and members of PALIPEHUTU/FNL. In the same vein, the Summit requested the Peace and Security Council to examine the activities of this movement in the light of the Constitutive Act of the African Union and the Algiers Convention on the prevention and combating against terrorism with a view to recommending appropriate political and legal actions within three months.

III. SECURITY AND MILITARY ASPECTS

18. The security situation remains relatively calm in 16 out of the 17 provinces in Burundi. Fighting still continues between the PALIPEHUTU and the government forces, allied with CNDD-FDD Nkurunziza, in the Kabezi and

Mutambu districts in the province of Bujumbura Rural where some 30,000 persons have been displaced since the beginning of June 2004.

19. As Council will recall, on 21 May the United Nations Security Council adopted Resolution 1545(2004), authorizing the deployment of the United Nations Operation in Burundi (UNOB), for an initial period of six months, to take over from AMIB which had been deployed in Burundi in conformity with the decision of the Central Organ of the Mechanism for Conflict Prevention Management and Resolution dated 2 April 2003. The handing over ceremony took place in Bujumbura on 1st June between my Special Representative and the outgoing Special Representative of the United Nations Secretary General under the chair of the Burundian Minister of Foreign Affairs. The Minister of Foreign Affairs of South Africa, a country which assumed the role of host nation for AMIB also participated in the ceremony. Since then, AMIB had come under the control of the United Nations. I would once again like to seize this opportunity to express my gratitude to the member countries which provided observers and troops for their sacrifices.

IV. DDR AND REFORM OF THE SECURITY SECTOR

20. The programme for the disarmament, demobilization, reintegration and rehabilitation of combatants has not yet started. Fourteen encampment zones have however been identified, eleven out of which are occupied. 6 for CNDD-FDDS/NKURUNIZA combatants and the others for each of the other five armed movements namely CNDD/Nyangoma, Kaze-FDD of Jean Bosco, FNL-Icanzo of Mugabarabona, Palipe-Agakiza of Karatasi and Frolina of Joseph Karumba. Two mobilization centers have also been identified and accepted in all the parties. These are Randa in Bubanza and Otraco in Gitega.

21. According to the Government, the DDR operations, of which the joint plan was adopted, as well as the technical Agreement of the forces by the Joint Ceasefire Commission (ICC) on 17 June 2004, should commence in the second week of July 2004. For this purpose, the World Bank donated 33 million dollars to the Burundian Government on 18 March 2004 in addition to the 42 million dollars provided by member donors of MDRP (Multi Country Demobilization and Reintegration Program), to backstop the efforts of the DDRP. The national DDR programme aims at demobilizing and reintegrating 55,000 ex combatants into civilian life within four years out of the 83,000 estimated number, that is 14,000 ex combatants a year up to 2008.

22. Apart from the establishment of the integrated defence staff, of the Army and the Police, reform of the defence and security forces, in the real sense of the word, has not yet taken off. However, in March 2004, the Government started training a special security unit composed of 1200 men from the Burundian Armed Forces and CNDD-FDD/NKURUNZIZA. This training was

completed on 15 June 2004. The other armed groups were invited to nominate their members who should undergo training in order to join the Special Security Unit.

V. HUMANITARIAN SITUATION

23. The ceasefire Agreements signed between the transitional Government and the various armed political movements, particularly the Agreement of 16 November 2003, rekindled hope in thousands of refugees and displaced persons. The lull observed on the ground on the one hand and the difficulties relating to life in the refugee camps on the other hand, urge thousands of persons to return to Burundi, either spontaneously or with the assistance of the UNHCR in conformity with the tripartite Accord signed in Dar-es-Salaam on 8 May 2001 between Burundi, Tanzania and UNHCR on the voluntary repatriation of Burundian refugees living in Tanzania.

24. According to the UNHCR, the number of Burundian refugees in 1993 living in camps in Tanzania has significantly reduced. In May 2004, only 290,000 refugees remained in these camps. As at 23 June 2004, 52,300 refugees were repatriated to Burundi since the beginning of the year. This downward trend should continue with the opening of a fourth entry point in Mugina in the Makamba province on 24 June 2004. The opening of this fourth entry point coincided with the deliberations of the 8th Session of the Tripartite Commission which met in Bujumbura to consider the status of implementation of the 7th Session and to map out strategies to speed up the repatriation process of refugees from 1993 and 1972. The African Union Mission took part in the deliberations of the Tripartite Commission.

25. Moreover, according to a recent survey by OCHA-Burundi (United Nations Office for the Coordination of Humanitarian Affairs) conducted from 10 March to 7 April 2004, the number of displaced persons in camps is supposed to have distinctly reduced. Therefore, according to the census, the number would reduce from 281,000 to 140,000 between 2002 and 2004. This survey does not however take into consideration the temporary displaced persons particularly in the province of Bujumbura Rural and the displaced persons staying with families.

26. Besides, events in the eastern part of the Democratic Republic of Congo(DRC) have forced several Congolese to cross their country's border to seek refuge in neighboring countries. This situation has had repercussions on the socio humanitarian situation in Burundi which is already faced with difficulties related to the rehabilitation and reintegration of its own returnees and displaced persons. The Congolese refugees whose number is to date estimated at 31,000 are accommodated in make shift sites in the Cibitoke province. The UNHCR, in collaboration with the Government has identified a zone in the Cankuzo province where these refugees will be transferred in order

to keep them away from the border with the DRC. This situation occurs at a time when the attention of the UNHCR-Burundi delegation is rather focused on the repatriation of Burundian refugees from Tanzania.

27. On 16 June 2004, a delegation of the AU Mission to Burundi visited the Cibitoke province in the Rugambo district where it assessed the seriousness of the situation of these completely destitute populations. In Cibitoke, the refugees were mainly Banyamulenge mixed with some members of the Bafulero ethnic group who are accommodated in the Catholic Parish and in the field of the surrounding stadium where they receive assistance from the WFP and the UNHCR. The largest site is in the Rugombo district which mainly accommodates refugees belonging to the Bahsi, Bafulero and Babembo ethnic groups

VI. OBSERVATIONS AND RECOMMENDATIONS

28. The Burundi peace process has achieved unquestionable positive results both at the political and security levels since the Executive Council meeting in Maputo, particularly after the signing of the global ceasefire agreement on 16 November 2003. The return to Burundi of several leaders of armed political movements, facilitated by the African Mission and the Security enjoyed in the 16 out of the 17 provinces in the country are clear manifestations.

29. At the same time, there are many difficulties which to a large extent hamper the implementation of the peace process. In this regard, it is particularly necessary to underline the absence of consensus on the issue of elections at the end of the transitional period and the related issues of power sharing in the post transitional constitution, the continuation of the boycott by CNDD-FDD of the deliberations of the Council of Ministers and those of the National Assembly since 3 May 2004 and the persistent refusal of PALIPEHUTU/FNL to join the peace process and to put an end to its attacks.

30. The reality of the situation is that as a background to the Burundian crisis, there is a permanent struggle for political survival and access to power. This struggle is waged in the small political arena in Bujumbura. The radicalization of the positions of the different parties on the issue of elections must be considered in this perspective. Particularly, the Tutsi dominated political parties have expressly affirmed that they do not intend to engage in an electoral process which will only mean supporting the majority Hutu to conquer exclusive power.

31. Faced with this new situation which is likely to derail the peace process, Council must encourage and support the Mediator in his efforts to induce the Burundian parties to reach a consensus. In this regard, the conclusions of the 21st regional Summit must serve as a basis for the necessary compromise

between the Burundian parties, otherwise the efforts made all these recent years are likely to be in vain.

32. It is at the same time necessary for Council to send a clear signal of its determination to take all the necessary measures to make the peace and reconciliation process a success.

33. I welcome the opening of the fourth transit point, the regular holding of the Burundi-HCR-Tanzania Tripartite Commission, as well as the gradual return of displaced persons to their hills and Burundian refugees from Tanzania. I urge the transitional Government to pursue its efforts by establishing mechanisms for the resolution of social disputes and adequate reception structures in order to avoid a situation where the return of refugees would constitute in itself a source of tension and conflict.

34. At its 9th Session, the PSC requested me to take the necessary measures for the AU to maintain an observer mission in Burundi so as to continue to support the implementation of the peace process and to facilitate cooperation with UNOB. This request by the PSC was made in the extension of Resolution 1545(2004), in which the Security Council encouraged the AU to maintain a strong presence in Burundi in order to backstop the efforts of the Burundian parties. I would like to inform Council that the Commission is currently reasserting its presence in Burundi since it is understood that it could, by doing so, give the necessary support to the peace and reconciliation process.

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