

AFRICAN UNION
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**EIGHTY- SIXTH ORDINARY SESSION OF THE
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**REPORT OF THE INTERIM CHAIRPERSON OF THE
COMMISSION OF THE AFRICAN UNION ON
THE SITUATION IN BURUNDI**

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I. INTRODUCTION

1. This report gives an account of the developments in Burundi since the Durban Summit last July. It also covers developments in the peace process and the efforts deployed by the International Community including the African Union in the search for a lasting solution to the conflict in Burundi.

II. POLITICAL DEVELOPMENTS

2. The first phase of the transition scheduled to last for 18 months with effect from 1 November 2001, is in progress despite the huge difficulties it is facing: persistence of clashes with the armed groups, the continued worsening of the socio-economic situation and the persistent dissensions within the political class.

3. The Central Organ will recall that the Council of Ministers, in its Decision CM/Dec.678 (LXXVI) adopted during its session held in Durban from 28 June to 6 July 2002, while expressing satisfaction at the progress made in the establishment of the Transition Institutions, encouraged the parties signatory to the Arusha Peace and Reconciliation Agreement to continue to exhibit the same commitment to the peace process and to demonstrate the spirit of compromise and tolerance necessary for the pursuit and consolidation of this process.

4. During the period under review, despite the appeals to the various signatory parties, the political class remained fragmented by serious differences. Evidence of this state of affairs is the persistence of allegations of ceasefire violations, and the latent conflicts within the two large political groupings (the G10 and the G7) resulting mainly from what some consider as the inequitable distribution of posts within the Transition Institutions.

5. The climate of quasi-permanent tension between the G7 and G10, and within each of these groups was exacerbated by the discovery of massacres in the district of Itaba in the Gitega province during which 173 people were killed. Some political parties of the G7 signatories to the Arusha Agreement represented in the transition government (CNDD, FROLINA and PALIPEHUTU) as well as CNDD-FDD and the PALIPEHUTU-FNL, accused the army of having committed the massacres. The latter for its part placed responsibility for the massacres squarely on the CNDD-FDD which had allegedly taken the civilian populations hostage. The Army's position was supported by UPRONA which, in a Press Release published on 20 September 2002, expressed its disapproval

of “the campaign of disinformation orchestrated by certain personalities with the intention to make the population believe that all the dead people were civilians”, whereas according to the information available to it, “the dead persons included an unspecified number of attackers and accomplices”.

6. The Government set up a Commission of Inquiry to establish responsibility and take appropriate punitive measures. The Commission made up of local military officers and administrators concluded that the army had not been responsible for the killings, but rather that the massacres had been perpetrated by the rebellion. Consequently, the Government published a statement by which it “condemned the killings and recognised that although it might be difficult to distinguish the rebels from the population that had been taken hostage or used as human shield, the security forces could have limited the damage had they shown greater circumspection in the conduct of the operations”. The Government made a commitment to pursue the investigations in the immediate future in order to unearth the truth about the circumstances surrounding the killings, find out the reasons behind the silence over the massacres (it took the government nearly one week to learn that a massacre had been committed) and, lastly, to apportion responsibility and take the necessary measures.

7. For my part, as soon as I was informed about the situation, I issued a press release on 19 September condemning that despicable act in the strongest possible terms. I made an urgent appeal to the warring parties to refrain from any action which could undermine the ceasefire negotiations. Similarly, the Security Council condemned the massacres at Itaba, and encouraged the government to continue in its efforts to establish the facts, bring those responsible to justice and ensure observance of human rights in the country.

8. The Transition Institutions have continued to execute their activities despite the above difficulties. The Transition Parliament held its First Congress on 29–30 August in accordance with Article 132 of the Transition Constitution, to evaluate implementation of the Arusha Agreement. The Congress noted that there had been some delay in the implementation of the Agreement mainly as a result of the continued hostilities and the deterioration of the socio–economic situation in the country. The First Congress coincided with the closure of the second session of the National Transition Assembly which examined and adopted several draft legislations. The Assembly was however unable to examine three draft legislations relating to crimes against humanity, provisional immunity and creation of a national observatory for combating crimes of genocide.

9. The Arusha Agreement Implementation Follow–up Commission held its 10th ordinary session in Bujumbura from 2 to 6 September 2002. The African

Union was represented by my Special Representative in Burundi Ambassador Mamadou Bah. The Commission in particular discussed the progress of the ceasefire negotiations and the precarious socio-economic situation in Burundi. It also carried out an evaluation of the activities set forth in the Arusha Agreement, particularly those pertaining to prisoners and prison conditions, and the establishment of a National Truth and Reconciliation Commission as well as an International Judicial Commission of Inquiry.

10. On 12 and 13 October 2002, the Foreign and International Cooperation Minister of the DRC visited Burundi and held talks with the authorities. In a press release issued at the end of the visit, the two countries agreed to refrain from providing support and facilities to the rebel movements. Specifically, the government of the DRC undertook "to continue in its efforts to get the armed groups in Burundi involved in the ceasefire negotiation process without conditionalities and within the framework of the Arusha Agreement."

III. CEASEFIRE NEGOTIATIONS

11. In its Decision CM/Dec.678 (LXXVI), Council had expressed grave concern over the continuing armed clashes in Burundi and underscored the need to intensify efforts aimed at cessation of hostilities, followed by the conclusion of a ceasefire agreement. To this end, Council had noted with satisfaction the mediation efforts under the leadership of President El Hadj Omar Bongo of Gabon and the South African Deputy President Jacob Zuma, as well as the initiatives taken by President Benjamin Mkapa and his Government, the countries of the Regional Initiative under the leadership of President Yoweri K. Museveni of Uganda, and the OAU Secretary General. Council requested me, in close consultation with the Mediation and the Regional Initiative, to intensify contacts with the various armed groups with a view to encouraging them to seriously pursue negotiations with the Burundian Government and to contribute in a constructive manner to the search for lasting peace in Burundi.

12. Soon after the Durban Session, the Commission got down to work to follow-up on Decision CM/Dec.678(LXXVI). In that connection, the Commission on 25 July 2002 sent correspondence to the various armed groups to brief them on the contents of the Decision. It also availed itself of that opportunity to assure the armed groups of its readiness to exert utmost effort to facilitate the restoration of peace and stability in Burundi.

13. On 31 July 2002, I addressed a letter to President Bongo and Deputy President Jacob Zuma in their capacity as Co-Mediators, as well as to Presidents Museveni and Mkapa. In those letters, I underscored the fact that the situation prevailing in Burundi particularly the escalation of violence called for renewed efforts to infuse fresh impetus into the peace process and ensure

full implementation of the Arusha Agreement. I expressed my readiness to work with them to facilitate the rapid return of peace and stability in Burundi.

14. During the period under review, two rounds of negotiation took place in Dar-es-Salaam, Tanzania, from 12 to 26 August 2002, and on 18 to 26 September 2002, respectively. The negotiations got underway under the direction of the Mediation Team made up of Deputy President Jacob Zuma, and Mr. Jean François Ndougou Minister Delegate to the Minister of State in the Ministry of Foreign Affairs representing President El Hadj Omar Bongo, with the support of representatives of the Tanzanian Government. The African Union was represented by a delegation led by my Special Representative in Burundi. The United Nations for its part was represented by Ambassador Berhanu Dinka, Representative of the United Nations Secretary General in Burundi.

15. On the eve of the first negotiation session, I issued a press release urging all the parties to put an end to violence and to redouble efforts to achieve a lasting peace. Concurrently, correspondence was addressed to the various armed groups reiterating Council's appeal for them to participate in the negotiations in the spirit of openness and compromise and to cooperate with the Mediation.

16. The Mediation, for its part, had prepared a draft ceasefire agreement for the attention of the Transition Government and the armed groups. That document provided for the establishment of ceasefire throughout the Burundian territory, and also for a monitoring and control mechanism led by the United Nations and the African Union. The document in particular provided for the setting up of joint liaison teams comprising representatives of the signatory parties, the United Nations and the African Union, as well as a Joint Ceasefire Commission similarly constituted. The document also contained provisions on the so – called additional government obligations including the disarmament, demobilization and repatriation programme as well as provisions for the training of a new national defense and security corps in Burundi.

17. Apart from the government delegation, the following two armed groups were represented in Dar-es-Salaam on the occasion of the first round of negotiation: the CNDD-FDD Jean Pierre Nkurunziza's faction, and CNDD-FDD Jean Pierre Bosco Ndayikengurukiye's faction. On the eve of the negotiations, a split occurred within PALIPEHUTU-FNL giving rise to two factions: one led by Mr. Alain Mugabarabona and the other by Mr. Agathon Rwaswa. Alain Mugabarabona's faction was expected to attend the negotiations, but could not do so for logistical reasons.

18. Despite the sustained efforts invested by the Mediation with the assistance of the representatives of the African Union, the United Nations and Tanzania, no substantive discussion could take place between Jean Pierre Nkurunziza's CNDD–FDD and the delegation of the Transition Government of Burundi. As a matter of fact, even prior to engaging in negotiations, that faction of the CNDD–FDD demanded that the Government delegation sign a statement of intent:

- endorsing the 21 October 1993 statement by the Burundian Armed Forces suspending the Constitution of Burundi approved by referendum of 9 March 1992 as well as all the democratically elected institutions;
- expressing solemnly that it would set out the profound motivations that had led the Burundi armed forces to rise and mutiny against the democratically elected government;
- accepting responsibility for and the consequences of the 21 October 1993 statement by the Burundi Armed Forces; and
- also accepting that the Burundi Armed Forces which it represented should implement all the provisions of the agreement to be concluded between genuine belligerents.

19. The CNDD–FDD Nkurunziza's faction thus put up a mountain of preconditions which posed considerable obstacles to the negotiation process. In a Note addressed to the Mediation on 14 August 2002, the CNDD–FDD accused the latter of supporting the government delegation to the detriment of the armed groups.

20. On the other hand, the CNDD–FDD Jean Bosco Ndayikengurukiye's faction and the transition government discussed the draft ceasefire agreement, both in plenary and in a Committee of the Whole. The Experts' Committee of the two parties charged to discuss the technical details was chaired by the African Union. The two delegations finally reached an agreement. On 26 August 2002, the two delegations signed a Memorandum of Understanding and initialled the draft ceasefire agreement.

21. As indicated above, the second round of ceasefire negotiation took place in Dar–es–Salaam from 18 to 26 September 2002, attended by the Transition Government of Burundi, the CNDD–FDD Jean Pierre Nkurunziza's faction and the PALIPEHUTU–FNL Alain Mugabarabona's faction. The faction led by Mr. Agathon Rwasa did not participate in the negotiations.

22. During the talks, the CNDD–FDD reiterated in a slightly modified form, its previous demand that a statement of commitment (new appellation for the above mentioned Statement of Intent) should be signed between it and the Transition Government in Burundi prior to any discussion on the draft ceasefire agreement. To facilitate and speed up the negotiations, the Mediation prepared a draft statement which essentially reaffirmed the commitment of each of the parties to implement the ceasefire agreement once concluded. This draft statement was tabled before the two delegations. After some amendments to its form, the draft was accepted by the Transition Government. The CNDD–FDD delegation on the other hand stuck to its position, and this led to a stalemate in the negotiations.

23. The talks between the delegation of the Transition Government and the PALIPEHUTU–FNL Alain Mugabarabona’s faction took place from 23 to 26 September 2002. The delegation of this armed group, from the onset, indicated that since the PALIPEHUTU–FNL was not a party to the Arusha negotiations, it would first discuss a number of political issues (namely, justice and human rights, reconstruction and national reconciliation, public service reform, democracy and good governance, defense and security, suspension of political and military hostilities, transition institutions, clear guarantees for implementation of the agreement and the ceasefire process) each of which should be consigned to a specific protocol, the totality of which would constitute a comprehensive agreement to be signed by all the parties. In response, the Mediation suggested that the FNL should present its concerns in plenary, it being understood that in the event the FNL declared itself prepared to sign the ceasefire agreement, these concerns would be brought to the attention of the Regional Summit due on 7 October, for appropriate action.

24. The PALIPEHUTU–FNL then proposed a protocol on the cessation of political and military hostilities. The delegation of the Transition Government of Burundi held the view that signing such a protocol would have no impact on ground, given the fragmentation of the armed groups and the absence of mechanisms for identification, localisation and control of the PALIPEHUTU–FNL combatants. The Government delegation rather suggested that both parties should stick to the programme proposed by the Mediation, namely, discussion on the draft ceasefire agreement. Faced with this situation, the Mediation adjourned the negotiations. Fresh talks between the Government and the PALIPEHUTU–FNL subsequently took place in South Africa, and that made it possible for the two parties to overcome their differences.

25. The 18th Summit of the Regional Initiative which took place in Dar–es–Salaam on 6–7 October 2002, examined the progress of negotiations with the armed groups. In attendance were President Thabo Mbeki current Chairperson of the African Union, and Presidents Yoweri Museveni, Benjamin Mkapa, Joseph Kabila and Pierre Boyoya. Also present at the meeting were

the Foreign Ministers of Ethiopia, Rwanda, Zambia and Kenya, former President Nelson Mandela and the South African Deputy President Jacob Zuma. I was represented at that Summit by a delegation led by Ambassador Saïd Djinnit Interim Commissioner for Peace, Security and Political Affairs. The United Nations and the European Union similarly sent representatives to the Summit.

26. The Summit expressed satisfaction at the signing of the ceasefire agreement between the transition government of Burundi, the J.B. Ndayikengurikiye's faction of the CNDD–FDD and the PELIPEHUTU– FNL Mugabarabona's faction. This event which took place on the sidelines of the meeting, was seen as an encouraging stage in the restoration of peace, security and stability in Burundi and the full implementation of the Arusha Agreement. The Summit decided that the CNDD–FDD Nkurunziza's faction and PALIPEHUTU–FNL Rwasas's faction should resume negotiation with the transition government to conclude a ceasefire agreement within thirty (30) days. At the end of this deadline, the Regional Initiative would convene another Summit to re-examine the situation and, in the event that a ceasefire had not been concluded, take appropriate action against the parties that showed themselves to be recalcitrant.

27. The Summit further requested that the CNDD–FDD Ndayikengurikiye's faction and Mr. Mugabarabona's PALIPEHUTU–FNL and the other groups which would sign the ceasefire agreement, should be integrated into transition government and in the other State structures including the army and security forces. The Summit also commended the transition government for the efforts made to implement the Arusha Agreement.

28. On 15 October 2002, following consultations on Burundi, the United Nations Security Council welcomed the signing of the ceasefire agreement by the two armed groups on the sidelines of the Dar–es–Salaam Summit. The Security Council stressed the importance of implementing the Arusha Agreement particularly the need for the government to continue to work towards the reform of the security forces, adding that it was ready to consider the type of contribution it would provide, at the appropriate time, towards the pursuit of the peace process. The Security Council called on the two other rebel movements to immediately resume negotiations in order to conclude ceasefire agreement and forthwith suspend hostilities.

IV. SECURITY AND MILITARY SITUATION

29. Generally speaking, there has been no significant improvement in the security situation in Burundi. The cycle of violence seems to vary depending on the context. In July 2002, there was a resurgence of attacks by the armed groups, no doubt triggered by their determination to achieve success on

ground so as to engage in the ceasefire negotiations then slated to take place in Dar-es-Salaam, from a position of strength. In August however, Burundi experienced some normalcy. Several mapping up operations were nevertheless undertaken by the army and have since continued in the Central (Gitega) and in the South-East (Ruyigi, Rutana, Makamba) provinces. Similarly, there were skirmishes in Bujumbura-Rural, the most serious of which occurred in Kanyosha on 19 September 2002. Furthermore, it should be noted that there has been an increase in the assassinations targeting local administrative authorities as well as a worsening of organized crime and armed robbery.

30. Despite the dissensions across the armed groups, these groups did not for that reason cease to mark their presence on ground. Following the split within the PALIPEHUTU-FNL, increased attacks on the capital and its environs by supporters of Mr. Rwasa were observed; the latter clearly intent on demonstrating that he was still the military leader of that movement. As for the CNDD-FDD Jean Pierre Nkurunziza's faction, this armed group operates throughout the territory of Burundi.

V. SOCIO- ECONOMIC AND HUMANITARIAN SITUATION

31. The socio-economic situation in Burundi remains extremely precarious. The war has resulted in the destruction of numerous infrastructure both in the urban and rural areas. Between 1993 and 2001, the GDP tumbled by 20%, and per capita income dipped from US\$210 to US\$119. External debt servicing jumped to 98% of the country's export earnings, and arrears of payment was estimated at over US\$116 million. This state of affairs impacted quite negatively on the living condition of the people particularly in terms of access to education and health care services. From 1999 to 2000, the percentage of the population living below the poverty line shot up from 36% to 57% in the rural areas, and from 42% to 60% in the urban areas. Internally displaced persons accounted for 10% for the population, while refugees represent 13%.

32. The depreciation of the Burundian Franc constrained the local authorities, in agreement with the Bretton Woods Institutions, to devalue the local currency by 20%. Regardless of the expected medium and the long-term positive results of that measure, it is likely in the immediate term to unleash fresh inflationary pressures which will in turn worsen the living condition of the population even further.

33. The government has adopted a transition programme for the period 2002-2004. It has similarly adopted an interim strategic framework for combating poverty in collaboration with the donors. Implementation of this framework will require considerable financial assistance.

34. The Central Organ will recall that, in Decision CM/Dec.687(LXXXVI), Council made an urgent appeal to the International Community to provide the necessary assistance to enable Burundi to cope with its economic difficulties. Council in particular requested the concerned countries and multilateral institutions to honour the commitment they had made during the Paris and Geneva meetings. It was within this context that the Commission, on 30 July 2002, addressed correspondence to all the concerned donors. In response, the German Embassy in Addis Ababa informed the Commission about the resumption of the German development cooperation with Burundi in February 2002. The Embassy also briefed the Commission on the volume and distribution of the German assistance. I would like to express the gratitude of the African Union to Germany and to the other donors for their generous assistance.

35. At the humanitarian level, the upsurge of fighting has been evidenced by increased acts of abuse and violence against the civilian population, the most tragic illustration of which was the massacre in the district of Itaba. Similarly, thousands of civilians have assembled in the so-called safe areas where living conditions were extremely precarious.

36. The persistent violence has furthermore resulted in the slowing of the momentum of organized repatriation of the refugees residing in camps in Tanzania. The number of voluntary or assisted returnees declined from 4043 in July to 3393 in August 2002. This figure stood at 1662 as of 20 September. The number of spontaneous returnees declined from 1028 in July to 908 in August. In some of the provinces, movement of refugees towards neighbouring countries was similarly observed. In September, nearly 1,000 were reported to have taken asylum in Tanzania.

37. According to the latest statistics issued by HCR Tanzania, the overall number of registered refugees that have volunteered to return home stood at 99,869, made up as follows: 38,229 in the Kibondo, 41,416 in the Ngara camps and 13,251 in the Kasulu camps. However, only 41,490 refugees, namely 23,832 "volunteers" and 17,658 "spontaneous" refugees have been able to return to Burundi since the onset of the operation in March 2002.

38. The HCR recently (August 2002) carried out a study on the general living condition of these refugees. Out of the total number of the returnees that had filled out questionnaires in the provinces of Muyinga, Kirundo, Gitega and Makamba, 98% regarded their security situation as good, 95% entertained good relation with their neighbours and local authorities, while 92% had access to land.

39. I seize this opportunity to pay tribute to Tanzania for all the sacrifice it has made in providing asylum for the Burundian refugees.

VI. ACTIVITIES OF THE AFRICAN UNION OBSERVER MISSION IN BURUNDI (MIOB)

40. During the period under review, the OAU mission pursued contacts with the various partners to exchange views on how best to go about the talks and, as far as possible, soften the position of the parties. The contacts were particularly intense with the institutions on ground in Burundi, with the members of the Deputy President Jacob Zuma's team and with the armed groups particularly PALIPEHUTU-FNL, in conformity with the conclusions of the Addis Ababa meeting between that movement and the African Union. The OAU mission also played an active part in the ceasefire negotiations which took place in Dar-es-Salaam from 12 to 26 August 2002 and from 18 to 26 September 2002, as well as in the Regional Summit on Burundi held from 6 to 7 October 2002.

41. I would also like to report that my Special Representative was received in audience by the Vice-President of the Republic Mr. Domitien Ndayizeye and by the President of the Republic Major Pierre Boyoya. The developments in the peace process and how best to move this process forward topped the agenda of these meetings.

42. Within the framework of the Arusha Peace and Reconciliation Agreement Monitoring Commission of which African Union is member, the mission regularly participated in the meetings of the Executive Council and in the preparation of the 10th session of the Ceasefire Implementation Monitoring Commission (CSA) held from 2 to 6 September 2002. The Commission is currently focussing attention on the preparation of the 11th ordinary session and the first extraordinary session of the Monitoring Commission scheduled to take place from 4 to 7 and from 8 to 9 November 2002, respectively.

43. Furthermore, the African Union mission is closely involved in the various activities organized by the United Nations High Commission for Refugees (UNHCR) and the Ministry of Reintegration and Rehabilitation of displaced persons and returnees. In this connection the mission held regular talks with these two institutions on the progress of repatriation of the Burundian refugees residing in camps in Tanzania. The talks with the Ministry of Integration during the period under review, also focused on the construction project of an "OAU village" for which the Commission of the African Union has already made available US\$75,000 to the mission to commence construction.

VII. OBSERVATIONS

44. Over two years after the signing of the Arusha Peace and Reconciliation Agreement, the situation in Burundi has remained precarious. The persistent dissensions across the political class and the divergent positions on the issues relating to implementation and interpretation of the Arusha Peace and Reconciliation Agreement are proof of the fragility of the consensus achieved in Arusha. Furthermore, the persistent attacks by the armed groups, of which the civilian population is the major victim, coupled with the continued deterioration of the socio-economic situation, further diminish with every passing day, the hope for a rapid return of peace, with the attendant risk of seriously undermining the progress accomplished in the search for a durable solution to the conflict in Burundi.

45. In the circumstances, I urge all the parties signatory to the Arusha Agreement to consolidate their cohesion and unity of action and to work strenuously to strictly implement the Arusha Agreement and ensure the return of peace and stability in their country.

46. I welcome the signing of a ceasefire agreement between the transition government, the CNDD-FDD (J.B. Ndayikengurukiye's faction) and PALIPEHUTU-FNL (Mugabarabona's faction). I once again urge the CNDD-FDD (Nkurunziza's faction) and PALIPEHUTU-FNL (Mr. Rwasas's faction) to put an immediate end to their attacks, and to negotiate a cessation of hostilities in good faith, so that the talks due to take place in Dar-es-Salaam from 21 to 31 October 2002 would be crowned with success. I seize this opportunity to reiterate my total support for President Bongo and Deputy President Zuma, and to express my appreciation for their commitment and perseverance. I welcome the very close cooperation between the Mediation and the African Union delegation at the Dar-es-Salaam negotiations. My gratitude also goes to President Mkapa for his efforts in bringing about a successful negotiation, and also to the Regional Initiative which, under the direction of President Museveni is fully committed to facilitating the return of peace and stability to Burundi. The decisions of the Dar-es-Salaam Summit of 7-8 October 2002 further illustrate this commitment.

47. I reiterate my firm condemnation of the Itaba massacres as well as all the other acts of violence meted to the civilian population. I urge the transition government to do its utmost to clearly establish responsibility for the massacres and to punish the perpetrators so as to put an end to impunity and build trust in the transition institutions.

48. I invite the donors, both bilateral and multilateral, and Member States to lend their full support to the government of Burundi to facilitate implementation of the transition programme and meet the urgent needs of the population in distress.