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COMMISSION GENEVA
AMEMBASSY KINSHASA

C O N F I D E N T I A L SECTION 01 OF 04 PARIS 22245

E.O. 12356: DECL: OADR
TAGS: PHUM, PREL, PREF, RW, FR
SUBJECT: A/S SHATTUCK'S MEETING WITH FRENCH ON RWANDA
WAR CRIMES TRIBUNAL AND BURUNDI

REF: USUN 3281

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1. CONFIDENTIAL - ENTIRE TEXT.

2. SUMMARY: DRL A/S SHATTUCK MET AUGUST 10 WITH QUAI OFFICIALS TO EXCHANGE VIEWS ON THE ESTABLISHMENT OF A RWANDA WAR CRIMES TRIBUNAL. THE FRENCH AGREED ON THE NEED FOR: (1) QUICK MOVEMENT TO ESTABLISH SUCH A TRIBUNAL, INCLUDING THE POTENTIAL VALUE OF AN INTERIM COMMISSION OF EXPERTS REPORT IN MOVING IT FORWARD; (2)

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PROMOTION OF EARLY RETURN OF REFUGEES THROUGH PRESENCE OF HUMAN RIGHTS MONITORS AND OTHER REPRESENTATIVES OF INTERNATIONAL COMMUNITY ON THE GROUND IN RWANDA --
THOUGH THE FRENCH MADE NO COMMITMENT TO FUND MONITORS; AND (3) PARALLEL DEVELOPMENT OF A NATIONAL RWANDAN JUDICIAL SYSTEM CAPABLE OF PROSECUTING WAR CRIMINALS. THE MEETING ENDED WITH A SHORT DISCUSSION OF ESCALATING TENSIONS IN BURUNDI AND THE NEED TO INCREASE THE INTERNATIONAL PRESENCE THERE. END SUMMARY.

DEVELOPMENT OF THE RWANDA WAR CRIMES TRIBUNAL

3. ON AUGUST 10, DRL A/S SHATTUCK MET WITH SENIOR GOF OFFICIALS TO DISCUSS ESTABLISHMENT OF A RWANDA WAR CRIMES TRIBUNAL AND THE SITUATION IN BURUNDI. SHATTUCK WAS ACCOMPANIED BY L SPECIAL ASSISTANT CRYSTAL NIX, DRL/MLA OFFICE DIRECTOR JOSIAH ROSENBLATT, AND EMBASSY POLITICAL OFFICERS. HIS FRENCH INTERLOCUTORS WERE QUAI AFRICA A/S JEAN-MARC ROCHEREAU DE LA SABLIERE, IO A/S COLIN DE VERDIERE, LEGAL ADVISOR JEAN-PIERRE PUJISSECHET, CENTRAL AND EAST AFRICA DAS CATHERINE BOIVINEAU AND IO DESK OFFICER LAURENCE RIST.

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CONVINCING REFUGEES TO RETURN HOME

4. DE LA SABLIERE UNDERLINED GOF CONCERN THAT RWANDAN REFUGEES ARE RETURNING TO THEIR HOMES TOO SLOWLY. HE ARGUED THAT THE NEW KIGALI GOVERNMENT NEEDS TO PROVIDE CLEAR SECURITY ASSURANCES TO THE REFUGEES IN THE FACE OF REPORTED REVENGE KILLINGS BY RPF SOLDIERS. HE NOTED THAT THE EXODUS OF REFUGEES INTO TANZANIA CURRENTLY EXCEEDS THE NUMBER OF RETURNEES.

5. SHATTUCK OUTLINED RECENT STEPS THE GOR HAS TAKEN TO ENCOURAGE THE RETURN HOMEWARD OF REFUGEES. HE DESCRIBED THE LETTER THE GOR HAD SENT TO THE UN SYG, IN WHICH THE GOR PUBLICLY CONDEMNED ACTS OF RETRIBUTION, AGREED TO ARREST THOSE ENGAGING IN SUMMARY EXECUTIONS NOW OR PREVIOUSLY, DECLARED ITS SUPPORT FOR AN INTERNATIONAL WAR CRIMES TRIBUNAL, AGREED TO DEFER

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PROSECUTION OF WAR CRIMINALS TO THE TRIBUNAL, AND SAID IT WOULD RELY ON DUE PROCESS IN LOCAL PROSECUTIONS. SHATTUCK ALSO NOTED THE GOR PRIME MINISTER'S PUBLIC COMMUNIQUE IN WHICH HE CLEARLY STATED THE GOVERNMENT'S GUARANTEE OF SECURITY FOR RETURNING REFUGEES. THE GOR TOLD SHATTUCK IT WANTS THE REFUGEES TO RETURN HOME SOON.

ORGANIZATION OF THE TRIBUNAL

6. WHILE AGREEING ON THE NECESSITY OF ESTABLISHING AN INTERNATIONAL RWANDAN WAR CRIMES TRIBUNAL AS SOON AS
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POSSIBLE, LEGAL ADVISOR PUISSOCHET NOTED THE FRENCH PREFERENCE TO ESTABLISH A LEGALLY DISTINCT TRIBUNAL FOR CRIMES COMMITTED IN RWANDA, THOUGH HE INDICATED THE GOF COULD BE FLEXIBLE ON THIS. HE ARGUED THAT IT WOULD BE DIFFICULT TO ENLARGE THE YUGOSLAVIA WAR CRIMES TRIBUNAL AND THAT THE COMPOSITION OF JUDGES ALREADY SELECTED FOR YUGOSLAVIA MIGHT NOT BE APPROPRIATE FOR RWANDAN CRIMES. REGARDLESS OF WHETHER A NEW TRIBUNAL WERE

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C O N F I D E N T I A L SECTION 02 OF 04 PARIS 22245

E.O. 12356: DECL: OADR
TAGS: PHUM, PREL, PREF, RW, FR
SUBJECT: A/S SHATTUCK'S MEETING WITH FRENCH ON RWANDA
- WAR CRIMES TRIBUNAL AND BURUNDI

CREATED OR THE EXISTING TRIBUNAL WERE ENLARGED, HE SAID
A NEW UNSC RESOLUTION WILL BE REQUIRED. HE DID NOT SEE
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OBVIOUS MONETARY SAVINGS IN ENLARGING THE YUGOSLAVIA
TRIBUNAL AND EXPRESSED A CONCERN THAT ENLARGEMENT COULD
EVENTUALLY LEAD TO AN INTERNATIONAL COURT -- AN
UNDESIRABLE RESULT FROM THE GOF POINT OF VIEW.
PUISSOCHET DID AGREE THAT CERTAIN SERVICES MIGHT BE
SHARED BETWEEN THE TWO TRIBUNALS, SUCH AS REGISTRATION
AND ADMINISTRATIVE FACILITIES.

7. NIX DESCRIBED THE U.S.-PREFERRED ORGANIZATION OF
THE RWANDAN WAR CRIMES TRIBUNAL. SHE EMPHASIZED THE
NEED FOR RELATIVE PARITY WITH THE YUGOSLAV TRIBUNAL --
SO THAT IT WOULD BE CLEAR THE INTERNATIONAL COMMUNITY
DOES NOT ATTACH LESS IMPORTANCE TO WAR CRIMES IN AFRICA
THAN TO THOSE IN EUROPE. SHE POINTED OUT THE ADVANTAGE
OF HAVING ONE TRIBUNAL HANDLE ALL WAR CRIMES CASES,
THUS DEVELOPING A CONSISTENT BODY OF LAW EMPLOYING A
SINGLE SET OF STANDARDS. SHE NOTED THE IMPORTANCE OF
SETTING UP THE TRIBUNAL IN A TIMELY MANNER. USING THE
BUILDING IN THE HAGUE, SUPPORT STAFF, AND THE SAME
APPELLATE AND TRIAL JUDGES, THE NEW TRIBUNAL WOULD NEED
TO ADD ONLY SEVERAL AFRICAN JUDGES AND A SEPARATE
PROSECUTORIAL STAFF. A SINGLE CHIEF PROSECUTOR,
JUSTICE GOLDSTONE, WOULD PRESIDE OVERALL. THE FRENCH
AGREED THAT JUDGE GOLDSTONE WOULD BE VERY CREDIBLE IN
THAT POSITION.

8. PUISSOCHET SAID THE PURPOSE OF THE TRIBUNAL MUST BE

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CLEARLY DEFINED -- WHETHER IT IS INTENDED TO JUDGE THE
INSTIGATORS, MIDDLE-LEVEL COMMANDERS, OR THE HUGE
NUMBER OF PERSONS WHO CARRIED OUT THE KILLINGS. HE
NOTED THAT THOUGH THE YUGOSLAV TRIBUNAL IS INTENDED TO
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PROSECUTE ALLEGED INSTIGATORS AND MIDDLE-LEVEL
CRIMINALS. ONLY ONE OR TWO PERSONS MIGHT BE PROSECUTED
BEFORE THE END OF THIS YEAR. HE EXPRESSED CONCERN
ABOUT THE RELATIONSHIP BETWEEN JUDGMENTS WHICH MIGHT BE
HANDED DOWN BY THE INTERNATIONAL TRIBUNAL AND THOSE OF
LOCAL COURTS: LOCAL COURTS COULD CONDEMN PERSONS TO
DEATH, WHEREAS THE INTERNATIONAL TRIBUNAL, PRESUMABLY
TRYING HIGHER-LEVEL CRIMINALS, WOULD BE LIMITED TO
LONG-TERM PRISON SENTENCES.

PUISSOCHET RAISED THE PROBLEM OF ARRESTING AND
DETAINING ALLEGED CRIMINALS. RHETORICALLY ASKING WHO
COULD MAKE ARRESTS AND UNDER WHAT AUTHORITY, HE NOTED
THAT CHAPTER 7 HAS BEEN USED AS THE BASIS FOR
ESTABLISHING THE YUGOSLAV TRIBUNAL AND WAS SKEPTICAL
THAT THIS COULD BE EXPANDED FURTHER AND STATES BE
INSTRUCTED TO ARREST ALLEGED WAR CRIMINALS. SHATTUCK
RESPONDED THE UNSC RESOLUTION ESTABLISHING THE
INTERNATIONAL TRIBUNAL WOULD PROVIDE THE AUTHORITY FOR
LOCAL OFFICIALS TO ARREST AND DETAIN ALLEGED CRIMINALS
IN WHATEVER COUNTRY THEY MAY BE FOUND. HE RAISED THE
POSSIBILITY OF CALLING UPON STATES TO ARREST ALLEGED
CRIMINALS BEFORE THE TRIBUNAL IS ESTABLISHED; THE
FRENCH PARTICIPANTS INSISTED THAT NO DETENTIONS COULD
OCCUR BEFORE A RESOLUTION IS PASSED CREATING THE
TRIBUNAL.

10. IN VIEW OF THE AGREED-UPON URGENCY OF CREATING THE
TRIBUNAL, SHATTUCK RAISED THE POSSIBILITY OF HAVING THE
MEMBERS OF THE INTERNATIONAL COMMISSION RECOMMEND
CREATION OF THE RWANDAN WAR CRIMES TRIBUNAL IN AN
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INTERIM REPORT, FOLLOWING THE WAY IN WHICH THE YUGOSLAV
TRIBUNAL HAD BEEN CREATED. DE LA SABLIERE RESPONDED

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THAT THE MEMBERS OF THE COMMISSION WOULD NEED TO BE CONSULTED, BUT HE SEEMED FAVORABLY INCLINED TO THE IDEA.

11. DE LA SABLIERE RAISED THE ISSUE OF THE NUMBER OF POTENTIAL CRIMINALS TO BE JUDGED. HE NOTED THE FRENCH

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C O N F I D E N T I A L SECTION 03 OF 04 PARIS 22245

E.O. 12356: DECL: OADR
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PRESS HAD PUBLISHED A LIST OF 500 LEADERS, BUT, QUERIED BY SHATTUCK, STATED THE GOF HAD NOT COMPILED A LIST OF
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ITS OWN. HE THEN QUOTED A PRESS REPORT THAT THE GOR MINISTER OF JUSTICE HAD SAID THERE WERE 32,000 GOVERNMENT AND MILITARY PERSONNEL WHO COULD BE PROSECUTED. ROSENBLATT EXPLAINED THAT THE GOR MINISTER OF JUSTICE HAD TOLD THE U.S. DELEGATION HE MEANT THAT THAT WAS THE NUMBER OF PERSONS POSSIBLY IMPLICATED BECAUSE OF THEIR POSITIONS, NOT THE NUMBER OF PERSONS TO BE PROSECUTED. (NOTE: THE 500 NUMBER APPEARS TO INCLUDE INSTIGATORS AND MIDDLE-LEVEL COMMANDERS. END NOTE.)

LOCAL JUSTICE VERSUS INTERNATIONAL TRIBUNAL

12. BOTH SIDES AGREED ON THE IMPORTANCE OF DEVELOPING THE LOCAL JUDICIAL SYSTEM AT THE SAME TIME AS THE INTERNATIONAL TRIBUNAL IS BEING ESTABLISHED. DE LA SABLIERE POINTED OUT THAT THE INSTIGATORS OF THE KILLINGS ARE NO LONGER IN RWANDA, AND IT WILL ONLY BE POSSIBLE TO PROSECUTE THEM THROUGH AN INTERNATIONAL TRIBUNAL. THE INTERNATIONAL COMMUNITY MUST FIND A WAY TO JUDGE THESE CRIMINALS TO PREVENT FUTURE GENOCIDE. SHATTUCK AGREED THAT AN EARLY PRIORITY FOR THE TRIBUNAL AND THE GOR WOULD BE TO DELINEATE CATEGORIES OF WAR CRIMINALS EACH WOULD SEEK TO PROSECUTE. REGARDING THE MIDDLE-LEVEL COMMANDERS, HE NOTED THAT BOTH ZAIRE AND TANZANIA WANT THE RWANDAN REFUGEES TO RETURN HOME, AND IT WOULD BE IN THOSE COUNTRIES' OWN INTERESTS TO DETAIN CRIMINALS, THOUGH THAT WILL NOT BE POSSIBLE UNTIL THE INTERNATIONAL TRIBUNAL IS ESTABLISHED.

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13. DE VERDIERE NOTED THAT REFUGEES WILL NOT RETURN TO RWANDA UNLESS THEY ARE ASSURED THAT THEY WILL BE SECURE FROM REPRISALS. IN ADDITION TO THE DECLARATIONS THE GOR HAS ALREADY MADE, THE BEST WAY TO ENSURE THIS IS THROUGH THE OPERATION OF A LOCAL JUDICIAL SYSTEM RELYING ON DUE PROCESS OF LAW TO PUNISH THE ACTUAL WAR CRIMINALS. WITHIN RWANDA, THEREFORE, MIDDLE-LEVEL COMMANDERS WHO HAVE NOT FLED, OR WHO RETURN WITH THE REFUGEES, MIGHT BE ARRESTED.

HUMAN RIGHTS MONITORS; OBSERVERS FOR COURT PROCEEDINGS

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14. SHATTUCK DESCRIBED THE GOR'S REQUEST FOR HUMAN RIGHTS MONITORS TO ENCOURAGE THE RETURN OF REFUGEES AND DISCOURAGE VIGILANTE ACTIVITIES. HE REPORTED THAT THE UN IN GENEVA HAS STARTED THE PROCESS AND THAT A PORTION OF THE TWO MILLION DOLLARS THE U.S. Q59 |7, \$.9,8594. HE STRONGLY ENCOURAG* FRENCH TO PROVIDE MONITORS OR FUNDING FOR THEM. ROSENBLATT ESTIMATED THAT THE NUMBER OF MONITORS REQUIRED WOULD BE A MINIMUM OF 150: ONE FOR EACH OF THE 15 COMMUNES IN EACH OF RWANDA'S 10 PREFECTURES OUTSIDE KIGALI. DE LA SABLIERE COMMENTED THAT THE GOF IS WORKING IN THE SAME DIRECTION, BUT DID NOT MAKE ANY OFFERS OF FRENCH PARTICIPATION OR FUNDING.

15. SHATTUCK REPORTED THAT THE GOF HAS ALSO REQUESTED INTERNATIONAL OBSERVERS OF LOCAL COURT PROCEEDINGS TO INCREASE CONFIDENCE IN THE RULE OF LAW. HE NOTED THE NEED TO PROVIDE A HIGH STANDARD OF PERSONNEL, PERHAPS THROUGH LAWYERS ASSOCIATIONS. HE SAID OBSERVERS COULD
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BE PROVIDED BY INDIVIDUAL GOVERNMENTS OR BY
NON-GOVERNMENTAL ORGANIZATIONS, A COMPLICATED ISSUE
BECAUSE THESE MONITORS WOULD BE SEEN AS APPROVING LOCAL
COURT DECISIONS.

UPDATE ON BURUNDI

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16. SHATTUCK PRESENTED AN UPDATE ON THE SITUATION IN
BURUNDI, WHERE HE HAD BEEN THE DAY BEFORE. HE
DESCRIBED THE ATMOSPHERE OF HIGH TENSION AND THE
DISTRUST THAT HAVE LED TO VIOLENCE AMONG EXTREME
ELEMENTS, INCLUDING UNIVERSITY STUDENTS BEING USED BY
TUTSI EXTREMISTS. SHATTUCK SAID BURUNDI NEEDS A LARGE
PRESENCE OF INTERNATIONAL CIVILIAN MONITORS. HE POSED
TWO QUESTIONS: HOW TO INCREASE THE MONITORING CAPACITY
IN BURUNDI, NOTING THAT THE 32 OAU OBSERVERS ARE NOT
WELL-REGARDED; AND WHAT CAN BE DONE TO INCREASE
ASSISTANCE OF HUMANITARIAN ORGANIZATIONS. HE ALSO
RAISED THE PROBLEM OF ACCOUNTABILITY FOR THE 1993
MASSACRES OF APPROXIMATELY 60,000 PERSONS.

17. DE SABLIERE COMMENTED THAT BURUNDI HAS BEEN UNABLE
TO ACCELERATE THE PROCESSES OF NEGOTIATION AND THAT
COMPROMISE IS BECOMING MORE AND MORE DIFFICULT. HE
COMPLAINED THAT RPF LEADER KAGAME HAS ENOUGH INFLUENCE
TO CALM THE BURUNDIAN TUTSIS, BUT HASN'T USED IT. HE
PLACED RESPONSIBILITY WITH THE ARMY TO DO SOMETHING AND
EXPRESSED CONCERN THAT IMPUNITY WILL RESULT IN A

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CONTINUATION OF VIOLENCE. HE NOTED THAT THE SITUATION HAS DETERIORATED IN THE LAST 10 DAYS AND AGREED THAT THE INTERNATIONAL COMMUNITY SHOULD INCREASE ITS PRESENCE IN BURUNDI.

18. THIS MESSAGE WAS DRAFTED AFTER A/S SHATTUCK DEPARTED POST.

FARRIMAN

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