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RELEASED IN PART
B1, 1.4(B), 1.4(D)

PAGE 01 USUN N 03237 01 OF 02 051804Z
ACTION L-01

INFO	LOG-00	AF-01	AID-01	CIAE-00	OASY-00	DODE-00	EB-01
	EUR-01	H-01	TEDE-00	INR-00	IO-16	ADS-00	NSAE-00
	NSCE-00	OIC-02	PA-01	PM-00	PRS-01	P-01	SP-00
	SR-00	SSO-00	SS-00	STR-01	TRSE-00	USIE-00	PMB-00
	PRME-01	DRL-09	G-00	/038W			

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O 051740Z AUG 94
 FM USMISSION USUN NEW YORK
 TO SECSTATE WASHDC IMMEDIATE 8191
 INFO AMEMBASSY BEIJING IMMEDIATE
 AMEMBASSY KAMPALA IMMEDIATE
 AMEMBASSY LONDON IMMEDIATE
 AMEMBASSY PARIS IMMEDIATE
 AMEMBASSY MOSCOW IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 02 USUN NEW YORK 003237

KAMPALA PLS PASS TO ASST SECRETARY SHATTACK

E.O.12356: DECL:OADR
 TAGS: RW, UK US, CH, RS, FR
 SUBJECT: RWANDA WAR CRIMES

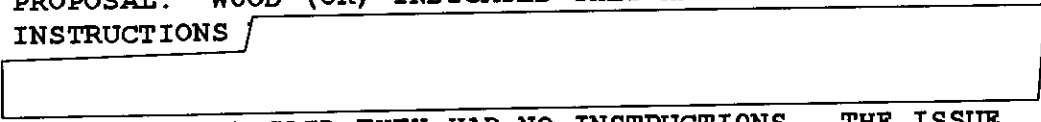
REF: STATE 202027

1. CONFIDENTIAL - ENTIRE TEXT

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PAGE 02 USUN N 03237 01 OF 02 051804Z
 2. SUMMARY: USUN PRESENTED POINTS CONTAINED REFTEL TO
 LEGAL ADVISERS OF PERM FIVE (P-5) ON AUGUST 4. US
 POSITION WAS STRONGLY SUPPORTED BY ORDZHONIKIDZE
 (RUSSIA). LEGAL (FRANCE) GENERALLY SUPPORTED THE US
 PROPOSAL. WOOD (UK) INDICATED THEY HAD NO FINAL
 INSTRUCTIONS



ZHANG (CHINA) SAID THEY HAD NO INSTRUCTIONS. THE ISSUE
 OF DETAINING SUSPECTED RWANDAN CRIMINALS RAISED A NUMBER
 OF QUESTIONS. ALL PRESENT RECOGNIZED THE IMPORTANCE OF

B1

UNITED STATES DEPARTMENT OF STATE
 REVIEW AUTHORITY: ARCHIE M BOLSTER
 CLASSIFICATION: CONFIDENTIAL REASON: 1.4(B), 1.4(D)
 DECLASSIFY AFTER: 5 OCT 2015
 DATE/CASE ID: 05 MAY 2011 201005065

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ACTING QUICKLY TO APPREHEND SUSPECTED CRIMINALS BUT INDICATED THAT THEY SAW A NUMBER OF POTENTIAL PROBLEMS OF A TECHNICAL NATURE AT THE LEAST IN HAVING NON RWANDAN ENTITIES DOING SO. END SUMMARY.

2. USUN HOSTED A MEETING OF THE P-5 MISSION LEGAL ADVISERS AT THE USUN AND ADVISED THEM PER REFTTEL OF US SUPPORT FOR AN INTERNATIONAL TRIBUNAL TO PROSECUTE VIOLATIONS OF THE GENOCIDE CONVENTION AND OTHER GRAVE VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW IN RWANDA.

3. ORDZHONIKIDZE (RUSSIA) WELCOMED U.S. APPROACH. HE SAID RUSSIA HAD BEEN LEANING TOWARDS SEPARATE STATUTE FROM THE YUGOSLAV TRIBUNAL BUT WERE FLEXIBLE AND SAW MERIT IN US APPROACH. HE SAID IT WAS IMPORTANT THE RWANDAN TRIBUNAL IS CREATED AS SOON AS THE COMMISSION OF EXPERTS FOR RWANDA FINISHES ITS REPORT.

4. THE RUSSIANS SUPPORTED SUCH A TRIBUNAL BECAUSE IT WILL HELP ENCOURAGE POLITICAL RECONCILIATION IN RWANDA
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PAGE 03 USUN N 03237 01 OF 02 051804Z
AND WILL SEND AN IMPORTANT SIGNAL ABOUT THE INTERNATIONAL COMMUNITY'S INTENTION TO PUNISH THOSE WHO COMMIT CRIMES OF GENOCIDE AND CRIMES AGAINST HUMANITY. ON THE DETENTION ISSUE, ORDZHONIKIDZE SAID THEY UNDERSTAND THE NEED TO ACT QUICKLY. HE WAS CONCERNED, HOWEVER, ABOUT HOW TO DETERMINE WHOM TO DETAIN, AND HOW TO DETERMINE WHO HAS AUTHORITY TO DETAIN SUSPECTS.

5. LEGAL (FRANCE) WAS GENERALLY SUPPORTIVE OF THE US PROPOSAL. THEY HAS BEEN THINKING OF ESTABLISHING A LEGALLY SEPARATE TRIBUNAL BUT WERE NOT NECESSARILY OPPOSED TO THE US APPROACH.

6. LEGAL SAID FRANCE DOES NOT OPPOSE IN PRINCIPLE DETAINING SUSPECTED WAR CRIMINALS. IT NEEDS TO KNOW UNDER WHAT AUTHORITY THE DETENTION WOULD BE MADE AND, ONCE DETAINED, WHO WOULD THEN OVERSEE THE DETENTION OF THE SUSPECTS (I.E. DO THE FRENCH, WHEN THEY DEPART, HAND THEM OVER TO THE CURRENT RWANDAN REGIME OR TAKE THEM BACK TO FRANCE) HE FURTHER ASKED WHAT THE DETAINING POWER WOULD DO IF THE RWANDAN GOVERNMENT ASKED FOR THE DETAINEES TO BE TURNED OVER TO IT.

7. ZHANG SAID CHINESE MISSION HAD NO INSTRUCTIONS AND

COULD NOT PROVIDE ANY INSIGHT AS TO BEIJING'S LIKELY POSITION. HE ALSO ASKED HOW THE P-5 WOULD RECOMMEND HANDLING THE SITUATION IF IT ARISES YET A THIRD TIME.

8. WOOD (UKUN) AGREED THAT THOSE WHO COMMITTED THESE CRIMES SHOULD BE PUNISHED, /

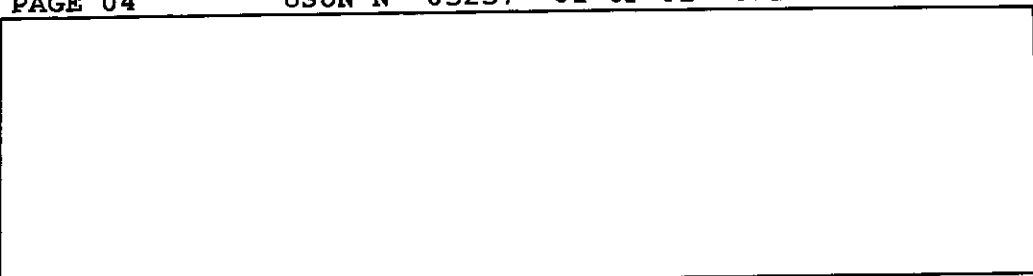
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PAGE 04 USUN N 03237 01 OF 02 051804Z

B1



HE SAID THE UK WOULD PREFER TO AWAIT THE REPORT OF THE RECENTLY ESTABLISHED UN COMMISSION BEFORE REACHING A FINAL DECISION ON HOW TO HANDLE THOSE ACCUSED OF GENOCIDE AND WAR CRIMES.

9. WITH REGARD TO DETAINING PEOPLE AT THIS TIME THE UK REP QUESTIONED WHO SHOULD BE DETAINED, UNDER WHAT JURISDICTION THEY SHOULD BE DETAINED, ON THE BASIS OF WHOSE INVESTIGATION SUSPECTS SHOULD BE DETAINED AND HOW LONG DETAINEES COULD BE HELD. HE ALSO INDICATED THAT HE DID NOT BELIEVE THE UN SHOULD BE AUTHORIZED TO DETAIN PEOPLE.

10. USUN LEGAL ADVISER SAID OUR CURRENT THINKING WAS THAT SC COULD AUTHORIZE DETENTION OF THOSE SUSPECTED OF

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COMMITTING GENOCIDE OR OTHER CRIMES AGAINST HUMANITY
THAT WHILE SUCH PERSONS COULD NOT BE HELD INDEFINITELY
THEY COULD BE HELD FOR A REASONABLE TIME. SO FAR AS
ADJUSTING THE STATUE OF THE YUGOSLAV TRIBUNAL WAS
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PAGE 02 USUN N 03237 02 OF 02 051804Z
CONCERNED, IT WOULD SEEM ADVISABLE TO COMMENCE WORK ON
THE MATTER SOONER RATHER THAN LATER AND CERTAINLY NOT
WAIT MONTHS FOR THE REPORT OF THE COMMISSION WHICH WE
ALL OUGHT IN ANY EVENT TO SEEK TO EXPEDITE.

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USUN LEGAL ADVISER NOTED ONGOING SITUATION WAS
NOT ENTIRELY ENCOURAGING AND THAT CREATING AN ACCEPTABLE
JUDICIAL SYSTEM IN RWANDA WAS NOT AS SIMPLE AS IT
SOUNDED AND POSSIBLY MORE COMPLEX AS WELL AS UNCERTAIN
THAN U.S. SUGGESTION.

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11. THE P-5 MISSION LEGAL ADVISERS AGREED TO REPORT THE US PROPOSAL, SEEK EARLY INSTRUCTIONS AND TENTATIVELY TO MEET AGAIN TO CONSIDER THESE ISSUES FURTHER AM TUESDAY AUGUST 9TH, SUBJECT TO ANY REQUEST FOR EARLIER MEETING.

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