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ACTION G-00

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INFO LOG-00 OASY-00 ANHR-01 TEDE-00 ADS-00 SS-00 /001W
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FM AMEMBASSY KIGALI
TO USMISSION USUN NEW YORK IMMEDIATE
SECSTATE WASHDC IMMEDIATE 0257
INFO AMEMBASSY THE HAGUE PRIORITY
RWANDA COLLECTIVE
UN SECURITY COUNCIL COLLECTIVE

C O N F I D E N T I A L KIGALI 001872

DEPARTMENT FOR G, UNDER SECRETARY WIRTH; AF; L; DRL; AND RPM

E.O. 12356:DECL:OADR

TAGS: PHUM, PREL, PGOV, RW, UN

SUBJECT: RWANDAN POSITION ON RWANDA WAR CRIMES TRIBUNAL

REF: A) STATE 280506
B) STATE 283000 (NOTAL)
C) WIRTH-WHITEHEAD TELECON OF 10/19

1. CONFIDENTIAL -- ENTIRE TEXT.

2. AT PRESIDENT BIZIMUNGU'S REQUEST, CHARGE MET WITH
JUSTICE MINISTER NKUBITO AND PRESIDENTIAL COUNSELOR EMANUEL
GASANA TO COMPARE GOR/USG POSITIONS ON THE UNSC RESOLUTION
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TO CREATE A WAR CRIME TRIBUNAL FOR RWANDA, INCLUDING
EMPOWERING STATUTES. CHARGE SHARED TALKING POINTS (REFS A
AND B), STRESSING THAT IT WAS IN OUR MUTUAL INTEREST TO FIND
COMMON GROUND ON THE RESOLUTION, WHOSE PROMPT ADOPTION WE
BOTH SEEK.

3. GASANA, WHO TOOK THE LEAD FOR THE RWANDANS, AGREED THAT
WE SHARE A COMMON PURPOSE AND SENSE OF URGENCY. HOWEVER, HE
NOTED, THE GOR WAS BEDEVILED BY A FEW OF THE DETAILS IN THE
STATUES. GASANA APPENDED THIS BY SAYING THAT THE HE WAS NOT
SURE THAT THE RWANDAN PERMREP HAD TRANSMITTED THE MOST

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RECENT TEXT AND ASKED FOR OUR ASSISTANCE IN LAYING HANDS ON THIS. HE MOVED ON TO FIVE SPECIFIC POINTS ON WHICH THE GOR HAS RESERVATIONS.

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-- THEY BELIEVE THAT THE GENOCIDE WAS PLANNED WELL BEFORE THE KILLING BEGAN AND WOULD PREFER TRIBUNAL JURISDICTION TO COMMENCE ON NOVEMBER 15, 1992. THEY SAID THAT THE GOR WAS FLEXIBLE ON THE QUESTION OF AN OPEN-ENDED TIME LIMIT ON THE TRIBUNAL'S JURISDICTION.

-- THEY EXPRESSED DISAGREEMENT WITH STATUTES AIMED AT EXCLUDING RELEVANT RWANDAN LAW. GASANA OBSERVED THAT RWANDAN LAW PROVIDED FOR CAPITAL PUNISHMENT, BUT HEDGED ON THE QUESTION OF WHETHER THE GOR INTENDED TO IMPOSE THE DEATH PENALTY.

-- THE GOR WANTS SOME RWANDAN INVOLVEMENT IN STAFFING THE COURT. THEY EXPRESSED FLEXIBILITY HERE, SUGGESTING THAT ONE "SYMBOLIC" RWANDAN JUDGE MIGHT BE ADEQUATE.

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-- GASANA WAS ADAMANTLY OPPOSED TO THE STATUTES (WHICH HE BELIEVED TO BE IN THE CURRENT VERSION OF THE TEXT) THAT WOULD PERMIT THE CONVICTED TO BE IMPRISONED IN "THEIR COUNTRY OF CHOICE" AND SUBJECT TO PARDON BY THE GOVERNMENT OF THAT STATE. HE CITED THE POSSIBILITY OF MILLIONAIRES WHO PLANNED THE GENOCIDE SPENDING A SHORT TIME IN COMFORTABLE SWEDISH JAILS WHILE RWANDANS CAUGHT UP THE EXPLOSION OF VIOLENCE LANGUISHED IN RWANDAN PRISONS.

-- HE SAID THAT THE GOR WOULD PREFER TO HOLD AS MANY TRIALS AS POSSIBLE, IF NOT ALL, ON RWANDAN SOIL. HE EXPRESSED DOUBT ABOUT THE VIABILITY OF MOVING THE VENUE TO OTHER STATES.

4. THE JUSTICE MINISTER SAID THAT RUMORS THAT RWANDA MIGHT ADOPT COMMON LAW WERE UNTRUE. THEY WOULD KEEP THE "OLD" LAW SYSTEM BASED ON BELGIAN/FRENCH NAPOLEONIC PRECEDENT. HE NOTED THAT THIS WOULD DETERMINE MANY LEGAL NICETIES: PRESENTATION OF EVIDENCE, PRESUMPTION OF GUILT, ET AL. HE ASKED TO MEET WITH CHARGE AGAIN ON OCTOBER 20 TO DISCUSS FURTHER DETAILS.

5. GASANA SAID THAT THE GOR WANTED TO FIND COMMON GROUND WITH US ON THE RESOLUTION/STATUTES. HE SAID THAT HE WOULD

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ARRANGE FOR PRESIDENT BIZIMUNGU TO TELEPHONE UNDER SECRETARY WIRTH WITHIN THE NEXT FEW HOURS (THE MORNING OF OCTOBER 19, WASHINGTON TIME). PLEASE INFORM US IF THIS DOES NOT/HAS NOT TRANSPIRE/D; WE WILL FOLLOW-UP. ALTERNATIVELY, GASANA MAY BE REACHED AT (250) 84769.

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6. GASANA AND NKUBITO STATED THAT THE PRESIDENCY AND
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MINISTRY OF JUSTICE ARE THE POLICY MAKERS ON THE QUESTION OF THE WAR CRIMES TRIBUNAL. WE SUSPECT THAT KAGAME AND PRIME MINISTER TWAGIRAMUNGU WILL ALSO HAVE SOME SAY IN THIS, ESPECIALLY THE FORMER. ACCORDINGLY, CHARGE MET WITH VICE PRESIDENT KAGAME'S DESIGNATED EMBASSY LIAISON TO REQUEST A MEETING AND FOLLOW-UP KAGAME TELECON TO UNDER SECRETARY WIRTH. NEITHER HAVE YET MATERIALIZED, ALTHOUGH WE HAVE BEEN PROMISED FOLLOW-UP THIS EVENING, OUR TIME. WE NOTE FOR THE RECORD THAT KAGAME WAS MIFFED BY THE OCTOBER 18 DELIVERY TO UNAMIR BY USAF AIRCRAFT OF UNDOCUMENTED AMMUNITION CONSIGNED TO THE AMERICAN EMBASSY.

7. CHARGE WILL ALSO MEET WITH TWAGIRAMUNGU OCTOBER 20.

8. ACTION REQUEST FOR USUN: PLEASE SEND US THE LATEST VERSION OF RESOLUTION TEXT.

WHITEHEAD

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