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Embassy of the United States of America

Kigali, Rwanda
21 May 2003



Mr. Gerald Gahima
General Prosecutor to the Supreme Court
Kigali

Dear Mr. Gahima,

Attached as request is a copy of the "Summary of Conclusions between the Government of Rwanda and the International Criminal Tribunal for Rwanda".

Ambassador Prosper's office asks that you confirm your approval of this document.
I look forward to hearing from you.

Sincerely yours,

Margaret K. McMillion
Ambassador

Summary of Conclusions

1. Completion Strategy

- The Office of the Prosecutor (OTP) is developing a plan to present to the UN Security Council, identifying the scope of its remaining investigations and prosecutions, reiterating the importance of holding some proceedings of the International Criminal Tribunal for Rwanda (ICTR) inside Rwanda, indicating its desire to transfer some cases to Rwanda for investigation and/or prosecution, and indicating that financial, technical, and other assistance may be necessary for Rwanda to assume prosecution of these cases.
- The OTP and the Government of Rwanda (GOR) will conclude a memorandum of understanding on the transfer of cases to the GOR for investigation and prosecution, including on the issues of the death penalty, protection of witnesses outside of Rwanda who would need to travel to Rwanda to testify, the timetable for these cases, the nature of the OTP's review of GOR progress, and technical and other assistance that may be necessary.
- The parties discussed the need to ensure that the most culpable perpetrators of genocide who are still at large and who have not been indicted by the ICTR be tried by the countries where they have sought asylum or be extradited to Rwanda for prosecution. The parties believe this is an important matter for the UN Security Council.

2. Witnesses

- The parties will seek to review and streamline the mechanism for expediting witness testimony, and the GOR will consider removing the requirement for a certificate of good standing.
- The GOR and OTP will reach an understanding in writing establishing the modalities for receiving and processing requests and responses regarding witnesses, including the timetable for such requests and responses. The Prosecutor General of Rwanda will be the point of contact.

3. Access to Archives

- The Government of Rwanda reaffirms its commitment to grant access to all archives, military or civilian.
- The GOR and OTP will reach an understanding in writing establishing the modalities for receiving and processing requests and responses regarding access

to archives, including the timetable for such requests and responses. The Prosecutor General of Rwanda will be the point of contact.

- The OTP will submit all initial requests for access to archives in writing directly to the Prosecutor General.

4. Special Investigations

- Both parties reaffirm their commitment to accountability for serious violations of international humanitarian law.
- The GOR confirms it has prosecuted some of its military personnel in the past for crimes and will share information regarding the number of such cases related to serious violations of international humanitarian law committed in 1994.
- The ICTR and Rwanda have concurrent jurisdiction to prosecute serious violations of international humanitarian law that may have been committed in 1994. The ICTR has primacy of jurisdiction.
- The OTP has a list of sites where massacres may have been committed in 1994 by members of the Rwandese Patriotic Army (RPA), which the OTP will share with the GOR.
- Both parties agree that the GOR should have the first opportunity to prosecute such cases.
- Both parties agree to identify two (2) to three (3) sites which will be investigated by the GOR. The GOR will conclude these investigations by the end of 2004.
- The OTP will share any related evidence, as appropriate, with the GOR.
- The OTP will have an opportunity to review the trials once they have been concluded by the GOR. If a GOR investigation determines that no prosecution is warranted, the OTP will have an opportunity to review the investigation once it has been concluded.
- The OTP will not seek an indictment or otherwise bring a case before the ICTR unless it is determined that the GOR investigation or prosecution was not genuine.
- The U.S. Government, the OTP and the GOR agree to meet again to hear the concerns of Rwanda regarding the ICTR.

Summary of Conclusions between the
Government of Rwanda and the
International Criminal Tribunal for Rwanda

Joint Press Points

- Both parties reaffirm their commitment to accountability for serious violations of international humanitarian law.
- The Tribunal and Rwanda have concurrent jurisdiction over such violations that may have occurred in 1994.
- In recognition of the concurrent jurisdiction and the principle of accountability, it was agreed that Rwanda will investigate and prosecute, as appropriate, violations its armed forces may have committed in 1994.
- Both parties agree to jointly identify the incidents to be investigated by the Rwandan Government.
- The Tribunal will maintain primacy over the matter.