

**Security Council**

Distr.: General
30 September 2002

Original: English

**Letter dated 26 September 2002 from the Secretary-General
addressed to the President of the Security Council**

I have the honour to refer to Security Council resolution 955 (1994) of 8 November 1994, by which the Council established the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994 (the “International Tribunal for Rwanda”).

I also have the honour to refer to resolutions 1165 (1998) of 30 April 1998, 1329 (2000) of 30 November 2000, 1411 (2002) of 17 May 2002 and 1431 (2002) of 14 August 2002, by which the Security Council amended the statute of the International Tribunal for Rwanda, as adopted in its resolution 955 (1994).

Article 12 and article 12 bis of the statute of the International Tribunal for Rwanda, as so amended, provide as follows:

“Article 12**“Qualifications of judges**

“The permanent and ad litem judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers and sections of the Trial Chambers, due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

“Article 12 bis**“Election of permanent judges**

“1. Eleven of the permanent judges of the International Tribunal for Rwanda shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

“(a) The Secretary-General shall invite nominations for permanent judges of the International Tribunal for Rwanda from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

“(b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in article 12 of the present Statute, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any judge who is a member of the Appeals Chamber and who was elected or appointed a permanent judge of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (hereinafter referred to as “the International Tribunal for the Former Yugoslavia”) in accordance with article 13 bis of the Statute of that Tribunal;

“(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twenty-two and not more than thirty-three candidates, taking due account of the adequate representation on the International Tribunal for Rwanda of the principal legal systems of the world;

“(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect eleven permanent judges of the International Tribunal for Rwanda. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters, shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

“2. In the event of a vacancy in the Chambers amongst the permanent judges elected or appointed in accordance with this article, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of article 12 of the present Statute, for the remainder of the term of office concerned.

“3. The permanent judges elected in accordance with this article shall be elected for a term of four years. The terms and conditions of service shall be those of the permanent judges of the International Tribunal for the Former Yugoslavia. They shall be eligible for re-election.”

By means of a letter dated 25 July 2002, States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters were invited to submit nominations for 11 permanent judges of the International Tribunal for Rwanda and were informed that, within 60 days of the date of that letter, they might nominate up to two candidates meeting the qualifications set out in article 12 of the Tribunal’s statute, as amended.

They were also informed that, should they decide to nominate two candidates, in accordance with paragraph 1 (b) of article 12 bis of the Tribunal’s statute, as amended, those candidates must not be of the same nationality as each other.

They were further advised that, in accordance with paragraph 1 (b) of article 12 bis of the Tribunal’s statute, as amended, any candidate or candidates that they might choose to nominate must not be of the same nationality as any judge who was a member of the Appeals Chamber of the International Tribunal for Rwanda and who was elected or appointed as a permanent judge of the International Tribunal for

the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (the "International Tribunal for the Former Yugoslavia") in accordance with article 13 bis of the statute of that Tribunal. They were informed that, in consequence, they must not nominate candidates who are nationals of the following countries: Australia, France, Guyana, Italy and the United States of America.

Pursuant to paragraph 1 (c) of article 12 bis of the Tribunal's statute, as amended, I have the honour herewith to forward to the Security Council the 17 nominations that I have received from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters within the 60-day period specified in paragraph 1 (b) of that same article. The list of candidates,* in alphabetical order, is annexed to the present letter, together with the curricula vitae that have been provided to me in connection with their nominations.

I would note in this connection that the number of candidates whose nominations I have received is short of the minimum number of 22 which, as stipulated in paragraph 1 (c) of article 12 bis of the Tribunal's statute, as amended, should appear in the list which the Security Council is to establish for transmission to the General Assembly.

I would also take this opportunity to note that, pursuant to paragraph 3 of article 12 bis of the Tribunal's statute, as amended, the permanent judges of the International Tribunal for Rwanda elected in accordance with that article are to serve on a full-time basis and therefore may not engage in any other occupation of a professional nature during their term of office.

Once elected to the International Tribunal for Rwanda, they are expected to take up residence at the seat of the Tribunal in Arusha. Should it happen, however, that, pursuant to article 13, paragraph 3, of the Tribunal's statute, as amended, and article 14, paragraph 4, of the statute of the International Tribunal for the Former Yugoslavia, also as amended, they are assigned by the President of the International Tribunal for Rwanda to be members of the Appeals Chambers of the two Tribunals, they will then be expected to take up residence at the seat of the International Tribunal for the Former Yugoslavia in The Hague.

(Signed) Kofi A. Annan

* Circulated only to the members of the Security Council.