



Security Council

Fifty-ninth year

Provisional

5093rd meeting

Wednesday, 1 December 2004, 4.55 p.m.

New York

<i>President:</i>	Mr. Baali	(Algeria)
<i>Members:</i>	Angola	Mr. Gaspar Martins
	Benin	Mr. Adechi
	Brazil	Mr. Sardenberg
	Chile	Mr. Muñoz
	China	Mr. Zhang Yishan
	France	Mr. De La Sablière
	Germany	Mr. Pleuger
	Pakistan	Mr. Khalid
	Philippines	Mr. Mercado
	Romania	Mr. Dumitru
	Russian Federation	Mr. Konuzin
	Spain	Mr. Yáñez-Barnuevo
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United States of America	Mr. Danforth

Agenda

The situation in Burundi

Second report of the Secretary-General on the United Nations Operation in Burundi (S/2004/902)

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The meeting was called to order at 4.55 p.m.

Expression of thanks to the retiring President

The President (*spoke in Arabic*): As this is the first meeting of the Security Council for the month of December, I should like to take this opportunity to pay tribute, on behalf of the Council, to His Excellency Mr. John Danforth, Permanent Representative of the United States to the United Nations, for his service as President of the Security Council for the month of November 2004. I am sure I speak for all members of the Council in expressing our deep appreciation to Ambassador Danforth for the great diplomatic skill with which he conducted the Council's business last month, in particular during our meetings in Nairobi.

Adoption of the agenda

The agenda was adopted.

The situation in Burundi

Second report of the Secretary-General on the United Nations Operation in Burundi (S/2004/902)

The President (*spoke in Arabic*): I should like to inform the Council that I have received a letter from the representative of Burundi, in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Nkingiye (Burundi), took a seat at the Council table.

The President (*spoke in Arabic*): The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them the report of the Secretary-General on Burundi, contained in document S/2004/902. Members of the Council also have before them document S/2004/930, which contains the text of a draft resolution prepared in the course of the Council's prior consultations.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. If I hear no objection, I shall now put the draft resolution to the vote.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour:

Algeria, Angola, Benin, Brazil, Chile, China, France, Germany, Pakistan, Philippines, Romania, Russian Federation, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America

The President (*spoke in Arabic*): There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 1577 (2004).

Mr. De La Sablière (France) (*spoke in French*): The resolution that we have just unanimously adopted extends the mandate of the United Nations Operation in Burundi (ONUB) for six months. It also sends an important message to the Burundian parties, in particular to the Forces nationales de libération of Agathon Rwasa.

The resolution gives the Security Council an opportunity to respond to the joint report of ONUB, the United Nations Mission in the Democratic Republic of the Congo and the Office of the High Commissioner for Human Rights on the massacre that took place in Gatumba on 13 August 2004. In its presidential statement of 15 August 2004, our Council firmly condemned that crime and asked that the perpetrators be promptly brought to justice.

In accordance with the recommendation of the joint report of the United Nations, Burundi has announced that it will refer the Gatumba incident to the ICC. We welcome that decision. We also welcome the fact that the resolution expresses the Security Council's support for the efforts of United Nations Members to put an end to impunity, including the efforts undertaken by States in cooperation with the relevant international organizations and, in particular, with the International Criminal Court. The authorities in Burundi are making significant efforts with regard to the inquiry into the Gatumba massacre. They deserve the international assistance they have asked for, including that of the ICC. It is proper that the Council encourage all regional Governments and parties concerned to cooperate actively with those efforts.

Mr. Danforth (United States of America): At the outset, let me congratulate you, Mr. President, on your assumption of the presidency of the Council. This is a very substantial upgrade. I wish you well in the coming month and thank you for your very kind words addressed to me.

The resolution that the Security Council has adopted today is important in many respects. First, it extends the United Nations mission in Burundi, showing that we, as Member States of the United Nations, are in this process for the long haul. Secondly, the resolution forcefully condemns the violence that continues to plague Burundi, particularly the Gatumba massacre. It also states that those responsible for that violence must be brought to justice. Thirdly, it recognizes the important contributions made by other African nations — including Uganda, South Africa and the United Republic of Tanzania — to bring peace and stability to that troubled region. This is a comprehensive and forceful resolution.

Some of my colleagues have expressed concern that the resolution lacks language concerning the precise forum in which the perpetrators of violence in Burundi may be brought to justice. The United States strongly encourages Burundi to take further steps to establish its truth and reconciliation commission, as agreed to by signatories to the Arusha accords, as an important step towards ending impunity.

Moreover, I would like to reiterate that it is the policy of the Government of the United States to ensure that United States persons, including members of the armed forces of the United States of America participating in United States peace operations, are protected from criminal prosecutions or other assertion of jurisdiction of the International Criminal Court (ICC), including through the inclusion of express provisions providing such protection. United States persons are not participating in the United Nations Operation in Burundi (ONUB). Consequently we do not believe such express provisions are necessary in this case. In addition, consistent with the statement that the United States made upon the adoption of General Assembly resolution 58/318, expenses resulting from the provision of any cooperation or support to the ICC would be on a reimbursable basis. In this particular case the United States supports the resolution based on the understanding that it in no way directs, encourages or authorizes ONUB to cooperate with or support the ICC. Moreover, the United States supports the

resolution based on the understanding that it does not change the existing mandate of ONUB regarding the investigation of violations of humanitarian law.

I would like to make a simple request of the Security Council and of other United Nations Member States. Let us put aside our differences on the ICC and focus on the positive result we have achieved here today in the specific context of the ongoing United Nations peacekeeping operation in Burundi. It is a good day for Burundi and for the prospects of peace and national reconciliation there. It is a good day for the United Nations in reaffirming its role in that effort.

The President (*spoke in Arabic*): I thank the representative of the United States for his kind words addressed to me.

Mr. Pleuger (Germany): My delegation would like to welcome your presence in the Chair, Mr. President. We pledge to you our full support during the month of December. We would also like to thank Ambassador Danforth for the able manner in which conducted the business of the Council last month.

The resolution we have just adopted does not only extend the mandate of the United Nations Operation in Burundi (ONUB) for another six months; it also contains important messages to the Burundian parties, most prominently to Mr. Agathon Rwasa's Forces de liberation (Palipehutu-FNL). The resolution is the first reaction of the Council to the joint report by ONUB, the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and the Office of the United Nations High Commissioner for Refugees (UNHCR) regarding the Gatumba massacre of 13 August 2004. Unfortunately, the Gatumba massacre is not the only case of atrocities committed during the more-than-a-decade-long conflict in Burundi. Burundi's recent history is also a history of widespread human rights violations, as well as one of impunity. To achieve peace, that cycle has to be broken.

The fight against impunity for grave violations of human rights and international humanitarian law is a matter of the utmost concern, and it needs to be addressed as a matter of priority by Burundi and other States in the Great Lakes region. The Burundian justice system therefore desperately needs our political and material support. The fight against impunity in Burundi and in other States with scarce capacity in the administration of justice can be won only with

international support. We welcome the intention of the Government of Burundi, expressed in its statement dated 29 October 2004 (S/2004/867), to refer the matter of the Gatumba massacre to the International Criminal Court (ICC) following its own internal investigations. One of the recommendations of the United Nations report on Gatumba, to which I have referred, is indeed to encourage the Government of Burundi to invoke the Court's jurisdiction.

We particularly welcome the support of the Security Council, as expressed in the resolution, for the efforts being made by States to end impunity. In addition to national efforts, that includes the efforts being made by States in cooperation with international institutions and tribunals, notably the International Criminal Court. We know that there are different views within the Council with regard to the ICC. We do not seek to impose our views on others. But the Government of Burundi is making a significant effort to investigate the massacre in the Gatumba refugee camp, including through its decision to refer the case to the ICC. It is right that the Council should encourage all regional Governments and parties concerned to actively cooperate with those efforts.

The President (*spoke in Arabic*): I thank the representative of the Germany for his kind words addressed to me.

Sir Emyr Jones Parry (United Kingdom): I would like to join colleagues in thanking Ambassador Danforth for his stewardship of the Council in November. I would also like to wish you every success, Mr. President, during your presidency in December. You will have the full support of the delegation of the United Kingdom.

The resolution we have adopted today not only extends the mandate of the United Nations Operation in Burundi (ONUB) for another six months, it also contains important messages to the Burundian parties and, most prominently, to the Forces national de liberation (Palipehutu-FNL). The resolution is the first reaction of the Council to the Gatumba massacre, which unfortunately is not the only case of atrocities committed during the more-than-a-decade-long conflict in Burundi. That recent history is also a record of widespread human rights violations, as well as one of impunity. To achieve peace, that cycle has to be broken.

The fight against impunity for grave violations of human rights and international humanitarian law is a matter of the utmost concern, and it needs to be addressed as a matter of priority by Burundi and by other States in the Great Lakes region. The Burundian justice system therefore desperately needs our political and material support, if the fight against impunity is to be won.

We welcome the intention of the Government of Burundi, expressed by what it said in its statement, to refer the matter of the massacre to the International Criminal Court (ICC) following its own internal investigation. One of the recommendations of the United Nations report on Gatumba is indeed to encourage the Government of Burundi to invoke the jurisdiction of the ICC.

The United Kingdom particularly welcomes the support that the Council has now expressed in this resolution for efforts which States are making, aimed at ending impunity, as well as national efforts. That includes efforts which States are making in cooperation with international institutions and tribunals, notably the International Criminal Court.

There are different views within the Council on the ICC. We are not seeking to impose our views on others, but the Government of Burundi is making a significant effort to investigate the massacre in the Gatumba refugee camp, including through its key decision to refer the case to the ICC. It is right, therefore, that the Council should encourage all Governments and parties concerned in the region actively to cooperate with those efforts.

The President (*spoke in Arabic*): I thank the representative of the United Kingdom for the kind words he addressed to the presidency.

Mr. Yáñez-Barnuevo (Spain) (*spoke in Spanish*): I too would like to thank Ambassador Danforth and the entire delegation of the United States of America for the remarkable role they played in the presidency of the Council during the month of November. I would like also to say, Sir, how pleased we are to be working under your able leadership. We can ensure you of our full cooperation throughout the month of December, which will be Spain's final month as an elected member of the Security Council.

Security Council resolution 1577 (2004), which we have just unanimously adopted, not only extends

the mandate of the United Nations Operation in Burundi (ONUB) for an additional six-month period. It is a resolution that also contains important political messages for the Burundian parties, in particular with respect to the cessation of violence and to the peace process. Those messages are directed to all parties, but in particular to the Forces nationales de libération (Palipehutu-FNL).

The resolution is the first reaction by the Security Council since it received the joint report of the United Nations Operation in Burundi, THE United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and the Office of the United Nations High Commissioner for Human Rights regarding the massacre that took place in the Gatumba refugee camp on 13 August 2004.

Unfortunately, the Gatumba massacre was not the only case of atrocities committed during the long conflict in Burundi, which has lasted more than a decade. Burundi's recent history is a history that has included widespread human rights violations, most of which also, unfortunately, have been committed with impunity. If we want peace to be achieved in Burundi, that cycle has to be broken. The fight against impunity for the most serious violations of human rights and international humanitarian law is a matter of particular concern for all of us and must be properly addressed, as a priority, by Burundi and by the other States of the Great Lakes region.

It is clear that the Burundian justice system needs political and material support from the international community. The fight against impunity in Burundi and other States that have limited capacities in that area can

be won only with effective international support. We welcome the intention of the Government of Burundi, as expressed in its letter of 29 October 2004 (S/2004/867), to refer the matter to the International Criminal Court (ICC) following its own national investigations.

One of the recommendations of the joint United Nations report on the Gatumba massacre is indeed to encourage the Government of Burundi to invoke, at the proper time, the Court's jurisdiction in this case. Spain welcomes the support of the Security Council, as expressed in resolution 1577 (2004), which we have just adopted, for the efforts that are being made by States to end impunity in the region. In addition to national efforts, these also include efforts being made by States in cooperation with international institutions and tribunals, and specifically with the International Criminal Court.

The Government of Burundi is making a significant effort to investigate the massacre in the Gatumba refugee camp, including its stated willingness to refer the matter to the International Criminal Court at the proper time. It is thus perfectly appropriate for the Security Council to encourage regional Governments and other parties concerned to cooperate actively with those efforts.

The President (*spoke in Arabic*): I thank the representative of Spain for the kind words he addressed to the presidency.

There are no further speakers on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 5.20 p.m.