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23 January 2014

To: Members of the Peacebuilding Commission, Burundi Configuration

Subject: **Chair's visit to Burundi, 13 – 17 January 2014**

Dear colleagues,

In my capacity as Chair of the Burundi Configuration of the UN Peacebuilding Commission, I visited Burundi from 13 to 17 January 2014 as part of the PBC's regular engagement and more specifically to follow up on the Burundi Partners' Conference that took place on 29-30 October 2012 in Geneva, and to prepare my briefing to the Security Council on January 28.

As opposed to my earlier visits, Burundi informed me before my arrival that I would meet mainly with the Second Vice President and the Minister of External Relations on behalf of the Governmental institutions [I refer to the note verbale of Burundi of 9 January 2014 and my response of the same day which I circulated among the members of Configuration]. The joint meeting with the two high officials took place on the first day of my visit and lasted about 90 minutes. I also met with the President of the Republic at the margins of the New Year's ceremony for the diplomatic corps and had a brief private conversation with him. The other appointments I had requested through BNUB with the President of the National Assembly, the President of the Senate, the First Vice President, the Minister of Interior, and the Minister of Youth did not materialize. This being said, I was able to meet with a wide array of interlocutors, including representatives of political parties, civil society, the President of the Independent National Electoral Commission (CENI), the President of the Independent National Human Rights Commission (CNIDH), the President of the National Commission on Land and other assets (CNTB), the Commissioner-General of the Burundian Revenue Authority (OBR), the President of the National Committee for the Coordination of Aid (CNCA), representatives of the African Development Bank and the World Bank, representatives of the international community and SRSG Parfait Onanga-Anyanga and DSRSG Rosine Sori-Coulibally together with BNUB senior staff and the UNCT. [Please find attached to this letter my program of visit for an exhaustive list of all interlocutors I met].

It is my pleasure to share hereby the main outcomes of my trip to Burundi. My findings and comments are structured around two main categories. First, I will assess the current situation within the framework of the two main pillars of the PRSP-II, (i) governance, political and institutional

issues, and (ii) socio-economic issues. Second, I discuss the developments related to the cooperation between the Government of Burundi and the UN, with a focus on the UN's political accompaniment role, including the PBC.

Key issues – developments in the country

Political, Governance and Institutional Issues

All interlocutors noted signs of political détente and opening in 2013, demonstrated by the resumption of dialogue between the Government and the opposition that happened through three workshops on election-related matters and the return of opposition leaders from exile. The latest initiative welcomed as a democratic gesture was the workshop the President of the National Assembly convened in Kigobe on 19-20 December 2013 to discuss the constitutional review process the Government had embarked upon. All stakeholders congratulated the President of the National Assembly for organising the consultations, which were attended not only by political parties, but also by other relevant actors such as religious organisations. Participants expressed their hope that the consensus achieved in Kigobe would serve as a confidence-building measure and guide the decisions of the National Assembly in revising the Constitution.

I discussed this issue with the President, the Second Vice-President, the Foreign Minister, the major political parties (both governmental and opposition) and civil society representatives. I reminded them of the letter that the Configuration had sent to the President of the National Assembly on 18 December 2013 recognizing Burundi's sovereign right to revise its Constitution and expressing the view that the process would benefit from extensive consultations that could contribute to creating the basis for a broad consensus. In that regard, I also noted the concerns expressed by some interlocutors on a possible rejection of the recommendations of the workshop of Kigobe. Overall, most hope that the current revision would preserve the principles of power-sharing arrangements and ethnic balance embedded in the Arusha Accords and focus solely on updating provisions relevant to the electoral process and to the budget cycle of the East African Community. A more substantive amendment of the Constitution could be envisaged after the elections of 2015 on the basis of an evaluation of the Arusha Accords and the overall context.

As noted in the reports of my two latest visits to Burundi, the country is already engaged in the pre-electoral phase. Early preparations of the elections of 2015 include a draft revised electoral code that builds on the lessons of 2010, an electoral body, the CENI, already in place and functioning, a needs assessment completed by the UN and a project document reflecting those needs and the budgetary implications. Political parties, both those in the Government and those from the opposition, have been engaged with these preparatory steps and Burundi should be congratulated for this development.

I was also encouraged by the emerging commitment of opposition parties to participate in the 2015 elections. The extra-parliamentary opposition coalition ADC-Ikibiri – comprising eight parties in total – is committed to working on a common political program and to presenting a common presidential candidate. The other group of opposition parties the “Union des Partis Politiques pour l’Opposition” (UPPO) is committed to do the same although its major member, the FNL, continues to be divided internally between its historical leader who returned from exile, Agathon Rwasa, and its current president, Jacques Bigirimana. The lack of financial means for the opposition parties remains a major concern and challenge to the establishment of a level playing field for next year’s elections. It remains unclear how this problem could be adequately addressed. I discussed again with CENI the possibility to mobilize financial support through the PBC to ascertain an equitable presence of the delegates of political parties (so-called “mandataires”) tasked with observing equal coverage and “monitoring” of the polling stations and the whole electoral operation. I was reassured that this had been reflected in the budget for the elections, although it was not yet sure which donors would support such an item.

Despite the positive momentum created over the course of last year, some legislative processes may have a restrictive impact on the political space in Burundi. In my last report of my visit in June I already mentioned the press law in that regard. In addition, a newly adopted law on public manifestations contains dispositions with a potential dissuasive effect on the opposition parties’ capacity to rally their supporters. Opposition parties also continue to deplore the activities of the youth movement Imbonerakure associated to the party in power. Although the Government and the ruling party CNDD-FDD assured me that the youth organization did not pose any threat, the feedback I got from outside governmental circles indicates otherwise. Some opposition parties told me that they may be forced to retaliate if harassment by the Imbonerakure continues. Potential clashes with youth wings of political parties are probably the biggest imminent risk of violence and must be given particular emphasis in view of the 2015 elections. I would have liked to discuss these issues with the Minister of Interior and of Youth to seek their views and to offer assistance, and I hope that the support planned by the Peacebuilding Fund will contribute to achieve a more positive political engagement of the youth. Burundi could also learn from the recent experience of Kenya in engaging youth and preventing election-related violence.

The land issue, which I had also mentioned in my earlier report, has known further developments with the new law on the National Commission on Land and other Goods (CNTB) voted on 31 December. The law extends the competencies of the CNTB and creates a Special Court with potentially far-reaching authority (the law establishing the Court has not been adopted yet). In my meeting with the leadership of the CNTB we had an extensive review and discussion of the functions of the CNTB as defined by the new law and I realized that this is a very powerful institution whose actions will have an impact on the reconciliation process. The President of the CNTB repeated to me what he had already told me in June: That the objective of the Commission

is to provide justice through restitution of land, especially to the returning refugees from abroad. This process would include reviewing many, if not all previous decisions of the Commission. I asked the President whether this would not raise a number of delicate legal issues, including the concept of honest (“bona fide”) buyers, or “acquéreurs de bonne foi” in French, whose importance the leadership of the CNTB questions. The President responded that such buyers could address themselves to the Special Court, but left open the question of compensation. The idea of a compensation fund for such cases is reflected, but not provided for in the law. While non-governmental interlocutors active in the field of land matters do not object to the principle of restitution as such, they argue that the process should be perceived as just and equitable by the parties involved. They also told me that the work of the CNTB should have been parallel to the work of the transitional justice and reconciliation mechanisms given the strong linkages among the issues. The latter though continue to remain absent in Burundi. Finally, the said land specialists told me that “the number of land-related disputes that fall under the mandate of the CNTB is not as high as the number of regular land disputes, but they are politically charged and have a greater potential to escalate”. I have therefore advised the leadership of the CNTB to strike the necessary balance between justice, reconciliation and peace. Given the relevance of the land question for peacebuilding in Burundi the land issue will remain high on my agenda going forward.

Socio-economic issues

Pressing poverty continues to hold a firm grip on Burundi and the economic outlook for the country seems to be rather pessimistic, according to the assessment I received by the African Development Bank (AfDB) and the World Bank. The Banks raised concerns on the potential impact of the political situation on their investments and the country’s economy as a whole. The present state of its economic and political governance structures puts Burundi in the category of “fragile States” and makes it eligible for preferential treatment and conditions of aid. In the World Bank’s so-called “Country Performance Institutional Assessment” (CPIA) Burundi scores 3.2 at the moment – it would need a score of 3.3 to get out of the fragility category. Bank representatives told me that the Government persists on getting a score of 3.3 in the upcoming evaluation despite the fact that this would entail losing preferential treatment for Bank grants.

Similarly, private sector investments remain very low. The AfDB would like to expand its private sector development basket, but the country risk for Burundi remains high. As has been explained to me, this is mainly due to the weak performance of the country’s governance structures, persisting corruption and the lack of an adequate and reassuring legal framework. To illustrate the situation a look at the interest rates the AfDB employs for credits to private sector investors is illuminating.

While the AfDB can employ an average interest rate of 7% for development countries, the rate is at 17% for Burundi.

For Burundi the main options are (1) remaining a fragile country and continuing to benefit from related funding windows, limited in scope and supporting mainly the Government's basic functions and social services or (2) graduating and attracting larger funding windows and private capital, which are required for large investments and real economic growth. Both WB and AfDB encourage a graduation process, but note that performance of key institutions is still weak, and they advise that the country will need to implement economic reforms and become more competitive. I was also told that budget support for Burundi remains critically low. Given the high dependence of the Government on such kind of support, donors should continue to consider ways to increase their budgetary support mechanisms to Burundi.

Besides international assistance, internal revenues are key factors for social and political stability since they provide the means to deliver basic services to the population. The performance of the Burundi Revenue Authority (OBR) over the last three years has demonstrated that this is possible with a combination of strong political will and sustained competences and skills. In 2013, OBR collected about USD 357.1 million of revenue, which represents an increase of 6.2 % of the revenue collected in 2012. Future performance of the OBR will depend on the Government commitment to provide resources required by the operating budget and to preserve political independence of the OBR; it will also depend on the sustainability of international support following the end of the current support cycle provided by Trade Mark East Africa, and on a strong leadership after the departure of the current High Commissioner.

On a more positive note, the follow-up to the 2012 Geneva Conference has proven a success. According to information provided by the Government, overall pledges have actually risen from satisfying USD 2.6 billion to USD 3.4 billion. Agreements have already been signed to the amount of USD 1.4 billion. In my conversation with the President of the CNCA I was informed of namely two challenges regarding the effective disbursement of aid: Ministries at times struggle to formulate bankable projects, and international partners concentrate too much on Pillar-1-projects of the PRSP-II (governance) to the detriment of socio-economic projects (Pillar 2).

Key issues – Cooperation with the UN and future of BNUB

The future of the political UN presence was a topic in my conversations with almost all stakeholders I met with in Bujumbura. The Government repeated its position to put an end to BNUB by the end of its mandate in February 2014, and under the principle of national ownership and the non-forcible nature of political missions the Government's decision needs to be respected.

However, it is worthwhile mentioning that all interlocutors outside of the government told me that they strongly preferred a continued presence by BNUB. I understand that all possible means have been employed by the SRSG, DPA and the SG to find a compromise solution to prolong the UN's political presence but no agreement could be reached with the Government.

The main focus now lies on the time that is needed for the transition to a "Country Team only" presence. While the Government insists that BNUB leaves within six months, the UN has made it sufficiently clear that this is too short, at least 12 months would be needed to ensure the smooth transfer of residual tasks to the Country Team solely from a practical point of view.

The UNCT will play a key role during the transition and after BNUB's departure. The Government has demanded that the UNCT takes over the remaining peacebuilding and political tasks, including support to the electoral process, to human rights and to the transitional justice mechanisms. I realize that current UNCT members have said that they don't have the required capacities for such an increased demand, and I hope that the UN Secretariat and the Senior Management of the main UN agencies and funds will engage in conversations that will agree on measures required to sustain the UN support to Burundi. I stand ready to contribute to this conversation, and I am open to ideas on the implications for the PBC and the PBF in the post BNUB period.

Concluding Remarks

In my report of June 2013 I reminded all of us that we should always appreciate where we come from, remind us of the trajectory completed so far and stay engaged, knowing that the journey to sustainable peace and development is never a straight one and addressing those challenges will require patience and constant dialogue.

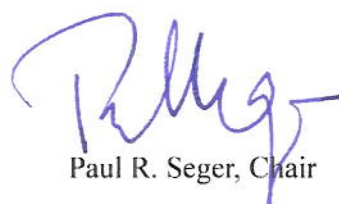
Burundi has made remarkable, if not exceptional, progress in very little time since the end of the civil war, and this needs to be adequately acknowledged. The often cited point of no return is in sight; but all stakeholders must now abstain from risking a derailment of this progress. Sustained dialogue, together with the pursuing of consensus and inclusivity will be key to facing current or emerging challenges, some of which are reflected in this report. The years 2014 and 2015 with the elections will prove crucial for Burundi's transformation process into a truly democratic, stable and prosperous country. That is also why, from a peace-building perspective, a continued political accompaniment by the UN would clearly constitute the best option in order to consolidate peace and stability in Burundi. However, if the Council decides, according to the principle of national ownership, to abide by the wish of the Government to terminate the mandate of BNUB and to transfer some of its competences to the UN Country Team, the transition period should be sufficiently long to ensure a "smooth landing". Past experience in other transition cases seems to indicate that a controlled and orderly transition period takes at least 12 months. The United Nations

have invested a lot of capital into Burundi, political, human and financial. It would be important to preserve those achievements through an orderly phasing-out, also from a prevention perspective. Recent examples on the continent should make us cautious enough in this regard. Progress is never linear, but I believe Burundi has a solid foundation and the necessary internal forces for a safe and successful journey. The international community should therefore spare no effort to sustain and accompany Burundi in this crucial period.

I myself as Chair of the Burundi Configuration remain committed to continue to accompany Burundi with the understanding that I am able to maintain open communication channels with all relevant stakeholders, both governmental and non-governmental. My personal engagement will also depend from the willingness of the Government to openly cooperate with me. The tasks of a Chair, namely resource mobilization and political accompaniment, go hand in hand.

At the same time, it is obvious that the PBC cannot substitute BNUB. I can increase the frequency of my trips, but the accompaniment, once BNUB is gone, will have to be distributed on different shoulders. Burundi's main partners, including the Configuration members, will have to assume their responsibilities increasingly to share this responsibility. It will take a collective effort from all of us – major donors, neighboring and regional countries, the East African Community, the African Union and others – to continue to accompany Burundi on its path to peace consolidation.

In closing, I wish to thank once again the Government of Burundi for receiving me and for the spirit of trust and dialogue, the SRSG and his Office for facilitating so efficiently my visit, as well as PBSO for its continued support.



Paul R. Seger, Chair

Peacebuilding Commission – Burundi Configuration