

TRIBUNAL DE GRANDE INSTANCE DE PARIS CHAMBERS

de Jean-Louis BRUGUIERE First Vice-President

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ISSUANCE OF INTERNATIONAL ARREST WARRANTS

ORDONNANCE DE SOIT-COMMUNIQUE

[Order to Execute]

Translated from French to English by CM/P.

Corrected and layout by Agaculama.

This is a free and non official translation, that has been performed in order to correctly inform the English speakers about the « Rwandese genocide ».

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We, **Jean-Louis Bruguière**, Premier Vice-Président of the *Tribunal de Grande Instance de Paris*,

In view of articles 131 and 145 of the Penal Code,

(1) Considering that on 6 April 1994 at 8:25 pm, the Falcon 50 of the President of the Republic of Rwanda, registration number "9XR-NN", on its return from a summit meeting in DAR-ES-SALAAM (Tanzania) as it was on approach to Kanombe International Airport in KIGALI, was shot down by two Surface-to-Air Missiles; and

(2) That all passengers:

- **Juvénal HABYARIMANA**, Chief of State of Rwanda,
- **Cyprien NTARYAMIRA**, Chief of State of Burundi,
- **Déogratias NSABIMANA**, Chief of Staff of Rwandan Armed Forces (R.A.F),
- **Elie SAGATWA**, Colonel and Chief of the Military Cabinet of the Rwandan president,
- **Thaddée BAGARAGAZA**, Major and executive officer in the 'maison militaire' of the Rwandan president,
- **Juvénal RENZAHO**, foreign affairs adviser to the Rwandan president,
- **Emmanuel AKINGENEYE**, personal physician to the Rwandan president,
- **Bernard CIZA**, Minister of Planning in the government of Burundi,
- **Cyriaque SIMBIZI**, Communications Minister of Burundi,

And the members of the French flight crew:

- **Jacky HERAUD**, pilot,
- **Jean-Pierre MINABERRY**, co-pilot,
- **Jean-Marc PERRINE**, flight engineer

Perished in the explosion of the aircraft; and

(3) That the greatest part of the debris of the plane fell within the confines, even on the Residence, of President **HABYARIMANA** where his family was living; and

(4) That this attack, quickly brought to the attention of the Rwandan authorities, and notably to the Presidential Guard—as was confirmed by **General BAGOSORA**—must have immediately provoked a violent reaction from extremist Hutu, and triggered the genocide of the Tutsi minority; and

(5) Considering that in the atmosphere of extreme confusion induced by the insurrectional situation provoked by the destruction of the presidential aircraft, any number of rumors were circulated as to the origins of the attack; and

(6) That thus, as early as the morning of the 7th of April, the first rumor to originate in Rwanda accused the Belgian military, members of the UN force in Rwanda (UNAMIR), of being the originators of the attack, a rumor quickly denied by the international press which had designated the extremist Hutu as its authors; and

(7) That in support of this latter thesis, it was put forward that the Rwandan President, **Juvénal HABYARIMANA**, had acquiesced to the demands of the "Rwandan Patriotic Front" (R.P.F.) by announcing at the summit meeting of 6 April 1994 that upon his return to KIGALI, he would put in place the institutions for a transition government that were prescribed in the peace plan, the ARUSHA ACCORDS of 4 August 1993; and

(8) Notwithstanding that the gravity of a situation which should have demanded a reaction proportionate to the events, both the international community and the new government of Rwanda led by the R.P.F. have demonstrated an incredible lack of resolve in this matter, President **KAGAME** even formally opposing any investigation into the destruction of the president's plane; and

(9) That, however, as early as 7 April, the President of the UN Security Council invited the Secretary General of the United Nations to collect, by

any and all means at his disposal, all useful information concerning the attack and to submit a report to the Council without delay; and

(10) That on the 12th of April, the Belgian Council of Ministers demanded of the International Civil Aeronautics Organization (I.C.A.O.) that it initiate an investigation; and

(11) That the 21 April 1994, seriously concerned about the situation in Rwanda, the UN Security Council invited the new Secretary General to give him all the information on the attack; and

(12) That 2 May 1994, pursuant to a written request by Mr **Jean KAMBANDA**, Prime Minister of the interim government of Rwanda, addressed to Mr **(Jacques-)Roger BOOH BOOH**, Special Representative of the Secretary General of the UN in Rwanda, **General Roméo DALLAIRE**, Commander of the UNAMIR forces in Rwanda confirmed in writing to the Prime Minister his commitment to create an international investigative commission; and

(13) The 17 May 1994, the Security Council, in a new resolution, reminded the Secretary General of his previous demands; and

(14) That in June 1994, the members of the "Organization of African Unity" (O.A.U.) met in TUNISIA, requesting the creation of an impartial investigating commission; and

(15) That a report dated 28 June 1994 from Mr **René DEGNI SEGUI**, special envoy to Rwanda from the United Nations Commission on Human Rights, stated that the attack against the president's plane was the cause of the events that occurred in Rwanda, but having requested the setting up of a commission of inquiry, he was told that the UN did not have the budget for such things; and

(16) That further, in a report of 3 December 1994 submitted to the Secretary General of the UN, a commission of experts recommended the creation of an international tribunal and once again called for the adoption by the sub-commission "of the necessity to investigate, among other things, the events that led to the current situation, notably the attack against the airplane carrying the Presidents of Burundi and Rwanda"; and

(17) That this new initiative had no more effect than previous ones; and

(18) That 21 December 1997, the principle representatives of the O.A.U., meeting in ADDIS ABABA, decided on the creation of an "international group made up of personalities who were sufficiently objective and thoroughly knowledgeable of the region" to lead an investigation into the genocide in Rwanda and giving equal attention to the death of President **HABYARIMANA**, and in its final report, submitted 29 May 2000, the O.A.U. recommended to "the international commission of jurist to open an independent inquest to determine who was responsible for the attack"; and

(19) That France, unlike the Rwandan authorities, had likewise solicited the UN to open an international investigation, as was reported by Mr **Bruno DELAYE**, in testimony given 19 May 1998 before the (French) Commission on National Defense and the French Armed Forces and the National Assembly's Commission on Foreign Affairs that had been created, 3 March 1998, "the fact-finding Mission on the military operations conducted in Rwanda by France, from other countries of the O.A.U. between 1990 and 1994"; and

(20) That 18 March 1994, Mr **Kofi ANNAN**, Secretary General of the UN solicited the creation of a commission of inquiry "into the actions of the UN during the genocide in Rwanda in 1994" and that its report, submitted 15 December 1999, made no reference to the absence of any investigation into the attack; and

(21) Considering that despite the resolutions or recommendations, no international investigation was ever initiated into the attack; and

(22) That furthermore, as already mentioned, the new power issued from the ranks of the F.P.R. and installed in Rwanda 19 July 1994, after the military victory over the regime of President **HABYARIMANA**, did not, itself either, try to establish an inquiry despite many demands to do so, emanating primarily from Mr. **Faustin TWAGIRAMUNGU**, the Rwandan Prime Minister at that time, Mr. **Alphonse Marie NKUBITO**, the Minister of Justice, Mr. **Sixbert MUSANGAMFURA**, the Chief of the central intelligence service, as well as from the government of Burundi, desiring to know the truth about the assassination of its President **Cyprien NTARYAMIRA**; and

(23) That it was shown that all the demands had been formally rejected

by **General Paul KAGAME**, at that time Vice-President and Minister of Defense of the Republic of Rwanda; and

(24) That this position of **Paul KAGAME's** was notably attested to by **Simon ISONERE**, the Rwandan Director General of the Ministry of Foreign Affairs, who testified before this court on 8 September 2000 that during his last ministerial duties, he learned that a demand for an international inquiry had been made by the Prime Minister and the Minister of Justice **Alphonse Marie NKUBITO** and that this demand, presented in a letter to the representative of the UN in Rwanda, had been intercepted by **Paul KAGAME**, who, furious about this initiative, had insisted on the destruction of every trace of this communication; and

(25) That it was also corroborated by **Sixbert MUSANGAMFURA**, named General Secretary of the government before being appointed to the double functions of being in charge of the central intelligence service and serving as Secretary of the National Commission on Security presided over by General **Paul KAGAME**; and

(26) That **Sixbert MUSANGAMFURA** said in effect at the time of his examination on 15 April 2002 in Finland, that on 7 January 1995, he was called to Paul KAGAME's home in the along with **Lt Colonel Karake KARENZI**, chief of the military intelligence services, and that during the course of this interview, it was suggested to **Paul KAGAME** that a team of investigators be put together with the duty of collecting information about the attack on the presidential plane for the purpose of answering the questions that would eventually be posed by a foreign government or by the international press, and that this suggestion drew a violent reaction from **KAGAME**, and that later **Karake KARENZI** advised **MUSANGAMFURA** to drop this whole subject if he didn't want to find himself in a world of trouble; and

(27) That therefore, since, in the words of the Ivorian jurist and special representative of the UN Human Rights Commission, Mr. **René DEGNI SEGUI**, "the attack on the plane constitutes the Gordian Knot in this whole affair", it can only be concluded that **Paul KAGAME** was thoroughly and constantly opposed to any move that would tend to shed light on this attack; and

(28) That parallel to this situation, a double parliamentary commission was set up in Belgium: First, on 24 July 1996, concerning the murders of ten Belgian soldiers in Rwanda, the Commission on Foreign Affairs of the National Assembly established an "ad hoc group" to determine just what information relative to Rwanda the Belgian civilian and military had during

the period between the Arusha Accords (4 August 1993) and the beginning of the genocide (April 1994), then on the other side of Capitol, on 28 February 1997, the Belgian Senate created "the Special Commission on Rwanda", charged with continuing the work of the "ad hoc group"; and

(29) That on 3 March 1998, the French Commission on the National Defense and the Armed Forces and the Commission on Foreign Affairs set up the "Mission on information concerning military operations conducted in Rwanda by France, other nations and the UN between 1990 and 1994"; and

(30) That it is proper to underline that the International Criminal Tribunal for Rwanda (I.C.T.R.), created 8 November 1994 by Resolution 955 of the UN Security Council to determine the facts about genocide and crimes against Humanity committed in Rwanda between 1 January and 31 December 1994, did not want to look into the attack of 6 April 1994; and

(31) Considering that it is in this context of inaction even unto obstruction with regard to any movement toward the establishment of an investigating commission to look into the attack of 6 April 1994, that on 31 August 1997, Madame **Sylvie, Marie, Simone MINABERRY**, daughter of Mr. **Jean-Pierre MINABERRY**, pilot of the Falcon 50 of the Rwandan President, filed a civil complaint with the Chief Justice (Doyen des Juges d'Instruction) of Paris against X number of military officers for acts of terrorism that led to the death of one or more persons, and for complicity in said crimes; and

(32) That on 27 March 1998, the aforementioned judicial information was presented to the Chief Justice in charge of assassination carried out within a terrorist enterprise, facts falling within the purview of articles 221-3, 421-1-1, 421-3 of the Penal Code, and 706-16 and beyond of the Code of Penal Procedure; and

(33) That pursuant to an order of the court dated 27 October 2006, an additional brief relating to assassinations committed in pursuit of a terrorist enterprise, complicity in assassinations committed in pursuit of a terrorist enterprise – as concerns the passengers and members of the flight crew of the Falcon 50 of the President of the Republic of Rwanda, registration number 9XRNN, who perished in the course of this attack – and the association of criminals with a view toward the preparation of acts of terrorism, was delivered to the High Court of Paris on 31 October 2006; and

(34) That the present information insists that others must be included as plaintiffs in this civil order: **Madame Annick PERRINE**, widow of Mr. **Jean-Michel PERRINE**, navigator/flight engineer on the Falcon 50 and **Madame Françoise HERAUD**, wife of the captain of the aircraft, as well as Mr. **Bernard HABYARIMANA RUGWIRO**, Mr. **Jean-Luc HABYARIMANA**, Mr. **Léon Jean-Baptiste Aimable** and **Mme. Marie Merci HABYARIMANA**, **Mme. Jeanne NTILIUAMUNDA**, **Mme. Marie Aimée HABYARIMANA NTILIUAMUNDA** and **Mme. Agathe KANZIGA**, wife of **HABYARIMANA**; and

(35) Considering that within the framework of this inquest conducted by the National Anti-Terrorist Division (N.A.T.D.), today the Sub-Directorate Against Terrorism (S.D.A.T.), the investigations were consistently carried out within the geopolitical context surrounding this attack, the circumstances that prevailed at the conception and planning of this project and the conditions of its execution; and

(36) That for this investigation, every lead coming out of a national institution, a political authority, members of international organizations, the international press even unto rumors, was meticulously explored and all the various supporting data supporting verified; and

(37) That to this end, the investigation based itself on the work of the parliamentary Commission on the National Defense and the French Armed Forces and the Commission on Foreign Affairs, which, on 3 March 1998, had created "the Mission of information on the military operations conducted in Rwanda by France, other nations and the UN, between 1990 and 1994", on the work of two Belgian parliamentary commissions created 24 July 1996 and 28 February 1997, on the testimony collected either in France, or from the international interrogatory commissions questioning representatives of the Hutu community, but especially members of the R.P.F. or of its military branch, the R.P.A., some of whom were very close to President **Paul KAGAME** as well as the material evidence; and

(38) Considering that the first information and available evidence allowed the presumption of five possible hypotheses as to who ordered and who executed this attack; and

(39) That the first of these hypotheses pointed to the Army of Burundi, a large majority of whom are Tutsi and were considered hostile to Burundian President **Cyprien NTARYAMIRA**; and

(40) That the possible implication of the Burundian Army was supported by its past participation in violent actions against Hutu personalities; and

(41) That also, during an attempted military coup, the mono-ethnic Burundian Army was responsible for the assassination, on 22 October 1993, of President **Melchior NDADAYE**, the first Hutu to be democratically elected president on 1 June 1993; and

(42) That this assassination seems to have been instigated because of a project **President NDADAYE** proposed to reform the Burundian Army which had exercised an influence on the nation's political life; and

(43) That his successor, **Cyprien NTARYAMIRA**, had resumed this same project, he, too, figuring that the Burundian Army was inordinately influential; and

(44) That along side these reform initiatives, rumors of an attack against **President NTARYAMIRA** had circulated in 1993, pushed mainly by Tutsi political parties; and

(45) That in October 1993, at the request of Rwandan President **Juvénal Habyarimana**, who had been informed that the Burundian President, **Melchior NDADAYE**, was in danger of being killed, **Paul BARRIL** went to BUJUMBURA to evaluate the threats, and while there he gathered information on the imminence of "a coup d'état" which was being prepared by Tutsi officers, supported by Rwandan military officers guided by **Paul Kagame**, who was, at that time, traveling with a Burundian passport; and

(46) That furthermore, it turns out that on 5 April 1994, the border police and customs officials at Franco-Swiss airport of GENEVA-COINTRIN were put on alert to the entrance into France from Geneva of a Burundian national, **Athemon RWAMIGABO**, a Lt Colonel in the Burundian Army, and the pilot of the Burundian presidential Falcon 50; that while being checked at the border, it was noted that this Tutsi officer was carrying in his attaché case political documents regarding the movements of the opposition and sketches of an aircraft on a landing approach; and

(47) That whereas **RWAMIGABO**, who was close to **General Pierre Buyoya** who had taken power by toppling President **Sylvestre Ntaryamira**, the successor to President **Cyprien NTARYAMIRA**,

could not be examined because of his diplomatic status, a diligent examination of the documents he was carrying showed that they had no real operational significance but were, for the most part, meant to be used as propaganda or as instruments of internal political provocation; and

(48) That notwithstanding the inter-ethnic tensions that were also prevalent in Burundi, the hypothesis that the attack had been organized by the Burundian military had to be discarded; and

(49) That according to the different testimony obtained in the investigation, it was established that President **Cyprien NTARYAMIRA** had not decided to return in the company of the Rwandan president, on **HABYARIMANA's** presidential plane, until the very last minute before departure from DAR-ES-SALAAM, making it impossible to organize the material for an attack against him on Rwandan soil; and

(50) That this unintended return trip was also confirmed by a declassified American diplomatic telegram sent to Undersecretary of State for African Affairs, **George MOOSE**, on 7 April 1994, while on a mission to SRI-LANKA, as well as being addressed to various American diplomats; and

(51) Considering that equal attention was paid to the implication in the attack of members of the political opposition to President **Juvénal HABYARIMANA** known as "moderate Hutus" among the officers of the Rwandan Armed Forces (R.A.F.); and

(52) That this hypothesis showed no more promise than the previous one; and

(53) That its origins were found to be in a meeting held 4 April 1994 at the home of Madam the Prime Minister **Agathe UWILINGIYIMANA**, a member of the political party known as the "Mouvement Démocratique Républicain" (M.D.R.); and

(54) That according to the principles of this hypothesis, during this soirée which was attended by some civilians and some junior officers of the R.A.F., all originally from the South of Rwanda, **Agathe UWILINGIYIMANA**, noting that the Arusha Accords were stalled, had suggested the possibility of toppling President **HABYARIMANA**; and

(55) That it appears, in fact, that this meeting never had the objective that certain people have imputed to it, but that its existence was given significance in a manipulation by Radio "R.T.M.L.", close to the milieu of the extremist Hutus, in order to discredit through spreading false rumors of the preparation of a coup d'état, Mme **UWILINGIYIMANA**, the serving Prime Minister at the time, who would be assassinated the day after the attack by members of the Presidential Guard while she was under the protection of the Belgian troops of UNAMIR; and

(56) That thus this provocation broadcast by radio "R.T.M.L." had, if not as an objective then at least as a consequence, the effect of bring about the physical elimination of Mme **UWILINGIYIMANA** by the "interahamwe" militia that suspected her of being close to the R.P.F.; and

(57) Considering that other rumors designated "foreigners" as being the origins of this attack; and

(58) That behind the generic vocabulary, in fact, there were two countries being charged, Belgium and France; and

(59) That the implication of Belgium seemed to arise from an 'anti-Belgian climate' prevalent at the time in Kigali, fed by several factors that resulted from the role played by the Belgian contingent in the UNAMIR; and

(60) That in effect, the entrance into Kigali on 28 December 1993 of the Rwandan Patriotic Army (R.P.A.) battalion to be installed in the "Conseil National pour le Développement" (C.N.D.), under the protection of a Belgian UN battalion, and especially the behavior of certain of the Belgian UNAMIR soldiers contributed to this resentment, as did the mission of a group of Belgian soldiers considered suspect when on 6 April 1994 they escorted some 'officials' of the R.P.F. into the Akagera national park, the objective of which mission a Belgian parliamentary investigating commission was unable to determine, nor was it able to determine the identities of the R.P.F. 'Officials' escorted, while ten [sic] of the Belgian UN troops were murdered 7 April 1994 by the soldiers of the R.A.F. who believed them to be the authors of the attack on the presidents' plane, all greatly contributed to giving credence to this theory; and

(61) That notwithstanding the shadowy zones, largely the results of the climate of fear that prevailed at the time in Kigali, and the fecklessness of UNAMIR in controlling the situation, no element in the investigation

supported the hypothesis that the Belgians were responsible for the attack on the plane; and

(62) That France was equally designated as having taken part in this operation; and

(63) That in June 1994, a Belgian journalist charged that the French military participated in the attack, basing this charge on a document that she was sent, in which the author claims he, along with two other leaders of the "Coalition pour la Défense de la République" (C.D.R.) [a party that split off from the ruling M.R.N.D. and was considered, esp by UN **General Roméo Dallaire** in his book, to be 'Extremist Hutu' and to stand rigidly against the Arusha Accords, but which we now know was thoroughly infiltrated by R.P.F. agents—cm/p] ordered the attack on the Falcon 50 and that the attack was executed by two French officers stationed in Rwanda; and

(64) That according to the same article, which was made up of various rumors that were spread worldwide right after the attack, these two French officers from la Direction Générale de la Sécurité Extérieure (D.G.S.E.) were supposed to be the ones who fired the missiles; and

(65) That in August 1994, a mysterious group known as "The International Strategical and Tactical Organization" (I.S.T.O.) submitted to the Rwandan ambassador to Canada a document entitled "The Results of the Investigation into the assassinations of Presidents **Cyprien NTARYAMIRA** of Burundi and **Juvénal HABYARIMANA** of Rwanda on 6 April 1994 – source: document of the Central Intelligence Agency", which revealed to the Rwandan government in exile the implications and participation of the French government in the attack carried out by the two military officer/agents of the D.G.S.E.; and

(66) That the investigations probing this organization, until now unknown, its presumed activities, its services provided ostentatiously without remuneration, all suggest that it was composed of a group of con artists, well-informed on the military and political situations in the Great Lakes region, and that it most notably took advantage of France's declaration of its intention to intervene in Rwanda with a humanitarian operation which brought about on 16 June 1994 a protest from the "Rwandan Patriotic Front" (R.P.F.) declaring that it would consider French troops to be hostile; and

(67) That the more dubious activities of this alleged international organization of anglo-saxon origins, aimed toward the pulling off of financial scams, had also to be closely linked to information emanating from two different sources, one Belgian, the other British, purporting that the two missiles used in the attack had come from stocks seized by the French Army in 1991 during the first Gulf war with Iraq; and

(68) That this information presented as verification, as was done by the I.S.T.O., of the implication of France in the attack of 6 April 1994, had to be formally refuted by the investigations into the origins of the missiles that found they came from an official arms delivery by the U.S.S.R to UGANDA; and

(69) That it was thus a matter of a sort of disinformation having been initiated or facilitated by a foreign intelligence service in order to discredit France in a political scheme in the absence of any independent investigation; that it was the same with the intervention of the I.S.T.O. whose open activities gave cause to believe it was linked to the C.I.A. and that it had the same objective in such a business venture; and

(70) That the investigation and the testimony gathered did not then lend any veracity to the allegations that France had been the originator of the attack; and

(71) Considering that members of the **HABYARIMANA** family, known as "the Akazu" [meaning Little House—cm/p], were also implicated in the attack and were supposed to have worked with "extremist Hutu" from the "Coalition pour la Défense de la République" (C.D.R.) party and officers from the "Rwandan Armed Forces" (R.A.F.); and

(72) That quickly after the attack, part of the international press had designated President **HABYARIMANA**'s wife as the one who had ordered the attack on behalf of the members of the "Akazu" who were worried about their President's weakly accepting to go along with the Arusha Accords that were seen as damaging to their interests; and

(73) That, however, the analysis of the facts immediately following on the attack had to show that, in the general panic that prevailed at all levels of the R.A.F., manifestly unprepared for the death of their President and the Chief of Staff of the Army, the influential personalities in the regime and the members of the "Akazu" took refuge in Western embassies; and

(74) That the President's wife and her family were evacuated to the Central African Republic on 9 April; and

(75) That in order to deal with the assassination of the President, which had completely disorganized the workings of government and caught the military completely off-guard, since their Chief of Staff also perished in the attack, a crisis committee composed of military officers was set up during the night of 6-7 April 1994, in the presence of the Commander of the UNAMIR forces, **General Roméo DALLAIRE** and his adjutant, Belgian **Colonel Luc MARCHAL**; and

(76) That the refusal to place the R.A.F. under the authority of the Prime Minister, Madame **Agathe UWILINGIYIMANA**, who came from an opposition party, was categorical, as she was considered "pro-R.P.F."; and

(77) That the establishment of this crisis committee was subsequently interpreted as a coup d'état on the part of the R.A.F., when on 9 April an interim government was put in place without the participation of the R.P.F., and the President of the Parliament, **Théodore SINDIKIUBWABO**, was named interim President of the Republic; and

(78) That this thesis was principally developed in articles published in the "Tribune of the People", a Rwandan review close to the R.P.F., that had stated that President **HABYARIMANA** was killed by four officers of his presidential guard, though the elements of support for this story were subsequently shown to be untrue by an investigation based notably on testimony from officers of the UNAMIR; and

(79) That, furthermore, the members of the C.D.R. had no reason to attack the life of President **HABYARIMANA**; and

(80) That, in effect, if these latter so-called "extremists" had earlier rejected the Arusha Accords of 4 August 1993, they subsequently demanded and received, in the beginning of April 1994, with the agreement of the international community, a seat for a representative of their party in the future transitional national assembly; and

(81) That in this regard, **Enoch RUHIGIRA**, ex-director of the Rwandan Presidential cabinet, had to evoke the directives given him by President **HABYARIMANA** on the eve of the summit meeting in DAR-ES-SALAAM

instructing him to meet on 6 April 1994 with Mme **Agathe UWILINGIYIMANA** in order to define the conditions for placing a member of the C.D.R. on the list of delegates before the composition of the transitional National Assembly; and

(82) That this political move had, on the other hand, been formally fought by the R.P.F., which had considered, as stated by Mr **Faustin TWAGIRAMUNGU**, Prime Minister of the first national unity government put in place the 19th of July 1994, before the Belgian Parliamentary Commission, that "the introduction of the C.D.R. into Parliament was the equivalent of a declaration of war"; and

(83) That the impasse between the C.D.R. and the R.P.F., as noted by the Belgian **Colonel Luc MARCHAL** of the UNAMIR, made it difficult to apply the Arusha Accords; and

(84) That as regards the R.A.F., it was clear that their forces were mal-equipped and little trained, unlike the R.P.F./A., and that their heavy arms were under the control of the UNAMIR; and

(85) That, what's more, the R.A.F. had only a very weak anti-aircraft system and had no missiles; and

(86) That, on the contrary, investigations showed that the R.P.F./A. had surface-to-air missiles of the types SAM 14 and SAM 16; and

(87) That therefore, all the investigations, and notably all the testimony gathered, greatly weakened the hypothesis placing responsibility for the attack on `extremist' Hutus, because it would have benefited neither the "Akazu", nor the C.D.R., nor even the R.A.F., who were all convinced of the necessity of implementing the Arusha Accords; and

(88) Considering, on the other hand, that the investigations focusing on the possible implication of the R.P.F. in the planning of this attack and its realization had allowed the propping up this hypothesis and the determining of the circumstances under which it was realized; and

(89) That the testimony gathered, especially that from Tutsi members of the R.P.F. or those who had belonged to this political formation and ex-officers of the R.P.A., certain of whom were even personal guards close to

Paul KAGAME, the verifications undertaken and the material elements gathered, especially about the missiles, established that **Paul KAGAME**, along with members of his general staff, had, after the signing of the Arusha Accords in August 1993, conceived this operation that he had carefully planned, and that he recruited the officers charged with putting the plan in place and supervising its execution; and

(90) That, thus, they decided the conditions under which the project had to be conceived, within the context of a scenario to seize power that would not have been allowable under the Arusha Accords, at least in the short term; that also the majority were identified as officers in the R.P.F., all of them close to **Paul KAGAME**, having taken part in the development of this criminal project, in the organization of the means to its realization and its execution on 6 April 1994 at the time the presidential Falcon 50 was returning late from the summit in DAR-ES-SALAAM; and

(91) Considering that the beginnings of this plot physically to eliminate the sitting president of Rwanda, go back, according to elements of this investigation, to 1991, at the time that the multi-party system was initiated; and

(92) That the latter allowed political opponents of President Habyarimana and of his single party M.R.N.D. to come out of hiding and create their own movement; and

(93) That as of 1992, the principal opposition parties, the "Mouvement Démocratique Républicain" (M.D.R.), the "Parti Libéral" (P.L.), the "Parti Démocratique Chrétien" (P.D.C.), and the "Parti Social Démocrate" (P.S.D.), entered the government and occupied the office of Prime Minister as well as holding various other ministerial portfolios; and

(94) That from then on these parties, under the name "Forces Démocratiques pour le Changement" (F.D.C.) [*Democratic Forces for Change*], organized peace talks with the R.P.F. which had, however, since the failure of the 1 October 1990 invasion, continued its armed incursions into Rwandan territory, incursions which had brought about in reprisal the massacres of Tutsi civilians; and

(95) That on 5 June 1992, while these opposition parties were meeting in BRUSSELS with **Colonel Alexis KANYARENGWE**, president of the R.P.F., and despite the cease fire signed that same day, the R.P.A. violated this cease fire and seized several localities in Rwanda; and

(96) That taking advantage of its armed offensives, the R.P.F. sought to impose its leadership and its strategy on these opposition parties which were its political allies, forcing them to support its military operations; and

(97) That each time splits developed in the directorate of the F.D.C., its President, **Faustin TWAGIRAMUNGU**, followed the orders of the R.P.F., while other members of the leadership gave their support to President **HABYARIMANA**; and

(98) That in September 1992, another secret meeting was organized in BRUSSELS between the parties of the F.D.C. and **Paul KAGAME**, and that on 5 January 1993, a protocol of agreement establishing the distribution of ministerial portfolios in the future broad-based transitional government (B.B.T.G.), 5 for the R.P.F., 5 for the M.R.N.D., 4 for the M.D.R., 3 for the P.S.D., 3 for the P.L. and 1 for the P.D.C.; and

(99) That, however, in February 1993, following a generalized offensive by the R.P.F. in response to the ethnic and political troubles of January 1993, the opposition parties at the heart of the "Democratic Forces for Change" experienced new differences of opinion and their dissidents gave their support to the presidential movement; and

(100) That in this context of ethnic and political tensions over the fundamental conquest of power, in August 1993 the Arusha Accords were signed proposing to settle the political crisis in Rwanda; and

(101) That these Accords planned for the constitution, under the protection of the United Nations, of a legal State under the responsibility of the broad-based transitional government (B.B.T.G.) for a period not to exceed 22 months, at the end of which national elections must be held with the aim of installing a transitional National Assembly and organizing the return of refugees and the creation of a new national army, whose enlisted soldiers would be made up of 60% from the R.A.F. and 40% from the R.P.A., and whose officers corps would be drawn 50-50 from each, the Chief of Staff of the Army would come from the F.A.R. and that of the Gendarmerie from the R.P.A.; and

(102) That in view of the information and elements gathered by this investigation, it has been confirmed that for **Paul KAGAME** the physical elimination of President **HABYARIMANA** had become essential as a means to achieve his political ends from October 1993; and

(103) That, in fact, the relationship of political forces, due in large part to the numerical inferiority of the Tutsi electorate, would not permit him to win the elections called for in the political process laid out in the Arusha Accords without the support of the opposition parties; and

(104) That **KAGAME's** refusal to apply the Arusha Accords is born out by many testimonies from various political players on the Rwandan and International scenes; and

(105) That **Christopher HAKIZABERA**, who, after the coup d'état against **General Juvénal HABYARIMANA**, rejoined the ranks of the R.P.F. in 1990, and then left the organization in 1995 fearing he would be physically eliminated as had been other dignitaries of the regime such as **Théoneste LIZINDE** and **Seth SENDASHONGA**, reported during a hearing in Milan on 6 September 2000, that **Paul KAGAME**, after the negotiation of the Arusha Accords on 4 August 1993, had declared to his partisans that the R.P.F. had never wanted nor needed these negotiations, but that they 'had decided to play along' and that he did not believe in the negotiations and 'would remain at the ready because the fighting would be hard'; and

(106) That in confirmation of the terms of a letter he had sent to the United Nations in August 1999, he put forward that **Paul KAGAME**, after the failure of the R.P.F. to form around his command a common front against President **HABYARIMANA**, had 'elaborated a macabre plan that would surely lead the country into chaos: the death of President HABYARIMANA . . . considered a major obstacle to the R.P.F.'s taking power'; and

(107) That he further reported that at the time of a political meeting held in Uganda after the passage of the Arusha Accords of 4 August 1993, **Paul KAGAME** had made it know to his partisans that the negotiations would serve as a way of gaining time for the military plan as well as for the purposes of neutralizing the little parties and fooling the people as to his real intentions; and

(108) That **Christopher HAKIZABERA's** declarations were corroborated by those of **Jean-Pierre MUGABE**, another R.P.F. dissident who was a member of the "Directorate Military Intelligence (D.M.I.)", the intelligence service of the "Rwandan Patriotic Army" (R.P.A.); and

(109) That having been heard 13 March 2001, in the context of this inquest, he stated that "the elimination of the Rwandan President had been a strategy developed by the R.P.F. because despite the accords that could have been favorable to them, the prospect of the elections to come within twenty-two months could not have brought them victory as they were a . . . minority party" and that "despite the accords, **Paul KAGAME** had continued to meet with his troops on the ground to insist that they not believe in the accords and keep themselves ever ready to resume combat"; and

(110) That **Jean BARAHINYURA**, former member of the R.P.F., who in 1990 became a member of its executive committee and commissioner of documentation, before leaving the rebels in 1991, confirmed this strategy of **Paul KAGAME**; and

(111) That heard 30 October 2002, he cited that with other executives of the R.P.F. or those close to its `hard core', he had become aware in 1990 of certain confidential information—secrets of the organization—among which "the most important was that already at the time there was a plan to eliminate President **HABYARIMANA**" and that having learned subsequently that this project of elimination began to take on consistency, he decided to leave the rebel movement; and

(112) That this secret strategy developed by the R.P.F. was justified in part by the analysis of the political situation in 1993 that found little support for the hegemonic aspirations of **Paul KAGAME**; and

(113) That, indeed, the assassination in Burundi on 23 October 1993, of President **Melchior NDADAYE**, the first Hutu president democratically elected on 1 June 1993, had led to the massacre of many Tutsis and, on the pretext of repressing these killings, to the further killings of many Hutus by the Burundian Army; and

(114) That in the face of these killings in Burundi, the opposition parties already aligned with the R.P.F. found themselves even more shredded and subjects of new internal divisions, which effectively deprived the R.P.F. of any possibility of obtaining the majority it needed in the upcoming elections called for by the Arusha Accords; and

(115) That this analysis of the situation by the R.P.F. was confirmed by Mr. **Bernard DEBRE**, former Minister of Cooperation, who in his

deposition of 2 June 1998, before the Parliamentary Commission, noted that the intentions confided to him by the representatives of the R.P.F. meeting in Kigali at the end of January 1994 were that 'we can not wait for the elections, we're going to lose them, we will take power before [*the elections*], and spill blood if we must'; and

(116) That the American authorities must also have been aware of this situation and of the intentions of the R.P.F.; and

(117) That at the time of his testimony before the French Investigative Commission on 7 July 1998, Mr **Hermann COHEN**, advisor on African affairs to the U.S. Secretary of State from April 1989 to April 1993, noted that the Rwandan Prime Minister and the Minister for Foreign Affairs, both of whom were from opposition parties, had told him in a meeting in Kigali on 10 and 11 May 1992, that they 'were opposed to prospective negotiations with the R.P.F. because they were frightened'; and

(118) That he later mentioned that the U.S. had sent an observer to the Arusha negotiations and that the C.I.A. had done an analysis at the end of 1992 according to which it would be impossible to apply these accords; and

(119) That this analysis by the C.I.A., cited by Mr **Hermann COHEN**, was confirmed by a telegram from the C.I.A. which clarified the strategy being pursued by the R.P.F., which was – according to a C.I.A. informant who was an important functionary within the R.P.F. – to continue to take part in the formal negotiations to better conceal the activities of the Rwandan Patriotic Army, charged with seizing power by force of arms; and

(120) Considering that the first evidence implicating the R.P.F. in the attack of 6 April 1994 was received in February 1997 by U.N. investigators posted to Kigali, working with the International Criminal Tribunal for Rwanda (I.C.T.R.) and acting under the authority of its chief Prosecutor, Madame **Louise ARBOUR**; and

(121) That the existence of this evidentiary trail explored by the I.C.T.R. was disclosed on 1 March 2000 in the Canadian English-language newspaper the 'National Post', citing a report from 1 August 1997 compiled by I.C.T.R. investigators which stated that a unit of the R.P.F. called the 'Network' had participated in the assassination of President **HABYARIMANA**; and

(122) That on 27 March 2000, the judicial services of the U.N. admitted the existence of this report and that they had sent it to Madame la Presidente of the I.C.T.R. in ARUSHA; and

(123) That an international rogatory letter was delivered on 23 May 2000 to the authorities of the I.C.T.R. requesting a copy of this report and of the 'internal memorandum' that was sent to Madame **Louise ARBOUR**; and

(124) That though Madame **Navanethem PILAY**, President of the Tribunal, let it be known in response to this judicial inquiry that she, in fact, was in possession of the document in question, she said it was impossible for her to respond favorably to the French request; and

(125) That, nonetheless, on 31 August 2000, the Court of Paris, on the instructions of the Minister of Justice, passed on a copy of said report, which was attached to the current with a view toward its future use; and

(126) That the documents thus sent by the Court of Paris were authenticated by Mr **Michael HOURIGAN**, former Australian prosecutor and a lawyer in Atlanta, Georgia (U.S.) at the time of his testimony in Paris on 29 December 2000; and

(127) That he testified he had been in charge, from April 1996 to May 1997, of a group of U.N. investigators sent by the I.C.T.R. to KIGALI and designated the 'National Team' while working with the Investigative Section on Internal Affairs of the U.N. in New York from July 1997 to January 1998; and

(128) That with regard to his mission for the I.C.T.R., **Michael HOURIGAN** stated that the investigators on his team, empowered by their superiors to investigate the attack, considered themselves to be entering a field of inquiry within the authority of the Tribunal, never found any tangible evidence implicating the Hutu extremists, but, on the contrary, were drawn to an evidentiary trail leading directly to the R.P.F.; and

(129) That he stated in this regard that one of the investigators on his team was contacted by a high official of the R.P.A. and told that **Paul KAGAME** and others in the leadership of the R.P.A. were involved in the attack and that another informant had been recruited to corroborate this

information and who could identify one of the two `shooters', a member of the R.P.A.; and

(130) That, he added, he had had personal contact at that time with a former gendarme of the R.P.A. who claimed to have been a member of cell controlled by **Paul KAGAME** and called the `Network', which was responsible for murders and violent exactions; and

(131) That, still according to **Michael HOURIGAN**, the handling of these sources with an eye toward keeping them ready to testify was provisionally put on hold while waiting for a response from the authorities at the Tribunal as to their protection and because of certain security considerations, the investigators having been openly threatened by leaders of the R.P.F. who didn't accept the methods and strategy of the Tribunal; and

(132) That **Michael HOURIGAN** furthermore stated that he had obtained from his superiors the authorization to maintain his contacts with these informants and to pursue the investigation with the stated purpose of directly informing Madame **Louise ARBOUR** at The Hague; and

(133) That on a secure telephone line from the U.S. Embassy in Kigali, he had, on or about 7 March 1997, a conversation with Madame **Louise ARBOUR** and that in the course of their exchange she told him that she had received, through other channels, intelligence that backed up his own and that at no time had she told him that the investigation into the attack was not within the authority of the I.C.T.R.; and

(134) That he also stated that after this conversation he met in Kigali with **Michael HALL**, a Security Officer with the U.N. who had been assigned a mission by the new Secretary General, **Kofi ANNAN**, to set up a system for the evaluation of threats against official of the U.N.; and

(135) That, according to **Michael HOURIGAN**, **Michael HALL**, who had met in New York with Madame **Louise ARBOUR** and was informed there of elements implicating Paul KAGAME and the R.P.F. in the attack, told him of the orders he had received from the Secretary General of the U.N. to instruct HOURIGAN to rush to The Hague to meet with Madame ARBOUR and to see to it that he leave no traces in KIGALI of any reports concerning the attack; and

(136) That twenty-four hours before his departure, he recorded on a computer diskette 'an internal memorandum' containing all the information in his possession and sent it to Michael HALL in order to be able to get through all the various security checks at the KIGALI airport, because though I.C.T.R. investigators held diplomatic passports they were from time to time searched by officials of Rwandan immigration; and

(137) That **Michael HOURIGAN** added that after he got to The Hague some days later, Madame **ARBOUR**, without explanation and contrary to the instructions she had given before, openly and firmly criticized him and the members of his group for conducting an investigation on this attack which, according to her, was not within the authority of the I.C.T.R. and that, because of his noncompliance with instructions, contact with the informants had been lost; and

(138) That these facts were also confirmed by a second U.N. investigator, Mr **James LYONS**; and

(139) That also heard as a witness in Paris, he stated he had been a director and special agent for the F.B.I., in charge of an anti-terrorist unit in New York, before assuming control of the investigative units for the I.C.T.R. under the supervision of Mr **Alphonse BREAU** and of Assistant Prosecutor **Honoré REKATOMANANA**; and

(140) That he confirmed that after the creation of 'National Investigative Group' in April 1996, it was admitted by Madame **ARBOUR** and Mr **REKATOMANANA**, according to the terms of article 4 of the I.C.T.R. statutes, the attack on the presidential plane was within the scope of their missions; and

(141) That concerning the facts related by **Michael HOURIGAN**, he complemented and confirmed them; and

(142) That thus, he declared that at the end of 1997, **Michael HOURIGAN's** team had established relationships with three informants 'close to the R.P.F. who had clearly indicated that the attack against the airplane of President **HABYARIMANA** was carried out by the R.P.F.', specifying that two of the informants were introduced to them as members of the intelligence services that had worked for **Paul KAGAME** at the heart of a network charged with conducting secret operations and that, because of their positions, they had in their possession precise information on the attack; and

(143) That he added that the group of investigators had also received information according to which, on the night of 6 April 1994, an intercepted radio message from the R.P.F. announced that 'the target has been hit' ; and

(144) That, moreover, **James LYONS** corroborated other of **Michael HOURIGAN**'s statements on Madame **Louise ARBOUR**'s brutal change of attitude and the breaking off of contact with the informants; and

(145) Considering that Madame **ARBOUR** did not wish to be heard; and

(146) That concerning the internal memo titled 'Secret Investigation of the National Team', a copy was given to investigators by **Michael HOURIGAN** after his hearing; and

(147) That his findings corroborated his statements on the intelligence work done by his team of investigators, and in particular, the treatment of three sources that found the R.P.A. – through the 'Network' – to be responsible for the attack of 6 April 1994; and

(148) That it is equally pertinent to observe that even before the investigators came into possession of this intelligence, Belgian Professor **Filip REYNTJENS** was sent in November 1994 a letter written by Mr **Sixbert MUSANGAMFURA**, former chief of the 'Central Intelligence Service' (C.I.S.) of the Rwandan government put in place by the R.P.F.; the latter, in exile in Nairobi (Kenya), stated that after the R.P.F. took power in July 1994, his functions permitted him to conduct a discrete investigation that showed that contrary to what had been suggested, the Rwandan Armed Forces (R.A.F.) were not implicated in the attack, but that it had been perpetrated by the R.P.A.; that **Sixbert MUSANGAMFURA** added that because of the physical risks he ran as long as he was in exile in Africa, he asked Professor **Filip REYNTJENS** to not make public the information he had given him; and

(149) Considering that this search for information had to re-enforce the basic investigation initiated by the I.C.T.R; and

(150) That the statements gathered from former members of the R.P.F. or the R.P.A. living in exile after leaving the organization strengthened the implications of the organization in the attack on the presidential plane and permitted the identification of the principal actors; and

(151) Considering that **Abdul RUZIBIZA**, a former officer in the R.P.A., heard 3 July 2003, confirmed the existence of the 'network commando', of which he became a member in February 1993 and whose mission was to attack, kidnap and assassinate political personalities who disagreed with the R.P.F., and thereby lay the groundwork and infiltrate their agents in preparation for the renewal of the war; and

(152) That concerning the attack of 6 April 1994, he related that in February 1994 he was part of a unit that infiltrated Kigali and whose mission was the reconnaissance of the Masaka-Kanombe sector, specifically stating that his superior was **Captain Hubert KAMUGISHA**, directly connected to **Captain Charles KARAMBA**, an officer in the D.M.I. then stationed at the C.N.D. in Kigali, and that this group to which he belonged was composed of **Sub-Lieutenant NGOMANZIZA** and of **Sergeants Jean Bosco NDAYISABA** and **Emmanuel RUZIGANA**; and

(153) That according to **Abdul RUZIBIZA**, at the end of March 1994, he was informed by **Sergeant Aloys RUYENZI**, a top commander under the authority of **Colonel James KABAREBE**, that at a meeting held in Mulindi, at which **General Paul KAGAME** had also taken part, officers **Faustin NYANWASA KAYUMBA**, **James KABAREBE**, **Jacob TUMWINE**, **Charles KARAMBA** and **Théoneste LIZINDE**, were given orders to shoot down the airplane of President **HABYARIMANA**; and

(154) That he added that at the beginning of April, **Captain Hubert KAMUGISHA** had told the group charged with the surveillance of the Masaka-Kanombe sector to get ready because the order had been given to take action at the first opportunity; and

(155) That on 6 April he was a witness to the group made up of **Jean Bosco NDAYISABA**, **Emmanuel RUZIGANA** and **NGOMANZIZA**, receiving a radio message ordering them to go back to the house of **Jean Marie HUNYANKINDI**, a relative of **Paul KAGAME**, located in the Masaka-Kanombe sector; and

(156) That they immediately set about assuring the security of the team charged with firing the surface-to-air missiles at the approach of the plane, while the hit-team made up of Sub-Lieutenant **Franck NZIZA**, **Corporal Eric HAKIZIMANA** and **Private Patiano NTAMBARA**, charged principally with their immediate security, was driven from the 'Conseil National pour le Développement' C.N.D. to Masaka by **Sergeant Didier**

MAZIMPAKA in a Toyota pick-up in which were hidden two missile-launchers; and

(157) That as to these missile-launchers, **Abdul RUZIBIZA** stated that while he was at the R.P.F. headquarters in Mulindi he learned that the SAMs, which had come from the Ugandan arsenal in the beginning of January 1994, had been introduced into the C.N.D. in Kigali hidden on board a Mercedes truck transporting firewood; and, he added, that he had heard talk about a training program in Uganda in January 1993 for R.P.A. personnel, which included enlisted men **Eric HAKIZIMANA**, **Stevens TWAGIRA** and **Andrews NYAVUMBA**, all members of the 'Missiles Section' under the command of **Lt. Alphonse KAYUMBA** and his adjutant **Lt. Franck NZIZA**; and

(158) That, in discussing the final stage of the operation, he went on to state that, knowing the approximate time of arrival of the President's flight and identifying the Falcon 50 by its characteristic engine noise, **Eric HAKIZIMANA** fired the first missile, which missed the target, and that it was the second missile fired by **Franck NZIZA** that hit the plane and caused it to explode in flight; and he added that at the end of this operation the hit-team fled, leaving the two empty missile-launcher tubes behind; and

(159) That furthermore, **Abdul RUZIBIZA** learned that around 5:30 pm, **Lt-Col. Charles KAYONGA** received a call from **Paul KAGAME** alerting him to the return of the President's plane and that he must not miss this operation, and that at the moment of the attack, **Charles KAYONGA**, who was posted on the top floor of the C.N.D., saw the plane explode;

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(160) That **Paul KAGAME**, informed of the success of the operation by **Lt-Col. James KABAREBE**, immediately ordered the R.P.A. units to move out; and

(161) That, still according to **Abdul RUZIBIZA**, an earlier plan to destroy the presidential Falcon 50 was projected for the evening before when the President was to return from Zaire, but that that operation had to be canceled due to a lack of information; and

(162) That another witness testifying before this hearing also confirmed the existence of the 'network commando' and its implication in the attack of 6 April 1994; and

(163) Considering that **Emmanuel RUZIGANA**, former Sergeant in the R.P.A., testifying 29 March 2004, stated that he was assigned in March 1994 to the 'network commando' created in 1993 by **James KABAREBE**, and that, undercover as a taxi driver, he directed a group of six soldiers commanded by **Captain Hubert KAMUGISHA**, who had informed him two weeks before the event of the plan to shoot down the President's plane; and

(164) That he declared that on 2 April, after first reconnoitring the site himself a few days earlier, he drove **Lt-Col. KAYONGA** and **Capt. Hubert KAMUGISHA** in his taxi to a place in Masaka called 'the farm' so they, too, could reconnoitre the site chosen for the shoot-down; and

(165) That he further noted that on 6 April, when he was in Masaka with his group, he saw the arrival of a pick-up truck driven by **Sgt. Didier MAZIMPAKA** and with **Sub-Lt. Franck NZIZA**, **Jean Bosco NDAYISABA**, **Eric HAKIZIMANA** and **Patiano NTAMBARA** on board; and

(166) That, furthermore, he heard on the two-way radio at his post **Lt. Charles KAYONGA** announce to **Franck NZIZA** that the airplane which was about to arrive was, in fact, that of President **HABYARIMANA** and that he had to 'do the job', adding that after the attack, he would pick up the members of his group and get them back to the C.N.D.; and

(167) That **RUZIGANA**, who had not been in direct contact with the shooters, specified that later he learned that **Franck NZIZA** and also **Eric HAKIZIMANA** had shot down the plane; and

(168) That he further confirmed the statements of **RUZIBIZA** on the first attack planned for 5 April that had to be pushed back; and

(169) Considering that, furthermore, **Aloys RUYENZI**, mentioned by **RUZIBIZA** as another member of the 'network commando' and who, as such, attended a meeting held at the end of March 1994 in Mulindi in the presence of **General Paul KAGAME** in the course of which the order to shoot down the presidential plane was given, additionally confirms this testimony; and

(170) That testifying in Paris 25 March 2004, **Aloys RUYENZI** recounted how, as he was assigned to the immediate protection of **Paul KAGAME**, he found himself on 31 March 1994 in the meeting room of the headquarters at Mulindi where **KAGAME** was meeting with Officers James KABAREBE, **Jacob TUMWINE**, **Charles KARAMBA**, **KAYUMBA NYAMWASA** and **Théoneste LIZINDE**; that, according to his explanation, this meeting was for the purpose of planning the operational manner by which President **HABYARIMANA** would be eliminated; and

(171) That he specified that **Paul KAGAME** also said: '. . . as soon as President **HABYARIMANA** has left the meeting in ARUSHA and his plane is on its approach you fired on it, the war will not end unless President **HABYARIMANA** is dead.'; and

(172) That **Aloys RUYENZI** also stated he was present when two missiles were delivered to four soldiers who then armed them in a vehicle that was part of a convoy destined for the C.N.D. in Kigali and being escorted by UNAMIR; and

(173) That he added that aboard this vehicle were **Sub-Lt. Franck NZIZA** and **Cpl. Eric HAKIZAMANA**, who confided to him after the war that they had participated in the attack, **Eric HAKIZAMANA** firing the first missile that missed its target, while **Franck NZIZA** fired the missile that successfully brought down the plane; and

(174) That the testimony of **RUYENZI** jibed with those of **Abdul RUZIBIZA** and **Emmanuel RUZIGANA** and with the depositions of eye-witnesses to the attack, Belgian soldiers **Mathieu GERLACHE** and **Pascal VOITURON** of the UNAMIR, **Jean-Luc HABYARIMANA** and **Jeanne HABYARIMANA**, respectively, the son and sister of the President, as well as with the declarations of Belgian **Colonel Luc MARCHAL** and his adjutant, **Lt.-Col. André LEROY**, members of the 'UNAMIR', regarding the smuggling of arms by the R.P.F.; and

(175) That **Luc MARCHAL**, in his deposition of 7 March 1997 before the Belgian Parliamentary Commission, stated that he had always been convinced that the R.P.F. used the pretext of going out to gather firewood in order to cover their smuggling of arms; and

(176) That he went on to state in his testimony of 19 July 2002 in Brussels, that he was informed that elements of the R.P.F. secretly left

their camp at the C.N.D. in the night and that the R.P.F. refused to allow member of the UNAMIR and the U.N. observers to take part in the loading of trucks which facilitated their smuggling of arms; and

(177) That this observation was shared by **Lt-Col. André LEROY**, who also testified before the Belgian Parliamentary Commission; and

(178) That furthermore, **Sgt. Dimitri PAUWELS**, a Belgian officer assigned to the UNAMIR, testifying in Brussels on 8 July 2002 before an international commission of inquiry, stated that a few days before the attack, while he was escorting a convoy of R.P.F. vehicles coming from Mulindi to the C.N.D. in Kigali, he noticed that several vehicles not initially with the convoy and carrying between 200 and 300 people, armed and in civilian clothes as well as in military uniforms, had slipped into the convoy; and

(179) That these facts reported by Belgian military personnel confirmed the statements of the former members of the R.P.A., witnesses to the transportation of the missiles from Mulindi to the C.N.D. in Kigali and the different testimonies obtained elsewhere concerning the constant re-enforcement of R.P.F. troops in Kigali with the aim of resuming hostilities against the Rwandan government forces after the attack; and

(180) Considering, furthermore, that the testimonies of two former R.P.A. personnel, both Tutsi Anglophones, assigned to the immediate protection of **KAGAME**, who were in Mulindi for the preparation of the attack, gave added confirmation to the previously cited statements of **Abdul RUZIBIZA**, **Emmanuel RUZIGANA** and **Aloys RUYENZI** about the implication of the R.P.F. and, primarily, its leader, **Paul KAGAME**, in this attack; and

(181) Considering that **Innocent MARARA**, who testified in Paris on 3 September 2001, after having fled Rwanda where he felt he was in danger, declared he had stayed at President **Paul KAGAME**'s residence, 'Urugwiro', from the time he rejoined the R.P.A. in 1991 until February 2001; and

(182) That he explained because of his being an ethnic Tutsi, born outside Rwanda and Anglophone, he was chosen in 1992 for **Paul KAGAME**'s personal guard unit and was stationed at the R.P.F. headquarters in Mulindi; and

(183) That he stated, because of his position, he witnessed at the headquarters in Mulindi three separate meetings during which the assassination of President **HABYARIMANA** was planned and then cancelled; and

(184) That at the time of the first of these three meetings, which took place a month after the Arusha Accords of 4 August 1993, and in the course of which the majority of the officers present expressed their discontent and expectations that the application of the Accords was going to be bad for their side, **Col. Stevens NDUGUTE**, in charge of operations at that time, suggested the elimination of President **HABYARIMANA** and that all the officers present supported this proposition without any plan being immediately developed; and

(185) That also present at this meeting were **General Paul KAGAME, James KABAREBE, Charles KAYONGA, Stevens NDUGUTE, William BAGIRE, Samuel KANYEMERA** (called 'Sam Kaka'), **MUSITU, NYAMWASA KAYUMBA, NGOGA, Dodo TWAHIRWA** and **Jack NZIZA**; and

(186) That he added that for about an hour he had stayed in the room where the meeting was held and that he had personally heard **Paul KAGAME** explain to the officers the reasons for the meeting and openly discuss the problem of the methods that could be employed in order to eliminate President **HABYARIMANA**; and

(187) That concerning the second meeting held at a time not long after the first meeting before the end of 1993, according to **Innocent MARARA**, who was responsible for security outside the building, he heard **Paul KAGAME**, directly through the open windows of the meeting room, ask **James KABAREBE** to explain to the group gathered there the plan for the assassination; and

(188) That the latter then elaborated that he had chosen the men from his unit in whom he had the greatest confidence to commit the attack, **MARARA** then heard him say the word 'missile' and then **James KABAREBE** named as participants **Sub-Lieutenant Franck NZIZA**, member of the 'missiles' group, **Cpl. Bosco NDAYISABA** and **Sgt. Didier** (identified as being) **MAZIMPAKA**; and

(189) That in relation to this observation, **MARARA** testified that some

weeks later, the Soldier **Nyacazundi MUTAYEGA**, charged with the protection of **Franck NZIZA**, showed him two missiles stashed under a mattress or a tarpaulin in one of the houses at the R.P.F. headquarters in Mulindi; and

(190) That regarding the third meeting held in January or February 1994, **MARARA** stated that it took place in the same location as had the two preceding meetings but with a more limited group of participants: **Paul KAGAME**, **Faustin NYAMWASA KAYUMBA**, **Sam KAKA**, **James KABAREBE**, **Jack NZIZA** and **Stevens NDUGUTE**; and

(191) That he stated he was then again in charge of security outside the building and that the other members of the security force had told him that the plan to carry out the attack had been halted, but they did not know any of the details; and

(192) That furthermore, still according to Innocent **MARARA**, at the end of 1994 or the beginning of 1995, he drove **Sub-Lieutenant Franck NZIZA** to Masaka where **NZIZA** owned a house, and in the course of this trip, the officer confided in him, knowing he could trust him because he belonged to the detail charged with the personal protection of **Paul KAGAME**, that he had taken part in the attack, even specifying that the first missile had missed the plane and that he had hit the target with the second missile; and

(193) That in this regard, **Franck NZIZA** had himself designated the spot where on the evening of 6 April 1994, in the company of **Jean-Bosco NDAYISABA**, he had fired on the presidential plane, adding that they had been driven to Masaka by **Sgt. Didier MAZIMPAKA**; and

(194) That concerning the participation of officers from the High Command in the attack, **Innocent MARARA** also testified to an event of which he was a direct witness, that in October 2000, he had escorted **Paul KAGAME** and other officers to MATIMBA, in the community of KAGITUMBA, for the celebration of the 10th anniversary of the R.P.A. attack of 1 October 1990, and that in the course of this ceremony, a group of singers performed a hymn in honor of a member of the R.P.A., originally from MATIMBA and promoted to the rank of Captain for his participation in the assassination of 'KINANI' (their name for President **HABYARIMANA**), and that the hymn was interrupted by **KAGAME**'s personal security force when the name of **Franck NZIZA** was sung; and

(195) That this episode was confirmed by **Brenda TWINOMUJUNI ASIIMWE**, the sister of **Innocent MARARA**, whose attendance at this ceremony had been sponsored by her employer, the NGO 'Fonds de développement communautaire' ('The Community Development Fund'); and

(196) That this promotion of **Franck NZIZA** was also reported by **Evariste MUSONI**, who testified that besides **NZIZA**, two other officers from the High Command, **Bosco NDAYISABA** and **Didier MAZIMPAKA**, had also taken part in the attack and were also given the same promotion; and

(197) That, as testified in Paris 4 September 2001, like Soldier **Innocent MARARA** who belonged to the same unit, he declared that in February or March of 1994, in Mulindi, he served as security outside the building where the officers of the High Command were meeting, and that he was told by **Capt. Tom BYABAGAMBA**, after an order by **Paul KAGAME**, to find a radio transmitter, and that on entering the meeting room with the **KAGAME**'s radio, he heard an officer say: "if the airplane is shot down, we can reach our objective"; though he is not able to identify which officer said this; and

(198) That, however, on exiting the meeting room, he saw and heard **Col. Faustin NYAMWASA KAYUMBA** say: "there is no other way to do this than to shoot down his plane"; and

(199) That, he added, though this was the only time in Mulindi he had heard officers speaking of the attack on President HABYARIMANA, on the night of 6 April, when he was on guard duty, he heard Officers talking about how through a radio transmission they had received a coded message announcing that 'Kinari' had been shot down and that they noted immediately afterward all units had been placed on alert status, and that orders to move out had been issued to certain of them; and

(200) That this order to move out, right after the attack, was corroborated by the testimony of **Jean-Baptiste MBERABAHIZI**, a member of the R.P.F., who further testified that having been present on 6 April 1994 at the R.P.A.'s general headquarters in Mulindi, he had seen **Capt. Tom BYABAGAMBA** announce to **Paul KAGAME** that "the plane has been brought down"; and

(201) That acting on a radio message about the success of the operation,

the existence of which is attested to by **Innocent MARARA** as well as by several other testimonies, among which are those of the French **Lt-Col. Grégoire de SAINT-QUENTIN** who testified to having seen the written message coming from the R.P.F. announcing the success of the 'escadron renforcé' (the reinforced squadron); that also **Richard MUGENZI**, a radio operator for the R.A.F. stationed at the monitoring station in GISENYI, stated that he had transcribed several messages from the R.P.F., some of which were in Swahili, that declared the success of the mission of the 'escadron renforcé'; and

(202) That **Evariste MUSONI** also stated that after the war one of his army mates had confided to him that three Officers from the High Command, who had taken part in the attack, had gotten promotions, citing the names of **Franck NZIZA**, **Bosco NDAYISABA** and the first name **Didier**; and

(203) Considering that other leaders of the R.P.F. who left the organization because of their disagreement with the strategy elaborated by **Paul KAGAME** or because of threats against them, have during their appearances before this hearing largely corroborated the testimonies already cited here; and

(204) Considering that **Jean-Pierre MUGABE**, a former member of the 'Directorate of Military Intelligence' (D.M.I.), the intelligence service of the R.P.A., and the former director of the Rwandan pro-R.P.F. journal, 'Le Tribun du Peuple' (The People's Tribune), established in the US, published in May 2000 a document that put the responsibility for the conception and planning of the 6 April 1994 attack fully on **General Paul KAGAME** and **Cols. James KABAREBE** and **Charles KAYONGA**; and

(205) That during his testimony in France on 13 March 2001, he authenticated the document that he had written titled 'Declarations on the attack against the plane in which Presidents **HABYARIMANA** of Rwanda and **NTARYAMIRA** of Burundi were killed on 6 April 1994'; and

(206) That questioned about the reasons for his writing this document, he explained that after becoming a refugee in the US because of death threats he had received, he learned that the R.P.F. had sent two of its agents onto American soil to eliminate him because articles he had written accusing **Paul KAGAME** had come out, and that he then decided to go public with the information he had; and

(207) That at the time of his deposition [**J-P MUGABE**] stated that in

1994 he had integrated the Rwandan military intelligence services and that, after having expressed opinion different from those of the regime in place, notably about the problems of corruption, he was called several times in 1999 before the leaders of the D.M.I., among whom was **Lt-Col. Jack NZIZA**, and knowing as he did the methods of this service, he thought it better to flee; and

(208) That he must have understood that the pressure which he was put under at the beginning of 1999 was not of a political nature but resulted from the fact that he had confided with an old friend, **Jean-Bosco KARANGWA**, an R.P.F. assemblyman since 1994, and former member of the D.M.I., information that he had gathered on the implication of **Paul KAGAME**, **Col. James KABAREBE** and **Lt-Col. Charles KAYONGA** in the attack of 6 April 1994; and

(209) That at this point, he testified to having obtained this information in Mulindi from officers of the R.P.A. who had reported to him that **Lt-Col. Charles KAYONGA**--who was at this time one of his friends--had received a mission in February 1994 from **James KABAREBE** to transfer to the C.N.D. in Kigali four R.P.A. soldiers who had been specially trained in Uganda to handle surface-to-air missiles; and

(210) That he added that in August 1994, in going over what he had learned since February 1994 on the preparations for the attack, **Col. Theoneste LIZINDE** confirmed to him that soldiers of the R.P.A. at the C.N.D. had been taken into the command of **Major Rose KABUYE**, and that the missiles had been brought into the C.N.D. by **James KABAREBE**, who gave the instructions for carrying out the attack and for the resumption of hostilities after the attack was executed; and

(211) Considering that **Christopohe HAKIZABERA**, another R.P.F. dissident, confirmed this posthumous testimony of **Theoneste LIZINDE** who was murdered in NAIROBI, where he was a refugee, on 6 October 1996; and

(212) That during a hearing on 6 September 2000 in MILAN before an international commission of inquiry, **HAKIZABERA** declared having rejoined the R.P.F. in 1990, having retired in 1995, then leaving Rwanda to live as a refugee in Europe; and

(213) That he confirmed having addressed a letter to the UN Commission charged with determining the responsibilities for the organization of the

Rwandan genocide, which mentioned 'Cotonou 10 August 1999' implicating the R.P.F. and **Paul KAGAME** in particular; and

(214) That concerning the attack of 6 April 1994, **Christophe HAKIZABERA** related having been informed by **Col Théoneste LIZINDE** in 1995 that **Col. Charles KAYONGA**, Commander of the R.P.A. battalion stationed at the C.N.D. in KIGALI, supervised the execution of the attack with the assistance of **Rose KABUYE**, and that six missiles were brought into the C.N.D. from the R.P.A. general headquarters in MULINDI; and

(215) That this information was later confirmed to him by another R.P.A member, **Col. César KAYIZARI**, who indicated to him that **Charles KAYONGA** was directly implicated in the assassination of President **HABYARIMANA**; and

(216) That questioned about the letter sent on 10 August 1999 to the UN, a letter in which he denounced the project aiming at the physical elimination of President **HABYARIMANA**, which was brought up several times by **Paul KAGAME**, notably in the course of a meeting in March 1994, **Christophe HAKIZABERA** confirmed its terms, specifying that he had obtained this information from **Leonard MUREFU**, Paul **KAGAME**'s father-in-law; and

(217) That he furthermore confirmed that the term 'reinforced squadron' which figured in the message intercepted by the R.A.F. on 7 April 1994 was sent to a specialized group, 'commando type', placed under the direction of **Paul KAGAME**; and

(218) Considering that **Jean-Baptiste MBERABAHIZI** was also witness to the complicity of **Paul KAGAME** in the attack of 6 April 1994 who promoted a strategy of gaining power by force of arms; and

(219) That during a hearing before an international commission in Brussels on 10 November 2001, he stated that, being opposed to the regime of President **HABYARIMANA**, in August 1991 he founded the 'Rwandan Socialist Party' before rejoining the R.P.F., which had chosen him as one of its legislative representatives at the time of the installation of the new institution in January 1994, and that he thus was in contact with the leadership of the R.P.F.; and

(220) That concerning the attack of 6 April 1994 and its preparation, he

declared that on 2 April 1994, when he was in the R.P.F. general headquarters in MULINDI, he heard **Paul KAGAME** answer a questioner by saying that he was getting ready to renew military operations; and

(221) That he further mentioned that on 6 April 1994, while at the general headquarters in MULINDI, in a TV room with **Paul KAGAME**, he saw **Captain Tom BYABAGAMBA** announce to **Paul KAGAME** the 'downing' of the airplane and observed that all R.P.A. units were put in motion immediately after the attack; and

(222) That **Jean-Baptiste MBERABAHIZI** also confirmed that the shipments of provisions between the headquarters in MULINDI and the C.N.D. carried arms and that it was known that the headquarters was protected by surface-to-air missiles; and

(223) Considering that **Sixbert MUSANGAMFURA**, Director of the Central Intelligence Service (C.I.S.) from August 1994 to August 1995, gave additional testimony to the implications of the R.P.F. in this attack; and

(224) That during his testimony on 12 April 2002 in FINLAND before International Investigative Commission, and in France on 14 June 2002, **Sixbert MUSANGAMFURA** confirmed having gathered information on the attack; and

(225) That he declared that in January 1995, while in the office of **Paul KAGAME** for service reasons, **KAGAME** reacted violently to the suggestion that the terms used in describing the attack should be prepared in case of future interrogations by foreign governments and after that, **Col. Karake KARENZI**, then Chief of the D.M.I., who took part in the meeting, told him not to get involved in the matter; and

(226) That it was learned later on by officers of the D.M.I., Capts. **Jimmy MWESIGUYE** and **Kapaye RUTAGWERA**, that surface-to-air missiles were brought into the C.N.D, that soldiers of the R.P.A. were trained to use these missiles in Uganda and that from this group of soldiers were chosen the commandos; and

(227) That he was thus able, on the basis of information he had gathered, to name the following people as being involved in the preparation of the attack: General **Paul KAGAME**, Cols. **James KABAREBE**, **Faustin KAYUMBA NWYAMWAZA**, Lt-Cols. **Charles KAYONGA**, **Karenzi**

KARABE, **Jackson RWAHAMA**, **Major Rose KABUYE**, Capts. **Charles KARAMBA**, **Wyclif KWIKIRIZA** and **HABATI**; and

(228) That he further stated having communicated this information to the Prime Minister at the time, **Faustin TWAGIRAMUNGU**, by two notes that he personally handed to him; and

(229) Considering that **TWAGIRAMUNGU** confirmed in his testimony in Belgium on 10 July 2002, while living in exile there, that he had been informed twice by **Sixbert MUSANGAMFURA** of the implications of the R.P.F. in the attack and had asked him no longer to concern himself with this attack in fear for his life, specifying he had given the first of these notes to the Belgian Parliamentary Investigation Commission; and

(230) That the Belgian Senate, after being served with a request for international judicial cooperation, refused to transmit this note; and

(231) Considering that other testimony placing the R.P.F. under suspicion for this attack was heard in Switzerland from the former R.P.A. **Col. Balthazar NDENGEYINKA**; and

(232) That **NDENGEYINKA**, also a former officer with the F.A.R., now living as a refugee in Switzerland, like the former Rwandan Minister of Defense, **Emmanuel HABYARIMANA**, testified in France on 18 December 2003 that he had rejoined the R.P.A. in December 1994 with a rank of Colonel, and that he was named a Member of Parliament in November 1999, a position that permitted him to gain the confidences of members of the R.P.A. with regard to the attack of 6 April 1994; and

(233) That also, while working as an MP, it was confided to him in a tête à tête encounter with **Col. Charles MUHIRE**, then Chief of the Bureau of Operations for the R.P.A., that it was 'them' who had shot down the president's plane; and

(234) That he added having further learned from other officers that the missiles for the attack had been brought into the C.N.D.; and

(235) Considering that **Emmanuel HABYARIMANA**, testifying in France on 18 December 2003, confirmed the statements of **Balthazar**

NDENGEYINKA, having, himself, also gained the confidences of R.P.A. officers over about the involvement of the R.P.F. in the attack; and

(236) That as a former officer of the F.A.R., a co-signatory on 6 July 1994 with other officers of the F.A.R. of a communiqué denouncing the massacres of the civilian population and calling for the R.P.A. to cease its armed aggression and continue pursuing the installation of transitional institutions, **Emmanuel HABYARIMANA** was removed from office and his life was saved only by the intervention of French forces deployed in Rwanda during 'Operation Turquoise'; and

(237) That at the end of hostilities in July 1994, he rejoined the R.P.A. and served in various posts within the Ministry of Defense along side **Paul KAGAME**, who later named him Minister of Defense; and

(238) That regarding the attack of 6 April 1994, he related having received on 28 July 1994 from two of his superiors in the D.M.I., Col. **Faustin NYAMWASA KAYUMBA** and Lt-Col. **Jackson RWAHAMA**, as well as from Capt. **Charles KARAMBA**, the confirmation of the involvement of the R.P.F. in the attack, with his interlocutors stating that it was with great pride that they had 'shot down the president's plane'; and

(239) Considering that all this convergent testimony was further validated by the diligent investigation into the missiles used against the President's Falcon 50 aircraft on 6 April 1994; and

(240) Considering that in the days that followed the attack, some Rwandan peasants discovered at that place called 'the farm' located in the Masaka sector, abandoned in the brush, two missile launching tubes, which they turned in to some FAR troops who were shuttling between a watering point (point 19) in MASAKA and Camp KANOMBE; and

(241) That on 24 or 25 April, on the instructions of the Adjutant Commander of Camp KANOMBE, **Lt-Col NZABANITA**, the engineer, Lt. **Augustin MUNYANEZA**, who had done part of his studies in the Soviet Union, examined the two tubes and noted their reference numbers:

"04-87 (for April 1987, manufacturing date of the launchers),

"04835 and 04814" (for the serial numbers of the two launchers).

and

(242) That he subsequently had to write a report to his superiors; and

(243) Considering that among the documents collected in 'Volume II—Appendices' of the report of the French parliamentary mission, on page 256, there is the photocopy of a handwritten report dated 25 April 1994 and titled 'Identification of the Russian-type missile launcher used in the assassination of the Chief of State', and signed '**Lt. In MUNYANEZA**'; and

(244) Considering that **Augustin MUNYANEZA**, living in Belgium, was heard in Paris on 20 March 2000; and

(245) That he confirmed having proceeded, on the instructions of **Lt-Col NZABATINA**, to identify these missile launchers which, he specified, he was seeing for the first time, as the F.A.R. were not equipped with such arms; that he also confirmed having hand-written a report to the Chief of Staff of the Rwandan Army sent through an intermediary, Capt. **SEBAGANWA**; and

(246) That he described these two missile launchers as being 'two tubes resembling 120 mm rocket launchers, in a green kaki color, and longer than an anti-tank rocket launcher' (. . .) 'the two tubes were empty when examined, and without a external charge . . .'; and

(247) That he further authenticated the document from the parliamentary inquiry, recognizing his handwriting and his signature; and

(248) That concerning the destination of these two tubes, he mentioned having learned from the Chief of the Rwandan Military Intelligence Services, **Col. NTIWIRAGABO**, that they were to be presented to 'the services' of President **MOBUTU**; and

(249) That the presence of these two tubes inside the General Staff offices of the Rwandan Armed Forces (R.A.F.) was confirmed by other witnesses; and

(250) That **Faustin NTILIKANA**, officer of the R.A.F. testifying 26 May 2000, declared he had seen these tubes on the premises of the General Staff; and

(251) That it was the same with **Joseph MURASOMPOGA**, Colonel in the R.A.F. stationed at the General Staff offices, testifying 20 November 2001 in Brussels, with ex-General in the R.A.F. **Gratien KABILIGI**, testifying 6 June 2001 in ARUSHA and with **Colette NYIRARWINO**, former Capt. In the R.A.F. stationed in KIGALI at the time of the events, whose testimony was heard in Paris 21 March 2000; and

(252) That the latter also authenticated the copy of the report from **Augustin MUNYANEZA** featured in the process and further mentioned that the tubes were photographed; and

(253) Considering that the French Parliamentary Commission published five photographs of a launcher, which, according to its markings, could be one of those examined by Lt **Augustin MUNYANEZA**; and

(254) That it appears that these photographs were presented in Paris, around May 1994, to **General HUCHON**, then attached to the Ministry of Cooperation, by **Lt-Col Ephrem RWABALINDA**, who was accompanied on this occasion by **Col Sebastien NTAHOBARI**, Defense attaché at the Rwandan Embassy in Paris; and

(255) That these photos were later presented by the Ministry of Cooperation to the Directorate of Military Intelligence (D.M.I.); and

(256) Considering that the existence of these two tubes was further attested to by former-R.A.F. Col. **Theoneste BAGOSORA** and by the ex-Major **Aloys NTABAKUZE**, currently locked down in Tanzania by the I.C.T.R.; and

(257) Considering that in ARUSHA on 16 and 18 May 2000, these former officers confirmed having seen the two missile-launching tubes at the hq of the R.A.F. General Staff and presented, through their counsel, a copy of the identification report written up by Lt. **Augustin MUNYANEZA**, which is identical to the report obtained by the French Parliamentary Commission; and

(258) Considering that this investigation established that these two missile-launching tubes were, in fact, later transferred to Zaire; and

(259) That former **Col. Joseph MURASOMPONGO**, testifying in Belgium on 20 November 2001, verified that these two tubes, which he had seen at the R.A.F. General Staff on 25 April 1994, had been transferred to GOMA where they were turned over to Zairian **General TEMBELE**; and

(260) That their presence in GOMA was further confirmed by former-R.A.F. Col. **Laurent SERUBUGA**, who specified that they had been transported to Zaire by **Col. NTIWIRAGABO**, Chief of Rwandan Intelligence Services, and this was also attested to by former-R.A.F. **General Gratiem KABILIGI**; and

(261) That **Aloys NTIWIRAGABO**, testifying in KINSHASA on 9 July 2001, mentioned having transported the two tubes to GISENYI, which then were taken charge of by **Gen. TEMBELE**, adding that the second tube was later turned over to this same **Gen. TEMBELE** on the instructions of the Minister of Defense, **Col. Athanase GASAKE**, who later corroborated this statement in his testimony in Brussels on 11 July 2002; and

(262) Considering that **General Yangandawele TEMBELE**, formerly Commander-in-Chief of the GOMA region, testifying in KINSHASA (D.R.C.) on 11 July 2001, confirmed having twice received these two missile-launching tubes which were destined for General **MOBUTU**; and

(263) That it was, however, not possible to recover both missile-launching tubes because one had been held until the fall of the **MOBUTU** regime by the former-Zairian **General Kata KRAMA BARAMOTO**, who has not been able, as yet, to testify; and

(264) Considering that the investigations carried out on the missiles themselves permitted the identification of their source, their technical characteristics and the circumstances under which they had been brought into Africa and then later used by the R.P.F.; and

(265) Considering that these two missile-launching tubes came from two Soviet-made SAM (surface-to-air) 16s; and

(266) That this type of anti-aircraft missile, equipped with an infrared self-guidance system, has a effective range of 6,000 meters; and

(267) That under conditions of this kind, it was relatively easy to shoot down a Falcon 50, a comparatively slow civilian aircraft on an approach for a landing and whose two engines, even powered down, put out sufficient heat to activate the missile's heat-seeking guidance system; and

(268) Considering that a diligent investigation by the Russian Federation, pursuant to the execution of an order issued by an international interrogatory commission and dated 19 June 2000, established that the two missiles used on 6 April 1994 came from Ugandan military stocks; and

(269) That, in fact, information communicated by the Moscow Military Court, in its execution of a request for judicial assistance, determined that the two missiles, bearing the serial numbers 04-87 - 048114 and 04-87 - 04835, were manufactured in the U.S.S.R. and were part of an order of 40 SA IGLA missiles delivered to Uganda in an inter-state arms deal; and

(270) Considering that this confirms that R.P.F. arms, in this case, its anti-aircraft capabilities, came from Uganda's military arsenal; and

(271) That Professor **Filip REYNTJENS**, testifying in the context of the current investigation, stated that members of the Ugandan intelligence services had confirmed to him that the surface-to-air missiles used in the attack were given by Uganda to the R.P.F.; and

(272) Considering that the connections between Uganda and the R.P.F. have been clearly established; and

(273) That **Paul KAGAME**, after having fled Rwanda in 1960, fought alongside **Yoweri MUSEVENI** against Ugandan Presidents **Idi AMIN DADA**, **Milton OBOTE** and **Tito OKELLO**, and that he was promoted to Major of the National Resistance Army (N.R.A.) before being named in 1990, joint Chief of Uganda's Military Intelligence Services; and

(274) That in 1989, with other Ugandan officers, he took part in a training program at Fort Leavenworth, Kansas (USA), and that in October 1990, while he was still in the US, he was ordered to rush back to Uganda to take over command of the Rwandan Patriotic Army (R.P.A.) and to direct the military offensive of the R.P.F. against Rwanda; and

(275) Considering that many witnesses have attested to the close links

existing between the R.P.F. and Uganda, and, more particularly, between **Paul KAGAME** and President **MUSEVENI**, which are most notably expressed in the military domain with the supplying of arms and especially anti-aircraft missiles; and

(276) That **Honoré NGBANDA**, special security advisor to Maréchal **MOBUTU**, reported that President **MUSEVENI** had confided to him that the war conducted by the R.P.F. against Rwanda was 'his war' and, accordingly, he supplied the R.P.F. with all its logistical support on a military level; and

(277) That US **Major Tom MARLEY**, in charge of the International Military Education and Training program (I.M.E.T.), from which Uganda benefited, advised **Remigius KINTU**, director of the Uganda Democratic Coalition (U.D.C.), that Uganda had deceived the administrators of this American training program by sending candidates who were not, in reality, Ugandans, but rather were Rwandan Tutsis, members of the R.P.F.; and

(278) That Mr. **Hermann COHEN**, former assistant US Secretary of State for African Affairs, had specified in his testimony of 7 July 1998 before the French Parliamentary Commission, that 'although the US gave no aid to the R.P.F., a dozen officers, members of the R.P.F., had taken courses in the US, but it was in the context of military cooperation between the US and Uganda'; and

(279) That the reality of this logistical support from Uganda to the R.P.F. was also stressed by **Deus KAGIRANEZA**, a former R.P.F. assemblyman, testifying in Brussels 20 November 2001, when he stated that the supply of arms and ammunition was the domain of **Paul KAGAME** with the assistance of Ugandan and Rwandan officers belonging to the National Resistance Army; and

(280) That for his part, **Joseph BUKEYE**, former intelligence advisor to Rwanda and Uganda, declared in his testimony of 22 November 2002 in Brussels, that because the R.P.F., not holding the end user certificates necessary to carry out such official arms purchases, used Uganda to obtain their weapons and that they were provided primarily from the stocks of the 2nd Division of the Ugandan Army; and

(281) Considering that the R.P.F.'s possession of Soviet-made SAM 14 and 16 'IGLA' missiles is not only attested to by a number of witnesses who are former members of the R.P.F. or soldiers in the R.P.A., such as

Christophe HAKIZABERA, Jean-Pierre MUGABE, Sixbert MUSANGAMFURA, Denis KAGIRANEZA and Abdul RUZIBIZA, who specified that the members of the 'missile section' were trained in Uganda or by **Evariste MUSONI**, but also by elements of the investigation into the Ugandan military arsenal; and

(282) Considering that within the framework of the French Parliamentary Commission's investigation, the Direction Générale de la Sécurité Extérieure (D.G.S.E.) presented a list of Soviet-type anti-aircraft missiles with their serial numbers possessed by the Ugandan Army; and

(283) That the comparison of the serial numbers appearing on the two missile-launching tubes discovered 25 April 1994 at Masaka, 04814 and 04835, to numbers on the list of missiles then held by the Ugandan Army made it appear that among these numbers were also 04815, 04816 and 04838; and

(284) That the same comparison could have been made with the serial number 04924 printed on the missile-launching tube discovered 18 May 1991 in Akagera Park with the reference number 04947 appearing on the list; and

(285) That, especially, as previously mentioned, the Russian judicial authorities confirmed that the three missiles came from a lot of 40 IGLA missiles sold in 1987 to Uganda, as supported by the inscription '04-87' appearing on the three tubes; and

(286) Considering that the use by the R.P.A. of Soviet-made anti-aircraft missiles against the air power of the R.A.F. during the war of October 1990, was reported in different depositions collected by this investigation; and

(287) That **Col. Sebastien NTAHOBARI** of the R.A.F. stated in a letter authenticated by his wife, sent 12 October 1998 to Mr. **Paul QUILES**, President of the Parliamentary Commission, that the R.P.F. has used SA 7 and SA 14 missiles on 7 October 1990 in MATIMBA, near KAGITUMBA, to shoot down an observation plane, and later, on 23 October of that same year in NYAKAYAGA, near GABIRO, to bring down a 'Gazelle' helicopter; and

(288) That these facts were attested to by the former French Air Force **Captain Bruno DUCOIN**, stationed at the military cooperation mission in

KIGALI from July 1990 to July 1993, in his testimony of 9 June 2000, when he specified that the 'Gazelle' helicopter was shot down along with a Britten Islander BN2; and

(289) That furthermore, in another letter written by **Jean-Pierre MINABERRY**, the pilot of the doomed presidential Falcon 50, sent to **Bruno DUCOIN**, MINABERRY expressed his concern over the R.P.F.'s possession of surface-to-air missiles and asked for **DUCOIN**'s technical advice on how to avoid being hit by these missiles; and

(290) That this letter was followed by a second letter on the same subject, dated 27 February 1994, to Mme. **Monique EPIN**, an employee of the French firm 'Services et Assurances aux Techniques Industrielles Françaises' (SATIF), confirmed by Mme. **EPIN** in her testimony on 17 February 2001; and

(291) That **Bruno DUCOIN**, who was a technical assistant to the mission for military cooperation, declared, in his testimony of 9 June 2000, that he had been the recipient of the letter from **Jean-Pierre MINABERRY**, and that he had specified to the Falcon 50 pilot in a subsequent letter some 'technical measures' to be taken to avoid such a missile attack; and

(292) That, furthermore, the pilot of the 'Gazelle' helicopter mentioned by **Col. Sebastien NTAHOBARI** was identified as being Rwandan Air Force Commander **Jacques KANYAMIBWA**, now a refugee in France; and

(293) That **KANYAMIBWA**, testifying on 13 April 2000, confirmed that his helicopter was shot down by a surface-to-air missile on 23 October 1990, while on a combat mission against armed elements of the R.P.F. at the time of their offensive of October 1990; and

(294) That, besides the different depositions, other material elements attesting to the possession of surface-to-air missiles by the R.P.A. and their use in Rwanda were obtained in the course of this investigation; and

(295) That a telegram from the Belgian Embassy in KIGALI sent 7 July 1992 to the Ministry of Foreign Affairs in Brussels disclosed: 'given the support the N.R.A. furnished to the R.P.F., it admits that the anti-aircraft weapons at the disposal of the R.P.F. were those of the N.R.A.' and among these military systems were cited two types of Soviet-made surface-to-air missiles:

`-c) SA 16 low altitude surface-to-air missile system: maximum effective range: 6,000 meters,

-d) SA 7 low altitude surface-to-air missile: maximum effective range: 4,000 meters'; and

(296) That the presence of surface-to-air missiles (SAM 7 & Eagle) in the arsenal of the R.P.F. was also mentioned in the report of 21 September 1992, from the chief of the Rwandan military intelligence services (G2); and

(297) That, moreover, on 18 May 1991, R.A.F. troops, in the course of an engagement with the R.P.A. in AKAGERA Park, recovered a missile-launching tube which was turned over to Gendarmes Col. **René GALINIE**, then French Defense Attaché and head of the mission for military cooperation in Rwanda, who sent the registration numbers on to the Centre d'Études et de Renseignement Militaire in Paris (C.E.R.M.):

- 9K 322-1-01: for the model of the launcher,
- 04-87: for the month and year of manufacture,
- 04924: for the serial number of the launcher,
- 9M 313-1: for the model of the missile; and

(298) That **Col René GALINIE** had subsequently written a report, a copy of which was sent to the French Parliamentary Commission and which is one of the annexes of the Commission's report; and

(299) That furthermore, French **Captain Bruno DUCOIN**, in his testimony on 9 June 2000, reported having loaded into a French military aircraft on layover in KIGALI an SA 14 surface-to-air missile originating from the R.P.F., and also having seen on the premises of an R.A.F. base the debris of a surface-to-air missile whose launcher's cooling system indicated it belonged to the R.P.A; and

(300) That he further mentioned having intercepted and relayed a radio message on 10 September 1991 from a commercial flight of the Zairian airline `Scibe', en route between KIGALI and BENI (Zaire), in which the

pilot indicates he has been fired on, and that, because of his altitude, he could only have be hit by a missile; and

(301) That this story was later validated by **Col Bernard CUSSAC**, Defense Attaché to the French Embassy in Rwanda and by his American counterpart posted to KINSHASA; and

(302) Considering that the possession of surface-to-air missiles by the R.P.F. was attested to by multiple testimonies and notes on the order of materials, this investigation has been completely unable to discover that the R.A.F. had any such anti-aircraft capabilities at its disposition; and

(303) That **General Emmanuel HABYARIMANA**, former Rwandan Defense Minister from 28 March 2000 to 15 November 2002, who served as an officer in the Rwandan Armed Forces (R.A.F.) before joining the R.P.F. on 28 July 1994, affirmed that the R.A.F. was never equipped with surface-to-air missiles and that none of its personnel had been trained in their use, unlike the R.P.A., which possessed such arms and used them from October 1990; and

(304) That his testimony was corroborated on 18 December 2003 by that of **Balthazar NDENGEYINKA**, a former R.A.F. officer who also joined the R.P.F. in December 1994, as well as by **Col. Aloys NTIWIRAGABO**, former head of Rwandan Military Intelligence (G2), during his testimony on 9 July 2001 in KINSHASA (D.R.C.); and

(305) That, furthermore, **Lt.-Col. Grégoire de Saint Quentin**, posted to the French Military Cooperation Mission in Rwanda from 11 August 1992 to 12 April 1994, testifying before this inquest on 8 June 2000, stated that, to the best of his knowledge, no member of the 'Rwandan Armed Forces' (R.A.F.) had ever been trained to use surface-to-air missiles and that such arms were not in the arsenal of the R.A.F., unlike that of the R.P.A., which did contain such weapons; and

(306) That, thus, this inquest concluded that the R.A.F. had no surface-to-air missiles in its arsenal, but was armed only with classic anti-aircraft weapons (machine guns and AA canons) which came from the inventory of the heavy arms or arms collected and held by the UNAMIR in which there were no surface-to-air missiles; and

(307) Considering that in the context of the operation initiated by the

R.P.F. physically to eliminate President **HABYARIMANA**, several events occurred at the end of 1993 that were a prelude to the preparation for and realization of the attack of 6 April 1994; and

(308) Considering that in order to guarantee the security of his officially designated representatives to participate in the setting up of the new institutions called for in the Arusha Accords, the R.P.F. was permitted, on 28 December 1993, to install a battalion of 600 of its troops in the buildings of the 'Conseil National pour le Développement' (C.N.D.) in KIGALI, which would become its logistical base for the realization of this attack and an advanced bridgehead for launching its subsequent military offensive; and

(309) That the choice of the C.N.D. was the subject of bitter discussions because of its strategic location in the very heart of KIGALI; and

(310) That [UN] **General Roméo DALLAIRE**, in his deposition of 25 February 1999 before the International Criminal Tribunal for Rwanda (I.C.T.R.), stated that his UNAMIR was opposed to the choice of this site in the center of KIGALI, which was 'a position that controlled many lines of communication between the city and the airport, as well as the supply lines on another principal route'; and

(311) Considering that **Dismas NSENGIYAREMYE**, Prime Minister in the multi-party government from 16 April 1992 to 16 July 1993, testifying on 26 February 2002, stated that it was on the insistence of the R.P.F. that the government of Mme **Agathe UWILINGIYIMANA** finally accepted the installation of the R.P.A. battalion on the grounds of the C.N.D., specifying that the R.P.F. benefited from this move by bringing arms and additional troops into KIGALI; and

(312) That these secret infiltrations and the reinforcement of the R.P.F.'s military capabilities, especially with the delivery of surface-to-air missiles, were further confirmed by the testimony of **Gérard NTASHAMAJE**, formerly a Major in the R.P.A., in his testimony of 4 April 2001; and

(313) Considering that the UNAMIR was likewise a witness to this situation; and

(314) That Belgian **Crpl. Johnny BOREUX**, who took part in escorting the R.P.F. battalion to its encampment in the C.N.D. on 28 December 1993,

stated in his testimony of 15 December 1996 in Brussels, that he noted that the system put in place `permitted [R.P.A.] soldiers in civilian clothes to infiltrate KIGALI and commit attacks'; and

(315) That for his part, **Col. Luc MARCHAL** stated before the Belgian Parliamentary Commission that he `had always been persuaded that when the R.P.F. went searching for firewood in the north, it was really to bring back arms', a sentiment shared by Belgian **Lt-Col. André LEROY** and **Master-Sgt. Dimitri PAUWELS**, both members of the UNAMIR; and

(316) That the presence of surface-to-air missiles on the C.N.D. was brought up by many witnesses; and

(317) That Belgian national **Marcel GERIN**, in Rwanda managing a hotel complex in RUSUMO, testified on 12 April 1999 that he had been informed in March 1994 by Belgian helicopter pilots serving with the UNAMIR that the R.P.F. had been storing missiles on the roofs of the C.N.D., something confirmed by former R.A.F. **General Gratien KABILIGI** and ex-**Major Aloys NTABAKUZE**; and

(318) That furthermore, **Jean-Marie DESSALES**, a security advisor, in his testimony on 30 April 2001, presented the investigators with a letter from the former Rwandan Defense Minister, **Augustin BIZIMANA**, in which the latter discusses the infiltration of R.P.F. agents into the capital and the introduction of surface-to-air missiles into the C.N.D.; and

(319) That **Col. Bernard CUSSAC**, French military attaché posted to KIGALI, in his testimony on 14 June 2000, confirmed the presence of surface-to-air missiles in the C.N.D. and the potential risk presented by these weapons to civilian aircraft; and

(320) That it is also important to remember that **Abdul RUZIBIZA**, a former Captain in the R.P.A., and a member of the `Network Commando', specified that the two missiles used in the attack were brought onto the grounds of the C.N.D. during the month of March 1994; and

(321) Considering that this anti-aircraft weapon posed a serious and permanent threat to all civilian and military aircraft using the air-space above the Rwandan capital from the beginning of 1994; and

(322) That, wishing to guarantee the security of its forward command

post in KIGALI, the R.P.F. issued an order for a 'no-fly zone' over the C.N.D. and restrictions against the use of certain take-off and landing vectors to the KIGALI airport by military as well as civilian flights; and

(323) Considering that beyond these purely security considerations, the R.P.F.'s restrictions against over-flights of the C.N.D. facilitated the preparation and execution of the attack on the presidential jet, as was stressed by **Jean-Pierre MUGABE**; and

(324) Considering that, in fact, with the restriction in January 1994 against over-flights of the C.N.D. by aircraft flying in or out of KIGALI and using the vector of runway 10 at Kanombe Airport, the R.P.F. forced all flights to take another, opposing flightpath (runway 28) and fly over the hilly and wooded sector of Masaka; and

(325) That it appeared, as was emphasized by **Col Tharcisse RENZAHO**, former Prefect of KIGALI, in his testimony of 11 July 2001, in KINSHASA, that this measure was taken unilaterally by the R.P.F.; and

(326) That **Jean-Michel LACOSTE**, pilot and on-board commander of a Rwandan Army Noratlas, received verbal instructions on the 'no-fly zone' over the C.N.D. and was advised in note from the UNAMIR that during an over-flight of KIGALI he barely missed being hit by a missile fired by the R.P.F.; and

(327) That **Brigitte DEMENIEUX**, widow of **Jean-Pierre MINABERRY**, co-pilot of the presidential Falcon 50, reported that, sometime after the arrival of the R.P.F. battalion in KIGALI, her husband confided to her his fears over the possession of missiles by the R.P.F. and copied her on correspondence concerning this issue he had with **Bruno DUCOIN** and **Monique EPIN**; and

(328) That the fears of the pilots of the president's plane were supported by the testimony of **Herménégilde BIZIGE**, translator/interpreter for the Rwandan President, in her testimony of 20 October 2000, in which she reported that the pilots of the Falcon 50 'had learned how to fly between the mountains and how to protect themselves'; and

(329) That it was also to better protect themselves against the eventuality of an R.P.F. missile strike that the crew of the presidential Falcon 50

decided no longer to enter the traffic pattern for a landing-approach to Kanombe airport after nightfall; and

(330) Considering that it is in the context of this particularly troubled security situation, when the preparations for the attack on the president's plane were entering their final stages and, since the beginning of the year, various political personalities had been assassinated or were being made the targets of assassination attempts, that on 6 April 1994 a summit meeting in DAR-ES-SALAAM (Tanzania) was scheduled to take place; and

(331) Considering that this meeting of African Heads of State from the Great Lakes region, initially scheduled to begin on 5 April 1994 in ARUSHA, was changed, for reasons still unclarified, to 6 April in DAR-ES-SALAAM; and

(332) That this summit, organized by Ugandan President **Yoweri MUSEVENI**, was supposed to deal with 'finding the means to help Burundi and Rwanda resolve the political and security problems that persist in those countries'; and

(333) Considering that on 4 April 1994, President **HABYARIMANA**, to prepare for this summit and obtain his support, met with Zairian President **MOBUTU** Sese Seko in GBADOLITE; and

(334) That in the course of their tête à tête, **MOBUTU** confided to the Rwandan President that he had obtained intelligence according to which a plot aimed at eliminating him had been hatched by the Great Powers and that the R.P.F. would be used as the 'lethal weapon'; and

(335) That this meeting between the two Chiefs of State was brought up by **Enoch RUHIGIRA**, former Director of President **HABYARIMANA'S** cabinet, in his testimony on 11 January 2001, adding that the President had also met over Easter weekend with the Special Representative of the UN Secretary General, Mr. **Jacques-Roger BOOH-BOOH**, at his residence in GISENYI; and

(336) That also taking part in this meeting in Zaire was the president of Burundi, **Cyprien NTARYAMIRA**, as related in his testimony of 12 February 2001 by **Déo NGENDAHAYO**, former adjunct administrator of State Security for Burundi, in charge of the Central Intelligence Bureau (C.I.B.), who accompanied his president to GBADOLITE; and

(337) That the holding of this meeting was also confirmed by **Honoré NGBANDA**, Special Security Advisor to President **MOBUTU**, in his testimony on 7 September 2000; and

(338) That, finding himself in GBADOLITE, **NGBANDA** noted, after a face to face interview with President **MOBUTU** and his Rwandan counterpart, that grave threats had been made against the security of President **HABYARIMANA**, some of which suggested the use of surface-to-air missiles by the R.P.F. and so 'he was forced to take off like a thief and return home like a thief'; and

(339) That **Honoré NGBANDA** stated in his testimony of 7 September 2000, that at the end of this interview and at the order of President **MOBUTU**, he began an evaluation of the security situation, and that because of the existence of rumors about a plot against President **HABYARIMANA**, President **MOBUTU** dissuaded his Rwandan counterpart from going to DAR-ES-SALAAM and canceled his own participation in the summit, figuring he, too, could be in danger; and

(340) Considering that the business of the summit, as a number of witnesses have stated was late in starting, did not have an exact agenda, and dragged on until so late that some of the delegations, principally the Rwandans, were forced to leave the Tanzanian capital at night fall; and

(341) That, in fact, the summit, which was scheduled to start at 10:30 am, but, according to **Justin MUNYEMANA**, Juridical Advisor to the Rwandan President, in his testimony of 9 November 2000, did not get underway until 12:30 pm, and without the presence of President **MOBUTU**; that **Faustin MUNYAZESA**, former Rwandan Interior Minister, also present in DAR-ES-SALAAM, stated in his testimony on 19 November 2001 in Brussels, that the opening of the summit was moved back to 2 pm because of the late arrival of Ugandan President **Yoweri MUSEVENI**; and

(342) That, furthermore, **Faustin MUNYAZESA**, like **Justin MUNYEMANA**, remarked that President **MUSEVENI** led the proceedings of the summit without rigor or any attempt at coherence; and

(343) That in this regard, **Justin MUNYEMANA** reported during his testimony on 9 November 2000 that he learned from advisor **Juvenal RENZAHO** that the agenda, which was to have dealt principally with Burundi, was more slanted toward Rwanda, and that, concerning the

conduct of the debate, he told him: 'I don't know if we're going to get through this, but he (President **MUSEVENI**) falls asleep, then when he wakes up, he takes the floor and starts talking from right where he's been dozing and says nothing at all. He doesn't care about what's going on.'; and

(344) That **Faustin MUNYAZESA** also noticed that the original agenda was not respected and that it really became a debate on the Arusha Accords, and that each time the discussion seemed to be over, President **MUSEVENI** would once again take the floor, usually to say 'We have not sorted out the ethnic problems in Rwanda, which caused President **HABYARIMANA** to ask what more he was supposed to do after declaring at the beginning of the proceeding that it was his uppermost intention to apply the terms of the Arusha Accords without delay' and that 'We are not here to write the history of Rwanda.'; and

(345) That the disturbing interjections by President **MUSEVENI** also caught the attention of foreign observers, especially the American diplomats posted to Tanzania; and

(346) That the US Ambassador to DAR-ES-SALAAM, in a declassified diplomatic telegram sent on 7 April 1994 to the US State Department in Washington, D.C., mentioned that '**MUSEVENI** seemed to want to engage the group in a hypothetical discussion concerning the roots of ethnic conflict'; and

(347) That this same diplomatic telegram emphasized that the summit was 'very tense and emotional' and, in the paragraph relating to Rwanda, it noted that 'concerning Rwanda, **HABYARIMANA**'s commitment to the implementation of the Arusha Accords was clearly expressed at the summit.'; and

(348) That, nonetheless, this will expressed by the Rwandan President to meet all his obligation to the Arusha Accords did not figure in the final communiqué which contained only one paragraph on the situation in Rwanda, a subject, however, at the center of the concerns expressed by President **MUSEVENI**; and

(349) That it is also advisable to mention that according to the participants in the summit, **MUSEVENI** wrapped things up more than an hour late, and that the laborious composition of the final communiqué did not allow the delegations to leave Tanzania before nightfall; and

(350) That in this regard, **Justin MUNYEMANA** stated that the summit meeting was initially expected to end at 4 pm, but did not actually conclude until 5 pm, after which there was a informal dinner, and that President **HABYARIMANA**, who signed the French version of the final communiqué at the airport, could not leave with his Burundian counterpart until 6:30 pm; and

(351) That, in fact, [Burundian] President **NTARYAMIRA**, who had no confidence in his own army, the majority of which was Tutsi, asked his Rwandan counterpart to fly him back to Bujumbura; and

(352) Considering, furthermore, that according to **Faustin MUNYAZESA**, the stalling that took place over the composition of the final communiqué especially irritated **HABYARIMANA** because he was concerned about leaving Tanzania during daylight; and

(353) That **Enoch RUHIGIRA**, former Director of the **HABYARIMANA** Cabinet, in his testimony on 11 April 2001, said that the President was expected in KIGALI around 5 pm; and

(354) That President **HABYARIMANA**, aware that he would have to travel at night because of the lateness of his departure, had decided to spend the night in DAR-ES-SALAAM, but was subsequently refused this prerogative with the explanation that nothing had been prepared to accommodate him, according to **Col. SAGATAWA**, whose remarks were reported by **Simon INSONERE**, Director General of the Rwandan Ministry of Foreign Affairs, testifying on 8 September 2000; and

(355) That it is consistently stated that neither President **HABYARIMANA**, nor his Security Services led by **Elie SAGATAWA**, nor the crew of the Falcon 50, consented to a return at night because of the risks incurred in Rwandan airspace; and

(356) That **Jean-Michel LACOSTE**, French Air Force Captain and Commander of the Rwandan Noratlas that had transported a part of the Rwandan delegation to DAR-ES-SALAAM, testified on 11 December 2002 that he had noticed **Jean-Pierre MINABERRY** and **Jacky HERAUD** [the pilot and co-pilot of the President's plane—trans.] were very worried and wanted to take-off before nightfall; and

(357) That, about the concerns of the Falcon 50 crew, **Jean-Michel LACOSTE** specified that they were tied to discussions he had had with them two months before on the sort of maneuvers they would have to execute to avoid being hit by a surface-to-air missile; and

(358) That **Alain BOITEL**, navigator/flight engineer on the `Noratlas', had also told him of fears expressed by **Jean-Pierre MINABERRY** over the R.P.A.'s possession of surface-to-air missiles; and

(359) Considering that in the view of several observers, this summit was nothing more than a pretext for facilitating the execution of this attack [on the two Hutu Presidents—trans.]; and

(360) That this was the judgment that caused President **MOBUTU** to cancel his participation in the summit and to advise President **HABYARIMANA** against attending, according to the 29 September 1999 testimony of **Paul BARRIL**, who had met with **MOBUTU** in Gbadolite after the attack; and

(361) That this evaluation was confirmed in the testimony, on 18 December 2003, of **Balthazar NDENGEYINKA**, former R.P.A. Colonel, who stated in a face-to-face discussions with **Col. Charles MUHIRE**, then Chief of the Operations Bureau of the R.P.A. General Staff, **MUHIRE** acknowledged that `they' (R.P.F.) had shot down the presidents' plane and that the meeting which the President attended in DAR-ES-SALAAM was, in fact, nothing more than a pretext to get him out of Rwanda, that his return into KIGALI had been purposely postponed so as to force a night flight and that the hour of Falcon 50's take-off from the airport in DAR-ES-SALAAM was communicated by telephone to the general headquarters of the R.P.A. in Mulundi; and

(362) That **Abdul RUZIBIZA**, former Captain in the R.P.A., testifying on 3 July 2003, corroborated the testimony of **Balthazar NDENGEYINKA** as to the purpose of the summit, further specifying that **Patrick KAREGEYA**, Chief of the `External Security Service' (E.S.O.) of the R.P.F., had used the Ugandan delegation at the summit as a cover for his secret trip to DAR-ES-SALAAM; and

(363) Considering that the prompt investigation of the recordings of the air-traffic controllers at the KIGALI airport permitted the reconstruction of timelines for the movements of all the different aircraft that used this facility on 6 April 1994; and

(364) That the expert use of these recordings in the context of the current investigation established that the presidential Falcon 50, 9XR-NN, took off from KIGALI for DAR-ES-SALAAM at 6:07 am, with 11 people on board, that at 2:51 pm and 4:02 pm, two telephone calls relating to the arrival of the President's plane, 'expected at 5:00 pm', were recorded, and then at 4:34 pm and 4:41 pm, two more calls came in from members of the Presidential Guard who were worried about the time of the President's landing back in KIGALI, and that between 5:03 pm and 6:37 pm, several people called the control tower to get information on the schedule for the return of the Falcon 50, and that each caller was told that the plane had still not taken off from DAR-ES-SALAAM; and

(365) That it is acknowledged the flight plan of the Falcon 50 was not filed until about 7 pm, with the estimated time of arrival in KIGALI set at 8:26 pm [6 April 1994]; and

(366) That at 7:21 pm, the control tower confirmed to **Enoch RUHIGIRA** that the President's plane would land at 8:30 pm, and that at 8:08 pm, the crew of the Falcon 50 called the tower in KIGALI to file their flight plan for the subsequent KIGALI-BUJUMBURA leg with an estimated time of departure from KIGALI of 8:40 pm and with 'Burundi's No. 1 VIP on board'; and

(367) That at 8:21 pm, the Falcon 50 9XR-NN announced its approach, and that the control tower informed the crew of the parameters of its descent, with the on-board Commander specifying that he wanted to land directly on 28 (runway 28) and that he would call back 'once the ILS was engaged' (*Instrument Landing System*); and

(368) That no other radio message was recorded, and that at 8:25 pm, the plane's distress beacon was triggered; and

(369) That this technical data confirms the statements of all those people who had knowledge of the unfolding events of the summit and who, certain among them, were witnesses to the delays caused by the workings of the summit and the great fears, expressed as much by President **HABYARIMANA** as by the crew of his Falcon 50, about their night-arrival into KIGALI, with its approach on flight path 28 taking them directly over Masaka; and

(370) Considering that in the matter of the attack itself, several witnesses attested to the aircraft's having been hit by multiple shots; and

(371) That **Mathieu GERLACHE**, a Belgian corporal assigned to the UNAMIR, testifying in the Belgian Military hearings on 13 April and 30 May 1994, stated he had distinctly seen two points of light coming from the ground toward the plane, the second following ten seconds after the first, and then the plane immediately exploding; and

(372) That this testimony was corroborated by both **Pascal VOITURON**, another Belgian soldier assigned to the UNAMIR, and **Jean-Luc HABYARIMANA**, the President's son, who was at the Presidential residence in KANOMBE at the time; and

(373) That **Lt.-Col. Grégoire de SAINT-QUENTIN** reported having heard 'two shots very close together but not simultaneous on 6 April 1994 at 8:30 pm' while at his home about 500 meters from the private residence of President **HABYARIMANA**; and

(374) Considering that, furthermore, many witnesses reported having intercepted or having had knowledge of radio messages relating to the success of this operation; and

(375) That **Lt.-Col Grégoire SAINT-QUENTIN** testified in this regard to having noticed on 7 April, in the office of **Commander Aloys NTABAKUZE**, the transcript of a message intercepted by R.A.F. communications surveillance services from the Commander of the R.P.F. announcing the success of 'the reinforced squadron'; and

(376) That, in fact, after the offensive of October 1990, the R.A.F. set up two listening posts, one in GISENYI and the other in KIGALI, for the interception of radio communications, permitting them to record the communications of the R.P.F.; and

(377) That **Col. Jean-Jacques MAURIN**, Joint Defense Attaché at the French Embassy in KIGALI, during his testimony on 22 June 2001, confirmed the existence of these two monitoring centers, which he had visited; and

(378) That, furthermore, three French officers, Gendarmerie **Col. René GALINIE**, Lt.-Col. **Grégoire de SAINT-QUENTIN** and Air Force **Capt. Bruno DUCOIN**, testifying on 7, 8, and 9 June 2000, respectively, corroborated the testimony of **Col. MAURIN** on the existence of these listening posts, described as 'high-performance' by former Rwandan Army **General Gratien KABILIGI**, while testifying in ARUSHA on 6 June 2002; and

(379) That with the execution of a demand for judicial assistance delivered to the I.C.T.R., a copy of the message from the R.P.A. headquarters in Mulindi announcing the success of 'the mission of the reinforced squadron', intercepted on 7 April 1994 at 8:45 pm by the surveillance services in GISENYI, was submitted by, most notable among others, former R.A.F. Chief of Staff, **General Augustin NDINDILYIMANA** [sic—General Ndindilyimana was Chief of Staff of the Rwandan Gendarmerie—trans.]; and

(380) That the reality of this message, already attested to by the testimony of **Lt-Col. Grégoire de SAINT-QUENTIN**, was further confirmed by the deposition in ARUSHA of former R.A.F. officers, **Major Aloys NTABAKUZE**, **Col. Théoneste BAGOSORA**, **General Gratien KABILIGI**, former Commander of the GISENYI sector, and Col. Anatole NSENGIYUMVA, head of the monitoring station for Northern Rwanda, who had also intercepted a first message from the R.P.A. on the morning of 6 April, concerning the movement of troops during the night of 5 to 6 April, and a second message on 7 April at 8:45 pm, concerning the attack [on the President's plane], as did **Major Epiphane HANUYRWIMANA** and **Lt.-Col. Alphonse NZUNGIZE**; and

(381) That, furthermore, **Richard MUGENZI**, a radio operator for the R.A.F., who had been recruited for this mission because of his expertise in the realm of radio-transmission and his aptitude for languages, speaking, besides French and English, the local dialects and languages, such as Kinyarwanda, Swahili and Igika, confirmed in his testimony of 5 June 2001, that he had transcribed the message of 7 April, the message being originally in Swahili, and, according to him, not coded, that he had personally intercepted, announcing the success of the 'reinforced squadron'; and

(382) Considering that all the investigations undertaken have clearly demonstrated that, for the R.P.F., the physical elimination of President **Juvénal HABYARIMANA** was the absolutely necessary pre-condition to

their taking political power and they committed themselves to an elaborate and far-reaching plan to this end; and

(384) That this strategy had been summarized by Belgian **Col. Luc MARCHAL**, Joint Commander of the UNAMIR, at the time of testimony in Belgium, as follows:

'I say this with full conviction that I, myself, was fooled by their catchy propaganda before the ARUSHA negotiations. Once on the ground in KIGALI, I became aware of the huge gap between the discourse and its realization, a meat grinder, that's exactly what this totalitarian movement was like'; and

(385) That the beginning of the renewal of hostilities was described by all the witnesses heard as involving the former followers of the Presidential camp as much as the members of the R.P.F.; and

(386) That the recruitment of young Tutsis, outside as well as inside Rwanda, the R.P.A.'s build-up of arms caches in the demilitarized zones under the control of the UNAMIR, the infiltration into KIGALI of civilian combatants, the introduction into the C.N.D. of arms and ammunition, including SAM 16 anti-aircraft missiles shuttled down from the R.P.A. headquarters in Mulindi under armed UNAMIR escort, and the supplying of arms from Uganda were the precursors to the renewal of hostilities; and

(387) That it can thus be shown that all the R.P.A. units were placed on high alert from 3 April 1994, and that in the days preceding the attack, all the R.P.F. leaders stationed on the C.N.D. had returned to their headquarters in Mulindi; and

(388) That it is advisable in this regard to remember that **Abdul RUZIBIZA** stated in his deposition of 3 July 2003 that the Military High Command of the R.P.A., under the direct authority of **Paul KAGAME** and his assistant, **Lt.-Col. James KABAREBE**, gave a triple mission to the 'Network Commando', to which he belonged: to assassinate the members of the Tutsi community and thereby discrediting the Rwandan government by casting blame on its militias; to begin to scout and do operational reconnaissance in the government zone in preparation for a new military offensive; and to continue the preparations for the attack against President **HABYARIMANA**; and

(389) That when his deposition was taken in Belgium on 21 November

2001, **Felix LIZINDE**, son of **Col. Théoneste LIZINDE**, assassinated in KENYA by an R.P.F. death squad [6 October 1996—trans.], stated that on the night of 6 to 7 April 1994, R.P.A. units left their zone in Mulindi and Byumba to reinforce the battalion stationed on the C.N.D. and that one of these units that left the zone unarmed picked up weapons in one of the caches the R.P.F. had set up along the route; and

(390) That the former assemblyman **Jean-Baptiste MBERABAHIZI**, testifying on 20 November 2001, reported having learned from an R.P.A. member that arms until then hidden on Mt. Kaniga near Mulindi were dug up, something confirmed by **Abdul RUZIBIZA**, who specified having known about four of these caches, 'the largest one, in KARAMA, containing up to 120 tonnes of arms and ammunition', which was testified to by **Jean-Baptiste MBERABAHIZI**, as well; and

(391) That **Jean-Pierre MUGABE**, former member of the R.P.F., testified in Paris on 13 March 2001, that on the night of 6 April 1994, while he was in the R.P.F. headquarters in Mulindi, **James KABAREBE** was having a private discussion with **Paul KAGAME** at around 8:30 pm in the same room where he was, and just after that the order was given to all R.P.A. units to go to 'stand-by class one' status in anticipation of the imminent return of hostilities; and

(392) That this general alert given to the R.P.A. units in the moments following the attack [on the President's plane] was also reported by **Sixbert MUSANGAMFURA**, the former Rwandan Prime Minister after the R.P.F. victory [16 July 1994], during his testimony in Belgium on 10 July 2002; and

(393) That **Innocent MARARA**, a member of the personal guard to Paul **KAGAME**, in his testimony in Paris in September 2001, confirmed that on 6 April 1994, while he was in Mulindi, he heard that all troops were placed on 'class one' alert after the radio announcement of the destruction of the President's Falcon 50, something that was also confirmed by **Evariste MUSONI**; and

(394) Considering that **Paul KAGAME**, with his iron will to rule the country without sharing power and without taking any risks, was preparing to physically eliminate all those—and particularly among his partisans—who might be likely to hold him back; and

(395) That to this end, he created a special unit called the 'Network Commando', at the center of the Directorate of Military Intelligence

(D.M.I.), charged with tracking down and assassinating, inside Rwanda or in the rest of Africa, all the opponents of the regime as well as those who participated in clandestine operations or were witness to them, particularly the attack against President **HABYARIMANA's** Falcon 50; and

(396) That it is in this atmosphere that **Félicien GATABAZI**, the Minister of Public Works and Secretary of the '*Parti Social Démocrate*' (P.S.D.), an ally of the R.P.F., was assassinated on 21 February 1994 in KIGALI, for having refused to support a coup d'etat by the R.P.F.; and

(397) That on 6 October 1996, **Col. Théoneste LIZINDE**, a Representative of the R.P.F. and former personal advisor to **Paul KAGAME**, was abducted in Nairobi (Kenya) and soon after murdered; and

(398) That feeling threatened by 'the strongman in KIGALI and his henchmen'—as confided in a fax sent from KINSHASA on 10 January 1996—**LIZINDE** had secretly left Rwanda and sought refuge in Zaire, then in Kenya; and

(399) That **Col. LIZINDE**, because of his close relations with the R.P.F. leadership and with Paul KAGAME in particular, had been a witness to the preparations for the attack and its execution by an R.P.A. unit; and

(400) That while he was in exile, he confided to **Joseph NZIRORERA** that 'it was the R.P.F. that had taken the initiative to kill President **HABYARIMANA**', and that he intended to write a book after having met with **Seth SENDASHONGA**; and

(401) That **Christophe HAKIZABERA** also alleged what **Théoneste LIZINDE** had said on several occasions, that the attack on 6 April 1994 was the work of the R.P.F., and had been directed by Col. **Charles KAYONGA**, with assistance from **Major Rose KABUYE**; and

(402) That in their depositions of 21 November 2001 in Brussels, the two sons of Col. **Théoneste LIZINDE** gave the investigators various documents, one of which strictly implicates the R.P.F. in the attack of 6 April 1994; and

(403) That, moreover, they believed their father had been assassinated because of an investigation he had led on the attack on the President's plane; and

(404) That **Seth SENDASHONGA**, whom **Théoneste LIZINDE** wanted to meet before the publication of his writings, was, himself, murdered on 16 May 1998 in Nairobi; and

(405) That as an influential member of the R.P.F., **SENDASHONGA** had been tapped to be the Minister of Youth in the future broad-based transitional government, and, because of his position, resided in the C.N.D. before being named in July 1994 Minister of the Interior, a post from which he would resign on 28 August 1995, along with the then Prime Minister **Faustin TWAGIRAMUNGU**; and

(406) That he left Rwanda immediately and was the target of an assassination attempt on 26 February 1996 in KENYA by **Francis MUGABO**, a member of the Rwandan Consulate in Nairobi and an officer in the 'External Security Office' (E.S.O.), who had been questioned at the scene about his possession of a firearm before being deported back to Rwanda because of his diplomatic status; and

(407) That it should be noted in this regard that **Francis MUGABO** appears on the list of members of the 'Network' compiled by I.C.T.R. investigator **Michael HOURIGAN**; and

(408) That it is beyond any doubt, in view of the elements of the investigation, that the assassination of **Seth SENDASHONGA** is linked to his knowledge of the attack on 6 April 1994; and

(409) That his wife, **Cyrie NUKUZE SENDASHONGA**, stated to the Kenyan police that her husband, a 'fellow traveler' with the R.P.F., was assassinated because he 'knew too much', and his former friends were afraid he might eventually be deposed by the French Parliamentary Commission; and

(410) That **Jean-Pierre MUGABE** confirmed what **SENDASHONGA**'s widow had said, testifying that **SENDASHONGA** was assassinated 'because he knew about the project to attack the President's plane and had, moreover, become a potential danger to the R.P.F. because he was supported by the Hutu and by a Tutsi party from inside Rwanda'; and

(411) That this practice of eliminating former members of the organization who might 'be able to harm the R.P.F. or who have taken part in terrorist

activities', to use the words of **Jean-Pierre MUGABE**, was confirmed by **Denis KAGIRANEZA**, a member of the Central Committee of the R.P.F., who in his testimony on 20 November 2001 in Belgium, stated that, in the oath of allegiance to the R.P.F., it is stipulated that traitors and renegades can be given the death penalty, adding that, in the cases of Seth **SENDASHONGA** and **Théoneste LIZINDE**, both had refused any longer to accept 'the mode of political and military management of the R.P.F. . . . making them more and more disruptive'; and

(412) Considering that the investigations conducted to date within the context of the present inquest have placed in evidence that the attack of 6 April 1994 was part of a strategy entirely conceived by **Paul KAGAME** from 1993 with the aim of seizing state power by force of violence and exercising this power without sharing it; and

(413) Considering that in 1993, the R.P.F. was, in fact, in no position to be able to win the elections called for by the ARUSHA Accords at the end of the transition period, having at that time an insufficient popular base to bring them to power by democratic means; and

(414) That the various splits inside Rwanda's opposition political parties, that had, since 1992, favored collaboration with the R.P.F., provoked a breaking-up of these parties, a situation which was aggravated by the hegemonic behavior of the R.P.F., as revealed by its offensive of February 1993 and especially by the assassination on 21 October 1993 of Burundi's newly and democratically elected Hutu President, **Melchior NDADAYE**, by the 'ethnically pure' Tutsi Burundian Army; and

(415) That these schisms caused the real intentions of the R.P.F. to be cast into grave doubt and led to the parties' dissidents rallying behind the President's movement; and

(416) That, thus, the only way out still open to the R.P.F. and its leader **Paul KAGAME** was to resort to force of violence; and

(417) That many of the witnesses deposed in the context of this investigation were aware of this strategy; and

(418) That **Déo NGENDAHAYO**, an administrator in the Office of Central Intelligence of Burundi, testifying on 12 February 2001, stressed that the R.P.F. was committed to this mission; and

(419) That Belgian **Col. Luc MARCHAL**, Adjutant Commander of the UNAMIR, testifying in Belgium on 9 July 2002, confirmed that the sole objective of the R.P.F. was the conquest of power; and

(420) That in his log **MARCHAL** noted on 4 April 1994: 'in fact, the thesis is that the only objective the R.P.F. had in taking up arms against the current government was not the victory of democracy, but the conquest of power by violence' . . . 'this thesis seems to me to conform with my observations and deductions'; and

(421) That this analysis was taken up by the Belgian Parliamentary Commission, which reported that on 9 April 1994, three days after the attack, **Paul KAGAME**, in an official communiqué on 'Radio Muhabura', declared the ARUSHA Accords to be null and void, adding that he had made the choice 'that best suited the objectives of the R.P.F., to seize power through the force of arms'; and

(422) That **General Roméo DALLAIRE**, formerly Commander-in-Chief of the UNAMIR, in a hearing on 21 January 2004, confirmed Paul **KAGAME**'s hegemonic strategy and the determination he demonstrated in putting his plan into action: 'the rebels of that period', he said, 'today in power, were planning a country dominated by the Tutsi, while conducting their armed struggle against the government controlled by the Hutu ethnicity'; 'the R.P.F.', he added, 'did not necessarily have among their priorities the well-being of the people of the interior [of Rwanda], but a plan a longtime in the works that would bring about a country dominated by the Tutsi'; and

(423) That though it had supported the R.P.F., the American government, in the person of Mr. **Hermann COHEN**, Under-Secretary of State for African Affairs, condemned **Paul KAGAME**'s violent digressions and the grave dangers he posed to the people of Rwanda; and

(424) That in testimony on 7 July 1998 before the French Parliamentary Commission, Mr. **Hermann COHEN** stated: 'The US had no reason to be happy about this invasion, the R.P.F. was not welcomed with open arms by the people of Rwanda, which nullifies the idea of a liberation army. This attack was also criticized by certain Tutsi who said that if the R.P.F. won the war, the Rwandan Tutsi would be made to pay the price, and that they would all be killed'; and

(425) That the statements of this high official of the US State Department coincide with other testimony about the fact that **Paul KAGAME** did not hesitate to provoke and maintain inter-ethnic violence in order to legitimize his own resorting to force of arms; and

(426)That **Déo NGENDAHAYO**, in his previously-cited testimony, said the same thing when he stated that `the situation in Rwanda needed a cause that would trigger reprisals between Tutsi and Hutu and thus justify the R.P.F. and its allies taking power by force, which would give them political legitimacy'; and

(427) That according to **Nkiko NSENGIMANBA**, an official of a Rwandan NGO, testifying in Berne on 18 April 2002, **Patrick MAZIMPAKA**, Vice-President of the R.P.F., demonstrated the same determination when, during questioning, one of his interlocutors remarked that the renewal of combat by the R.P.F. led to the killings of `some members of the opposition of which he was a part, as well as of Tutsi', he responded that `it was incumbent on the Rwandan government to protect its citizens and that after all, even in Nazi Germany, there were survivors'; and

(428) That **Dismas NSENGIYAREMYE**, former Rwandan Prime Minister, also confirmed the determination of the `R.P.F.' to continue hostilities in order to achieve `a total seizure of power' no matter the cost, and **Seth SENDASHONGA** restated this attitude when he said that `*you can't make an omelet without breaking some eggs*'; and

(429) That it appears that after the attack of 6 April 1994 and the concomitant triggering of reprisals on the Tutsi population and the renewal of hostilities by the R.P.F., the R.P.F. refused all foreign intervention, even under a UN mandate, and continued to pursue its military actions; and

(430) That for **Col. MARCHAL**, testifying in Belgium, the manner in which these military operations were launched in the North of Rwanda after 7 April 1994 proved that they had been planned for a long time and that the hostilities which lasted for three months could have been of a much shorter duration; and

(431) That he added that the will of the R.P.F. to prolong the combat that led to the massacre of the Tutsi made him understand that the R.P.F. considered the Tutsi living inside Rwanda to be collaborators with the **HABYARIMANA** regime and that their death was a political calculation;

and

(432) That **Abdul RUZIBIZA**, former Captain in the R.P.A., cosigned **Col. MARCHAL**'s evaluation, stating in his previously-cited testimony that '**Paul KAGAME** had little consideration for the Tutsi of the interior who, in his eyes, were the same as the Hutu . . . the Tutsi of the interior were potential enemies that had to be eliminated just like the Hutu in order to attain power, **Paul KAGAME**'s essential objective'; and

(433) Considering that the result of the entire investigation, diligently carried out within the context of this inquiry, and particularly the testimonies of former R.P.A. members and of R.P.F. dissidents, is that the attack perpetrated on 6 April 1994 against the Falcon 50 of President **HABYARIMANA** was part of a plan cooked up in its entirety by the R.P.F., directed by **Paul KAGAME**, in order to use violence in seizing power that he could not achieve by the legal means set forth in the institutional mechanisms of the ARUSHA Accords; and

(434) That the decision to make an attempt on the life of President **HABYARIMANA** with a spectacular attack that would necessarily have the effect of provoking the most extreme factions of the Hutu ethnic group was made in the course of at least three meetings, held at the end of 1993 and the beginning of 1994, in the headquarters of the Military High Command of the Rwandan Patriotic Army (R.P.A.) in Mulindi, in the notable presence of:

--its Commander-in-Chief, **General Paul KAGAME**, born 23 October 1957 in Tambwe, Préfecture of Gitarama (RWANDA), current President of the Republic,

--his assistant, **Lt.-Col. James KABAREBE**, born in 1959 or 1963 in Rutshuru (ex-Zaire), current Chief of Staff of the 'Rwandan Patriotic Army', now known as the 'Rwandan Defense Forces',

and these officers:

--**Faustin NYAMWASA KAYUMBA**, born 28 March 1958 in Uganda, currently Major General,

--**Charles KAYONGA**, born in 1959 or 1962 in Murama, Préfecture of

Gitarama (Rwanda), currently Brigadier General and advisor to the President for National Defense Affairs; and

(435) That the final order to shoot down the President's plane was given by **Paul KAGAME**, himself, during a meeting held in Mulindi on 31 March 1994, with the planning and the operational phase being entrusted to **Col. James KABAREBE**, who was specifically charged with the formation of a team specialized in the use of surface-to-air missiles furnished by Uganda; and

(436) That the material preparation, the organization and the intelligence necessary for the execution of this plot were brought together with the direct assistance of officers in the Military High Command:

--**Charles KAYONGA**, R.P.A. Battalion Commander based at the C.N.D. in KIGALI,

--**Jackson NKURUNZIZA**, aka **Jack NZIZA**, Major,

--**Col. Samuel KANYEMERA**, aka **Sam KAKA**,

--**Rose KABUYE**, Major, assigned to the R.P.A. battalion that quartered the commandos in the C.N.D. before the attack,

--**Jacob TUMWINE**, Major, assistant to Lt-Col. **Charles KAYONGA**, who received the missiles to be used in the attack at his quarters in the C.N.D. and took part with other officers around **Paul KAGAME** in the last meeting where the order to shoot down the plane was given; and

(437) That **Second Lt. Franck NZIZA** and **Corporal Eric HAKIZAMANA**, members of the missile section, fired their SAM-16-type surface-to-air missiles at the President's plane and destroyed it in flight; and

(438) That elements pertinent to this investigation also lead to the conclusion that General **Paul KAGAME** deliberately chose a modus operandi that, in the context of the particular tension pervading both in Rwanda and Burundi between the Hutu and Tutsi communities, could only bring about bloody reprisals against the Tutsi community, and which

offered him a veneer of legitimacy for his renewal of hostilities and his seizing power without the support of international public opinion; and

(439) That while his army was militarily superior to that of the R.A.F., the refusal by the R.P.F. to accept a cease fire, even when the massacres were in full swing, or to authorize the presence of international forces on Rwandan territory to participate in the reestablishment of order and putting an end to the genocide, demonstrated that the only objective being pursued by R.P.F. leaders was that of total victory, and this at the cost of mass killings of those Tutsi said to be 'from the interior' and considered by Paul KAGAME as 'collaborators with the **HABYARIMANA** regime'; and

(440) That while this criminal strategy was being noticed and denounced by observers from outside the country, particularly political and military officials from the US and some members of the UNAMIR, the R.P.F. carried it out to its conclusion; and

(441) Considering that the leaders of the R.P.F. mentioned earlier as having taken part in the conception, planning and execution of the attack, under conditions specified here-above, are chargeable with murder, with complicity to murder in relation to a terrorist enterprise and with conspiracy in the preparation of terrorist acts; but

(442) Considering that **Paul KAGAME**, President of the Republic of Rwanda, is immune from prosecution in France because of his status as a sitting head-of-state and can not be charged in the context of this process; and

(443) That he could be made the object of prosecution by the International Criminal Tribunal for Rwanda (I.C.T.R.); and

(444) Considering that it will be up to the Secretary General of the United Nations, who will be officially informed by an order sent through diplomatic channels of the pertinent elements of this inquest and the charges gathered against **Paul KAGAME**, to inform, as much as is necessary, the Prosecutor of the International Criminal Tribunal for Rwanda, so that charges can be brought against **KAGAME** for his presumed participation in the attack of 6 April 1994, facts that pertain to competence of that jurisdiction; and

(445) Consider accordingly the following names:

1 - **James KABAREBE** or **KABARE**, aka `James' or `King of the Great Lakes' or `the son'

born 23 December 1959 in Nyarugenge (Rwanda) or in 1963 in Rutshuru – Region of North Kivu (ex-Zaire and currently the Democratic Republic of Congo)

father and mother unknown

nationalities: Zairian and Rwandan

currently a Major General in the `Rwandan Defense Forces'.

2 – **Faustin NYAMWASA-KAYUMBA**

probably born 28 March 1958 in Mbarara or in the District of Rukengiri (Uganda)

but could, in reality, originate from Northern Rwanda (Préfecture of Byumba)

father and mother unknown

nationality: Ugandan

currently Rwandan Ambassador to India

3 – **Charles KAYONGA**

born 10 October 1962 in Rukara (Rwanda)

son of Silver KAYONGA and Languid KAYONGA

nationality: Rwandan

currently Chief of Staff of the Rwandan Army

4 – Jackson NKURUNZIZA, aka Jack NZIZA

probably born in 1959 in Bufumbira (Uganda) or in 1960 in the Gisoro Region (Southwest Uganda)

father and mother unknown

nationality: Ugandan

could currently occupy a post in the Presidential Guard or as a logistics administrator within the 'Rwandan Defense Forces'

5 – Samuel KANYEMERA, aka Sam KAKA

probably born in 1960 (with no further precision)

father and mother unknown

nationality: unknown

currently an Assemblyman for the 'R.P.F.'

6 – Rose KABUYE, born KANYANGE

born 22 April 1961 in Muvamba (Rwanda)

father and mother unknown

nationality: Rwandan

currently Director General of State Protocol

7 – Jacob TUMWINE

probably born 12 October 1966 in Myumba (Rwanda)

father and mother unknown

nationality: Rwandan

currently Lt.-Col. inactive

8 – **Franck NZIZA**

probably born in Uganda (without other precision)

father and mother unknown

nationality: unknown

could currently be holding the post of Captain in the Presidential Guard or a position in an administrative unit

9 – **Eric HAKIZIMANA**

born in Rwanda

father and mother unknown

nationality: Rwandan

could currently occupy a post in the G2 Dept. of the 'Directorate of Military Intelligence' (D.M.I.)

all persons without known address

suspects are chargeable as leader of assassinations in relation to a terrorist enterprise (8 and 9), as accomplices to assassinations in relation to a terrorist enterprise (1, 2, 3, 4, 5, 6 and 7) and as co-conspirators in the preparation of terrorist acts (1, 2, 3, 4, 5, 6, 7, 8 and 9)

facts allowed and suppressed by articles 121-6, 121-7, 221-3, 421-1, 421-2-1, 421-3, 421-5 of the penal code, 203 and 706-16 and according to the code of criminal procedure of the Penal Code

disappeared from and no longer residing on National Territory

Considering that it seems necessary for us to issue an international arrest warrant

We hereby order the communication of this procedure to the Prosecutor of the Republic.

Duly executed in Paris 17 November 2006

Le Premier Vice-Président

Jean-Louis BRUGUIERE