

DAR-ES-SALAAM PROTOCOL ON POWER SHARING

The Transitional Government of the Republic of Burundi
(Here in after referred to as TGoB)

and

**The National Council for the Defense of Democracy/
Forces for the Defence of Democracy**
(Here in after referred to as CNDD-FDD);

Taking note of their commitment to reach an all-embracing agreement on power sharing for the achievement of lasting peace, security and stability in Burundi;

Recalling the Arusha Peace and Reconciliation Agreement for Burundi signed on August 28, 2000;

Recalling the Ceasefire Agreement between the parties signed on December 2, 2002 in Arusha and the Memorandum of Understanding signed on January 27, 2003 in Pretoria;

Recalling further the Communiqué of the Regional Summit of July 20, 2003 reaffirming the commitments of the parties to a negotiated framework to resolve all outstanding issues related to political and military power sharing;

Appreciating the concern, efforts, commitments and contributions of the leaders of the Regional Peace Initiative on Burundi and the Facilitator as well as support of the African Union, the United Nations and the international community at large;

Reaffirming the commitments of the Parties to be guided by the agreed principles hereby attached as Appendix 1.

HEREBY, agree as follows:

A. POWER SHARING IN DEFENCE AND SECURITY

Article 1:

Upon signing of this agreement all combatants from FAB and the CNDD-FDD shall become part of the security forces of Burundi.

It is recognized that this will be a process.

All combatants shall be cantoned and be subjected to the process of recruitment in the establishment of the new army in terms of the agreed ration, 60:40.

This arrangement shall apply in establishing the Joint Military Force that shall be formed prior to the formation of the new Burundi army.

Those combatants who will not be absorbed in the new army will be subjected to the DDR process.

Composition and the Sharing of Posts

Article 1:

Composition and sharing of current posts in the New Burundi National Defence Force, Police and National Intelligence shall observe the principle of 40% [CNDD-FDD] and 60% [TGoB] of which 50% will be Tutsi and the remaining 10% Hutus in FAB and other armed groups.

Details of the distribution of the defence and security posts in line with the above principle are attached as Appendix 2.

Gendarmerie Restructuring

Gendarmerie:

Both parties agree on the need of restructuring the Gendarmerie. This will be done in tandem with the restructuring of the army and the Police. Shall be conclude once an effective police force is established.

Police and Intelligence Services

Article 2

The process of power sharing in the Police and Intelligence Services shall take into consideration the recruitment of suitable people to maintain professionalism within these services.

The Gendarmerie as part of FAB will be cantoned as stipulated in the Ceasefire Agreement. The element of the Gendarmerie currently deployed in the fight against the PALIPEHUTU-FNL will immediately be transferred to FAB and will be exempted from cantonment as provided for in the Ceasefire Agreement.

Article 3

The restructure of the Gendarmerie to determine what component to fall under the National Police and that remain in the army shall be conducted while the force is under cantonment.

Article 4

A Memorandum of Understanding (MoU) providing for the Gendarmerie Restructuring committee and detailing the process and time frame within which the restructuring exercise will be completed will be signed, and is hereby attached as Appendix 3.

Article 5

The powers of arrest and prosecution of civilians which hitherto have been a function of the Gendarmerie are hereby suspended and are now to be vested in the National Police.

Joint Military Force (JMF)**Art 6**

As a starting point to the formation of a new army, replace coy and unit.

Article 6

A Joint Military Force (JMF) composed of FAB troops and CNDD-FDD combatants shall be established on common tasks to be agreed as provided for in the December 2, 2002 Ceasefire Agreement. For the purpose of this power sharing protocol, the immediate task shall be the protection of leaders as a confidence building measure. To this extent, each party shall provide a force of a company size to form the Joint Military Force.

The Joint Military Force selected under this article shall undertake joint training by the Africa Mission Force in preparation for immediate deployment.

A Memorandum of Understanding on the establishment of the Joint Military Force is hereby attached as Appendix 4.

Article 7

Prior to the finalization of the integration process, which will only take place after cantonment and as a confidence building measure. TGoB and the CNDD-FDD leadership in collaboration with the African Mission and the JCC shall receive from each of the parties a list of those earmarked to participate in the joint military tasks.

Article 8**Art 8**

Remove Regional Initiative and leave AMIB

Art 9

The TGoB and the CNDD-FDD in collaboration with the Regional Initiative shall form a special joint team to oversee the process of selection and recruitment of personnel for joint military tasks as well as assessing the ranks and competence of the CNDD-FDD combatants.

Disarmament of Militias/Local Defence Units**Article 9**

Militias/Local Defence Units (LDU) shall be disarmed immediately by the Transitional Government of Burundi in conformity of Article 2.1 of the December 2, 2002 Ceasefire Agreement and in tandem with the start of the cantonment process. Attached is a Memorandum of Understanding for the disarmament of the militias/LDUs as Appendix 5.

B. POLITICAL POWER SHARING

The Executive

Article 10

There shall be an executive office composed of the President, Vice-President and the Minister of State. On matters relating to the implementation of the Ceasefire Agreement and power sharing agreement, the Minister of State shall be part of the collegial decision making.

Article 11

The post of Minister of State shall be occupied by a candidate of the CNDD-FDD whose powers and functions are provided under Appendix 9 paragraph 5.

The Cabinet

Article 12

The CNDD-FDD shall be allocated four (4) ministerial posts, including the Minister of State, in conformity with the letter and spirit of the December 2, 2002 Ceasefire Agreement.

Article 13

For the remaining period of the current transition, the CNDD-FDD shall occupy the following ministries:

- Development of Communes.

- Repatriation, Resettlement, Social Rehabilitation of Disaster Victims.
- Justice and State Inspection

Bureau of the National Assembly

Article 14

The CNDD-FDD shall be appointed as Second Vice-President of the Bureau of the National Assembly.

The National Assembly

Article 15

The CNDD-FDD shall be allocated 15 seats in the National Assembly whose composition will be conditioned on the 60:40 (Hutu/Tutsi) ratio.

Bureau of the Senate

Article 16

The CNDD-FDD will be appointed to the position of Security General of the Bureau of the Senate.

The Senate

Article 17

The CNDD-FDD shall be allocated 10 seats in the Senate whose composition will be conditioned to the principle of 50:50 (Hutu/Tutsi) ratio.

Territorial Administration

Article 18

The CNDD-FDD shall be allocated three Governor posts and three Deputy Governor posts.

Diplomatic Missions

Article 19

The CNDD-FDD shall be allocated two Ambassadorial posts and two Senior Counselor posts.

The law on political parties' organization and participation

Article 20

The current law on political parties' organization and participation is restrictive and needs to be amended. As soon as the process of cantonment begins, that action will indicate that the armed wing of the CNDD-FDD is being integrated, and would mean that they qualify to register as a political party. A Memorandum of Understanding to address this problem is attached as Appendix 6.

Temporary Immunity

Article 21

Members of the armed movements and the TGoB shall be granted temporary immunity for a period of two years pending the establishment of the Truth and Reconciliation Commission and the International Judicial Commission as provided for in APRA, 2000. Details of the agreement on temporary immunity are attached as Appendix 7.

Constitutional Commission

Article 22

A Constitutional Commission shall be established, and details are contained in the Memorandum of Understanding attached as Appendix 8.

Integration of the CNDD-FDD

Article 23

The TGOB and the CNDD-FDD hereby sign a power sharing agreement with a calendar of implementation, which is attached as Appendix 9.

Done in Dar-Es-Salaam on

By

.....

DOMITIEN NDAYIZEYE

President of the Transitional Government of Burundi

For the Transitional Government of Burundi

And

.....

MR PIERRE NKURUNZIZA

Legal Representative of the CNDD-FDD Movement

In the presence of:

H.E. JACOB ZUMA

Vice-President of the Republic of South Africa

Facilitator of the Burundi Ceasefire Negotiations

.....

H.E. YOWERI KAGUTA MUSEVENI

President of the Republic of Uganda

Chairman of the Regional Initiative on Burundi

APPENDIX 1**AGREED PRINCIPLES**

1. The peace; security; stability and socio-economic development of Burundi shall be based on the free and active participation of its people through democratic governance based on Equality, Respect and Justice for all citizens of Burundi taking into account the social, religious and ethnic considerations.
2. The principles and objectives enshrined in the Arusha Peace and Reconciliation Agreement and the 2 December 2002 Ceasefire Agreement shall be taken into cognizance as the foundation for peace, security and stability of Burundi.
3. The Transition Process shall also take cognizance of the various agreements reached after prolonged negotiations taking into account the divergent interests of the numerous political groups and movements.
4. The comprehensive solution to the Burundi instability shall incorporate the balancing of political, social, economic and ethnic justice that respects the fundamental, human and political rights of all the Burundian people.
5. The objectives of promoting peace, security and stability and creating a framework for conflict prevention, management and resolution shall be based on embracing the principles and culture of dialogue.
6. The need to accommodate all views in reaching of understanding and implementation of agreements is critical in establishing an all-embracing lasting peace, security and stability in Burundi.

7. The importance and challenge of uniting Burundians and laying the foundation for a democratic and united Burundi requires *inter alia* the promotion of the principle and culture of collective responsibility and accountability.
8. Collective actions and decisions with courage, statesmanship and spirit of reconciliation are a prerequisite to the establishment of peace, security and stability.
9. The need to establish an effective framework and mechanism to fully implement various agreements, and understandings previously reached to achieve peace, security and stability in Burundi requires a pragmatic approach and flexibility.
10. The basic principles herein adopted in the Dar-Es-Salaam Protocol shall form the guiding principles and national objectives to be enshrined in the post transition National Constitution of Burundi.

APPENDIX 2**APPENDIX IV (TABLES 1 – 3)****TABLE 1: POWER SHARING IN THE MILITARY****MINISTER OF DEFENCE**

POSITION	NO OF POSTS	TGoB	CNDD-FDD
Percentages		60%	40%
Directions and general inspections	4	3	1
Specialized services	5	3	2
Personalized administrator	3	2	1
Military courts	3	2	1
WC	5	3	2
Department – Heads	10	6	4
Department – Deputies	10	6	4
Advisors	5	3	2
Senior inspectors	5	3	2
Inspectors	14	9	5
TOTALS	64	40	24

ARMY HEADQUARTERS

POSITION	NO OF POSTS	TGoB	CNDD-FDD
Percentages		60%	40%
Chief of Staff	1	1	0
Deputy Chief of Staff	1	0	1
Services – Heads	14	9	5
Services – Deputies	14	9	5
Region Cmds – Heads	5	3	2
Region Cmds – Deputies	5	3	2
Region Services – GS	25	15	10
Units – Heads	60	36	24
Units – Deputies	60	36	24
TOTALS	185	112	73

TABLE 2: POWER SHARING IN THE BURUNDI NATIONAL POLICE

POSITION	NO OF POSTS	TgoB	CNDD-FDD
Percentages		60%	40%
Directorates	3	2	1
Services – ENAPO	2	1	1
Services – PAFE	12	7	5
Services – PSP	9	6	3
Police Stations – PSP Cmds	13	8	5
Police Stations – PSP D Cmds	13	8	5
Services PJP	7	5	2
Police Stations PJP – P Cmd	18	11	7
Police Stations PJP – D P Cmd	18	11	7
Zones Cmds	12	7	5
Deputies	12	7	5
TOTALS	119		

TABLE 3: POWER SHARING IN THE NATIONAL INTELLIGENCE SERVICE

POSITION	NO OF POSTS	TgoB	CNDD-FDD
Percentages		60%	40%
Administrator General	1	1	0
D/Administrator General	1	0	1
Director General OPS	1	0	1
D/Director General OPS	1	1	0
Director General Admin	1	1	0
D/Director General Admin	1	1	0
Director Internal Security	1	0	1
Director External Security	1	1	0
Director Finance and Logistics	1	0	1
Director Personnel Admin	1	0	1
TOTALS	10	6	4

APPENDIX 3

**MEMORANDUM OF UNDERSTANDING FOR RESTRUCTURING THE
GENDARMERIE IN BURUNDI**

THE PARTIES:

Recalling the Ceasefire Agreement between the Parties signed on 2/12/02 and the Memorandum of Understanding for the application of the Ceasefire Agreement between the Parties, signed on 25/01/2003;

Recalling the principles and objectives of the Arusha Peace and Reconciliation Agreement for Burundi;

Recalling further the Dar-Es-Salaam Communiqué of the Regional Summit of 20 July 2003 reaffirming the commitment of the parties to a negotiated framework to resolve all outstanding issues related to police power sharing and the Technical Forces Agreement;

- The names of the Defence and Security organs;
- The missions and functions of the Defence and Security organs;
- Command, control and supervision of the Defence and Security organs;
- The provision of data concerning force levels of the parties to the agreement;
- Size, composition and training;
- Existing FAB Police and Intelligence structures.

Conscious and aware that the current Gendarmerie structure and its functions cover both military and police roles;

Noting that the current structure creates duplications between the Military and Police functions and which undermines the process of integration of the Defence and Security forces;

Taking into cognizance the common understanding recorded that the Gendarmerie has to be reformed to meet the aspirations of the parties and people of Burundi;

The Parties hereby agree as follows:

- The Gendarmerie Structure, Function and Role as it exists shall be restructured;
- The Gendarmerie will be moved into cantonment within 21 days of signing of this agreement.
- The military functions of the Gendarmerie of protecting the people will be immediately taken over by the military who will be deployed in those areas where there are security threats.
- The restructuring process of the Gendarmerie will commence within 21 days of signing of this MOU and will be completed within 90 days.
- The Gendarmerie Restructuring Committee (GRC) will be constituted within 14 days of signing of this MOU and will be composed as follows:

*	TGoB	-	4 members
*	CNDD-FDD	-	4 members
*	Other stake-holders	-	2 members

*	AMIB	-	1 member
*	IMC	-	1 member
*	Regional Initiative	-	1 member
*	Facilitation	-	1 member

The GRC will be under the Chairmanship of a person to be appointed by the UN.

- The Transitional National Assembly will imbed the Restructured Gendarmerie within the Law of Burundi within 30 days after the conclusion of the restructuring exercise.
- During the Gendarmerie Restructuring Exercise its roles and activities shall exclude the power of arrest and prosecution of civilians.

APPENDIX 4**MEMORANDUM ON THE ESTABLISHMENT OF JOINT MILITARY FORCE (JMF)**

Recalling the Ceasefire Agreement between the Parties signed on 2/12/2002 and Memorandum of Understanding for the Implementation of the Ceasefire Agreement between the Parties signed on 25/01/2003;

Recalling specifically Article 1.1.9 mandating the Parties to constituted joint military units prior to the establishment of the new army in order to perform protection tasks;

Aware of the need to have in place a Joint Military Force to undertake urgent duties for the protection during the integration forces;

The Parties hereby agree:

Article 1: The Joint Military Force shall be established within 14 days of signing of this Agreement.

Article 2: The Joint Military Force shall be composed of 2 company strength with each party providing one company.

Article 3: The Parties shall provide the names of members of their contingent to form the Joint Military Force within 7 days of signing of this Agreement.

Article 4: The function of the Joint Military Force shall be to provide protection services to the leaders.

Article 5: The selected members of the IMF shall undergo joint training in preparation for deployment.

Article 6: The members of the Joint Military Force shall be considered for integration of the new Burundian National Defence Force. For the purposes of addressing the current security situation in Burundi FAB as provided for in Article 1.1.8 shall be deployed.

Article 7: The role of the Joint Military Force will cease after the completion of the integration process.

APPENDIX 5**MEMORANDUM OF UNDERSTANDING FOR DISARMAMENT OF MILITIAS/LOCAL DEFENCE UNITS**

Recalling the Ceasefire Agreement between the Parties signed on the 2/12/2002 and the Memorandum of Understanding for the Implementation of the Ceasefire Agreement between the Parties signed on 25/01/2003;

Recalling specifically Article 2.1 of the Ceasefire Agreement which mandates the disarmament of militias as part of the overall Disarmament, Demobilization and Reintegration programmes;

Noting that Local Defence Units or Militia are one and the same groups of armed civilians under the Ceasefire Agreements;

The Parties hereby agree:

Article I: All Militia/Local Defence Units to be disarmed.

Article II: The disarming process of Militia/Local Defence Units shall commence within 21 days after the signing of this agreement.

Article III: The Transitional Government of Burundi shall be responsible for the disarming of the Militias/Local Defence Units.

Article IV: The Transitional Government of Burundi shall within 14 days provide the Joint Ceasefire Commission and the African Mission with the implementation plans and programs for disarming and disbanding all Militias/Local Defence Units.

Article V: All weapons collected will be handed over to the African Mission for immediate destruction.

Article VI: The disarmament programme of the Militia and Local Defence Unit shall be completed with 90 days.

APPENDIX 6

FRAMEWORK FOR POLITICAL PARTIES ORGANISATION AND PARTICIPATION

Reaffirming the principles of multiparty system as the adopted form of governance in the Republic of Burundi;

Recalling the principles and objectives of participatory political pluralism and process enshrined in the Arusha Peace and Reconciliation Agreement;

Reiterating the need for political parties to comply with democratic principles in their organization and functioning that should embrace all Burundians and shall not promote ethnic, regional and religious divisions;

Recognizing the need to have activities of political parties to be regulated to ensure compliance to the promotion of the principles and culture of freedom, peace and harmony in Burundi;

Cognizant of the fact that the Transitional National Assembly has promulgated the Organization and the Functioning of Political Parties Act;

Conscious of the said Act but not withstanding some of the provisions of the said Act;

Recognizing the need that the said Act should accommodate the views of all the parties as well as take into consideration the various agreements reached by the two parties;

Considering that the Arusha Peace and Reconciliation Agreement and the Act recognizes the need to open the door for the participation of other political parties and groups hitherto not included;

Convinced of the importance to involve all political groups in the peaceful democratic process to ensure peace, security and stability in Burundi;

The Parties hereby agree as follows:

Article 1: Any political group or movement shall be duly recognized and eligible for registration as a Political Party;

- Being a party to this Agreement;
- Upon signing and entering into the Ceasefire Agreement and the cantonment process;
- Having been duly recognized as a Political Party under Arusha Peace and Reconciliation Agreement and the Act.

Article 2: All political parties duly recognized and registered shall sign and undertake to comply with the democratic principles that shall not promote ethnic, regional and religious divisions.

Article 3: Upon the conclusion of the integration of the armed forces and formation of national defence and security forces any member of the defence and security forces shall be prohibited from becoming members of political parties.

Article 4: No political party shall set up any military or paramilitary organization whatsoever.

Article 5: Political parties shall operate freely without administrative hindrance and may solicit membership, merger or coalition save for restrictions

necessary for the prevention of hatred based on ethnic origin, region or religion as well as the maintenance of public order.

Article 6: An Independent National Electoral Commission (INEC) shall be established within six months of signing of this Agreement. The INEC role include the drawing up of guidelines on the operations and functioning of Political Parties based on the principles and objectives of promoting the democratic governance processes.

Article 7: The power of suspension and abrogation of political parties shall be through the judicial process in the Courts of Law.

Article 8: The Organization and Functioning of Political Parties Act will be reviewed to accommodate the views of all the parties and take into consideration the various agreements reached by the Parties.

APPENDIX 7

**AGREEMENT FOR GRANTING TEMPORARY IMMUNITY FOR ARMED
CONFLICT RELATED CRIMES IN BURUNDI****PREAMBLE**

Noting the strong desire of Burundians to live in peace and social harmony; to exercise their civil and political rights to freedom and participate in development activities of their nation;

Noting the concern; concerted efforts and commitment by the Regional Initiative on Burundi to restore Peace, Security and Stability in Burundi;

Deeply concerned that the impact of war has seriously torn the Burundian society for decades;

Convinced that the urgent need to restore peace in Burundi requires the spirit of reconciliation as the way forward;

Aware that the current legal system in Burundi has limitations in effecting and promoting the spirit of reconciliation and confidence building;

Taking into cognizance the need to provide for the immunity for armed conflict related crimes;

Taking note that the Bill relating to Temporary Immunity from legal proceedings for political exiles is under consideration by the National Assembly;

In conformity with the spirit of the Ceasefire Agreement of 2nd December 2002 especially⁶ in Article 2 paragraph 1.9.4 of Annex 1; the Declaration of Cessation of

Hostilities signed by both belligerent parties in Pretoria on 27th January, 2003 as well as the spirit of the Arusha Peace Agreement;

And in reaffirming the commitment of the parties to the conflicts in Burundi, to achieve lasting peace and reconciliation in Burundi.

The parties hereby agree as follows:

Article 1: A Temporary Immunity shall be granted to all Burundians for the following armed conflict related crimes as defined by the Rome Statute of the International Criminal Court committed between 1st July 1962 and the entry into force of the Permanent Ceasefire Agreement:

- Wars Crimes.
- Crimes against Humanity.

Article 2: All members of the Transitional Government of Burundi (TGoB), armed groups and movements and political leaders returning to Burundi shall be granted temporary immunity as stated in Article 1.

Article 3: The resisting of dictatorship after the overthrow of the legitimate regime in 1993 does not constitute a crime and all those charged or convicted on such charges should have the charges dropped or be released.

Article 4: The crimes of genocide, shall be determined in accordance with the regulations of the International Criminal Tribunal and are excluded under this Agreement.

Article 5: The Public Prosecutor and Courts in Burundi shall suspend all the judicial actions for all armed conflict related crimes referred to under Article 1.

Article 6: All sentences passed on charges related to the armed conflict crimes during the said period shall be vacated and such convicts shall be released after their identification by the Temporary Immunity Judicial Commission.

Article 7: The existing immunities and other privileges as duly recognized by the laws of Burundi and enjoyed in the exercise of the duty by those entitled shall remain in force.

Article 8: The Temporary Immunity Judicial Commissions (TIJC) shall be established 21 days after the signing of this Agreement.

Article 9: The Temporary Immunity Judicial Commission shall be composed of 9 members. Its composition will be as follows:

- Chairperson who shall be a Judge or someone qualified to be a Judge to be appointed by the UN.
- 2 members to be nominated by the Religious Leaders.
- 2 members to be nominated by the Civil Society.
- 2 members to be nominated by the Women Group.
- 1 member from the African Union Mission to Burundi.
- The Commission shall have a Secretary appointed by the AU.

Article 10: The functions of the Temporary Immunity Judicial Commission shall include:

- To identify and codify the lists of persons accused of crimes of war and political motivated crimes;
- To order the release of persons detained or imprisoned who are charged or convicted of armed related crimes;
- To receive and analyze any complaints related to any Judicial process in pursuit of any charges of armed conflict related crimes;
- To undertake a programme of sensitization of the general public on the Temporary Immunity Agreement;
- To consider and promote appropriate reconciliation mechanism and process in the society.
- To promote the culture of dialogue and reconciliation amongst the people in the spirit of this Agreement.
- To perform any other related functions associated with the execution of this Agreement.
- To prepare and submit a quarterly report of its work to the Political Organ of the African Mission to Burundi.

Article 11: This Agreement will remain in force for a period not exceeding two years.

Article 12: Before the expiration of the two years:

- The Government of Burundi shall request the United Nations to establish the International Criminal Tribunal for Burundi to investigate, try and pass judgement on:
 - * acts of genocide
 - * war crimes
 - * crimes against humanity committed in Burundi since independence until the signing of the Comprehensive Ceasefire Agreement.
- The National Assembly shall promulgate and establish the National Commission for Truth and Reconciliation to:
 - * Investigate violations of human rights
 - * Promote reconciliation
 - * Compensate and grant reparation for claims relating to violations of human rights arising from the Burundi conflicts
 - * Accurately reflect and record the history of Burundi and educate the people of Burundi about its past.
 - * Propose to the President of the Republic, the National Assembly and the Senate, and to the National council for National Commission for Truth and Reconciliation measures to promote reconciliation and togetherness.

APPENDIX 8

MEMORANDUM OF UNDERSTANDING ESTABLISHMENT OF THE CONSTITUTIONAL COMMISSION

The Transitional Government of Burundi (TGoB) and the CNDD-FDD

Recalling the principles and objectives of the Arusha Peace and Reconciliation Agreement for Burundi and the Transitional Constitution of Burundi;

Recalling the Ceasefire Agreement between the Parties signed on 2 December 2002 and the Memorandum of Understanding for the Application of the Ceasefire Agreement between the Parties signed on 25 January 2003'

Cognizant of the fact that the process for post-transitional constitution-making should have already been embarked on;

Convinced and Conscious of the importance, need and urgency to promulgate a Constitution for the Republic of Burundi as the basic guiding document to shape, guide and regulate the sovereignty of Burundi;

The Parties hereby agree as follows:

- a. The Constitutional making exercise is an important and urgent programme that must be embarked on immediately.
- b. A Constitutional Commission shall be established within 30 days upon the signing of this Memorandum of Understanding (October 2003).
- c. The Constitutional Commission should be composed as follows:

- i. A judge or a person qualified to be a judge as Chairman, appointed by the Presidency and approved by the Transitional National Assembly.
 - ii.
 - 2 Members of Civil Society
 - 2 Members from Women Groups
 - 2 Members from Academia
 - 2 Members from the Religious Bodies
 - ii. The Constitutional Commission will have a Secretary to be appointed by the African Union.
- d. The Constitutional Commission will review the broad scope of the constitutional background, history, various agreements, international and regional conventions and protocols; the regional, religious and ethnic dimension and reality in Burundi, and prepare:
 - i. Draft Constitution for Burundi.
 - ii. Background report the review process and explanatory notes.
- e. The Constitutional Commission shall complete its work within 90 days from commencement and submit its report to the Presidency (January 2004).
- f. The Presidency will submit the Draft Constitution and Report to the Transitional National Assembly and Transitional Senate, which will sit as Constituent Assembly within 21 days after receiving the Draft Constitution and Report (February 2004).

- g. The Constituent Assembly shall debate the Draft Constitution and adopt it within 60 days from when it is submitted and tabled (April 2004). In the event that the Transitional National Assembly does not adopt the Draft Constitution within the stipulated time frame, the Draft Constitution shall be submitted by the Constitutional Commission to a Referendum.
- h. The adopted Constitution shall be publicized by the Constitutional Commission amongst the population to enable all the citizens to fully understand and appreciate it. This will be conducted within 60 days (May – June 2004).
- i. The adopted Constitution will be submitted for national approval through a national referendum which shall be conducted in July 2004.
- j. The Constitution shall be deemed to be nationally adopted if it receives the support of two-thirds of the registered voters.
- k. The adopted Constitution by the referendum shall be formally promulgated by the end of August 2004 and come into force upon the termination of the transition period.

APPENDIX 9**FRAMEWORK FOR POLITICAL POWER SHARING****1. Principle of Governance**

- 1.1 The governance of Burundi shall be based on the principle of a broad-based all-inclusive Government of National Unity representing the divergent political and ethnic groups with collective responsibility and accountability of the people of Burundi.
- 1.2 There shall be political power sharing in all the tiers of governance structures namely: the Presidency, the Cabinet, the Senate, the Transitional National Assembly, the Territorial Administration, the Diplomatic Service, Defence and Security Forces plus other Government Institutions and Agencies as will be negotiated and implemented by the parties in Burundi.
- 1.3 There shall be a collegial decision making process within the executive institution of the Presidency.

PART A – THE PRESIDENCY**2. Composition of the Presidency**

- 2.1 There shall be the Presidency, composed of a collegian team comprising the President and the Vice President and the Minister of State.
- 2.2 Until such time as elections are held in incumbent President (or his successor) shall be the President and Supreme Commander in Chief of the Burundian Defence Security Forces.

- 2.3 There shall be the Vice-President, appointed by the President upon nomination by the Transitional National Assembly.
- 2.4 Should the post of the President fall vacant during the transition period prior to national elections and pending the election of the new President by the Transitional National Assembly referred to above or swearing in of the new President, the function of the President shall be assumed by the Presidential Council comprising the Vice-President, Minister of State, President of the Senate and President of the National Assembly.
- 2.5 Any person who serves as a President during the transitional period is ineligible as a candidate for the first presidential elections.
- 2.6 Should the post of the Vice-President or Minister of State fall vacant, he/she will be replaced through the same process his successor being nominated from the same political grouping of the predecessor and appointment by the President.

3. Presidency: Decision Making Power and Process

The President

- 3.1 The President is the Head of Government and shall chair all Cabinet meetings.
- 3.2 The President shall appoint the Vice-President after his/her nomination by the Transitional National Assembly.
- 3.3 The President shall grant credence to Burundi envoys and shall receive letters of accreditation and letters of recalls of Foreign Envoys to Burundi.
- 3.4 The President shall bestow National Orders and Decorations of the Republic of Burundi.

- 3.5 The functions of the President shall be incompatible with the exercise of any other public or professional function and activities and also incompatible with the function of the leader of a political party.
- 3.6 In the event of absence or an unexpected difficulty on the part of the President, Vice-President will deputize for the President in his functions.
- 3.7 The President shall not be criminally responsible for acts committed in the performance of his duties except in the case of high treason.
- 3.8 The President can only be charged with high treason by the National Transitional Assembly, the Transitional Senate meeting in a joint session and by a two thirds majority of the members of both houses.

4. Joint Decisions by the Presidency

In respect of the following matters the President shall make decisions after consultations and consent of the Vice-President:

- a. The appointment of members of the Transitional Government of National Unity nominated by the Transitional National Assembly;
- b. The termination of the above appointments as well as dissolving the Government;
- c. The declaration of war;
- d. The sending of Burundi troops on missions abroad;
- e. The signing of an armistice;

- f. The appointment of senior civilian and military officers;
- g. The appointment and removal from office of heads of the defence and security forces, governors of provinces, heads of diplomatic missions, communal administration and members of the Constitutional and High Court;
- h. Granting of grace;
- i. The declaration of a state of emergency;
- j. Appointing the Transitional Senate;
- k. The Presidency shall take all decisions by consensus.

5. The Minister of State

- 5.1 There shall be the executive office composed of the presidency and the Minister of State.
- 5.2 The Minister of State shall be a nominee of CNDD-FDD.
- 5.3 The Minister of State shall be the Minister of charge of Internal Affairs, Public Security and Territorial Administration. The schedules of the Minister of State shall include:
 - a. Police affairs to ensure public order and internal security in collaboration with other services;

- b. Territorial Administration including Bujumbura City Council, Provinces and Communes;
 - c. Population census;
 - d. Protection and promotion of human rights;
 - e. Registration and control of Non-Governmental Organizations.
- 5.4 Should the post of the Minister of State fall vacant he/she shall be replaced by a nominee from CNDD-FDD.
- 5.5 In matters affecting the implementation of the Dar-Es-Salaam Protocol, the Ceasefire Agreement and the Memorandum of Understanding on the implementation of the Ceasefire Agreement, the Presidency and the Minister of State shall take collegian decisions.

The Transitional Government of National Unity

The Cabinet

- 6.1 There shall be a Transitional Government of National Unity composed of (26) Ministers.
- 6.2 The Ministers shall be nominated by the Transitional National Assembly and appointed by the Presidency taking into account the divergent political and ethnic grouping in the spirit of forging national unity and in conformity with the principle of the Arusha Peace and Reconciliation Agreement.
- 6.3 The CNDD-FF shall occupy 3 Cabinet posts in the following portfolios:

- a. Justice and State Inspection.
 - b. Repatriation, Resettlement, Social Rehabilitation of Disaster Victims.
 - c. Development of communes.
- 6.4 The distribution and allocation of portfolios will be determined by the Presidency, but will ensure that the Ministers responsible for Defence and Police are not from the same political and ethnic grouping.
- 6.5 The Transitional Government of National Unity shall determine, direct and execute the national policy through collective decision responsibility and accountability.
- 6.6 The members of the Government shall be answerable to the Presidency.
- 6.7 The members of Government shall be heads of their assigned ministries and shall take measures to implement Government policies and laws under their jurisdiction.
- 6.8 Members of the Government shall be criminally liable for any criminal acts committed in the performance of their duties.
- 6.9 The functions of a member of Government shall be compatible with the performance of political and professional activities during one's tenure of office.

PART B: THE LEGISLATURE

7. Legislative Power

- 7.1 During the transition, legislative powers shall be exercised by the Transitional Parliamentary Assembly consisting of two chambers: the National Transitional Assembly and the Transitional Senate.

8. National Transitional Assembly

- 8.1 The National Transitional Assembly shall be expanded by 15 additional members from CNDD-FDD to be nominated on the Arusha Peace and Reconciliation Agreement principle.
- 8.2 The Bureau of the National Transitional Assembly shall consist of a President, Vice-President, General Secretary and a Deputy General Secretary who should reflect the political-ethnic balance.
- 8.3 The CNDD-FDD shall nominate a candidate to be appointed the second Vice-President.

9. The Transitional Senate

- 9.1 The Transitional Senate is appointed by the Presidency and Bureau of National Assembly taking into account political-ethnic and regional balances.
- 9.2 The Transitional Senate shall be expanded by 15 members to be dominated by CNDD-FDD, taking into account the Arusha Peace and Reconciliation Agreement principles.
- 9.3 The Bureau of the Transitional Senate shall consist of a President, two Vice-Presidents, Secretary General and Deputy Secretary General, which should reflect the political and ethnic balances.
- 9.4 CNDD-FDD shall nominate the Secretary General of the Senate Bureau.

- 9.5 The Transitional Senate will carry out the functions as contained in Article 147 of the Burundi Transitional Constitution, except the powers to approve appointments, which is the preserve of the Presidency.

PART C: TERRITORIAL ADMINISTRATION

10. Provincial Administration

- 10.1 There are 17 provincial regions each of which shall be under the jurisdiction of a Governor and a Deputy Governor.
- 10.2 The Governor and his Deputy shall be appointed by the Presidency, upon nomination by the Transitional National Assembly.
- 10.3 The appointment of the Governors and Deputy Governors will take into account the political and ethnic balance.
- 10.4 It is hereby agreed that CNDD-FDD shall be allocated three posts of Governor and three posts of Deputy Governor.

PART D: DIPLOMATIC POSITIONS

11. Diplomatic Missions

- 11.1 Burundi has 12 Diplomatic Missions during the Transition Period in the following countries: Tanzania, Rwanda, South Africa, Ethiopia, Egypt, France, Belgium, USA, Canada, UN, Russia, China.

- 11.2 The appointment and deployment of Ambassadors and First Secretaries in Burundi Diplomatic Missions will be by the Presidency, on nomination by the Transitional National Assembly.
- 11.3 The appointment and deployment shall reflect the Arusha Peace and Reconciliation Agreement principles and in the Missions two positions will take into account these balances.
- 11.4 It is hereby agreed that the CNDD-FDD shall be allocated two Ambassadorial posts and two posts of First Secretary.

PART E: THE CIVIL SERVICE

12. With respect to the appointments in the civil service, the Parties reiterate that:
- a. The administration shall be structured to ensure efficiency, impartiality, equity and accountability.
 - b. Merit is important and training is necessary.
 - c. There must be balance in recruitment, and promotion reflecting the diversity of the Burundi nation.
 - d. The imbalances and disadvantages that exist must be redressed.
 - e. There should be a clear distinction between purely technical and professional posts and political posts.
 - f. The Civil Service shall fairly represent all the people of Burundi and will utilize affirmative action and “on-the-job” training equitable targets for equitable representation within an agreed time frame.

APPENDIX 10

CALENDAR OF IMPLEMENTATION

AGREEMENT	TIME FRAME	SCHEDULE (Days)	IMPLEMENTING AUTHORITY
Technical Forces Agreement (TFA)	9 months	D+7 Completed by D+270	AMIB, JLT, JCC NCDRR
MOU Gendarmerie	4 months (120 days)	D+14 D+90 D+120	JCC JCC TGoB
Political Power Sharing	14 Days		
a. Executive V/P or Minister of State		D+7	TGoB
b. Cabinet		D+7	TGoB
c. N/Assembly		D+7	TGoB
d. Senate		D+7	TGoB
e. Governors		D+7	TGoB
f. Ambassadors	3 months	D+7	TGoB
Political Parties Organization and Participation			
a. Recognition and Registration of CNDD-FDD	1 month	D+1	TGoB/CNDD-FDD
b. Inter party forum	1 month	D-14	TGoB/CNDD-FDD
Immunity	2 years		
a. MOU on Temporary Immunity		Immediate	TGoB/CNDD-FDD
b. Judicial Commission (TIJC)		D+21	
c. International Criminal Tribunal for Burundi		D+532	United Nations
d. Truth and Reconciliation Commission		D+532	TGoB
MOU – Constitutional Review Commission	5 months (150 days)		TGoB/CNDD-FDD
a. Establishment		D+30	TGoB
b. Completion/Submission		D+90	TGoB
c. Debate of Report		D+111	TGoB
d. Completion of Debate		D+150	TGoB
e. Publication		D+150	TGoB
f. Promulgation		D+120	TGoB

CALENDER OF IMPLEMENTATION FOR DISARMEMENT, MILITARY INTEGRATION AND DEMOBILIZATION ACITIVITIES

AGREEMENT		TIME FRAME	SCHEDULE	IMPLEMETING AUTHORITY
Disarmament, Military Integration and Demobilization Process		9 months	Start on D+7 – Completed by D+270	AMIB, JCC, Joint Liaison Teams, and National Commission for Demobilization, Reinsertion and Reintegration
1. CNDD-FDD				
*	Identification of armed groups #s and locations	2 weeks	Start on D+15 completed on D+21	CNDD-FDD and JCC
*	Identification of pre-disarmament assembly zones	1 month	Start on D+7, completed by D+30	JCC
*	Movement of armed groups to pre-disarmament assembly zones	2 months	Start on D+15, completed by D+60	Combatant groups, with AMIB verification
*	Provision of food and non-food relief items to armed groups in pre-disarmament assembly zones	6 months (number diminishing as disarmament, military integration and demobilization proceeds)	Stat on D+60, completed by D+180	AMIB with implementing partner to be determined
*	Disarmament of armed groups at Disarmament Points	6 months	Start on D+60, completed by D+180	AMIB
*	Collection, registration, storage and destruction of weapons and munitions in weapons storage centers	9 months	Start on D+60, completed by D+270	AMIB, with verification by Joint Liaison Teams
*	Establishment of Demobilization Center(s)	2 months	Start on D+15, completed by D+60	AMIB and National Commission for Demobilization, Reinsertion and Reintegration
*	Verification of Combatant status in Demobilization	6.5 months	Start on D+65, completed by D+190	Joint Liaison Teams and AMIB

AGREEMENT	TIME FRAME	SCHEDULE	IMPLEMETING AUTHORITY
Centers			
* Identification of combatants to join New Defence and Security Forces in Demobilization Centers	6.5 months	Start on D+65, completed by D+200	Joint Liaison Teams
* Integration of those selected to join New Defence and Security Forces in training and/or barrack facilities	7 months	Start on D+70, completed by D+120	Joint Liaison Teams, New Defence and Security Forces
* Demobilization of those combatants who will not join the New Defence and Security Forces in Demobilization Centers	7 months	Start on D+70, completed by D+210	National Commission for Demobilization, Reinsertion and Reintegration, with support of AMIB
* Transport of demobilized ex-combatants to areas of return	8 months	Start of D+90, completed by D+240	National Commission for Demobilization, Reinsertion and Reintegration with AMID security escort
* Closure of Demobilization Centers	8 months	Completed by D+240	National Commission for Demobilization, Reinsertion and Reintegration and AMIB
* Provision of reinsertion and reintegration assistance to demobilized ex-combatants in communities of return	24 months	Start of D+120, completed by D+730	National Commission for Demobilization, Reinsertion and Reintegration
2. Burundi Armed Forces (BAF)			
* Identification of BAF, gendarmerie and police #s and locations	2 weeks	Start on D+7, completed by D+15	BAF, gendarmerie, police and JCC
* Return to barracks of all forces not to provide interim security	2 months	Start on D+15, completed by D+60	BAF and gendarmerie, with monitoring by AMIB
* Identification of	6.5 months	Start on D+65,	BAF and gendarmerie,

AGREEMENT	TIME FRAME	SCHEDULE	IMPLEMETING AUTHORITY
soldiers to join New Defence Security Forces in barracks		completed by D+200	with monitoring by Joint Liaison Teams
* Integration of those soldiers selected to join New Defence and Security Forces in barracks	7 months	Start on D+70, completed by D+210	BAF, gendarmerie and New Defence and Security Forces, with monitoring by Joint Liaison Teams
* Demobilization of those soldiers who will not join the New Defence and Security Forces from separate Demobilization Centers	7 months	Start on D+75, completed by D+210	National Commission for Demobilization, Reinsertion and Reintegration, with monitoring by AMIB
* Transport of demobilized ex-combatants to areas of return	8 months	Start on D+90, completed by D+240	National Commission for Demobilization, Reinsertion and Reintegration, with AMIB security escort
* Provision of reinsertion and reintegration assistance to demobilized ex-combatants in communities of return	24 months	Start on D+120, completed by D+730	National Commission for Demobilization, Reinsertion and Reintegration
3. Guardians of Peace (Militia)			
* Identification of Guardians of Peace #s and locations	1 month	Start on D+7, completed by D+30	Transitional Government of Burundi, with AMIN monitoring
* Disarmament of Guardians of Peace	12 months	Start on D+60, completed by D+365	Transitional Government of Burundi, with verification by Joint Liaison Teams
* Payment of Recognition of Service allowance	18 months	Start on D+120, completed by D+540	National Commission for Demobilization, Reinsertion and Reintegration

ARTICLE	GOVERNMENT POSITION	CNDD-FDD
1	Reject the 60/40 and proposed the following composition for the BAF: Officials – CNDD can bring 40% Non-commissioned officers 30% Rank and file 20% Instead of referring to police and intelligence services, prefer the following formulation:	Accepted
2 – 5	Gendarmerie should be addressed once the transformation of the security forces has been completed.	Accepted (Although Article 4 could be omitted because it is redundant).
6	Should add the following at the beginning of the clause: As a starting point to the formation of the new army	Company should be replaced with unit.
8	Clause not necessary. This task is entrusted with the African Mission.	Proposed the following change: The two parties present to the African Mission their personnel to perform joint military tasks.
9	To add at the end of the clause the following: Except in areas where FNL continues to fight.	No objection.
10 – 11	These are not acceptable clauses. They will paralyze decision-making. Proposes that powers of Minister of State should be limited to matter relating to 1. Power sharing. 2. Implementation of Ceasefire Agreement In these instances the Minister of State should be consulted.	Because of progress that has been made to date, the following must now be included in the transitional programme: DDR, Repatriation of refugees and integration matters. The CNDD will accept Minister of State on condition that other issues of leadership in the other institutions are resolved, eg president of the National Assembly. (Article 10 – 17)
13	Minister of Interior is rejected. They offer Minister of Justice.	
14	Accepted.	
15 – 19	These were not discussed as they involve numbers and not principles.	Article 18: They want five governors and six vice-governors.

ARTICLE	GOVERNMENT POSITION	CNDD-FDD
		Article 19: They want 4 ambassadors and 4 first secretaries.
20	Prefers language used in the July 20 communiqué.	Accepted
21	Prefers formulation agreed upon in Kampala.	Accepted
22		Accepted
23		Accepted