



Situation Report

African Security Analysis Programme

Date issued: 24 November 2003

Authors: Henri Boshoff and
Jean Marie Gasana

Distribution: General

Contact: asap@iss.co.za

Mapping the Road to Peace in Burundi: the Pretoria sessions

Introduction

From 8 October to 2 November 2003 South African peace-brokers finally succeeded in helping the Transitional Government of Burundi (TGoB) and the rebel Forces for the Defence of Democracy- Forces for Defence of Democracy (CNDD-FDD) reach agreement on two critical protocols: the 8 October “Protocol on Political, Defence and Security Power Sharing in Burundi” and the 2 November “Protocol on Outstanding Political, Defence and Security Power Sharing issues in Burundi”. In addition, on 2 November 2003, the parties were finally able to overcome what has been perhaps *the* major stumbling block in the Burundi peace process: the “Forces Technical Agreement” (FTA). After two day-and-night long meetings, in which South African President Thabo Mbeki personally participated as mediator, the parties reached agreement on an essential framework for the ‘inclusive’ reform of Burundi’s security institutions. The FTA was officially signed in Dar es Salaam on 16 November 2003 under the framework of the Arusha Accord. The Global Ceasefire Agreement of 16 November 2003 finalised the political, defence and power sharing agreements signed in Pretoria on 8 October and on 2 November 2003.

This situation report provides a brief overview of the two Pretoria sessions, focusing on the settlement of the two main outstanding issues – power sharing and army reform – that have now been brought to a successful conclusion.

The road to peace in Burundi is mapped

When Burundian President Domitien Ndayizeye and CNDD-FDD leader Pierre Nkurunziza met in Pretoria during the first week of October 2003, the Burundi peace process had reached a serious deadlock. As had become clear during the 15-16 September Dar es Salaam Heads of State Summit, the two parties clung to conflicting interpretations and irreconcilable demands around power-sharing, particularly on political and security/defence issues. In fact, the intransigence shown by both parties during the Regional Summit prevented them from reaching agreement, even though four Heads of State from the region exerted considerable pressure and the team of regional experts produced a document that largely addressed the concerns and interests of both parties. A summary of both parties’ negotiating positions is provided below.¹

In addition, Burundi was experiencing an escalation in armed confrontation, particularly around Bujumbura and in Bujumbura Rural, largely due to the National Liberation Forces' (FNL) attempt to avoid marginalisation, in what many observers consider as the last time the Arusha process would be reopened for negotiations.

The first Pretoria session, held on 7-8 October 2003, saw the parties agree on a "Protocol on Political, Defence and Security Power Sharing", which is regarded a milestone agreement on the road to peace in Burundi. During the second Pretoria session, held on 2 November 2003, the TGoB and the CNDD-FDD signed a protocol dealing with all remaining issues. These two agreements paved the way for the Regional Summit on 16 November 2003 in Dar es Salaam, mapping the way forward for Burundi. A significant party to the civil war in Burundi, the CNDD-FDD has finally come on board, accepting the Arusha Peace and Reconciliation Agreement.

15-16
September
2003:
The Regional
Summit in Dar
es Salaam

Despite considerable regional pressure exerted on the belligerents (by among others, Thabo Mbeki, Joaquim Chissano, Benjamim Mkapa and Yoweri Museveni) as well as the remarkable work of the team of experts in producing even-handed proposals, neither the TGoB nor the CNDD-FD were able to reach agreement during the Dar es Salaam Regional Summit of 15 and 16 September 2003. At that time, the two parties were unable to reach compromise on a number of issues, a summary of which is provided below:

- *Military composition*: the TGoB was prepared to offer the CNDD-FDD 30%, while Hutu parties and other armed groups would get a 20% share in the future Burundi Armed Forces (FAB); while the CNDD-FDD had scaled down its demands from 50% to 40% (leaving the remaining 10% to Hutu parties and other armed groups) it did not accept the TGoB proposal;
- *Gendarmerie*: while the TGoB had accepted the principle of restructuring the Gendarmerie (with the provision that the process should be undertaken once the security situation had stabilised – or more specifically, once the current war with Palipehutu/FNL had come to an end), the CNDD-FDD, on the other hand, wanted the Gendarmerie abolished altogether;
- *Joint Military Force (JMF)*: the TGoB insisted that the JMF be established on cantonment, while the CNDD-FDD wanted the JMF established before cantonment. The CNDD-FDD was, however, prepared to accept the mechanisms that would be formulated in constituting the JMF;
- *Disarmament of militias/local defence units (LDUs)*: on this point, the TGoB argued that while there were LDUs in existence, there were no militias. The demobilisation process, they claimed, was being worked out with the assistance of the World Bank, and in the meantime the LDUs would continue operating in areas where the Palipehutu/FNL was still active. The CNDD-FDD argued that the militias or LDUs should be disarmed and disbanded in accordance with the Status of Forces Agreement.

8 October 2003:
The "Pretoria
Protocol on
Political,
Defence and
Security Power
Sharing"

The Protocol signed in Pretoria on 8 October 2003 effectively represents the settlement of all the outstanding issues described above. In fact, and as a way to persuade the parties to reach agreement, President Thabo Mbeki used the proposals set forth by the regional experts as the framework document in this renewed effort to overcome the deadlock.

Political power sharing

According to the Protocol, on a political level the CNDD-FDD secured four ministerial posts, one of which is that of Minister of State (an important ministry) for the Presidency is required to consult it on all key matters). In addition to the posts of Second Vice-

President and Deputy Secretary General, the CNDD-FDD will have 15 members in the National Assembly and at provincial and local government level, three Governors, 30 Administrators and five Advisors.

Furthermore, the CNDD-FDD secured a 20% representation in Burundian public enterprises; was given two ambassadorships and six advisors' posts within the Diplomatic Corps.

Defence power sharing

It was agreed that the new Defence Force will be known as the Burundi National Defence Force (BNDF). CNDD-FDD's combatants will move to areas designated by the Joint Ceasefire Commission under the supervision of the African Mission in Burundi (AMIB). Certain elements of the Burundian Armed Forces (FAB) will, however, be exempted from this in order to "protect the state against the FNL". The newly-formed BNDF will be established according to the Forces Technical Agreement (FTA) finalised in Pretoria on 8 October and 2 November. The Integrated General Staff and the Officer Corps will be composed as follows: 60% of officers will be selected from the FAB and 40% from the CNDD-FDD. The composition of the non-commissioned officers as well as the rank and file will be determined by the Integrated General Staff, taking into account the size of each party and the agreed balance. With regard to the proposed Integrated General Staff, the TGoB will determine the structure and size of the BNDF and the composition of the Officer Corps. Allocations of Command Posts will be on the basis of ethnic balance, as stipulated in the Arusha Peace and Reconciliation Agreement. Finally, The combatants of the CNDD-FDD and FAB who are found ineligible to join the BNDF will be demobilised.

Security power sharing

- *Police*: the new police force will be guided by the principles of inclusion and integration. Ethnicity is to be balanced, while the composition of the General Staff will give the TGoB 65% representation and the CNDD-FDD 35% representation;
- *Gendarmerie*: the Gendarmerie will be treated as part of the FAB. Elements of the Gendarmerie may be deployed to either the new defence or police forces;
- *Militia*: the Militia will be disarmed according to the December 2002 Ceasefire Agreement under the supervision of AMIB.
- *Intelligence*: the parties agreed on the establishment of a Ministry of Intelligence under the Presidency. The composition of the Ministry will give the TGoB 65% representation and the CNDD-FDD 35% representation, and it will be ethnically balanced.

Outstanding issues

Matters to be finalised before the November 2003 Summit included the question of temporary immunity; the status of the CNDD-FDD as a political party; the FTA and the issue of the CNDD-FDD's participation in the Senate. Prior to the Summit, the group of experts produced a number of critical appendices to the protocol, including:

- principles agreed on in the Arusha Peace and Reconciliation Agreement;
- power sharing in the Military;
- reconstruction of the Gendarmerie;
- memorandum on the establishment of the Joint Military Forces;
- disarmament of Militias and LDUs;

2 November
2003: The
“Pretoria
Protocol on
Outstanding
Political,
Defence and
Security Power
Sharing”

- framework for political parties, organisations and participants;
- temporary immunity;
- establishment of the Constitutional Commission;
- framework for political power sharing; and
- calendar of implementation.

During the second Pretoria session held on 2 November 2003, the parties agreed on the following outstanding issues:

- *Transformation of the CNDD-FDD into a political party:* commencement of the process of cantonment will indicate that the armed wing of the CNDD-FDD is being integrated, and this will mean that they qualify to register as a political party;
- *Temporary immunity:* the parties agreed that all leaders and combatants of the CNDD-FDD will receive temporary immunity and that this will apply, as well, to the security forces of the Government of Burundi. A Joint Commission will be established, which will study individual cases of civilians currently serving sentences to determine whether they should be granted temporary immunity. In addition, the parties endorsed the agreements contained in the Arusha Peace and Reconciliation Agreement providing for the establishment of an International Criminal Tribunal and a National Truth and Reconciliation Commission;
- *Senate:* the CNDD- FDD indicated that they would not be able to participate in the Senate while Article 147:9 of the Transitional Constitution relating to the powers of the Senate remained in force. The parties therefore agreed that the CNDD-FDD would participate in the implementation of all the agreements they have signed without requiring that the matter of their participation in the Senate be resolved. If the CNDD-FDD find it necessary to do so, they may raise the question of their participation in the Senate again, before the elections provided for in the Arusha Peace and Reconciliation Agreement take place. If the CNDD-FDD do take this step, the TGoB agreed that they would enter into a further discussion of this matter;
- *Forces Technical Agreement:* the parties approved and signed the final text of the FTA.² This agreement is divided in two parts:
 - a. Part 1: which deals with the role and function; command and control; size; composition; structure and organization of the Burundi National Defence Force, Burundi National Police and National Intelligence Service; and
 - b. Part 2: which deals with the formation of the Burundi National Defence Force and the DDR process.
- *Reconstruction of the Transitional Government of Burundi:* the parties agreed that the transitional Government of Burundi should be reconstituted to include members of the CNDD-FDD within three weeks of signing the protocol.

As can be seen below, the implementation time line is very ambitious, taking into account the ongoing conflict with the FNL and the logistical and financial constraints of AMIB. In this sense, implementation may be hampered by a number of factors:

- The current funding constraints faced by the African Mission in Burundi (AMIB);
- A demobilisation, disarmament and reintegration (DDR) plan has not been , as yet, finalised;
- The World Bank is reluctant to contribute to the DDR effort because the 2 December 2002 Ceasefire Agreement made provision for CNDD-FDD’s soldiers to keep weapons in the cantonment areas; and
- The ongoing conflict between FAB and the FNL.

Activities	Responsibility	Time
Signing of the final Pretoria Protocol	The parties, facilitation, regional initiative, African Union and the United Nations	D-Day 2 November 2003
Effective ceasefire	The parties	D + 7
Implementation of the JCC and Joint Military Units	The parties (TGoB and CNDD-FD) and the United Nations	D + 7
Deployment of observers of the African Mission on Burundi territory	AMIB and JCC	D + 7
Disengagement of forces	The parties, AMIB and JCC	D + 7
Establishment of the new Transitional Government of Burundi	Current TGoB and the CNDD-FD	D +21
Confinement and cantonment to barracks	The new transitional government of Burundi, AMIB and JCC	D + 18
Disarming of the militia	TGoB, AMIB	D + 18
Control of heavy weapons by AMIB	AMIB	D + 18
Establishment of Integrated Chiefs of Staff (NDF, PN, SNR)	The new transitional government of Burundi	D + 21
Beginning of the training of the first Joint Military Units	The new transitional government of Burundi, AMIB and JCC	D + 25
Beginning of the integration and DDR	The new transitional government of Burundi, AMIB and JCC	D + 30
Beginning of training of the other units to constitute the NDF, NP and NIS.	The new transitional government of Burundi AMIB and JCC	D + 80
Completion of the establishment of the NDF, NP and NIS.	The parties, AMIB, facilitation and regional initiative	D + 365

**16 November:
The “Global
Ceasefire
Agreement”**

At the invitation of the chairperson, President Musuveni, the Summit of the Great Lakes Region Peace Initiative completed the Global Ceasefire between the TGoB and the CNDD-FDD ON 16 November 2003. All the outstanding issues, except the Senate was dealt with to every body’s satisfaction. The Summit called on the Palipehutu-FNL to immediately suspend hostilities and acts of violence and to participate in the negotiations with the TGoB within a maximum of three months. After the deadline, and in case of a categorical refusal to join the negotiation process, the Burundi people, the Regional Initiative on Burundi and the African Union would consider it to be an organisation that is against peace and stability in Burundi and would treat it as such.

Successful implementation of the protocol

For the protocol to be successfully implemented, a number of key assumptions will have to prove valid. First and foremost, it is assumed that all the parties will agree to work within the framework of the Joint Ceasefire Commission and that their military commanders will all cooperate in the process. Furthermore, AMIB must be at the expected capacity. It is also assumed that the FNL (Rawasa) will not disrupt the disarmament, military integration and demobilisation and that the parties will actively support the Joint Liaison Teams. Finally, implementation is predicated on the ability of the new Burundi Defence and Security Forces to absorb combatants at a rate equal to that of verification and selection for integration, and of the National Commission for Demobilisation, Reinsertion and Reintegration to undertake demobilisation activities at a rate equal to that of identification of combatants for demobilisation.

Conclusion

The signing of the final protocol was welcomed by the United Nations, the African Union, the European Union, Tanzania and Uganda. However, several Burundian politicians remain doubtful that the CNDD-FDD will respect the accord, while the FAB has also expressed its doubt that the disarmament and demobilisation of rebel fighters can be carried out as long as Rawasa’s FNL remains defiant. In addition, the recent forming of a third FNL splinter faction lead by Kossa Kabora and consisting of approximately 200 men has raised serious concerns in Bujumbura and the region. Fighting in Burundi has continued unabated (even after the signature of the Global Ceasefire Agreement of 16 November 2003) with ambushes and mortar attacks on the FAB and Bujumbura by the FNL. In addition, the CNDD-FDD is indirectly helping the FAB to destroy the FNL.

As a consequence, and with the FNL still withholding their agreement to formal talks or to a cessation of hostilities, peace in Burundi is not quite a done deal. Nevertheless, while the absence of the FNL is often described as a small problem, President Thabo Mbeki has maintained that the movement has signalled their desire to be included in the talks. In fact, FNL spokesperson Pasteur Habimana has said that the rebel movement does not want to negotiate with the TGoB, but is prepared to hold talks with the Tutsi officers in the FAB.

South Africa’s Deputy President Zuma has attempted once more to get Rawasa on board and to stop the fighting. He warned, however, that if the FNL refused to do so, it would, sooner or later, wither away. A “Savimbi scenario” may be fast becoming a possibility, and there is a real danger that Rawasa will be hunted down and killed.

¹ For further details, see Jean Marie Gasana and Henri Boshoff, 'Burundi: Critical challenges to the peace process', ISS African Security Analysis Programme, *Situation Report*, 16 September 2003. Also available at <http://www.iss.co.za>.

² The Forces Technical Agreement is available from www.iss.co.za