

END OF TRANSITION IN BURUNDI:

THE HOME STRETCH

5 July 2004



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END OF TRANSITION IN BURUNDI: THE HOME STRETCH

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The considerable progress Burundi has been made over the past year in consolidating its three-year transition runs the risk of ending in a dangerous political vacuum if strong commitments are not made immediately to the electoral process outlined in the 2000 Arusha Agreement. Such a vacuum can only result in the discrediting and even the failure of the entire peace process and the withdrawal of the former CNDD-FDD rebel movement from the government, which it only joined in December 2003.

The international community needs to help break this political deadlock by providing experts to fine-tune the draft of the post-transition Constitution, by disbursing funds pledged at a recent donors' conference and especially by supporting the implementation of the global ceasefire agreement meant to go in tandem with free and fair elections.

But Burundi's government must also live up to its responsibilities and commitments by adopting the post-transitional Constitution as soon as possible. Lack of political will rather than a shortage of time is the real issue.

The Arusha Agreement sets 31 October 2004 as the deadline for the end of the transitional period, and tensions are growing in the lead-up to this new phase in the peace process. At the last regional summit on Burundi on 5 June 2004, the Transitional Government proposed rescheduling the elections to October 2005. Regional leaders rejected this ploy, insisting that conditions already agreed upon be respected.

Burundi has become much safer, and for the first time in more than a decade, the country could be headed towards a genuine end to the conflict. Since the signing on 16 November 2003 of the Global Ceasefire Agreement between the Transitional Government and the CNDD-FDD movement headed by Jean-Pierre Nkurunziza, both sides have

demonstrated total respect for the ceasefire. Bujumbura Rurale is the only province where members of the PALIPETHUTU-FNL still clash with the FAB/FDD coalition.

The PALIPETHUTU-FNL, the sole remaining rebel group in the field, is no longer capable of derailing the process. It has been seriously weakened by the operations of forces under the new integrated high command of the Burundi army (FAB) and the FDD. This offensive and the acceleration of the peace process forced the FNL to declare publicly a unilateral truce on 21 April 2004 and seek contact with the international community. Nevertheless, the group still refuses to enter negotiations with the Transitional Government. At the 5 June 2004 summit, regional leaders imposed sanctions on the FNL, but these will not resolve the issue. Successful implementation of the ceasefire agreement appears to be the only way to push the FNL to the negotiating table.

An integrated military high command (FAB-FDD) responsible for carrying out the reform of the army has been working since January 2004 on a plan to integrate former rebels. The Joint Ceasefire Committee (CMC) has proposed an operational plan (POC) for disarmament and demobilisation.

Both sides have demonstrated willingness to implement part of the plan by separately disengaging and assembling their forces and respecting the ceasefire. But the process is running out of steam because of lack of commitment and funds to carry out the actual integration. Emphasis is on disarmament and demobilisation, whereas integration of former rebels into the national army remains a priority. The World Bank-backed disarmament, demobilisation and reintegration (DDR) effort faces political issues it cannot resolve over use of donor funding in such programs. The Transitional Government and donors

must cooperate to fund the army's return to barracks and quartering sites so that integration can finally begin.

On 1 June 2004, the African Union peacekeeping mission in Burundi became a UN Peacekeeping Mission, an indication that there is now no going back on the peace process. This new mission must support the implementation of the military process and harmonise it with the political process.

Political parties and politico-military movements failed to adopt the draft Constitution at a 12 April 2004 meeting called by President Domitien Ndayizeye, and entrenched interests are blocking negotiations. The UN, under the aegis of the Implementation Monitoring Commission (IMC), must assemble a team of national and international experts as soon as possible to work with local political actors and come up with a Constitution they can adopt by consensus. The international experts should be those who drew up the Arusha Agreement.

Respect for ethnic balance is one of the incontrovertible achievements of the Arusha Agreement, but this should not become a guarantee of the political status quo. By enshrining the concept of ethnic balance while encouraging political debate, Arusha makes it possible to avoid this eventuality.

The international community must renew its commitment to these political and military agreements by insisting on total respect for the framework they establish. The political calendar governing the end of the transition period must, therefore, be in step with that of army reform. This harmonisation of these two processes should be negotiated via a realistic road map that creates a politico-military environment conducive to successful elections.

RECOMMENDATIONS

To the Government of Burundi:

1. Commit firmly to concluding the transition by organising elections by 31 October 2004 to avoid an institutional vacuum and create a consensus to adopt the post-transitional Constitution as soon as possible.
2. Work with the United Nations to develop a political and military road map leading to the end of the transition and that gives priority to steps required for the organisation of elections, such as passing an electoral law, establishing

an electoral commission and creating a new voting registry.

3. Develop with donors a financial support plan to move beyond the transition process that is detailed, realistic and frees up funds to support the integration phase, the quartering of CNDD-FDD forces and the barracking of the FAB.
4. Establish the conditions of security and stability necessary to hold elections by:
 - (a) creating a new police force;
 - (b) beginning to disarm militia and the general population; and
 - (c) speeding up the integration phase for ex-fighters.

To donors and other members of the international community:

5. Support Burundi in the implementation of the Global Ceasefire Agreement by backing the integration process to create a new National Defence Force.
6. Begin disbursing funds pledged at the January 2004 donors conference in Brussels.
7. Impress upon Burundi's political class the urgency of having a post-transitional Constitution in place to facilitate the holding of elections by 31 October 2004.
8. Work to convince the FNL to enter into negotiations with the government.

To the African Union:

9. Critically assess the first ever peacekeeping operation of the African Union, which has just been replaced by the UN mission.
10. Support the regional initiative launched at the 5 June 2004 summit with a view to obtaining a consensus on a post-transitional Constitution.
11. Insist on respect for the sanctions imposed on the PALIPETHUTU-FNL, while supporting the start of negotiations between it and the Transitional Government.

To the United Nations:

12. Facilitate the quartering process of CNDD-FDD forces and barracking of the FAB and apply the same DDR process to all forces.

13. Bring together Burundian and international experts who worked in the Arusha process to assist in fine-tuning the draft of a post-transitional Constitution to be in place as soon as possible.
14. Complete deployment of the full peacekeeping mission as soon as possible.

Nairobi/Brussels, 5 July 2004



END OF TRANSITION IN BURUNDI: THE HOME STRETCH

I. INTRODUCTION

The security situation in Burundi has improved considerably during the last few months. For the first time in ten years, the country seems to be headed towards a genuine end to the conflict. Since the Global Ceasefire Agreement was signed on 16 November 2003 between the Transitional Government and the CNDD-FDD¹ rebel movement headed by Jean Pierre Nkurunziza, the ceasefire has been fully observed by both sides. Bujumbura Rurale remains the only province where fighting is still taking place between the PALIPETHUTU-FNL and the new FAB/FDD coalition between the Burundi army (FAB).

Since the presidential changeover on 30 April 2003, the Burundian peace process has speeded up considerably, with the signing of the Global Ceasefire Agreement and, more so, with the belligerents' will to implement it. The Arusha Agreement foresees the end of the transition with general elections to be held next October. The previous elections organised in Burundi in 1993 and the implementation of a process of reform by the elected government contributed to the break out of civil war. Moving out of the transition period by organising elections to be held in a few months is therefore a crucial step.

The tasks to be completed during the remaining period are daunting. Burundi is coming out of a ten-year war that has devastated the country as much on the socio-economic as on the politico-military level. These challenges have been dealt with in previous ICG reports.² It is clear that Burundi will not be in a position to settle all the problems in so short a time. Nevertheless, in order to see Burundi enter a new post-transitional phase, certain conditions remain

essential to prevent the elections from ending once again in chaos.

Security concerns are vital. While the Tutsi minority fears an ethnic vote, the Hutu community would like to see a reformed army guarantee the protection of its representatives. The creation of new defence and security forces through the implementation of the Ceasefire Agreements is, therefore, key to the process. These agreements include a reintegration, disarmament and demobilisation process. Implementation has begun and requires great attention to ensure that the process is set in motion and becomes irreversible before the elections. To succeed, this process must be supported by the international community, through bilateral co-operation and via the United Nations. But the ceasefire is not complete; indeed, although the FNL have announced a cessation of hostilities, they still have not begun negotiations with the Transitional Government.

The Arusha Agreement provided for the signature of a ceasefire before implementing various transitional institutions; thus, the global agreement with the CNDD-FDD was concluded one year before the end of the transition. Burundians, therefore, have at their disposal a minimum time period for its implementation -- an essential element for the success of the elections.

The problem remains of what type of political system is to be implemented in the post-transitional period. This theme was already discussed at length during the Arusha negotiations. The first chapter of the second Protocol entitled "Constitutional Principles of the Constitution of the Post-Transitional Period" sets reference principles. However, Jean Pierre Nkurunziza's CNDD-FDD and other minority movements have not signed the Arusha Agreement. The Global Ceasefire Agreement contains political clauses only related to the transitional period. Moreover, it seems that the debate on the respect for the political balance and ethnic representation guarantee among Arusha signatories has not been settled. The political stakes of the elections cause a certain reluctance that can only be overcome when security concerns are met. This report takes stock

¹ The term CNDD-FDD is used in this report to refer to the movement headed by Jean-Pierre Nkurunziza; it is the main armed group in Burundi today.

² Such as the land issue or the return of refugees and displaced persons.

of the ceasefire negotiations held in 2003, analyses the Ceasefire Agreements Implementation Program as well as the support it requires and, finally, recapitulates the political stakes of the end of the transition.

II. CEASEFIRE AGREEMENTS

In 2002, four rebel movements,³ non-signatories to the Arusha Agreement, continued their fight against the Transitional Government and the Burundian Armed Forces (FAB). Two dissident movements broke away from the CNDD-FDD and the FNL -- headed by Jean Bosco Ndayikengurukye and Alain Mugabarabona respectively -- and claim to be the leaders of fighting factions. These two minority movements, with only a few fighters following their respective leaders, were incapable of carrying out military operations. They were, thus, the first to sign a mutual ceasefire agreement with the Burundian Transitional Government on 7 October 2002.⁴ The main movement, Jean Pierre Nkurunziza's CNDD-FDD, also entered into negotiations with the Burundian government during that period.⁵ A year of negotiations, occasionally interrupted by military offensives, ended with the signing of the Global Ceasefire Agreement between the Transitional Government and Jean Pierre Nkurunziza's CNDD-FDD on 16 November 2003.⁶ With the exception of Agathon Rwasa's FNL, which did not enter into real negotiations, the Burundian rebel and governmental belligerents appear to have abandoned military strategy in favour of peace or, more precisely, projects of a more political nature.

A. TERMS OF THE AGREEMENTS

Protocol III of the Arusha Agreement⁷ outlines principles concerning the creation of new defence and security forces as well as the various steps of the process. Following the agreement,⁸ the non-signatory

³ For a more complete description of these politico-military movements, see ICG Africa Briefing, "The Burundi rebellion and the ceasefire negotiations", 6 August 2002.

⁴ Ceasefire Agreement between the Transitional Government of Burundi and the armed political parties and movements of Burundi, on 7 October 2002.

⁵ The first Ceasefire Agreement was signed on 2 December 2002 in Arusha.

⁶ Global Ceasefire Agreement between the Government of Burundi and the CNDD-FDD, Dar Es Salaam, on 16 November 2003.

⁷ Arusha Agreement for Peace and Reconciliation in Burundi, 28 August 2000.

⁸ Only movements with no real fighters have signed the Arusha Agreement: Léonard Nyangoma's CNDD, Joseph Karumba's FROLINAT and Dr. Etienne Karatasi's PALIPETHUTU.

CNDD-FDD and FNL⁹ refused to comply with the text and continued fighting. The Transitional Government resulting from this agreement, the South African mediation and, more generally, the region concerned, hoped the ceasefire negotiations would result in the politico-military movements signing Protocol III of Arusha and, in fine, in their integration without prior political conditions into the Transitional Government. To this end, negotiations were strictly on military technicalities. Due to their weakened positions, which were exploited by South African mediation, the two dissident movements of the CNDD-FDD and FNL quickly accepted this principle and signed a Ceasefire Agreement on 7 October 2002 similar to Protocol III of Arusha. However, Jean Pierre Nkurunziza's CNDD-FDD rejected this framework, negotiating and signing an agreement that was as much political as military.

1. Military aspects

The first Ceasefire Agreement, signed on 7 October 2002 between the Transitional Government and two dissident factions -- those of Jean Bosco Ndayikengurukiye from the CNDD-FDD and Alain Mugabarabona from the FNL -- was conceived as an Annex to the Arusha Agreement, as the process, in fact, anticipated it. The title is a perfect example.¹⁰ The preamble recalls the primacy of the Arusha Agreement and includes the signed Ceasefire Agreement.¹¹ Jean-Pierre Nkurunziza's CNDD-FDD rejected these terms because it did not intend to join the existing institutions without prior political and military negotiations and refused to disarm, arguing that it should be treated the same as the FAB¹².

Therefore, the Global Ceasefire Agreement is fundamentally different. It is made up of several documents: (1) the Ceasefire Agreement of 2 December 2002, (2) the Joint Declaration of Definitive Ceasefire of 27 January 2003, (3) the Pretoria Protocol of 8 October 2003 and, finally, (4)

the Pretoria Protocol and the Military Technical Agreement (ATF) of 2 November 2003.¹³

In principle, the Global Agreement is part of the Arusha Agreement, although it is stated that the former takes precedence over the latter. "It repeals all previous provisions contrary to the CNDD-FDD movement".¹⁴ Militarily, it is the Global Agreement that serves as reference. It defines the entire military process to be implemented.

The Global Agreement¹⁵ outlines the distribution of defence and security positions, as well as the steps to be followed: disengagement, assembly, stationing, verification, training of the National Defence Force (FDN), and demobilisation of remaining elements (DDR)¹⁶. At the integrated high command headquarters level, the FAB received 60 per cent of the posts and the CNDD-FDD 40 per cent. The distribution of troops is to be determined at a later date by the government on recommendation of the integrated high command headquarters. The CNDD-FDD received 35 per cent of the police and intelligence services, while the remaining 65 per cent went to the Transitional Government. The distribution of posts must also respect the ethnic balance established by the Arusha Agreement, i.e. 50 per cent Tutsi, 50 per cent Hutu.¹⁷ Lastly, the paramilitary police (Gendarmerie) are considered part of the FAB. The African Mission in Burundi¹⁸ is supposed to supervise the process, primarily by securing stationing sites and monitoring FAB heavy weaponry. Technical co-ordination of the quartering of troops is the responsibility of the Joint Ceasefire Committee (CMC), made up of all the belligerents and led by the UN Mission in Burundi (UNOB). The

¹³ See Global Ceasefire Agreement between the Transitional Government of Burundi and the CNDD-FDD.

¹⁴ *Ibid.*, p.3.

¹⁵ The Pretoria Protocol concerning the sharing of political power, defence and security in Burundi, 8 October 2003, Pretoria.

¹⁶ In the interest of simplicity, we will use "DDR" to define the concepts of disarmament and reintegration.

¹⁷ The government believes it will account for 50 per cent of the Tutsi in addition to 20 per cent of Hutu (i.e. 60 per cent), and the FDD 80 per cent of Hutu. The CNDD-FDD refuses to have the process focus on the ethnic framework and is working on its 40 per cent contribution without ethnic reference. Furthermore, ethnicity is not recorded on birth, marriage and death certificates, ID cards or any other official document. Ethnic distribution in the new FDN will be technically sensitive.

¹⁸ It was replaced by the United Nations Operation in Burundi (ONUB).

⁹ These two movements were not present at the signing of the Arusha Agreement.

¹⁰ The title of the Agreement refers to the armed political parties and movements of Burundi, although it has only been signed by two dissident movements.

¹¹ Ceasefire Agreement between the Transitional Government of Burundi and the armed political parties and movements of Burundi.

¹² ICG interview with CNDD-FDD, Dar Es Salaam, 2002-2003.

African Mission and the Joint Ceasefire Committee are mandated to supervise and take part in the implementation of the Agreement.

The Military Technical Agreement (ATF)¹⁹ recapitulates all negotiated points and defines the composition of future defence and security forces, setting out the process for their composition and the role of supervising institutions in the implementation of the Ceasefire Agreement.

In conclusion, the Global Agreement is the point of reference for the ceasefire and the creation of the new defence and security forces. It clearly outlines the steps of the process and the composition of the new forces, and the creation of an integrated high command signals the quasi-immediate integration of the CNDD-FDD into the command. The agreement was negotiated directly by senior FAB and CNDD-FDD commanders, which helped create a balance. Neither belligerent appears to have lost out. Nevertheless, the CNDD-FDD emerges very much a winner, not in relation to the FAB, which is not directly threatened because they retain 60 per cent of the command positions, but in relation to the other rebel movements not included in the distribution of posts.

2. Political aspects

The 7 October 2002 Ceasefire Agreement does not include a political agenda. All questions relating to the political integration of these two movements conform to the transitional measures referred to in the Arusha Agreement. Furthermore, the Global Agreement calls neither the transitional Constitution nor the present transitional institutions into question. The CNDD-FDD movement is integrated into the institutions but, contrary to the other movements, at a specific level it itself negotiated and that is laid out in the Global Agreement.²⁰

The movement has obtained its own state ministry, as well as responsibility for three other ministries. In parliament, it is to be represented by fifteen deputies, as well as fill the positions of second vice president and deputy secretary of the National Assembly. It will not be represented in the Senate since it does not recognise the ethnic criteria for representation. In addition, it will also have three provincial

governorships, five councillor posts, two ambassadorial posts, 30 municipal administrative posts and is to manage 20 per cent of state enterprises. Finally, provisional immunity is granted to all CNDD-FDD and FAB fighters. The institutional framework established by the Arusha Agreement is maintained. Without questioning the predominance of UPRONA and FRODEBU, CNDD-FDD becomes a rival. In the end the political agreement only amounts to a distribution of posts.

B. PRESIDENTIAL CHANGEOVER: NO ALTERNATIVE TO THE CEASEFIRE!

It required more than one year for the Transitional Government and CNDD-FDD to abandon their respective positions and reach a full agreement. After having failed during the implementation of the first Agreement in December 2002, no summit of Heads of State managed to get the belligerents to bend. The failure of the second-to-last summit on 15 September 2003 is a flagrant example of this. Nevertheless, the presidential changeover on 30 April 2003 allowed for considerable progress in the political situation. Indeed, the adherence to the commitments outlined in the Arusha Agreement meant that elections were to be held before November 2004. This timeframe forced the Transitional Government and the CNDD-FDD to change their political strategies.

1. A Transitional Government paralysed by war

On 30 April 2003, then Vice President Domitien Ndayizeye became President. The changeover reaffirmed the primacy of the Arusha Agreement. The new president defines his policy by respecting the Arusha Agreement, while reassuring the UPRONA Party and the Tutsi community in general that their security will be guaranteed.

To protect himself from an army over which he has no control, the president first sent a clear message to the army: "We give the defence and security forces the support necessary to carry out their mission efficiently and in a manner reassuring to all".²¹ What is more, he backed resuming offensives against CNDD-FDD positions. The Transitional Government wants to wage war against belligerents who still reject the Arusha peace process. The president stated this

¹⁹ Military Technical Agreement for the Implementation of the Ceasefire Agreement, Pretoria, 2 November 2003.

²⁰ Pretoria Protocol on the sharing of political power, defence and security in Burundi, Pretoria, 8 October 2003, p.2.

²¹ ICG, speech of the President during inauguration, Bujumbura, April 2003.

publicly during the 1 July 2003 inauguration ceremony: "Since there are still armed groups that do not want to hear our call to stop war immediately, we must fight them to protect the population.... Until these groups come to their senses, the government has decided...to give more means to the army...."²²

At the same time, minority movements are co-opted with the aim of weakening fighting movements. Militarily, the president urged the African Mission in Burundi (MIAB) to begin quartering as soon as possible the signatories of the Agreement of 7 October 2002, with the aim of setting the wheels in motion and attracting potential deserters from the real fighting movements.²³ On 6 June, the quartering of former rebels is officially launched in central Muyange, with South African protection. On 4 July, 125 fighters belonging to Jean Bosco Ndayikengurukiye's CNDD-FDD are quartered. They carry with them less than 30 firearms.²⁴ This first undertaking for the MIAB is both a failure in itself and the first step toward an overall failure of government strategy. Meanwhile, the Transitional Government did not respond to the CNDD-FDD proposals and refused to enter into direct negotiation.²⁵ Counting on its strategy to implement the Arusha Agreement and marginalise the CNDD-FDD and FNL, the government convened a final summit without prior negotiation.²⁶

From 7 to 15 July, the FNL launched a large-scale offensive against Bujumbura. Even though the attack did not represent a serious military threat, its suicidal nature was shocking.²⁷ Several countries in the region, notably Uganda and Tanzania, exploited the attack because they did not approve of the government's behaviour toward the CNDD-FDD. At the beginning of April, they established a team of experts tasked with coming up with a compromise on pending issues.²⁸ Both countries favour using a regional force against the FNL and seeing the Transitional Government and the CNDD-FDD enter into concrete

and definitive negotiations. The Burundian government, backed by South Africa, sought to force the unilateral quartering and unconditional institutional integration of the CNDD-FDD.²⁹

The 21 July 2003 summit turned out to be a mere workshop to define the unresolved points for negotiation between the two belligerents. By threatening to send in a regional force, Uganda and Tanzania forced the Burundian government to accept negotiation.

After one and a half months of negotiation, a regional summit is convened in Dar Es Salaam on 15 September 2003. During the summit, the government rejected the Memorandum of Agreement introduced by the experts. The document, focused on CNDD-FDD proposals and how the movement is to be integrated, does not take into account, according to the Transitional Government, internal political dynamics resulting from the Arusha Agreement. The government's proposals, both political and military, were based on the need for the UPRONA and the FRODEBU to safeguard the partnership and equilibrium resulting from the transitional arrangements. Therefore, the Transitional Government rejected any proposal that could threaten this equilibrium.

Behind this equilibrium is a real political contest between the FRODEBU/UPRONA partnership and the CNDD-FDD. At the military level, the problems are no longer related solely to security but are becoming increasingly political. Since the changeover, President Ndayizeye has not stopped reassuring the army by approving the resumption in May of generalised offensives against CNDD-FDD positions, and in particular by giving it the green light when the FNL attacked the capital. At the end of September, the president promised the army the necessary means and ordered the recruitment of 5,000 soldiers to fight the rebellion. In this way, he sought to win the sympathy of the army and intended to use it to weaken the CNDD-FDD.

President Ndayizeye rejected the proposal to allocate 40 per cent of the soldiers in the army to the CNDD-FDD. This percentage, however, respects the Arusha Agreement and the established ethnic balance, namely 50 per cent Hutu and 50 per cent Tutsi. The

²² Agence France-Presse, Bujumbura, 1 July 2003.

²³ ICG interview with member of African Mission in Burundi, June 2003.

²⁴ ICG observation, Muyange, July 2003.

²⁵ ICG interview with mediation team, June 2003, Dar Es Salaam.

²⁶ ICG interview with government negotiation team members, Bujumbura, July 2003.

²⁷ The FNL have no qualms about sending child soldiers to their deaths in the centre of Bujumbura.

²⁸ This team includes the South African mediators but is led by Uganda and also includes Ugandan and Tanzanian experts.

²⁹ ICG interviews, Bujumbura, Dar Es Salaam, July 2003. For example, at the end of June the South African force unofficially asks its government to change its mandate to one of peace enforcement in order to force the CNDD-FDD into quartering its troops without conditions.

army accepted the allocation at all levels. But for Ndayizeye, this arrangement was equivalent to political suicide because it handed over army reform -- a central element of the peace process -- to the CNDD-FDD.

As for political power sharing, UPRONA feared the integration of the CNDD-FDD would upset the established balance within the institutions of 40 per cent for the G10 and 60 per cent for the G7,³⁰ as well as weaken its partner, the FRODEBU.³¹ The FRODEBU sees the 60/40 split as a constraint imposed by the UPRONA and the Arusha Agreement. The only remaining option is to expand the institutions by adding positions for the CNDD-FDD as well as for the G10 in order to maintain the balance.

International pressure, lack of funds and the continuation of fighting completely stymied government policy. The ongoing army offensives produced few results against the CNDD-FDD. Therefore, a de facto ceasefire went into effect between numerous military and CNDD-FDD operations beginning August 2003.³² In these conditions, it was impossible for the Burundian president to continue a war he could not win or organise elections without including the CNDD-FDD. In the end, the government finally accepted the experts' proposals on the condition that the political equilibrium be maintained. All the political posts granted to the CNDD-FDD came from the G7 and a new balance was proposed for the National Assembly. As for the military, the proportions established by the Arusha Agreement are accepted also in the Military Technical Agreement. Indeed, the CNDD-FDD received 40 per cent of the command positions in accordance with the ethnic balance outlined in the Arusha Agreement.

2. A rebellion in search of affirmation

The CNDD-FDD agreed to enter into negotiations in 2002, all the while refusing the framework of the Arusha Agreement. The movement believes that the Arusha Agreement attributes to FRODEBU the benefits of its own armed struggle against the FAB. To demonstrate its opposition to Arusha, the CNDD-FDD opted for a position that rejects the ethnic

division set forth in the Arusha Agreement.³³ The movement took a stance against the political system in place in Burundi, seeing the Arusha Agreement as a mere restructuring of the status quo. It claimed to be fighting on behalf of all Burundians, not just for the Hutu community, with the objective of restoring the foundations of democracy laid during the 1993 elections. The objective in entering into negotiations was to obtain a political as well as a military agreement that would in no way be a mere appendix to the Arusha Agreement.³⁴

As of May 2003, caught unawares by the government changeover, and unanimity among the regional actors and the international community regarding the Arusha Agreement, the CNDD-FDD had to review its negotiating strategy. Specifically, the CNDD-FDD dropped negotiations on a post-transition constitution or a new transitional constitution. During consultations between belligerents and regional experts in Dar Es Salaam on 13-14 June, the CNDD-FDD submitted its proposals, which were accepted by the experts and handed to the Transitional Government. Bolstered by its new legitimacy, the government only retained the modalities of CNDD-FDD integration into the transitional institutions, and with the same conditions as for the other movements.

The CNDD-FDD sought once more to pressure the government by using force. On 29 June, the CNDD-FDD seized four FRODEBU members of parliament (MPs) in Ruyigi province. In response to the quartering operation, which it saw as a provocation, the CNDD-FDD attacked Muyange on 30 June, although later it officially denied responsibility.³⁵ South African troops pushed back the attack. By seizing the four MPs and attacking the quartering site, the CNDD-FDD tried to foil the government's strategy by demonstrating that without the integration of the CNDD-FDD, the government would not be able to launch the electoral campaign and reform the army, the two cornerstones of the Burundian president's agenda. However, it was the FNL attack on Bujumbura in July that paved the way for the resumption of serious negotiations.

The CNDD-FDD's ideology sets itself against Burundi's politico-military system, and its armed struggle began with the assassination of President

³⁰ The G10 regroups the Tutsi parties and the G7, Hutu parties.

³¹ ICG interview with UPRONA, Bujumbura, September 2003.

³² ICG interview, Bujumbura, September 2003.

³³ ICG interview with members of the CNDD-FDD, Dar Es Salaam, 2002-2003.

³⁴ Ibid.

³⁵ The CNDD-FDD officially denies attacking the Muyange site.

Ndadaye in 1993. Its primary objective is to secure army reform in order to protect the political leadership that will carry out political reforms. The CNDD-FDD claims are based above all on security issues. In its first proposal submitted to the team of experts, the CNDD-FDD requested a 50 per cent share of the army, without taking ethnic distribution or pressure from the militarised police into account. By ignoring the ethnic issue and treating the FAB and other armed groups as a single belligerent, the CNDD-FDD put itself in a precarious position with regard to the Arusha Agreement.

Its approach at the political level was similar. Throughout the negotiations, it treated the Transitional Government as a single entity and refused to take into account the ethnic and political equilibriums, put forth in the Arusha Agreement. Based on this logic, its political proposals revolved around a 50/50 distribution. The CNDD-FDD insisted on a second vice presidency as well as eight ministries, the presidency of the National Assembly and 50 per cent of the seats and, ultimately, the abolishment of the Senate. This proposal went completely against the spirit of the Arusha Agreement and barely considered ethnic and political balances. Despite having abandoned the negotiation for a new transitional constitution, the CNDD-FDD followed the same logic as before. As far it was concerned, FRODEBU had entered into an alliance with UPRONA, thus preserving the status quo. Moreover, although at the military level the CNDD-FDD dealt primarily with the FAB command, at the political level, it was in direct competition with FRODEBU and its chairman Jean Minani.

The conflict between CNDD-FDD leadership and Jean Minani is serious. In fact, the rebels hold Minani responsible for their exclusion from the Arusha negotiations. The chairman of FRODEBU has been presented as the party's presidential candidate and, therefore, is the CNDD-FDD's principal opponent in the coming elections. CNDD-FDD seeks posts with high visibility to position itself as the second political force opposite the FRODEBU-UPRONA partnership. It carried out a frontal attack against the two pillars of the government. More than a negotiation strategy, this was intended to highlight its profile before joining the political institutions.

In the end, the CNDD-FDD agreed to the conditions proposed during the mediation. Indeed, the balance secured by the team of experts gave CNDD-FDD a leadership role in military reform, the centrepiece of

its struggle, while nevertheless respecting the Arusha Agreement. This would permit the CNDD-FDD, which obtained obtaining 40 per cent of the command positions and integration without disarmament, to go to the elections on the strong platform of army reform.³⁶ Once its military claims were accepted by the Transitional Government, the CNDD-FDD had to make important political concessions. It agreed to join the transitional institutions without questioning them. The CNDD-FDD concessions were not, in fact, an acceptance of the Arusha Agreement in general, but only of its timetable. The political handover demonstrated that the timetable had been respected and that the elections must, therefore, be held before the end of 2004. For the CNDD-FDD, the government's military concessions were sufficient and would make it possible for the movement to build a new army capable of protecting its political leadership. From then on, the political objective was not to control power during the remaining transitional period but rather to win the 2004 elections, thus allowing the CNDD-FDD to implement its political program.

³⁶ ICG interview with CNDD-FDD, Dar Es Salaam, October 2003.

III. SUCCESSFULLY IMPLEMENTING THE CEASEFIRE

Since the signing of the Global Ceasefire Agreement, security in Burundi is better than it has been for ten years, and both the FAB and CNDD-FDD respect the agreement. Bujumbura Rurale remains the only province where FNL and government forces (backed by the FDD) are still fighting. The government has begun the integration process and the CNDD-FDD has respected its commitments by assembling nearly all of its fighters. Although optimism is high, the process is nonetheless running out of steam, mainly because of recurring deadlocks and the absence of international community support. Despite having lost ground, the FNL still refuses to begin negotiations.

A. IMPLEMENTATION DYNAMICS

In the eyes of many observers, the process has picked up surprising speed since the signing of the comprehensive agreement on 16 November 2003. Already in August 2003 the situation on the ground had begun to change. Since that date, no serious fighting has been reported between the FAB and CNDD-FDD. Food supplies to the CNDD-FDD resumed on 14 October 2003 and the FAB, which had until then refused to allow deliveries to the rebels in Ruyigi Province, stopped blocking them.³⁷ Some NGOs have even observed CNDD-FDD sharing some of its rations with government forces.³⁸ Co-ordination between CNDD-FDD and FAB began following the first confrontations between the CNDD-FDD and the FNL in September, at the same time negotiations were running into trouble in Dar Es Salaam.³⁹

At the beginning of November, the staffs of both sides met in Bubanza Province to prepare the assembly sites.⁴⁰ During the same month, the FAB undertook a progressive pullout from several of its operations. The aim was to move toward Bujumbura Rural to increase military pressure on the FNL. Simultaneously, and with the tacit agreement of the FAB, the CNDD-FDD took control of a large part of the territory, controlling certain road blocks jointly with the armed forces.⁴¹ Signing the agreement,

therefore, marked a point of no return, and all the fighters, worn out by the war, held high expectations from the negotiations. The situation on the ground already pointed to the end of the war between the FAB and CNDD-FDD. This explains the relative ease with which the implementation of the agreement took place.

The complete cessation of hostilities became effective from 16 November. On 20 November, the National Assembly ratified the Global Agreement,⁴² and on 23 November, a presidential decree named a new government that included four CNDD-FDD MPs, among them Jean Pierre Nkurunziza, the movement's legal representative. CNDD-FDD political and military representatives began arriving in Bujumbura on 30 November. The military process proceeded at the same pace; the steps set out in the Global Agreement were being respected. Following consultations between FAB and CNDD-FDD staffs in November, six assembly sites were identified in the provinces occupied de facto by the CNDD-FDD. The establishment of the integrated high command was delayed slightly even though an important step was taken on 15 December, when CNDD-FDD Chief of Staff Adolphe Nshimirimana was named deputy chief of the high command of the army by presidential decree. Finally on 6 January 2004, a presidential decree established that the integrated high command was to be composed of 60 per cent FAB officers and 40 per cent CNDD-FDD officers. The decree also mandated the new command to set up the new National Defence Force (FDN) and to implement the disarmament, demobilisation and reintegration (DDR) process.

The assembling of CNDD-FDD forces reached its final phase with the declaration of some 22,000 fighters.⁴³ The assembly sites are open areas where fighters gathered of their own initiative to be formed into units under orders of their high command. There they receive rations paid for by the international community and delivered by GTZ, the German development agency. The CNDD-FDD controls the camps, and there are no international observers.⁴⁴ Therefore, it is almost impossible to confirm the number of CNDD-FDD fighters assembled, their activities and their movements. The fighters live in precarious conditions in the assembly sites, without

³⁷ ICG interview with GTZ, Bujumbura, November 2003.

³⁸ ICG interview with NGOs, Bujumbura, November 2003.

³⁹ ICG interview with FAB, Bujumbura, September 2003.

⁴⁰ ICG interview with FAB, Nairobi, November 2003.

⁴¹ ICG interview, Burundi, December 2003.

⁴² Agence France-Presse, Bujumbura, 20 July 2003.

⁴³ No one can confirm this figure.

⁴⁴ ICG, Rutegama assembly site, Province of Muramvya, February 2004.

tents or cooking utensils.⁴⁵ Access to drinking water is a problem, and there is not enough medicine. The international community says it is not in a position to improve conditions or monitor the camps because the fighters have not been disarmed. The Transitional Government says it lacks the necessary funds to do anything. Yet, this sorry situation was foreseeable. The first ceasefire agreement signed by the CNDD-FDD in December 2002 already spelled out that its forces would not disarm before they had been integrated into the army.

The assembled fighters still await the creation of mixed units and the general integration plan being drawn up by the integrated high command.⁴⁶ Their understanding of the process is that in an initial phase they will be integrated into the National Defence Force without being disarmed before the progressive demobilisation, probably over four years, of part of the CNDD-FDD. For the time being, the only one mixed unit is being created to protect government institutions.⁴⁷ The men who will make up the mixed unit were identified and began their training in Bururi Province and later moved to a military camp of Bujumbura.⁴⁸

Numerous aspects of the ceasefire agreement have been delayed or overlooked, including the disarmament of government militia, which has yet to begin. The integration plan underway has stalled because the two sides cannot agree on the definition of who is a fighter, the harmonisation of ranks and the distribution of posts.⁴⁹ Both the FAB and CNDD-FDD have asked for international expert help to resolve these issues. As a result, the FAB's return to barracks, the monitoring of their heavy weaponry and the quartering of the CNDD-FDD have not begun. The training of the mixed security unit, which was to mark the beginning of integration, has also been delayed.

Today, Burundi finds itself in a situation where the ceasefire is holding but the integration process remains frozen. However, this process is essential to demilitarise the territory and enable the institutions to monitor all fighters. To mortgage this phase is to

jeopardise the transition, in particular because most rebel fighters hope to join the new army.

The goal of the CNDD-FDD is to begin training the new FDN before the elections, in order to have something to show voters. Moreover, to maintain the cohesion of its troops and for the process to be successful, it must rapidly put in place the necessary structures to integrate its forces. The CNDD-FDD is satisfied with the Global Agreement, which allows it to deal directly with the army without having to go through the CMC or the MIAB and grants it the means to sideline dissident factions. The CNDD-FDD would like to see the process succeed in order to appear to the Hutu community as the movement that restored security and, at the same time, to justify the abuses and mistakes it committed against this community. Therefore, integration into the national army is critical.

The government army negotiated and accepted reform, on condition that it oversees its implementation. The FAB are apparently seeking to depoliticise to escape political pressure and more successfully negotiate the reforms. For the FAB, the important thing is to safeguard the present structure. The integration of the CNDD-FDD, if it comes close to becoming a progressive co-optation, does not pose a problem for them. Rather, it is now essential for the FAB to get the disarmament and demobilisation of armed groups underway. They have no intention of using their own financial and material means to underwrite the integration process, which they believe is secondary.

Ultimately these differences are blocking the entire process of establishing a new national defense force and are delaying the start of the demobilisation program.

B. FROM THE MIAB TO THE ONUB

The ceasefire agreements of 7 October and 3 December 2002 provided for the deployment of an African Mission in Burundi (MIAB) and the establishment of a Joint Ceasefire Commission (CMC) run by the United Nations Mission in Burundi (ONUB).⁵⁰ In February 2003, the African Union authorised MIAB deployment. However, it took more than six months for MIAB to complete deployment of its 2,800 men. MIAB mainly

⁴⁵ The UNHCR has provided some canvas tarpaulins but in insufficient quantity.

⁴⁶ ICG interview integrated high command, Bujumbura, February 2004.

⁴⁷ ICG interview with FAB, Bujumbura, February 2004.

⁴⁸ Agence France-Presse, Bujumbura, 16 March 2004. ICG interview, Bujumbura, June 2004

⁴⁹ ICG interview with high command, May 2004.

⁵⁰ Global Ceasefire Agreement, *ibid.*

consisted of South African and Ethiopian forces, complemented by a Mozambican company. Its mandate as defined by the agreements included: (a) creating a link among the parties, (b) verifying the implementation of the agreements, (c) facilitating CMC activities, (d) facilitating the movement of fighters toward assembly sites, e) identifying and securing these areas, (f) facilitating and giving technical support to the DDR process, (g) facilitating the distribution of humanitarian aid and (h) providing protection to leaders back from exile.

The CMC, headed by ONUB's General Alioune Samba, was to draw up a plan for quartering of CNDD-FDD troops, the training FDN troops and the DDR process. These activities were to be carried out in collaboration with representatives from all belligerents on the CMC. Both these bodies are idling for several reasons. First, the African Mission lacked critical funds, which delayed its deployment. Secondly, in keeping with its mandate, it must verify and facilitate the quartering of some 25,000 FDD fighters and the assignment to barracks of some 45,000 FAB fighters,⁵¹ as well as monitor their heavy weaponry -- all with only 2,800 men. This is a nearly impossible mission for the MIAB. Currently, its activities amount to protecting leaders back from exile -- with the exception of CNDD-FDD leaders who have their own guards; organising the GTZ food convoys; and monitoring Muyange camp, where 200 fighters from minority movements have been quartered. As such, the main activity -- the implementation of the Global Agreement between the government and the CNDD-FDD -- is beyond MIAB control, in particular because the CMC is not leading the process.

Until December 2003, the CMC was handicapped by the absence of the CNDD-FDD. It has lost focus on its mandate because it must now oversee the implementation of several different agreements. For example, it began drafting a "Military Technical Agreement",⁵² although the CNDD-FDD and the FAB were negotiating another ATF that was included in the already signed Global Agreement. In partnership with the World Bank, the CMC also drafted a Joint Operations Plan (POC) for pre-disarmament, disarmament, verification and demobilisation.⁵³ The general outline of this operation plan was elaborated

prior to the arrival of the CNDD-FDD, the main belligerent.

The POC anticipates that fighters will only remain provisionally in pre-gathering areas (here referred to as pre-disarmament areas), awaiting disarmament. These fighters, therefore, should only receive the bare minimum from the international community to prevent long term settlement. The aim is thus to move rapidly to the disarmament phase. Little by little, the fighters are to be transported to disarmament sites where they are to hand over their weapons and undergo tests to assess their skills. Subsequently, non-fighters will be oriented towards the programs of the National Commission for the Rehabilitation of Disaster Victims (CNRS). Fighters to be reintegrated will make their way, disarmed, toward sites provided for integration, while others will be sent to demobilisation centres.

The current plan of operation focuses on disarmament and demobilisation, without taking reintegration into account. The Transitional Government, not than the United Nations or the World Bank, is responsible for integration and training of the FDN. However, this program tends to be seen as a replacement for training new FDN forces, which is the important political issue in the short term.

The CNDD-FDD has rejected the POC, deeming that it was drafted in its absence and that it does not respect the Global Agreement. According to the CNDD-FDD, the POC does not treat all belligerents as equals as it proposed a different disarmament process for the FAB. Indeed, the POC plans to disarm all FDD fighters before their integration in the new FDN, but only those FAB units intended for demobilisation.⁵⁴

The United Nations Security Council authorised sending a peacekeeping mission to Burundi (ONUB) with resolution 1545 of 21 May 2004. This mission is to absorb some of the MIAB forces already in Burundi. This major strengthening of the international community's commitment to the peace process is essential. It must enable the CMC to take the lead in implementing the ceasefire agreements. The challenge for this peacekeeping mission will be to harmonise integration, demobilisation and training of new FDN forces, while keeping in mind the political stakes. To accomplish this, the POC must be reviewed in collaboration with the CMC, the integrated high

⁵¹ Numbers supplied by the FAB.

⁵² The ATF defines the composition of the future defence and security forces as well as the process to constitute them.

⁵³ Joint Operations Plan, CMC, 16 January 2004.

⁵⁴ The POC also provides for the destruction of all CNDD-FDD weapons while no FAB weapon are to be collected.

command, the Burundian government and donors. The ultimate objective is to permit the government to begin training the FDN, which is essential to beginning the DDR program. The success of such a program will be the deciding factor in persuading the FNL to join the peace process.

C. OBTAINING A CEASEFIRE BETWEEN THE FNL AND THE GOVERNMENT

The FNL, the last rebel movement still at war with the Transitional Government, expressed the desire to enter into negotiations during its 21 April congress, but have not yet given any guarantees that it will accept the framework. The FNL have on many occasions expressed their desire to hold discussions with a delegation representing the Tutsi community prior to entering into negotiations. The FNL aim to obtain mutual forgiveness that, once given, can allow concrete negotiations to take place.⁵⁵ They do not recognise the Arusha framework and demand power-sharing respect the actual ethnic distribution, i.e. that 85 per cent of all political and military posts be allocated to the Hutu. They consider other Hutu politicians to be traitors and insist they are ready to continue the struggle, claiming support from a population that only they protect. They completely reject the Arusha framework and therefore have not managed to negotiate with government delegations, especially when these consisted only of Tutsis.⁵⁶

However, this framework will not change, since negotiators can only make commitments in the name of the Transitional Government. The government wants to conclude a ceasefire agreement with the FNL before the elections, and to do this, it is counting on military pressure, the success of the FDN training exercise, and high level negotiations between the FNL and the president of the Burundian Republic.

Since September 2003, there has been constant military pressure on the FNL. On the one hand, the CNDD-FDD is now fighting its former ally and, on the other hand, all military means are now focused against them. The conflict between the CNDD-FDD and FNL came as a surprise. The FNL accused the CNDD-FDD of betraying the struggle by accepting the Global Agreement, while the CNDD-FDD accused the FNL of assassinating a number of its political commissioners. The CNDD-FDD wants to send a clear message to the region, by demonstrating

its ability to hunt down the FNL. The effect has been convincing, and they have obtained 40 of the 50 per cent of the command allocated to the Hutu community.

After six months of almost continual fighting and with the establishment of joint FDD-FAB military operations in January, the FNL have suffered serious losses. They are subject to constant military pressure. They were driven back from many areas and are active only in three towns in Bujumbura Rural. However, they have adopted a strategy of spreading their forces thin, making it difficult for the FAB and the CNDD-FDD to hunt them down. Despite these results, the military option does not seem sufficient and has led to humanitarian crises in the towns where fighting has been intense.

Negotiations remain the best way to end the fighting before the end of the transition. Since January 2004, negotiations have been reinitiated due to military pressure and the assassination of the Apostolic Nuncio on 29 December 2003. The army and the Transitional Government blame the FNL for assassination; the FNL denies any involvement.⁵⁷ International concern pushed the FNL to agree to a meeting with President Ndayizeye. On 20 January, the president held talks with an FNL delegation in the Netherlands. The final communiqué signaled a willingness on the part of FNL to enter negotiations that would lead to a general ceasefire and agreement to join government institutions.⁵⁸

The FNL held a congress in Kigoma, Tanzania from 16 to 21 April. At the end, the FNL declared a unilateral truce and expressed their desire to discuss negotiating terms with international community actors. However, after only a few days, fighting resumed, although it was impossible to identify who was behind the offensive.

The FNL approach is fundamentally muddled. They cannot expect the government to agree to a truce without guarantees.⁵⁹ Moreover, their desire for dialogue with the international community (without directly referring to the Regional Initiative) has not

⁵⁵ ICG interview, Bujumbura, December 2003

⁵⁶ This was the case in Nairobi in early December 2003.

⁵⁷ Agence France-Presse, Bujumbura, 29 December 2003.

⁵⁸ Final communiqué of the meeting between President Domitien Ndayizeye and the FNL Palipethutu, Oisterwijk, Netherlands, 18-21 January 2004. The Declaration was signed by the head of the FNL Palipethutu delegation and the president of Burundi.

⁵⁹ The government saw the truce was interpreted as a sign of weakness on the part of the FNL who seek to play for time in order to become stronger, not to enter into negotiations.

helped clarify their position. During their last meeting with South African Deputy President Jacob Zuma on 3 June 2004, the FNL refused to enter into negotiations within the existing framework.⁶⁰ This attitude compelled the Regional Initiative to impose sanctions on them,⁶¹ including restrictions on their movements. But these sanctions will have little effect because their movement is primary within Burundi. It is impossible not to notice the lack of pressure from both regional leaders and the international community on the FNL to bring them to the negotiating table. In these conditions, the Transitional Government will continue to use military force.

Nevertheless, leading the military operation against the FNL remains a delicate issue for the CNDD-FDD, as some have accused it of waging a war that is not its own. The FNL remains the symbol of Hutu awakening against the "Tutsi politico-military system".⁶² Moreover, FRODEBU is tempted to seek a military force able to counterbalance dominance of the CNDD-FDD. Without entering into an actual alliance with the FNL, FRODEBU can nevertheless push for FNL integration into the FDN. As well, the FAB are not interested in a rapid military solution to the FNL problem, because it allows them to delay the return to barracks and military reform. In the end, negotiations with the FNL will depend on political developments; political actors will use these talks to maximise their positions and interests in the debate about the end of the transition period.

IV. BEGINNING THE ELECTORAL PROCESS

To avoid an institutional vacuum, elections must be held in Burundi by 31 October 2004, as stipulated in the Arusha Agreement. The political class opened a debate, bringing to the surface the main issues in the Burundi conflict: on the one hand, the fear of an ethnic vote, seen as synonymous to a loss of power, and on the other, a guarantee of ethnic representation that maintains the status quo.

A. ELECTORAL CALENDAR

To enter into the post-transition period, Burundi must have a new (post-transition) constitution approved by referendum,⁶³ a new Electoral Code, and a Commune Act. General elections then need to be organised. To do this, a partial census is necessary to update electoral lists. The elections must first take place at municipal level and then at the national legislative level. According to the Arusha Agreement, the president of the Republic must be elected by the new parliament. Protocol II of the Arusha Agreement outlines the framework for drafting these documents. The draft Electoral Code⁶⁴ proposes, among other things, the election of municipal representatives by indirect voting, a legislative system featuring closed party lists with winners based on proportional representation and taking the ethnic balance into account⁶⁵ (no more than two members of the same ethnic group should follow each other on the list, e.g. on a list with three candidates, two Hutus should be followed by a Tutsi or two Tutsis followed by a Hutu). Senators will be elected by indirect vote on the basis of ethnic parity. Lastly, the first president of the Republic is to be elected indirectly by the parliament by a two-thirds majority. This draft Electoral Code is in line with the Arusha Agreement and presents few new additions.

⁶⁰ ICG interview with mediation, Dar Es Salaam, June 2004.

⁶¹ Communiqué of the 21st Summit of the Great Lakes Region Initiative for Peace in Burundi.

⁶² It is still difficult at this stage to measure the impact of it.

⁶³ See the Bill on the promulgation of the post-transition Constitution of the Republic du Burundi.

⁶⁴ See the Bill on the Reform of the Electoral Code.

⁶⁵ Ibid, Article 120. "The National Assembly consists of 100 Members of Parliament elected by universal direct franchise on the basis of a closed party list with proportional representation with a view to respecting ethnic and gender balance so that, for three candidates registered in a row on a list, only two belong to the same ethnic group and at least one out of five is a woman".

The draft post-transition constitution and Electoral Code were given to political parties and politico-military movements in January 2004.⁶⁶ On 23 February, the president convened all parties to agree on the road map. The draft calendar outlined the following steps:⁶⁷

- Establishment of the Constitutional Commission responsible for drafting the Constitution, the Electoral Code and the Commune Act. All documents were to be prepared within a maximum period of two months.
- National debate throughout the country.
- Search for political consensus and submission of drafts for parliamentary vote.
- Conducting of a partial census and replacement of national identity cards (over the same period).
- Establishment of a non-partisan electoral commission.
- Holding of local elections in rural areas and trading centres.
- Preparation for and holding of national legislative elections.

In February 2004, the Interior Ministry estimated that the electoral process could take up to eight months⁶⁸ and that elections could, therefore, be held before the end of the transition period.

Nevertheless, certain conditions must be met in order for elections to be held: first and foremost, the finalisation of a ceasefire agreement with the FNL; the implementation of agreements already signed and the integration of FDD fighters; the withdrawal of FAB and CNDD-FDD soldiers from populated areas; the return of refugees and displaced persons to ensure their participation in the elections; and, finally, the disarmament of the population. The Truth and Reconciliation Commission must also quickly be established to ascertain the truth about past crimes and to propose solutions acceptable to all. Nevertheless, due to the deadlock on this issue, it is unlikely this can be concluded before the elections. While all these steps need to be completed to create a political environment favourable for elections, the

implementation of the ceasefire agreements remains the number one priority.

These prior conditions are being used by the government to justify prolonging the transition for another year. The new electoral calendar put forward by the government to the mediation team on 28 May outlines a 17-month process ending on 29 October 2005.⁶⁹ This proposal was rejected by the regional leaders at their twenty-first summit on 5 June,⁷⁰ and they called on the Transitional Government to organise elections before the end of the transition, as stipulated in the Arusha Agreement.

The government justifies its request to postpone the elections by saying it needs time to draft organic laws, integrate former rebels and begin the disarmament process. But since the submission of the draft bills last January, no decision has been taken and no action initiated, not even to set the electoral process in motion. The present debate is essentially focused on the range of tasks to accomplish, although none has been undertaken. It is true, nevertheless, that organising elections in four months could be difficult and that arrangements could be negotiated. But such arrangements can only be made if the electoral process has begun. Within this framework, a slight postponement could be envisaged as long as the reasons for it remain purely technical and not political.

This state of affairs reveals other political agendas. Holding general elections is a source of concern for many political actors since many of them will not be able to continue in politics afterwards. For example, the draft Constitution provides for a National Assembly with only 100 members, compared to the current 200. Political competition is certainly going to be tough. Therefore, for most actors involved, the debate is more about which system could conserve the ethnic balance or about the political power-sharing stipulated in Arusha rather than about holding elections.

B. POLITICAL STRATEGY OF THE THREE MAIN ACTORS

The true nature of the issues surrounding the holding of elections began in December 2003 during the parliamentary session when UPRONA and FRODEBU clarified their positions. In fact, the

⁶⁶ ICG interview with the presidency, Bujumbura, February 2004.

⁶⁷ Ibid.

⁶⁸ ICG interview with the Department of Home Affairs, Bujumbura, February 2004.

⁶⁹ Electoral Calendar Proposal in Burundi. Transitional Government, 28 May 2004.

⁷⁰ Communiqué of the 21st Summit of the Great Lakes Region Initiative for Peace in Burundi.

signature of the Global Agreement made it possible to realistically envisage the holding of elections. On 12 April, the forum of political parties and politico-military movements came to a close without having reached a consensus on the draft constitution introduced by the presidency. Six months after its introduction, no decision had been taken and the adoption of the draft constitution was being deliberately frustrated by lack of political will.

Since all these issues were dealt with in the Arusha Agreement, the debate on the draft constitution is in fact a false one. It is largely a tactic to postpone the elections, the objective being for some to remain in power and for others to renegotiate their participation. However, since it was on the very basis of accepting the timeframe during the political changeover that the president was chosen to preside over the second half of the transition, it would be politically imprudent to call for a postponement that would maintain a government without legitimacy. Postponement can only be based on a program established and accepted by consensus, requiring a degree of political will from the actors that does not exist today.⁷¹

However, for FRODEBU the elections are essential. First, provisional arrangements and the makeup of the National Assembly prevent the party from obtaining a majority, especially since the defection of some 30 mainly FRODEBU-affiliated Members of Parliament who joined the CNDD-FDD. Therefore, FRODEBU must systematically create alliances. When created within the G7, these alliances block the freedom of action of FRODEBU, which must then reach a consensus and reconcile opposing views with the other six G7 parties. The G7 is not cohesive, particularly since most of the parties neither supports FRODEBU nor elections that would allow FRODEBU to eliminate parties that are over-represented in the Transitional Government. What is more, FRODEBU allied itself with UPRONA. Although this collaboration did contribute to advancing the transition, it proved to be a handicap for FRODEBU in implementing the reforms, because UPRONA systematically used its support as a bargaining chip to maintain the status quo.

⁷¹ A postponement of elections can only be decided by consensus and could only be conceivable once the post-transition constitution has been adopted. Moreover, if postponement turns out to be technically necessary, it would have to be limited to a few months to prevent the reopening of negotiations on power sharing during the remaining transitional period.

Secondly, since the CNDD-FDD joined the Transitional Government, FRODEBU has had a direct competitor. In fact, CNDD-FDD entered the political ring with the avowed purpose of ensuring the defeat of FRODEBU President Dr. Jean Minani in the elections. The CNDD-FDD vies for the same Hutu electorate as FRODEBU. The latter seeks election on a political platform different from that of the CNDD-FDD, one that incorporates the entire Arusha Agreement.⁷² To base its campaign on the implementation of the Arusha Agreement, FRODEBU must respect its deadlines; otherwise its political program will be barely credible.

Nevertheless, because of internal dissension, FRODEBU is not pushing for the organisation of elections and, as such, is not playing its role as the driving force behind the peace process. Its members have yet to agree on a candidate. Strong tensions are evident within the party, with part of the leadership rejecting Dr. Minani as a candidate, deeming that he is incapable of bringing divergent sides together. These internal tensions are weakening FRODEBU, and preventing it from charting a common course. Moreover, the Transitional Government, which cannot be reelected, is seeking to remain in power by extending the transition.

While FRODEBU wants to draft a constitution based on the Arusha Agreement, UPRONA would prefer to stick to the spirit of the agreement rather than the letter. It is officially in favour of holding elections but questions the feasibility of the electoral process and the nature of the future elections.⁷³ For UPRONA, it seems almost impossible in so short a time to complete each phase; i.e. drafting the Constitution, conducting the census, holding a referendum and, finally, organising the elections. UPRONA is calling for efforts to be focused on the implementation of the Global Agreement and the negotiation of a complete ceasefire with the FNL before organising the elections.

UPRONA is also asking for a debate on the elections and the negotiation of guarantees for the Tutsi minority, to ensure that the elections are not simply a reflection of the country's ethnic composition. Behind the official discourse, the primary issue for UPRONA is to negotiate its political survival. The transitional arrangements strengthened its predominant position within the Tutsi

⁷² ICG interview with FRODEBU, Bujumbura, February 2004.

⁷³ ICG interviews with UPRONA, Bujumbura, February and June 2004.

political class, and allowed it to block decisions and protect its interest. UPRONA cannot hope to maintain this position in the elections as its support base would be limited by voting along ethnic lines.

Under these conditions, either the voting must be different or UPRONA must forge alliances. It is a sensitive issue for the party to maintain its alliance with FRODEBU because the latter intends to base its electoral campaign on the themes of change and reform. Forming an alliance with UPRONA would likely discredit FRODEBU in the eyes of its supporters, all the more so with the CNDD-FDD as a competitor. UPRONA finds itself isolated in anticipation of the elections and, in addition, must face the emergence of new political parties such as the MRC, which claims to represent the Tutsi community and which could form alliances more easily with so-called Hutu parties. Confronted with this situation, UPRONA has fallen back on its communitarian reflex by trying to mobilise followers under the banner of protecting the minority.

Apart from its position on the conditions required before any election, UPRONA has initiated debate on the type of ballot to use. Indeed, not only does the party insist on the guarantee of ethnic representation as provided for by the Arusha Agreement, but also on the respect of the ethno-political balance, i.e. 40 per cent for the G10 and 60 per cent for the G7.⁷⁴ The electoral system outlined in the Arusha Agreement only guarantees an ethnic distribution in party lists or 66 to 33 per cent. This system cannot automatically guarantee the same distribution of seats in the National Assembly.⁷⁵ Even if the ethnic representation quotas were reflected in the National Assembly, this would not guarantee the political balance, because elected Tutsis could come from a Hutu party.

Ethnic representation alone is not sufficient in the eyes of the UPRONA and must come with the guarantee of true political representation, or in other words, with the guarantee of political survival. However, it is impossible to enshrine in the Electoral Code a guarantee of 60 per cent of the National Assembly seats for the G7 and 40 per cent for the G10, a guarantee that seems to appear even more unobtainable

given a rival like the CNDD-FDD that rejects this arrangement. FRODEBU also does not seem to accept it and has for the moment made no promises to UPRONA. UPRONA will, therefore, accept elections only if it succeeds in obtaining a guarantee that the political balance will be maintained. Concretely, it proposed to forge an alliance with FRODEBU on specific terms: negotiation of a consensus regarding the sharing of responsibilities in the future government and concessions on its part in the drawing up of the documents.⁷⁶ FRODEBU considers such an alliance to be an extremely delicate issue and would be perceived in a negative light by many of its members. Faced with the failure of these negotiations, UPRONA is playing the prolongation card.

CNDD-FDD agreed to sign the Global Agreement and to be integrated in the Arusha institutions because its military strength and its grip on the population gave it the means to conduct a campaign before the other parties.⁷⁷ As such, holding elections within the specified time frame was the condition for its political concessions. Its continuing concern is being able to begin army reform before the vote so as to be in a position to protect its leadership and benefit from a positive balance sheet in the eyes of its supporters. The CNDD-FDD wants to be seen as the heir of 1993, in contrast to FRODEBU and its campaign in support of the Arusha Agreement. During the last years of the war, the CNDD-FDD has developed a double administration made up of political commissioners spread throughout the country.

This situation puts the CNDD-FDD in a good position for the electoral campaign in comparison with other parties, whose activities a few months ago were restricted to the capital city and a few provinces. For this reason, the CNDD-FDD is confident of winning the elections. Today, other parties denounce this policy, accusing the CNDD-FDD of maintaining this double administration despite having become part of the Transitional Government.⁷⁸ Moreover, this double administration, backed by FDD fighters, forbids other parties from launching their electoral campaigns.

⁷⁴ "Manifesto for the refounding of the nation by consensus democracy and fight against genocide", signed by the UPRONA and four G10 parties.

⁷⁵ The G10 parties are using this example; in the case of a province that must elect five members, where two Hutu parties would each obtain two seats and one Tutsi party one seat, of five members, there would be four Hutus and one Tutsi.

⁷⁶ ICG interviews with FRODEBU and UPRONA, Bujumbura, February 2004.

⁷⁷ ICG interview with CNDD-FDD, Bujumbura, November 2003.

⁷⁸ CNDD-FDD has been accused several times in several places of intimidating the population and other political groups. ICG interviews, Bujumbura, May and June 2004.

The CNDD-FDD is also trying to draw up a strategy to co-opt elements from FRODEBU⁷⁹ and the Tutsi community with the aim of reinforcing its political wing and benefiting from their experience in the institutions of government. The CNDD-FDD must also transform itself into a political party and to do so, must assemble its fighters. It must then register as a political party and hold a convention to elect leaders and draw up a new political program without any reference to armed struggle.⁸⁰

All these stages take time, which explains the CNDD-FDD's relative absence at present from pre-election manoeuvring. Its short-term objective is to implement the Global Agreement, which is why it suspended its participation in the government institutions on 3 May 2004 until all positions that were promised to it have been allotted. Its official stance is to respect all commitments, but it does not promise to respect the Arusha Agreement.

Its political discourse has not changed. CNDD-FDD remains opposed to Arusha and denounces its ethnic ideology.⁸¹ It does not accept the introduction of ethnic institutionalisation as a national movement. It believes that FRODEBU and UPRONA are running out of political arguments and survive thanks only to the Arusha Agreement. CNDD-FDD seeks to invert the approach by demanding that draft constitutional and electoral legislation be the product of popular will. This movement considers that Arusha is not the result of a popular process but of a negotiation among political parties to carry out the transition. It does not accept that provisional arrangements are taken up in the texts without having been submitted to a referendum.

The CNDD-FDD does not recognise the political system established by Arusha and intends to use the population, over whom it exercises control, to denounce it. It rejects the Electoral College, ethnic quotas in the electoral lists, the principle of a bipolar Senate and an indirect presidential election.⁸² In short, the CNDD-FDD has taken a position against the principles of the Arusha Agreement for the post-transition period. It rejects any alliance or consensus with FRODEBU, accusing it of making concessions

that permit UPRONA to remain in power. For the CNDD-FDD, ethnic representation will be guaranteed by alliances and not by institutionalisation, given that the latter only serves to entrench the political status quo.⁸³

Today it appears obvious that no consensus is emerging, and that discussions and debates must be conducted rapidly. The calendar and the texts must be accepted with sincerity by all protagonists. Legal provisions can in no way offer guarantees on post-transitional political distribution because this would amount to institutionalising the political balance. Political guarantees cannot be established other than through alliances. Nevertheless, guarantees of ethnic representation are essential, and for this reason the Arusha Agreement provides guidelines, which, moreover, have been included in the presidential constitutional proposal. This debate already took place during the Arusha negotiations and cannot be reopened.

The Arusha Agreement presents the opportunity to break the current deadlock. Indeed, it provides for the post-transition Constitution to be drafted by national and international experts⁸⁴ if the government has not adopted the new constitution after 23 months of transition. This time limit has passed, so the Arusha Agreement Follow-up Commission (CSA) must assume its responsibilities by establishing a team of experts. Such a decision, without actually excluding political actors, would make it possible to supervise and speed up discussions.

The electoral calendar put forward by the mediation at the last summit calls for such a decision to be taken. However, this approach cannot replace the need to reach consensus on the key political issues. South African Deputy President Jacob Zuma ended a two-day working visit to Burundi on 18 June, the aim being specifically to ensure that such a consensus would be reached. But to achieve this, Burundi's political class must stop trying to buy time and assume its own responsibilities, without waiting for a decision to be imposed by its neighbours.

⁷⁹ About 30 FRODEBU Members of Parliament have already unofficially joined the CNDD-FDD. ICG interview with FRODEBU, December 2003.

⁸⁰ ICG interview with CNDD-FDD, Bujumbura, February 2004.

⁸¹ Ibid.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ It is important that the international experts be those who took part in the drafting of the Arusha Agreement to prevent the actors from bringing up issues that had already been settled.

V. CONCLUSION

The Global Ceasefire Agreement outlines the framework for the army reform process and remains the reference text for all security issues in Burundi. The training process for the new National Defence Force provides for the integration of all fighters. The DDR process only involves disarmament/demobilisation and, therefore, does not support army reintegration. Even though it is a priority, funding the reintegration of all ex-fighters remains a sensitive issue. The Burundian government, donors and the ONUB must, therefore, quickly reach a compromise on this issue, by allowing the government to begin training the new National Defence Force.

Politically, the Arusha Agreement remains the indispensable reference for this process. Within this framework, the question is not whether elections should be held, but rather about how to ensure the necessary conditions to organise elections efficiently. The Arusha Agreement provides guidelines that must remain inviolable. The guarantees of ethnic representation must not be replaced by political guarantees synonymous with the status quo, which would render the electoral process invalid. The principles guiding the new constitution have already been negotiated in Arusha and offer sufficient guarantees for minority representation.

However, one problem remains: the harmonisation of the Arusha Agreement with the Global Ceasefire Agreement, i.e. the harmonisation of the political and military processes. The objective is to create the necessary security and stability to allow elections to be held that will be reassuring for all. The CNDD-FDD did not sign the Arusha Agreement and only agreed to its provisions for the period of the transition. It continues to reject the Arusha stipulations for the post-transition period and will only accept them if army reform provides it with the necessary guarantees. Moreover, the Tutsi community will not fear the elections if the new National Defence Force provides security for the minority. The political calendar for moving beyond the transition must, therefore, be in harmony with the timetable for army reform. Harmonisation of both processes must be carried out by negotiating a realistic politico-military road map leading to the rapid development of the conditions necessary to hold elections.

Nairobi/Brussels, 5 July 2004

APPENDIX A

MAP OF BURUNDI



APPENDIX B

GLOSSARY

ATF	<i>Accord Technique des Forces</i> -- Military Technical Agreement : a text defining the future Burundian army.
CMC	<i>Commission Mixte de Cessez-le-feu</i> -- Joint Ceasefire Commission : bringing together all the belligerents and led by the United Nations, the CMC has been assigned to implement the Ceasefire Agreements.
CNDD-FDD	<i>Conseil National pour la Défense de la Démocratie-Forces pour la Défense de la Démocratie</i> -- National Council for the Defence of Democracy-Forces for the Defence of Democracy : the CNDD-FDD is the main rebel movement and is today part of the Transitional Government.
CNRS	<i>Commission Nationale pour la Réhabilitation des Sinistrés</i> -- National Commission for the Rehabilitation of Disaster Victims : the CNRS has been assigned to aid the return of refugees and relocation of internally displaced persons.
CSA	<i>Commission de Suivi et d'Application de l'Accord d'Arusha</i> -- Commission for the Follow-Up and Implementation of the Arusha Agreement : the CSA is led by the United Nations; it verifies the implementation of the Arusha Agreement.
DDR	Disarmament, Demobilisation and Reintegration.
FAB	<i>Forces Armées Burundaises</i> -- Burundian Armed Forces : the government army.
FDN	<i>Forces de Défense Nationale</i> -- National Defence Force : the name of the future army after integration of the rebels.
FNL	<i>Forces Nationales de Libération</i> -- National Liberation Forces : the second most important rebel group; to date, it is still fighting against the government.
FRODEBU	<i>Front pour la Démocratie au Burundi</i> -- Front for Democracy in Burundi : main non-armed Hutu party, winner of the 1993 elections.
GTZ	German development NGO.
G7	Hutu Group of political parties that signed the Arusha Agreement.
G10	Tutsi Group of political parties that signed the Arusha Agreement.
MIAB	<i>Mission Africaine au Burundi</i> -- African Mission in Burundi.
ONUB	<i>Opération des Nations Unies au Burundi</i> -- United Nations Operation in Burundi.
POC	<i>Plan d'Opérations Conjointes</i> -- Joint Operations Plan : a plan elaborated by the United Nations, the World Bank and the belligerents, which defines the DDR process.
UPRONA	<i>Union Nationale pour le Progrès</i> -- National Union for Progress : main Tutsi party within the institutions.

APPENDIX C

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ICG's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, ICG produces regular analytical reports containing practical recommendations targeted at key international decision-makers. ICG also publishes *CrisisWatch*, a 12-page monthly bulletin, providing a concise regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

ICG's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's Internet site, www.icg.org. ICG works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

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