

## Arusha Peace and Reconciliation Agreement for Burundi (28 Aug 2000)

[http://www.usip.org/library/pa/burundi/pa\\_burundi\\_08282000\\_toc.html](http://www.usip.org/library/pa/burundi/pa_burundi_08282000_toc.html)

The Government of the Republic of Cuba and the Government of the People's Republic of Angola, hereinafter referred to as "the Parties",

### **We, the representatives of:**

- The Government of the Republic of Burundi,
- The National Assembly,
- The *Alliance Burundo-Africaine pour le Salut* (ABASA),
- The *Alliance Nationale pour le Droit et le Développement* (ANADDE),
- The *Alliance des Vaillants* (AV-INTWARI),
- The *Conseil National pour la Défense de la Démocratie* (CNDD),
- The *Front pour la Démocratie au Burundi* (FRODEBU),
- The *Front pour la Libération Nationale* (FROLINA),
- The *Parti Socialiste et Panafricaniste* (INKINZO),
- The *Parti pour la Libération du Peuple Hutu* (PALIPEHUTU),
- The *Parti pour le Redressement National* (PARENA),
- The *Parti Indépendant des Travailleurs* (PIT),
- The *Parti Libéral* (PL),
- The *Parti du Peuple* (PP),
- The *Parti pour la Réconciliation du Peuple* (PRP),
- The *Parti Social-Démocrate* (PSD),
- The *Ralliement pour la Démocratie et le Développement Economique et Social* (RADDES),
- The *Rassemblement du Peuple Burundais* (RPB) and
- The *Union pour le Progrès National* (UPRONA),

Hereinafter referred to as "the Parties",

**Considering** the rounds of talks held in Mwanza in 1996,

**Having participated** in the negotiations held in Arusha pursuant to the Declaration by the Participants in the Burundi Peace Negotiations involving all the Parties of the Burundi Conflict signed at Arusha on 21 June 1998 ("the Declaration of 21 June 1998") under the facilitation of the late Mwalimu Julius Kambarage

Nyerere, and subsequently of Mr. Nelson Rolihlahla Mandela, on behalf of the States of the Great Lakes region and the international community,

**Expressing our deep appreciation** for the persistent efforts of the Facilitators, the late Mwalimu Julius Kambarage Nyerere and Mr. Nelson Rolihlahla Mandela, the States of the Great Lakes region and the international community with a view to assisting the people of Burundi to return to peace and stability,

**Determined** to put aside our differences in all their manifestations in order to promote the factors that are common to us and which unite us, and to work together for the realization of the higher interests of the people of Burundi,

**Aware** of the fact that peace, stability, justice, the rule of law, national reconciliation, unity and development are the major aspirations of the people of Burundi,

**Reaffirming** our unwavering determination to put an end to the root causes underlying the recurrent state of violence, bloodshed, insecurity, political instability, genocide and exclusion which is inflicting severe hardships and suffering on the people of Burundi, and seriously hampers the prospects for economic development and the attainment of equality and social justice in our country,

**Reaffirming** our commitment to shape a political order and a system of government inspired by the realities of our country and founded on the values of justice, democracy, good governance, pluralism, respect for the fundamental rights and freedoms of the individual, unity, solidarity, mutual understanding, tolerance and cooperation among the different ethnic groups within our society,

**In the presence of:**

- Jean-Baptiste Bagaza and Sylvestre Ntibantunganya, former Presidents of Burundi.
- The representatives of Burundian civil society and women's organizations and Burundian religious leaders,
- H. E. Mr. Nelson Rolihlahla Mandela, Facilitator,
- H. E. General Gnassingbé Eyadéma. President of the Republic of Togo and current Chairman of the Organization of African Unity,
- H. E. Yoweri Kaguta Museveni, President of the Republic of Uganda,
- H. E. Daniel T. arap Moi, President of the Republic of Kenya,
- H. E. Benjamin William Mkapa, President of the United Republic of Tanzania,
- H. E. Frederick J. T. Chiluba, President of the Republic of Zambia,
- H. E. Major-General Paul Kagame, President of the Republic of Rwanda,
- H. E. Laurent Désiré Kabila, President of the Democratic Republic of the Congo,
- H. E. Meles Zenawi, Prime Minister of the Republic of Ethiopia,
- H. E. Mr. Kofi Annan, Secretary-General of the United Nations,
- H. E. Dr. Salim Ahmed Salim, Secretary-General of the Organization of African Unity,

- Hon. Charles Josselin, Minister of Cooperation of the French Republic, representing the European Union,
- H. E. Dr. Boutros Boutros Ghali, Secretary-General of the International Organization of la Francophonie, and
- Mr. Joseph Waryoba Butiku, Executive Director of the Mwalimu Nyerere Foundation,

**Do hereby resolve and commit ourselves** to be bound by the provisions of the Arusha Peace and Reconciliation Agreement for Burundi, hereinafter referred to as "the Agreement".

### **Article 1**

The Parties accept as binding the following Protocols and Annexes thereto, which form an integral part of the Arusha Peace and Reconciliation Agreement for Burundi:

Protocol I:	Nature of the conflict, problems of genocide and exclusion and their solutions;
Protocol II:	Democracy and good governance;
Protocol III:	Peace and security for all;
Protocol IV:	Reconstruction and development;
Protocol V:	Guarantees on the implementation of the Agreement.

### **ANNEXES**

Annex I:	Pledge by participating parties;
Annex II:	Structure of the National Police Force;
Annex III:	Ceasefire agreement;
Annex IV:	Report of Committee IV;
Annex V:	Implementation timetable.

2. The Parties, recognizing the need to provide in the Agreement for contingencies unforeseen at the time that the protocols were finalized, agree that the provisions of the Agreement over-ride any contrary provisions within the protocols, and further agree as follows.

- a. Where the Protocols of the Agreement contemplates that decision was to be taken by the Parties at the time of signature of the Agreement, and such matters or decisions have not been so taken at the date of signature of the Agreement, they shall be taken by the signatory parties, with or without the assistance of the Facilitator, within 30 days of signature.
- b. Any provision of the Agreement or the protocols may be amended as provided for in [article 20 of Protocol II](#) or, pending the establishment of the Transitional National Assembly, with the consent of nine-tenths of the Parties;
- c. Pending the negotiation and agreement of a comprehensive cease-fire agreement with the armed wings of non-signatory parties, [Chapter III of Protocol III](#) to the Agreement shall not come into effect; following the conclusion of the ceasefire agreement, it shall be deemed to be amended so as to be consistent with the provisions thereof.

Members of the parties to the Burundi Peace Negotiations in Arusha which do not sign the Agreement shall not be entitled to participate or hold office in the transitional Government or the transitional Legislature unless such parties are admitted as participating parties in accordance with [article 14 of Protocol II](#) to the Agreement with the consent of four-fifths of the Parties.

## **Article 2**

1. The Parties acknowledge the need for the Agreement to be accompanied by and to be a condition for lasting peace and a cessation of violence in Burundi.
2. The Parties accordingly call upon armed wings of non-signatory parties to suspend hostilities and violent actions immediately, and invite such non-signatory parties to participate in or engage in serious negotiations towards a cease-fire. The Parties agree that in addition to this public invitation included herein, they will as a priority take all reasonable and necessary steps to invite such Parties to participate in cease-fire negotiations.
3. The Parties pledge that in the event of belligerent parties spurning or refusing such an invitation and continuing their belligerent activities against the people of Burundi, or any section of them, the violent acts of such parties will be deemed to be constitute an attack on all the Parties comprising this national platform of the Burundian people, as well as on this endeavour to establish an inclusive democratic Burundian state. In such an event the Parties agree to call collectively, through the appropriate agencies including the Implementation Monitoring Committee, upon the Governments of neighbouring States, the international agencies which are guarantors of the Agreement and other appropriate national and international bodies to take the necessary steps to prohibit, demobilize, disarm, and if necessary arrest, detain and repatriate, members of such armed groups, and further to take such steps as are appropriate against any Party which encourages or supports such activities.

## **Article 3**

The Parties commit themselves to refrain from any act or behaviour contrary to the provisions of the Agreement, and to spare no effort to ensure that the said provisions are respected and implemented in their letter and spirit in order to ensure the attainment of genuine unity, reconciliation, lasting peace, security for all, solid democracy and on equitable sharing of resources in Burundi.

## **Article 4**

The Agreement shall be signed by the Parties. The Facilitator, the President of the Republic of Uganda as the Chairman of the Regional Peace Initiative on Burundi, the President of the Republic of Kenya as the region's elder statesman and the President of the United Republic of Tanzania as the host, and the representatives of the United Nations, the Organization of African Unity, the European Union and the

Mwalimu Nyerere Foundation shall also affix their signatures hereto as witnesses and as an expression of their moral support for the peace process.

#### **Article 5**

The Agreement shall enter into force on the date of its signature.

#### **Article 6**

All of the final documents shall be drawn up in English, French and Kirundi. The English and French texts be equally authentic. The French text, being the original, shall be deposited with the Secretary-General of the United Nations, the Secretary-General of the Organization of African Unity and the Government of Burundi, and certified true copies thereof shall be transmitted by the Government to all Parties.

Signed in Arusha on the 28th day of the month of August 2000.

#### **SIGNATORY PARTIES**

For the **Government of Burundi**

Name of Representative: Mr. Ambroise NIYONSABA  
Title: Minister for the Peace Process

\* \* \* \*

For the **National Assembly**

Name of Representative: Hon. Léonce NGENDAKUMANA  
Title: Speaker of the National Assembly

\* \* \* \*

For **ABASA**

Name of the Party's representative: Amb. Térence NSANZE  
Title: Chairman

\* \* \* \*

For **ANADDE**

Name of the Party's representative: Prof. Patrice NSABABAGANWA  
Title: Chairman

\* \* \* \*

For **AV-INTWARI**

Name of the Party's representative: Prof. André NKUNDIKIJE  
Title: Chairman

\* \* \* \*

For **CNDD**

Name of the Party's representative: Mr. Leonard NYANGOMA

Title: Chairman

\* \* \* \*

For **FRODEBU**

Name of the Party's representative: Dr. Jean MINANI

Title: Chairman

\* \* \* \*

For **FROLINA**

Name of the Party's representative: Mr. Joseph KARUMBA

Title: Chairman

\* \* \* \*

For **INKINZO**

Name of the Party's representative: Dr. Alphose RUGAMBARARA

Title: Chairman

\* \* \* \*

For **PALIPEHUTU**

Name of the Party's representative: Dr. Étienne KARATASI

Title: Chairman

\* \* \* \*

For **PARENA**

Name of the Party's representative: H. E. Jean-Baptiste BAGAZA

Title: Chairman

\* \* \* \*

For **PIT**

Name of the Party's representative: Prof. Nicéphore NDIRUKUNDO

Title: Chairman

\* \* \* \*

For **PL**

Name of the Party's representative: Mr. Gaëtan NIKOBAMYE

Title: Chairman

\* \* \* \*

For **PP**

Name of the Party's representative: Mr. Shadrack NIYONKURU

Title: Chairman

\* \* \* \*

For **PRP**

Name of the Party's representative: Mr. Mathias HITIMANA

Title: Chairman

\* \* \* \*

For **PSD**

Name of the Party's representative: Mr. Godefroy HAKIZIMANA

Title: Chairman

\* \* \* \*

For **RADES**

Name of the Party's representative: Mr. Joseph NZEYIMANA

Title: Chairman

\* \* \* \*

For **RPB**

Name of the Party's representative: Mr. Balthazar BIGIRIMANA

Title: Chairman

\* \* \* \*

For **UPRONA**

Name of the Party's representative: Mr. Lib??re BARARUNYERETSE

Title: Chairman

**COSIGNATORIES**

H. E. Mr. Nelson Rolilhalha Mandela, Facilitator;

H. E. Yoweri Kaguta Muscveni, President of the Republic of Uganda,

\* \* \* \*

H. E. Daniel T. arap Moi, President of the Republic of Kenya,

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H. E. Benjamin William Mkapa, President of the United Republic of Tanzania

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H. E. Mr. Kofi Annan, Secretary-General of the United Nations,

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H. E. Dr. Salim Ahmed Salim, Secretary-General of the Organization of African Unity,

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Hon. Charles Josselin, Minister of Cooperation of the French Republic, representing the European Union,

\* \* \* \*

Mr. Joseph Waryoba Butiku, Executive Director of the Mwalimu Nyerere Foundation

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## **Protocol I**

# Nature of the Burundi Conflict, Problems of Genocide and Exclusion and Their Solutions

## Preamble

### We, the Parties

**Having analysed** the historical causes of the conflict in Burundi during the precolonial, colonial and post-colonial periods,

**Having engaged in** a lengthy, exhaustive, introspective and frank debate on the perceptions, root causes, practice and ideology of genocide, war crimes and other crimes against humanity, the role of the national political class and institutions in this regard, the regional and international context in which they occur and their manifestation in Burundi,

**Having also discussed** the origins and evolution, causes and manifestations of exclusion in Burundi,

**Resolved** to eradicate genocide and to reject all forms of division, discrimination and exclusion,

**Motivated by** the concern to work towards national reconciliation,

**Have agreed as follows:**

## Chapter I Nature and Historical Causes of the Conflict

### Article 1

#### Precolonial period

1. During the precolonial period, all the ethnic groups inhabiting Burundi owed allegiance to the same monarch, *Umwami*, believed in the same god, *Imana*, had the same culture and the same language, Kirundi, and lived together in the same territory. Notwithstanding the migratory movements that accompanied the settlement of the various groups in Burundi, everyone recognized themselves as Burundi.
2. The existence of *Bashingantahe* who came from among the Baganwa, the Bahutu and the Batutsi and were judges and advisors at all levels of power was, *inter alia*, a factor in promoting cohesion.
3. As a result of the mode of management of national affairs, there were no known ethnic conflicts between the various groups during this period.
4. Nevertheless, certain traditional practices such as *Ukunena*, *Ukwihutura*, *Ubugeregwa*, *Ubugabire*, *Ukunyaga*, *Ukwangaza*, *Ugutanga ikimazi-muntu*, *Ugushorerwako inka* and others could, depending on the circumstances, constitute sources of injustice and of frustration both among the Bahutu and the Batutsi and among the Batwa.

### Article 2

#### Colonial period

1. The colonial administration, first German and then Belgian under a League of Nations mandate and United Nations trusteeship, played a decisive role in the heightening of frustrations among the Bahutu, the Batutsi and the Batwa, and in the divisions which led to ethnic tensions.

2. In the context of a strategy of "divide and rule", the colonial administration injected and imposed a caricatured, racist vision of Burundian society, accompanied by prejudices and clichés relating to morphological considerations designed to set the different components of Burundi's population against one another on the basis of physical characteristics and character traits.
3. It also introduced an identity card which indicated ethnic origin, thus reinforcing ethnic awareness to the detriment of national awareness. This also enabled the colonizer to accord specific treatment to each ethnic group in accordance with its theories.
4. It manipulated the existing system to its advantage by resorting to discriminatory practices.
5. Moreover, it undertook to destroy certain cultural values that until then had constituted a factor for national unity and cohesion.
6. On the eve of independence the colonizer, sensing that its power was threatened, intensified divisionist tactics and orchestrated socio-political struggles. However, the charismatic leadership of Prince Louis Rwagasore and his colleagues made it possible for Burundi to avoid political confrontation based on ethnic considerations and enabled it to attain independence in peace and national harmony.

### **Article 3**

#### **Post-colonial period**

1. Since independence, and throughout the different regimes, there have been a number of constant phenomena which have given rise to the conflict that has persisted up to the present time: massive and deliberate killings, widespread violence and exclusion have taken place during this period.
2. Views differ as to the interpretation of these phenomena and their influence on the current political, economic and socio-cultural situation in Burundi, as well as of their impact on the conflict.
3. Nevertheless, without prejudice to the results and conclusions of the International Judicial Commission of Inquiry and National Truth and Reconciliation Commission to be established pursuant to Chapter II of the present Protocol in order to shed light on these phenomena, the Parties recognize that acts of genocide, war crimes and other crimes against humanity have been perpetrated since independence against Tutsi and Hutu ethnic communities in Burundi.

### **Article 4**

#### **Nature of the Burundi conflict**

With regard to the nature of the Burundi conflict, the Parties recognize that:

- a. The conflict is fundamentally political, with extremely important ethnic dimensions;
- b. It stems from a struggle by the political class to accede to and/or remain in power.

In the light of the foregoing, the Parties undertake to abide by the principles and implement the measures set forth in Chapter II of the present Protocol.

## **Chapter II Solutions**

### **Article 5**

#### **General political measures**

1. Institution of a new political, economic, social and judicial order in Burundi, in the context of a new constitution inspired by Burundian realities and founded on the values of justice, the rule of law, democracy, good governance, pluralism, respect for the fundamental rights and freedoms of the individual, unity, solidarity, equality between women and men, mutual understanding and tolerance among the various political and ethnic components of the Burundian people.
2. A reorganization of the State institutions to make them capable of integrating and reassuring all the ethnic components of Burundian society.
3. Speedy establishment of the transitional institutions pursuant to the provisions of [Protocol II](#) to the Agreement.
4. Orientation of political parties' programmes towards the ideals of unity and national reconciliation and of socio-economic development rather than the protection of a specific component of the Burundian people.
5. Adoption of constitutional provisions embodying the principle of separation of powers (executive, legislative and judicial), pursuant to the provisions of [Protocol II](#) to the Agreement.
6. Enactment of an electoral law that takes into account the concerns and interests of all components of the nation on the basis of the provisions of [Protocol II](#) to the Agreement.
7. Prevention of *coups d'état*.

## **Article 6**

### **Principles and measures relating to genocide, war crimes and other crimes against humanity**

#### *Political principles and measures*

1. Combating the impunity of crimes.
2. Prevention, suppression and eradication of acts of genocide, war crimes and other crimes against humanity, as well as violations of human rights, including those which are gender-based.
3. Implementation of a vast awareness and educational programme for national peace, unity and reconciliation.
4. Establishment of a national observatory for the prevention and eradication of genocide, war crimes and other crimes against humanity.
5. Promotion of regional cooperation to establish a regional observatory for the prevention and eradication of genocide, war crimes and other crimes against humanity.
6. Promotion of a national inter-ethnic resistance front to combat genocide, war crimes and other crimes against humanity, as well as generalization and collective attribution of guilt.
7. Erection of a national monument in memory of all victims of genocide, war crimes and other crimes against humanity, bearing the words "NEVER AGAIN".
8. Institution of a national day of remembrance for victims of genocide, war crimes and other crimes against humanity, and taking of measures that would facilitate the identification of mass graves and ensure a dignified burial for the victims.

#### *Principles and measures in the area of justice*

9. Enactment of legislation to counter genocide, war crimes and other crimes against humanity, as well as human rights violations.

10. Request by the transitional Government for the establishment by the United Nations Security Council of an International Judicial Commission of Inquiry on genocide, war crimes and other crimes against humanity responsible for:
  - a. Investigating and establishing the facts relating to the period from independence to the date of signature of the Agreement;
  - b. Classifying them;
  - c. Determining those responsible;
  - d. Submitting its report to the United Nations Security Council;
  - e. The Commission shall make use of all the reports that already exist on this subject, including the 1985 Whitaker report, the 1994 non-governmental organizations' report, the 1994-1994 report by ambassadors and the 1996 report of the United Nations International Commission of Inquiry.
  
11. Request by the Government of Burundi for the establishment by the United Nations Security Council of an international criminal tribunal to try and punish those responsible should the findings of the report point to the existence of acts of genocide, war crimes and other crimes against humanity.

## **Article 7**

### **Principles and measures relating to exclusion**

1. Constitutional guarantees of the principle of the equality of rights and duties for all citizens, men and women, and all the ethnic, political, regional and social components of Burundian society.
2. Combating conflict-generating injustices of all kinds.
3. Banning of all political or other associations advocating ethnic, regional, religious or gender discrimination or ideas contrary to national unity.
4. Deliberate promotion of disadvantaged groups, particularly the Batwa, to correct the existing imbalances in all sectors. This exercise shall be conducted, while maintaining professionalism and avoiding the quota system, in accordance with a timetable starting at the same time as the transition period.

### *Principles and measures relating to public administration*

5. A qualified, efficient and responsible administration that shall work in the general interest and promote balance, including gender balance.
6. A transparent administration committed to the sound management of public affairs.
7. Training, in such a way as to include all the components of Burundian society, of civil servants, particularly for regional and local government, by establishing a national school of administration.
8. Equal opportunities of access to this sector for all men and women through strict respect for, or the introduction of, laws and regulations governing the recruitment of State personnel and the staff of public and parastatal enterprises, as well as through transparency of competitive entrance examinations.

9. Depoliticization of the public administration to ensure its stability; in this respect, there is a need for legislation that will distinguish between political and technical functions; staff in the first category may change with the Government, whereas the technical staff must be guaranteed continuity.
10. Reinstatement of former refugees, taking into account experience gained before and during their exile.

*Principles and measures relating to education*

11. Equitable regional distribution of school buildings, equipment and textbooks throughout the national territory, in such a way as to benefit girls and boys equally.
12. Deliberate promotion of compulsory primary education that ensures gender parity through joint financial support from the State and the communes.
13. Transparency and fairness in non-competitive and competitive examinations.
14. Restoration of the rights of girls and boys whose education has been interrupted as a result of the Burundi conflict or of exclusion, by effectively reintegrating them into the school system and later into working life.

*Principles and measures relating to the defence and security forces*

15. Clear definition of the roles of the defence and security forces.
16. Organization of the defence and security forces as a voluntary and professional entity, and their modernization.
17. Relevant reforms to correct the ethnic, gender and regional imbalances within these forces pursuant to the relevant provisions of [Protocol III](#) to the Agreement.

*Principles and measures relating to justice*

18. Pursuant to the relevant provisions of [Protocol II](#) to the Agreement:
  - a. Promotion of impartial and independent justice. In this respect, all petitions and appeals relating to assassinations and political trials shall be made through the National Truth and Reconciliation Commission established pursuant to the provisions of [article 8](#) of the present Protocol;
  - b. Reform of the judicial machinery at all levels, *inter alia* with a view to correcting ethnic and gender imbalances where they exist;
  - c. Amendment of laws where necessary (Criminal Code, Code of Criminal Procedure, Civil Code, Nationality Act, etc.);
  - d. Reform of the Judicial Service Commission so as to ensure its independence and that of the judicial system;
  - e. Organization of a judicial training programme, *inter alia* through the establishment of a National School for the Magistracy;
  - f. Provision of adequate human and material resources for the courts;
  - g. Establishment of the post of Ombudsperson.

*Principles and measures relating to the economy*

19. Equitable apportionment and redistribution of national resources throughout the country.
20. Urgent implementation of an economic recovery programme with a view to combating poverty and raising the income of the people and of a programme for the reconstruction of destroyed economic infrastructures.
21. Legislation and structures for combating financial crime and corruption (tax legislation, customs legislation, legislation on public markets, etc.).
22. Recovery of State property plundered by some citizens.
23. Introduction of incentives for economic development in the context of fairness and harmony.
24. Development of the private sector by means of incentives with a view to creating new jobs and reducing the burden and pressures on the public sector.

*Principles and measures relating to social services*

25. Pursuant to the relevant provisions of [Protocol IV](#) to the Agreement:
  - a. Equitable distribution of and access to social infrastructures, particularly schools and hospitals;
  - b. Promotion of a policy of assumption by the communes of responsibility for their own affairs, in the context of decentralization;
  - c. Definitive resolution of the issues relating to refugees, displaced persons, regrouped persons, dispersed persons and other *sinistrés*: rehabilitation, resettlement, reintegration and compensation for plundered property;
  - d. Return to the rightful successors of the victims of the various crises of property confiscated by certain bodies or by the State or stolen by third parties: movable and immovable property, bank and Savings Bank (CADBU) assets, contributions to the Social Security Fund (INSS);
  - e. Establishment of a National Commission for the Rehabilitation of *Sinistrés* to benefit the victims of the various crises;
  - f. Establishment by the State of mechanisms to facilitate the recovery and repatriation of refugees' assets abroad.

*Cultural principles and measures*

26. Education of the population, particularly of youth, in positive traditional cultural values such as solidarity, social cooperation, forgiveness and mutual tolerance, *Ibanga* (discretion and sense of responsibility), *Ubupfasoni* (respect for others and for oneself) and *Ubuntu* (humanism and character).
27. Rehabilitation of the institution of *Ubushingantahe*.

**Article 8**

**Principles and measures relating to national reconciliation**

1. A national commission known as the National Truth and Reconciliation Commission shall be established. This Commission shall have the following functions:
  - a. Investigation

The Commission shall bring to light and establish the truth regarding the serious acts of violence committed during the cyclical conflicts which cast a tragic shadow over Burundi from independence (1 July 1962) to the date of signature of the Agreement, classify the crimes and establish the responsibilities, as well as the identity of the perpetrators and the victims. However, the Commission shall not be competent to classify acts of genocide, crimes against humanity and war crimes;

b. Arbitration and reconciliation

The Burundian crisis is a profound one: the task of reconciliation will be long and exacting. There are still gaping wounds which will need to be healed.

To this end the Commission shall, upon completion of its investigations, propose to the competent institutions or adopt measures likely to promote reconciliation and forgiveness, order indemnification or restoration of disputed property, or propose any political, social or other measures it deems appropriate.

In this context, the transitional National Assembly may pass a law or laws providing a framework for granting an amnesty consistent with international law for such political crimes as it or the National Truth and Reconciliation Commission may find appropriate;

c. Clarification of history

The Commission shall also be responsible for clarifying the entire history of Burundi, going as far back as possible in order to inform Burundians about their past. The purpose of this clarification exercise shall be to rewrite Burundi's history so that all Burundians can interpret it in the same way.

2. Membership of the commission

a. Source

Candidates for membership of the Commission shall be put forward by civil society associations, political parties, religious denominations or women's organizations, or may stand as individual candidates.

b. Appointing body

Members of the Commission shall be appointed by the transitional Government in consultation with the Bureau of the transitional National Assembly.

c. Profile and selection of candidates

Members of the Commission must show probity, integrity and ability to rise above divisions of all kinds. In the selection of candidates, balance must be taken into account, and the following criteria shall apply:

- i. Age of members: at least 35 years;
- ii. Level of education: at least a full secondary education certificate or equivalent.

3. Functioning of the Commission

The Commission must have the leeway to work independently, *inter alia* through autonomy in managing the material and financial resources to be allocated to it.

The Commission shall, whenever necessary, propose additional reconciliation mechanisms, and shall be free to set up sub-commissions as appropriate.

The public authorities shall have the obligation to do their utmost to enable the Commission to accomplish its mission without hindrance, by providing it with sufficient material, technical and financial resources.

#### 4. Duration

The Commission shall conduct its work over a two-year period. At the end of two years, the appropriate transitional institutions shall assess the work done, and may decide on an extension for one year.

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## Protocol II

### Democracy and Good Governance

#### Preamble

##### **We, the Parties,**

**Aware of** the vital need to promote lasting peace in Burundi and to put an end to the conflict, division and suffering inflicted on the Burundian people,

**Reaffirming** our commitment to a democratic system of government, inspired by the realities of our country, that guarantees security and justice for all, and is founded on the values of unity without exclusion,

##### **Have agreed:**

1. To ensure that a constitutional text for the people of Burundi is drafted during the transition period that is in conformity with the principles set forth in Chapter I of the present Protocol, and to ensure that such a text is adopted and brought into force in accordance with the time-frames and procedures herein, in conformity with a vision of democracy and good governance and the principles listed hereunder.
2. To provide for a transition period that is in conformity with the transitional arrangements set forth in [Chapter II](#) of the present Protocol.
3. To give effect, within the designated time limits, to the obligations set forth in this and other protocols with regard to the establishment of the transitional institutions.

#### Chapter I

### Constitutional Principles of the Post-Transition Constitution

## **Article 1**

### **Fundamental values**

1. All Burundians are equal in value and dignity. All citizens are entitled to equal rights and to equal protection of the law. No Burundian shall be excluded from the social, economic or political life of the nation on account of her/his race, language, religion, gender, or ethnic origin.
2. All Burundians are entitled to live in Burundi in security and peace, and must live in harmony with one another while respecting one another's dignity and tolerating one another's differences.
3. Government shall be based on the will of the Burundian people, shall be accountable to them, and shall respect their fundamental rights and freedoms.
4. The Government of Burundi shall be so structured as to ensure that all Burundians are represented in and by it; that there is equal opportunity to serve in it; that all citizens have access to government services; and that the decisions and actions of government enjoy the widest possible level of support.
5. The task of government shall be to realize the aspirations of the Burundian people, and in particular to heal the divisions of the past, to improve the quality of life of all Burundians, and to ensure that all Burundians are able to live in Burundi free from fear, discrimination, disease and hunger.
6. The function of the political system shall be to unite, reassure and reconcile all Burundians while ensuring that the Government is able to serve the people of Burundi, who are its source of power and authority. In its functioning the Government shall respect the separation of powers, the rule of law, and the principles of good governance and transparency in the management of public affairs.

## **Article 2**

### **General principles**

1. Burundi shall be a sovereign independent nation, united but respecting its ethnic and religious diversity and recognizing the Bahutu, the Batutsi and the Batwa, who make up the one nation of Burundi.
2. The national territory of Burundi shall be inalienable and indivisible subject to the provisions of the Constitution. Its frontiers shall be those recognized by international law.
3. Burundi shall be divided into provinces, communes and *collines* or zones, and such other subdivisions as are provided for by law. Their organization and operation shall be determined by the Constitution and by law.
4. The National Assembly shall take a decision regarding the status and revival of the monarchy, and any party peacefully promoting the restoration of the monarchy shall be allowed to function.
5. The national language of Burundi shall be Kirundi. The official languages shall be Kirundi and any other languages decided upon by the National Assembly.

## **Article 3**

### **Charter of Fundamental Rights**

1. The rights and duties proclaimed and guaranteed *inter alia* by the Universal Declaration of Human Rights, the International Covenants on Human Rights, the African Charter on Human and Peoples' Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child shall form an integral part of the Constitution of the Republic of Burundi. These fundamental rights shall not be limited or derogated from, except in justifiable circumstances acceptable in international law and set forth in the Constitution.
2. All citizens shall have rights and obligations.

3. Human dignity shall be respected and protected.
4. All women and men shall be equal. No one may be discriminated against, *inter alia*, on grounds of origin, race, ethnicity, gender, colour, language, social situation, or religious, philosophical or political convictions, or by reason of a physical or mental handicap. All citizens shall enjoy equal protection of the law, as well as equal treatment under the law.
5. No person shall be arbitrarily dealt with by the State or its organs.
6. All women and men shall have the right to life.
7. All women and men shall have the right to personal freedom, including to physical and mental integrity, and to freedom of movement. Torture and any other kind of cruel, inhuman, degrading treatment or punishment shall be prohibited. Everyone shall have the right to be free from violence from either public or private sources.
8. No one shall be held in slavery or servitude. Slavery and the slave trade shall be prohibited in all their forms.
9. The State shall to the extent possible ensure that all citizens have the means to lead an existence consistent with human dignity.
10. All women and men shall have the right to respect for their private and family life, residence and personal communications.
11. There shall be freedom of marriage, including the right to choose one's partner. Marriage shall be entered into only with the free and full consent of the intending spouses.
12. The family, as the fundamental unit of society, shall be entitled to protection by society and the State.
13. Freedom of expression and of the media shall be guaranteed. The State shall respect freedom of religion, belief, conscience and opinion.
14. Freedom of assembly and association shall be guaranteed, as shall freedom to form non-profit-making associations or organizations in conformity with the law.
15. All Burundian citizens shall have the right to move and settle freely anywhere in the national territory, as well as to leave it and return to it.
16. No one shall be arbitrarily deprived of her/his nationality or denied the right to change it.
17. No one may be denied access to basic education. The State shall organize public education, and shall develop and promote access to secondary and post-secondary education.
18. The State shall ensure the good management and utilization of the nation's natural resources on a sustainable basis, conserving such resources for future generations.
19. Property rights shall be guaranteed for all women and men. Compensation that is fair and equitable under the circumstances shall be payable in case of expropriation, which shall be allowed only in the public interest and in accordance with a law which shall also set forth the basis of compensation.
20. The right to form and join trade unions and to strike shall be recognized. The law may regulate the exercise of these rights and prohibit certain categories of persons from going on strike.
21. Everyone shall have the right, in judicial or administrative proceedings, for her/his case to be dealt with equitably and decided within a reasonable time limit. Everyone shall have the right to due process and a fair trial.

22. No one may be deprived of her/his liberty other than in conformity with the law.
23. The State shall be under an obligation to promote the development of the country, especially rural development.
24. Each individual shall have the duty to respect and show consideration for her/his fellow citizens without any discrimination.
25. All citizens shall be required to discharge their civic obligations, and to defend their homeland.
26. Every child shall have the right to special measures to protect or promote her/his care, welfare, health and physical security, and to be protected from maltreatment, abuse or exploitation.
27. No child shall be used directly in armed conflict, and children shall be protected in times of armed conflict.
28. No child shall be detained except as a measure of last resort, in which case the child may be detained only for the shortest appropriate period of time and shall have the right to be kept separately from detained persons over the age of 16 years and to be treated in a manner, and kept in conditions, that take account of her/his age.
29. Any restriction of a fundamental right must have a legal basis; it must be justified by the public interest or by the protection of another person's fundamental right; it must be proportional to the objective pursued.
30. Fundamental rights must be respected throughout the legal, administrative and institutional order. The Constitution shall be the supreme law and must be upheld by the Legislature, the Executive and the Judiciary. Any law that is not in conformity with the Constitution shall be invalid.

#### **Article 4**

##### **Political parties**

1. The multiparty system shall be recognized in the Republic of Burundi.
2. Political parties may be formed freely in conformity with the law.
3. A political party shall be a non-profit association uniting citizens around a democratic blueprint for society founded on national unity, and having a political programme with precise objectives dictated by the desire to serve the public interest and ensure the development of all citizens.
4. Political parties must comply with democratic principles in their organization and functioning, be open to all Burundians and be national in character and leadership, and shall not promote ethnic, regional or religious violence and hatred.
5. Political parties - and coalitions of political parties - shall promote the free expression of suffrage and shall participate in political life by peaceful means.
6. For the purposes of promoting democracy, a national law may authorize the financing of political parties on an equitable basis in proportion to the number of seats they hold in the National Assembly. Such financing may apply both to the functioning of the political parties and to electoral campaigns, and shall be transparent. The law shall define the types of subsidies, benefits and facilities that the State may grant political parties.
7. Registration of political parties shall fall within the competence of the Ministry of the Interior.
8. The law shall guarantee non-interference by the public authorities in the internal functioning of political parties, save for such restrictions as may be necessary for the prevention of ethnic hatred and the maintenance of public order.

9. Political parties may form coalitions during elections in accordance with the electoral law.

## **Article 5**

### **Elections**

1. The right to vote shall be guaranteed.
2. Elections shall be free, fair and regular in accordance with the electoral law and the law governing political parties.
3. Elections shall be organized impartially at the national, commune and *colline* levels and at other levels prescribed by the Constitution or by law.
4. Until amended in accordance with the post-transition Constitution, the rules relating to the electoral system shall be the same as those governing the elections for institutions at the national, commune and *colline* levels to be held during the transition period.
5. An Independent National Electoral Commission constituted in conformity with the provisions of [article 20](#) of the present Protocol shall guarantee the freedom, impartiality and independence of the electoral process.

## **Article 6**

### **The Legislature**

1. Legislative power shall be exercised by the National Assembly and, where specified herein, by the National Assembly and the Senate. A law adopted by a legislative body or bodies may only be amended by the same body or bodies.
2. The number of members of the National Assembly shall be specified in the Constitution, and in the first instance shall be 100. The Constitution may allow for the number of members to be determined in accordance with a designated ratio per number of inhabitants or by setting an absolute number.
3. The National Assembly shall pass legislation, oversee the actions of the Government and exercise all other functions assigned to it by the Constitution. The National Assembly shall be responsible for approving the national budget. This provision shall not preclude the submission of matters for popular approval by way of referendum.
4. A Court of Audit responsible for examining and certifying the accounts of all public services shall be established and organized by law. Its composition shall be specified in the post-transition Constitution. It shall be given the resources required for the performance of its duties. Administrative departments shall not withhold their co-operation from the Court of Audit. The Court of Audit shall submit to the National Assembly a report on the regularity of the general account of the State, and shall also ascertain whether public funds have been spent in accordance with the proper procedures and in accordance with the budget approved by the National Assembly.
5. The Constitution may not be amended except with the support of a **four-fifths** majority in the National Assembly and a **two-thirds** majority in the Senate.
6. Organic laws may not be amended except by a **three-fifths** majority in the National Assembly and with the approval of the Senate.
7. Members of the National Assembly and the Senate may not be prosecuted, made the subject of a warrant, arrested, detained or subjected to a penalty for acts performed as a member of the National Assembly or of the Senate.
8. Any criminal case involving a person holding political office shall be referred to a Chamber of the Supreme Court, and in the event of conviction, any appeal shall be receivable by the Chambers of the Supreme Court sitting together.

9. During sessions, a member of the National Assembly or the Senate may be prosecuted in respect of acts other than those referred to in paragraph 7 above only with the authorization of the National Assembly or the Senate, as the case may be.
10. The mechanisms for replacing members of the National Assembly or the Senate in the event of the vacancy of a seat shall be determined by law.
11. The National Assembly and the Senate shall adopt the rules of procedure governing their respective organization and functioning and the election of their bureaux. The post-transition Constitution must specify the duties of the bureaux, when the National Assembly shall convene for the first time and who shall preside at the initial meeting. The National Assembly's Bureau shall have a multiparty character, while the Senate's Bureau shall be of a multi-ethnic character.
12. The compensation and benefits regime, as well as the incompatibility regime, for members of the National Assembly and of the Senate shall be established by law.
13. The opposition parties within the National Assembly shall participate by right in parliamentary commissions, whether sectoral or of inquiry.
14. There shall be a Senate having the functions set forth herein, and such other functions as are allocated to it in the Constitution or in any law. The Senate shall comprise two delegates from each province. They shall be elected by an Electoral College comprising members of the commune councils in the province in question, shall be from different ethnic communities and shall be elected in separate ballots.
15. A former president shall be entitled to sit in the Senate. The Senate may co-opt up to three members of the Batwa group so as to ensure representation of this community.
16. The Senate shall have the following functions:
  - a. To approve constitutional amendments and organic laws, including laws governing the electoral process;
  - b. To receive the report of the Ombudsperson on any aspect of the public administration;
  - c. To conduct inquiries into the public administration and where necessary recommend action, to ensure that no region or group is excluded from the delivery of public services;
  - d. To monitor compliance with those prescripts of the Constitution requiring representativeness or balance in the composition of any part of the public service, including the defence and security forces;
  - e. To advise the President and the National Assembly on any matter, including legislation;
  - f. To monitor compliance with the present Protocol;
  - g. To comment on or suggest amendments to legislation adopted by the National Assembly, as well as to initiate and introduce bills for consideration by the National Assembly;
  - h. To approve laws dealing with the boundaries, functions and powers of provinces, communes and *collines*.
17. The Senate shall approve solely the following appointments:
  - a. The heads of the defence forces, the police and the intelligence service;
  - b. The provincial governors appointed by the President of the Republic;

- c. The Ombudsperson;
  - d. The members of the Judicial Service Commission;
  - e. The members of the Supreme Court;
  - f. The members of the Constitutional Court;
  - g. The Principal State Prosecutor and members of the National Department of Public Prosecutions;
  - h. The presidents of the Court of Appeal and the Administrative Court;
  - i. The principal State Prosecutor in the Court of Appeal;
  - j. The presidents of the Court of First Instance, the Commercial Court and the Labour Court;
  - k. The State Prosecutors.
18. The Senate shall ensure that commune councils in general reflect the ethnic diversity of their constituencies; if the composition of any Commune Council does not do so, it may order the co-optation of persons by the Commune Council from an underrepresented ethnic group to that Council, provided that no more than **one-fifth** of the Council may consist of such co-opted persons. The persons to be co-opted shall be identified by the Senate from a list of names supplied to it by the Commune Council or by any *colline* chief within the commune.
19. Where the Senate proposes amendments to laws other than those in respect of which its consent is necessary, the National Assembly must consider those proposed amendments, and may if it so chooses give effect to them, before referring the bill to the President for his formal assent.
20. Members of the National Assembly and of the Senate shall have the right to debate the Government's actions and policies.
21. The Constitution shall grant the Senate the powers and resources necessary to perform its functions.

## **Article 7**

### **The Executive**

- 1.
  - a. The Constitution shall provide that, save for the very first election of a President, the President of the Republic shall be elected by direct universal suffrage in which each elector may vote for only one candidate. The President of the Republic shall be elected by an absolute majority of the votes cast. If this majority is not obtained in the first round, a second round shall follow within 15 days.
  - b. Only the two candidates who have received the greatest number of votes during the first round may stand in the second round. The candidate who receives the majority of votes cast in the second round shall be declared the President of the Republic.
  - c. For the first election, to be held during the transition period, the President shall be indirectly elected as specified in [article 20, paragraph 10](#) below.

2. The President of the Republic shall exercise regulatory power and shall ensure the proper enforcement and administration of legislation. She/he shall exercise her/his powers by decrees, countersigned, where required, by a Vice-President or a minister concerned.
3. She/he shall be elected for a term of five years, renewable only once. No one may serve more than two presidential terms.
4. In the exercise of her/his functions, the President of the Republic shall be assisted by two Vice-Presidents. They shall be appointed by the President of the Republic, who shall previously have submitted their candidacy for approval by the National Assembly and the Senate, voting separately, by a majority of their members. The President of the Republic may dismiss the Vice-Presidents. They shall belong to different ethnic groups and political parties.
5. The President of the Republic, after consultation with the two Vice-Presidents, shall appoint the members of the Government and terminate their appointments.
6. Parties or coalitions thereof shall be invited, but not obliged, to submit to the President a list of persons to serve as ministers if such parties or coalitions have received more than **one-twentieth** of the vote. They shall be entitled to at least the same proportion, rounded off downwards, of the total number of ministers as their proportion of members in the National Assembly. If the President dismisses a minister, she/he must choose a replacement from a list submitted by the party or coalition of the minister in question.
7. The President of the Republic shall be the Head of State and Commander-in-Chief of the defence and security forces. She/he shall declare war and sign armistices following consultation with the Government and the bureaux of the National Assembly and of the Senate.
8. The President of the Republic may be impeached for serious misconduct, impropriety or corruption by resolution of **two-thirds** of the members of the National Assembly and the Senate sitting together.
9. The President of the Republic may be charged only with the crime of high treason. The case shall be heard by the Supreme Court and the Constitutional Court sitting together and presided over by the President of the Supreme Court.
10. The Supreme Court shall receive a written statement of the assets and property of the President, the Vice-Presidents and members of the Government when they assume and relinquish office.

## **Article 8**

### **Local government**

1. The provinces shall be administered by civilian governors appointed by the President of the Republic and confirmed by the Senate.
2. Communes shall be decentralized administrative entities. They shall be the basis of economic and social development, and shall be divided into *collines* or zones and such other subdivisions as are provided for by law.
3. The law shall make provision for the circumstances under which a commune administrator may be dismissed or suspended, by the central authorities or by the Commune Council, for good cause including incompetence, corruption, gross misconduct or embezzlement.

## **Article 9**

### **The Judiciary**

1. The judicial authority of the Republic of Burundi shall be vested in the courts.
2. The Judiciary shall be impartial and independent and shall be governed solely by the Constitution and the law. No person may interfere with the Judiciary in the performance of its judicial functions.

3. The Judiciary shall be so structured as to promote the ideal that its composition should reflect that of the population as a whole.
4. The courts and tribunals shall operate in Kirundi and the other official languages. Laws shall be enacted and published in Kirundi and the other official languages.
5. The Constitution shall provide for a Supreme Court of Burundi. Its Rules of Procedure, composition and chambers, and the organization of its chambers, shall be determined by an organic law.
6. The judges of the Supreme Court shall be appointed by the President from a list of candidates nominated by the Judicial Service Commission and approved by the National Assembly and the Senate.
7. There shall be a National Department of Public Prosecutions attached to the Supreme Court; its members shall be appointed in the same manner as the judges of the Supreme Court.
8. The other courts and tribunals recognized in the Republic of Burundi shall be the Court of Appeal, the High Courts, the Resident Magistrates' Courts and such other courts and tribunals as are provided for by law. The *Ubushingantahe* Council shall sit at the level of the *colline*. It shall administer justice in a conciliatory spirit.
9. The President of the Court of Appeal, the presidents of the High Courts, the public prosecutors and the state counsels shall be appointed by the President of the Republic following nomination by the Judicial Service Commission and confirmation by the Senate.
10. The Government, within the limits of its resources, shall ensure that magistrates possess the desired qualifications and necessary training for the performance of their duties, and that the resources needed by the Judiciary are made available to it.
11. No one shall be denied a post in the magistracy on grounds of ethnic origin or gender.
12. A Judicial Service Commission with an ethnically balanced composition shall be established. It shall be made up of five members nominated by the Executive, three judges of the Supreme Court, two magistrates from the National Department of Public Prosecutions, two judges from the resident magistrates' courts and three members of the legal profession in private practice. The judges, magistrates and members of the legal profession shall be chosen by their peers. All members of the Commission shall be approved by the Senate.
13. The Commission shall have a secretariat. It shall be chaired by the President of the Republic, assisted by the Minister of Justice. It shall meet on an *ad hoc* basis. Its members who are not members of the Judiciary shall not be construed as members of the Judiciary solely because they are members of this oversight commission.
14. The Judicial Service Commission shall be the highest disciplinary body of the magistracy. It shall hear complaints by individuals, or by the Ombudsperson, against the professional conduct of magistrates, as well as appeals against disciplinary measures and grievances concerning the career of magistrates. No magistrate may be dismissed other than for professional misconduct or incompetence, and solely on the basis of a finding by the Judicial Service Commission.
15. Trials shall be public except where the interests of justice or a compelling public interest require otherwise. Judgements shall be reasoned and shall be handed down in public.
16. Magistrates shall be appointed by decree of the President on the proposal of the Judicial Service Commission. The presidents of resident magistrates' courts shall be appointed in the same manner except that the nominees shall be proposed to the President after obtaining the approval of the Senate.
17. The Constitutional Court shall be the highest court for constitutional matters. Its jurisdictions shall be those set forth in the 1992 Constitution. The organization of the Court shall be laid down in an

organic law. Reference is made for this purpose to the elements contained in [Chapter II](#) of the present Protocol.

18. The members of the Constitutional Court, seven in number, shall be appointed by the President of the Republic and confirmed by the Senate by a **two-thirds** majority. They shall have a term of office of six years non-renewable. The first Constitutional Court shall be that established under [Chapter II](#) of the present Protocol for the transition period. The members shall have the qualifications set forth in [Chapter II](#) of the present Protocol.
19. Matters shall be referred to the Constitutional Court by the President of the Republic, the President of the National Assembly or the President of the Senate, by petition by **one quarter** of the Members of the National Assembly or **one quarter** of the Members of the Senate, or by the Ombudsperson. In addition, every natural person with a direct interest in the matter, as well as the Public Prosecutor, may request the Constitutional Court to rule on the constitutionality of laws, either directly by means of an action or by an exceptional procedure for claiming unconstitutionality raised in a matter which concerns that person before an authority.
20. The Constitutional Court may sit validly only if at least five of its members are present.
21. Decisions of the Constitutional Court shall be taken by an absolute majority of its members, except that the President of the Court shall have a casting vote if the Court is evenly split on any matter.
22. The Constitutional Court shall be competent to:
  - a. Rule on the constitutionality of adopted laws and regulatory acts;
  - b. Rule on the constitutionality of executive action;
  - c. Interpret the Constitution and rule on vacancies in the posts of President of the Republic and President of the National Assembly if a dispute arises in regard thereto;
  - d. Rule on the regularity of presidential and legislative elections;
  - e. Administer the oath to the President of the Republic before she/he assumes office;
  - f. Verify the constitutionality of organic laws before their promulgation, and of the Rules of Procedure of the National Assembly before their application;
  - g. Rule on any other matters expressly provided for in the Constitution.

## **Article 10**

### **The administration**

1. The administration shall function in accordance with the democratic values and principles enshrined in the Constitution, and with the law.
2. The administration shall be so structured, and all civil servants shall so perform their duties, as to serve all users of public services with efficiency, courtesy, impartiality and equity. Embezzlement, corruption, extortion and misappropriation of all kinds shall be punishable in accordance with the law. Any state employee convicted of corruption shall be dismissed from the public administration following a disciplinary inquiry.
3. The administration shall be organized in ministries, and every minister in charge of a ministry shall report to the President of the Republic and to the National Assembly on the manner in which the ministry performs its functions and utilizes the funds allocated to it.
4. The administration shall be broadly representative and reflect the diversity of the components of the Burundian nation. The practices with respect to employment shall be based on objective and

equitable criteria of aptitude and on the need to correct the imbalances and achieve broad representation.

5. A law shall specify the distinction between posts that are career or technical posts and those that are political posts.
6. No civil servant or member of the Judiciary may be accorded favourable or unfavourable treatment solely on grounds of her/his gender, ethnicity or political affiliation.
7. An independent Ombudsperson shall be created by the Constitution. The organization and functioning of her/his service shall be determined by law.
8. The Ombudsperson shall hear complaints and conduct inquiries relating to mismanagement and infringements of citizens' rights committed by members of the public administration and the judiciary, and shall make recommendations thereon to the appropriate authorities. She/he shall also mediate between the administration and citizens and between administrative departments, and shall act as an observer of the functioning of the public administration.
9. The Ombudsperson shall possess the powers and resources required to perform her/his duty. She/he shall report annually to the National Assembly and the Senate. Her/his report shall be published in the Official Gazette of Burundi.
10. The Ombudsperson shall be appointed by the National Assembly by a three-quarters majority. The appointment shall be subject to confirmation by the Senate.

#### **Article 11**

##### **Defence and security forces**

1. The post-transition Constitution shall contain in full the principles relating to the defence and security forces and principles of organization of those forces set forth respectively in [articles 10](#) and [11](#) of [Protocol III](#) to the Agreement.
2. An organic law shall determine the organization and functioning of the defence and security forces.
3. The military head of the defence force shall be appointed by the President, subject to confirmation by the Senate.
4.
  - a. The defence and security forces shall be subordinate to the civil authority of the State, and shall uphold the Constitution and the law.
  - b. The defence and security forces shall be professional and non-partisan, and shall not promote or disadvantage any political party or ethnic group.
  - c. The defence and security forces shall be trained at all levels to respect international humanitarian law and the supremacy of the Constitution.
  - d. For a period to be determined by the Senate, not more than 50% of the national defence force shall be drawn from any one ethnic group, in view of the need to achieve ethnic balance and to prevent acts of genocide and *coups d'état*.
  - e. No civilian shall be subject to a military code of justice or tried by a military court.
5. Only the President may authorize the employment of the defence and security forces:
  - a. In defence of the State;

- b. In the restoration of order and public safety;
- c. In the discharge of international obligations and commitments.

If the defence and security forces are employed in any of the capacities set forth above, the President shall promptly inform the National Assembly and the Senate of the nature, extent and reasons for this employment. If the National Assembly is not in session it shall be convened within seven days for the consideration of such matter, as specified in [Protocol III](#) to the Agreement.

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## Protocol III

### Peace and Security For All

#### Preamble

**We, the Parties,**

**Recalling** the commitments entered into in the Declaration of 21 June 1998 with a view to resolving the Burundi conflict through peaceful means and putting an end to all forms of violence,

**Aware of** the necessity to promote lasting peace and having analysed the questions relating to the principles of peace and security for all, to the defence and security forces and to the cessation of hostilities, and the arrangements with a view to achieving a permanent ceasefire,

**Have agreed as follows:**

#### Chapter I Peace and Security For All

##### Article 1

##### Principles of peace and security for all

1. All Burundian citizens have the right to live in peace and security without any discrimination whatsoever.
2. The sovereignty of the people through the Constitution and the laws that stem from it shall be respected by all.
3. The institutions have the primary duty to guarantee:
  - a. The security of all citizens;
  - b. The protection of the inalienable rights of the human person, starting with the right to life, and the rights embodied *inter alia* in the Universal Declaration of Human Rights and in the international conventions to which Burundi is a party;
  - c. The protection of all the ethnic communities of the population through specific mechanisms for the prevention of *coups d'état*, segregation and genocide;

- d. Respect for the law and combating of impunity;
  - e. Good governance;
  - f. Sovereignty of the State and integrity of the national territory.
4. Any foreign intervention other than under international conventions shall be prohibited. All recourse to foreign forces shall be prohibited, except when authorized by the institutions empowered to do so.
  5. All Burundian citizens shall be under an obligation to respect the right of their fellow citizens to peace and security, as well as to respect public order.
  6. The prerequisites for the establishment and maintenance of peace and security are:
    - a. Unity within the defence and security forces;
    - b. Political neutrality of the defence and security forces;
    - c. The professional, civic and moral qualities of the defence and security forces;
    - d. Neutrality and independence of the magistracy;
    - e. Control of illegal possession and use of weapons.
  7. The use of force as a means of access to and retention of power shall be rejected.
  8. The defence and security forces belong to all the people of Burundi. They shall be an instrument for the protection of all the people, and all the people must identify with them.
  9. The establishment of militias and terrorist and genocidal organizations, the practice of terrorism and genocide and incitement to those practices shall be prohibited.
  10. Political organizations shall promote inclusion; exclusion on ethnic, sexual, regional and religious grounds shall be prohibited.
  11. The ideals of peace and national unity shall be promoted and developed within the political parties, and propagation of the ideologies of exclusion, racism and genocide shall be prohibited.
  12. The principle of participation of all components of society in the management of all the organs of the State, as well as equality of opportunity for citizens in all sectors of national life, shall be respected.
  13. An economic and social policy that ensures the harmonious and balanced development of the people and the nation, as well as a policy of harmonious resolution of social problems, shall be pursued.
  14. A culture of peace and tolerance shall be promoted through the development of a sense of patriotism among citizens and of mutual solidarity in the event of a threat, as well as through education and training of all political and technical officials.
  15. Provisions for penalizing the violation of these principles shall be adopted.

## **Article 2**

### **Causes of the violence and insecurity in Burundi**

The causes of the violence and security in Burundi are:

#### **The colonial period**

1. The breaking apart of the pre-colonial political and administrative equilibrium among the Baganwa, the Batutsi and the Bahuru triggered off by the implementation of the administrative reforms of the 1930s which resulted in the dismissal from their administrative positions of most of the Hutu chiefs and some of the Tutsi chiefs.
2. A discriminatory system which did not offer equal educational access to all Burundian youths from all ethnic groups.
3. The erosion of some basic traditions, cultural norms and values that had hitherto been the foundations of the unity, solidarity and cohesion of the fabric of Burundian society and of Burundians.
4. The disruption of the traditional socio-political system in effect under the monarchy, which led to erosion of the bonds that provided the foundations of Burundi's political stability.

#### **The post-colonial period**

5. Political instability consequent upon the undermining of the legitimacy of the post-colonial institutions, accentuated by:
  - a. The poor conception of power; lack of good leadership, lack of respect for the law and demonization of political opponents;
  - b. The assassination of great Burundian leaders (Rwagasore, Ngendandumwe, Ndadaye);
  - c. Impunity of those committing political crimes and human rights violations and practising regionalism, patronage, cronyism and corruption;
  - d. The struggle for influence by the great powers, foreign interference in Burundi's internal affairs and the proliferation of arms in the region;
  - e. Failure to satisfy the basic needs of the citizens as a result of economic underdevelopment and lack of a sound economic policy that led to disillusionment and an erosion of support for the political system;
  - f. The distortion of Burundi's history;
  - g. The ideology and practice of genocide and exclusion.
6. The aftermath of the colonial system, the inadequacy of the basic reforms of the institutional arrangements inherited from colonization for governance, administration and the maintenance of order and security for all.
7. The unbridled struggle for power which, following the principle that "the end justifies the means", resulted in recourse to violence and the deliberate manipulation of ethnic sentiments as legitimate methods of access to and retention of power.

8. Lack of respect by certain political actors for the basic normative rules and principles of good governance, particularly those concerning separation of the legislature, the executive and the judiciary, independence of the magistracy, satisfaction of basic human needs and the maintenance of order and security for all.
9. Lack of respect for the traditions, norms and cardinal principles of the democratic system, including tolerance and respect for the inalienable rights of the human person, especially the right to life.
10. Non-acceptance of peaceful co-existence, diversity and pluralism as guiding principles of life and the basis of national cohesion, unity and solidarity.
11. Lack of appropriate action by the United Nations to rule on the acts of genocide perpetrated in Burundi since independence.

### **Article 3**

#### **Persons responsible for and agents of the insecurity and violence**

The following were identified as responsible for and agents of the insecurity and violence:

- a. Some foreign countries, foreign organizations, political or otherwise, and certain foreign lobbies;
- b. National and foreign individuals and groups, as well as organizations, institutions, parties and movements, which conceived, abetted, condoned, encouraged, incited and practised divisions, violence and violent methods of access to and retention of power;
- c. Political, administrative and religious leaders, as well as technical staff, who contributed to perpetrating the genocide;
- d. Persons responsible for the violence perpetrated during the crises of 1965-1969, 1972, 1988, 1991 and 1993 to date;
- e. The members of the judicial system who have promoted and continue to promote impunity and partiality through corruption, intimidation and manipulation;
- f. Those instruments of State power responsible for protecting the population which failed in their mission, particularly those elements of the defence and security forces guilty of excesses and violence against the innocent population;
- g. Those elements who practise genocide and their allies.

### **Article 4**

#### **Nature of the insecurity and violence**

The violence is political, economic and social in nature and is expressed in genocidal, criminal and terrorist form.

### **Article 5**

#### **Manifestations of the insecurity and violence**

The insecurity and violence are manifested in:

- a. Civil war; the destruction of public and private property; genocide, massacres, *coups d'état*, extra-judicial executions, premeditated murders, torture, rape, arbitrary arrests and imprisonment and other inhuman and degrading forms of treatment;
- b. Massive forcible displacements of individuals, families and groups who as a result leave their customary places of residence and become refugees outside the country or remain inside the

country as displaced and regrouped persons in camps, tents, shacks and other makeshift arrangements;

- c. Destruction of national and socio-economic infrastructures, as well as of public and private property.

#### **Article 6**

##### **Consequences of the insecurity and violence**

The most serious consequences of the insecurity and violence are:

- a. Increase in crime, in the number of disabled persons, orphans, widows and widowers, impoverishment of the people, and all kinds of social deviation;
- b. Lack of respect for authority and the law giving rise to anarchy, mistrust and lack of civic spirit, which lead to civil unrest and rebellion;
- c. The spread of the culture of violence, leading to a general disdain for the sanctity of human life;
- d. Arbitrary practices, widespread abuse of power, corruption and the plundering of national resources.

#### **Article 7**

##### **Victims of the insecurity and violence**

The main victims of the insecurity and violence are:

- a. The nation, some political officials, and individuals forced to flee from their original places of residence into exile, settlements and camps;
- b. Individuals, groups, and categories of the population, both Hutu and Tutsi, targeted on account of their beliefs or political affiliation and on the basis of their ethnic origin.

#### **Article 8**

##### **Protection of the inalienable rights of the human person**

It is the duty of the State:

- a. To protect the inalienable rights of the human person, starting with the right to life and including the rights to freedom, security, work, education and freedom of expression, and all other rights embodied *inter alia* in the Universal Declaration of Human Rights and in the international conventions to which Burundi is a party;
- b. To prohibit and punish violations of the inalienable rights of the human person;
- c. To institute a proactive policy aimed at promoting human rights through education and training of the population, including all political and technical officials.

#### **Article 9**

##### **Security-related regional and international issues**

The three most pertinent security-related regional and international issues are:

- a. The close relationship of Burundi's internal security to security in Great Lakes region and to external factors such as insecurity in the neighbouring countries, hegemonist and/or genocidal ideologies in the Great Lakes region, the arms trade and the presence of mercenaries;

- b. The need to create conditions that encourage peaceful co-existence, foster a culture of peace and tolerance and cultivate a hospitable environment that encourages people to remain in their places of residence within their country rather than flee as refugees;
  - c. The need to promote participation in and respect for the international conventions on refugees.
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## Protocol IV

### Reconstruction and Development

#### Preamble

##### We, the Parties,

**Having considered** the issues relating to the overall problem of reconstruction and development, including those associated with rehabilitation and resettlement of the refugees and *sinistrés*, with physical and political reconstruction and with economic and social development,

**Having identified** the principles, guidelines and activities for the transitional institutions in dealing with these issues,

**Having incorporated** the essentials of our work, including the analysis of the origin of the specific problems and the principles, guidelines and activities required to remedy this problem, in a report of Committee IV which serves as a reference document for the present Protocol and is reproduced as [Annex IV](#) to the Agreement,

##### Have agreed:

1. To support the rehabilitation and resettlement of the refugees and *sinistrés* by complying with the provisions of Chapter I of the present Protocol;
2. To work towards the country's physical and political reconstruction in conformity with the principles and measures set out in [Chapter II](#) of the present Protocol;
3. To strive towards the economic and social development of Burundi by following the guidelines defined in [Chapter III](#) of the present Protocol.

## Chapter I

### Rehabilitation and Resettlement of Refugees and *Sinistres*

#### Article 1

##### Definitions

1. For the definition of the term "refugee", reference is made to international conventions, including the 1951 Geneva Convention Relative to the Status of Refugees, the 1966 Protocol Relative to the Status of Refugees and the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa.

2. The term "*sinistrés*" designates all displaced, regrouped and dispersed persons and returnees.

## **Article 2**

### **Principles governing return, resettlement and reintegration**

1. The Government of Burundi shall encourage the return of refugees and *sinistrés* and resettle and reintegrate them. It shall seek the support of other countries and international and non-governmental organizations in carrying out this responsibility.
2. It shall respect the following principles:
  - a. All Burundian refugees must be able to return to their country;
  - b. Refugees no longer in their first country of asylum are entitled to the same treatment as other returning Burundian refugees;
  - c. Return must be voluntary and must take place in dignity with guaranteed security, and taking into account the particular vulnerability of women and children;
  - d. The reception mechanisms must be put in place in advance of the return;
  - e. Returnees must have their rights as citizens and their property restored to them in accordance with the laws and regulations in force in Burundi after the entry into force of the Agreement;
  - f. All *sinistrés* wishing to do so must be able to return to their homes;
  - g. Specific conditions must be provided for *sinistrés* who believe that they can no longer return to their property, so as to enable them to return to normal socio-professional life;
  - h. In the return of the refugees and the resettlement and reintegration of the returnees and displaced and regrouped persons, the principle of equity, including gender equity, must be strictly applied in order to avoid any measure or treatment that discriminates against or favours any one among these categories.

## **Article 3**

### **Preparatory activities**

The Government shall undertake the following preparatory activities:

- a. Establishing and constituting a National Commission for the Rehabilitation of *Sinistrés* (CNRS), which shall have the mandate of organizing and coordinating, together with international organizations and countries of asylum, the return of refugees and *sinistrés*, assisting in their resettlement and reintegration, and dealing with all the other issues listed in the report of Committee IV. To this end, it shall draw up a plan of priorities. The members of the CNRS shall be drawn *inter alia* from the participating parties and the Government of Burundi, and shall elect the Commission's chairperson;
- b. Establishing and constituting a Sub-Commission of the CNRS with the specific mandate of dealing with issues related to land as set out in [article 8 \(j\)](#) of the present Protocol;
- c. Convening, in collaboration with the countries of asylum and the Office of the United Nations High Commissioner for Refugees, the Tripartite Commissioner, involving in it representatives of the refugees and international observers;
- d. Requesting international organizations and the host countries concerned to conduct a gender and age disaggregated census of the refugees, including the old caseload refugees (1972);

- e. Conducting a multi-dimensional census of the *sinistrés*;
- f. Organizing information and awareness campaigns for refugees and *sinistrés* as well as visits to their places of origin;
- g. Undertaking information and awareness campaigns on the mechanisms for peaceful coexistence and return to *collines* of origin;
- h. Setting up reception committees where they do not yet exist. The role of these committees shall be to receive and provide support services for all the *sinistrés* returning to their homes, ensure their security and assist them in organizing their socio-economic reintegration.

#### **Article 4**

##### **Guidelines governing resettlement and integration**

The CNRS shall decide on the activities for the resettlement and integration of refugees and *sinistrés* in accordance with the priority plan taking into account the availability of resources, in order to achieve the following aims and objectives:

- a. To ensure the socio-economic and administrative reintegration of the *sinistrés*;
- b. To give all returning families, including female- and child-headed families, food aid, material support and assistance with health, education, agriculture and reconstruction until they become self-sufficient;
- c. To provide communes, villages and *collines* with assistance in the reconstruction of community infrastructures and with support for income-generating activities, paying special attention to women and enhancing their roles in building and sustaining families and communities;
- d. To settle all those who believe that they cannot yet return on sites close to home, in order to enable them to go and till their fields initially and return to their land later on;
- e. To encourage, to the extent possible, grouped housing in the reconstruction policy in order to free cultivable land;
- f. To ensure equity in the distribution of resources between the ethnic groups on the one hand and the provinces on the other, and to avoid overlap between the various parties involved;
- g. To promote the participation of the population in the resettlement activities;
- h. To help returnees to recover the property and bank accounts left in Burundi before their exile and whose existence has been duly proven;
- i. To offer intensive language courses for returnees to mitigate the language problems;
- j. To assist returnees in other areas such as medical services, psycho-social support, social security and retirement, education of children and the equivalency of diplomas awarded outside Burundi.

#### **Article 5**

##### **Actions with regard to returnees in their country of asylum**

The Government shall undertake the following actions with regard to returnees in their country of asylum:

- a. Helping returnees settle their disputes in their country of asylum relating notably to immovable property, bank accounts, social security, etc;

- b. In the context of agreements between countries or social security institutions, helping those who were employed in the country of asylum receive social security benefits to which they are entitled in respect of such employment;
- c. Studying ways of indemnifying and compensating returnees for property in the country of asylum they are unable to take with them, profit from or sell;
- d. Assisting pupils and students in their two final years of study in primary, secondary and higher education wishing to complete their studies in the country of asylum.

#### **Article 6**

##### **Other actions**

Any other action decided upon by the CNRS in accordance with the priority plan and in the light of available resources may be taken.

#### **Article 7**

##### **Access and safety of international personnel**

The Government shall allow international organizations and international and local non-governmental organizations unrestricted access to returnees and other *sinistrés* for purposes of the delivery of humanitarian assistance. It must guarantee the safety of the staff of such organizations and must also facilitate the provision of short-term aid for repatriation, appropriately supervised and without discrimination.

#### **Article 8**

##### **Issues relating to land and other property**

To resolve all issues relating to land and other property, the following principles and mechanisms shall be applied:

- a. Property rights shall be guaranteed for all men, women and children. Compensation which is fair and equitable under the circumstances shall be payable in case of expropriation, which shall be allowed only in the public interest and in accordance with the law, which shall also set out the basis of compensation;
- b. All refugees and/or *sinistrés* must be able to recover their property, especially their land;
- c. If recovery proves impossible, everyone with an entitlement must receive fair compensation and/or indemnification;
- d. Refugees who do not return may receive a just and equitable indemnification if their land had been expropriated without prior indemnification and in contravention of the principle set out in subparagraph (a) of the present article;
- e. The policy with respect to distribution of State-owned land shall be reviewed so that priority can be given to the resettlement of *sinistrés*;
- f. An inventory of destroyed urban property shall be drawn up with a view to making it habitable in order to redistribute it or return it as a priority to the original owners;
- g. A series of measures shall be taken in order to avoid subsequent disputes over land, including the establishment of a register of rural land, the promulgation of a law on succession and, in the longer term, the conduct of a cadastral survey of rural land;
- h. The policy of distribution or allocation of new lands shall take account of the need for environmental protection and management of the country's water system through protection of forests;

- i. Burundi's Land Act must be revised in order to adjust it to the current problems with respect to land management;
- j. The Sub-Commission on Land established in accordance with [article 3 \(b\)](#) of the present Protocol shall have the specific mandate of:
  - i. Examining all cases of land owned by old caseload refugees and state-owned land;
  - ii. Examining disputed issues and allegations of abuse in the (re)distribution of land and ruling on each case in accordance with the above principles;
- k. The Sub-Commission on Land must, in the performance of its functions, ensure the equity, transparency and good sense of all its decisions. It must always remain aware of the fact that the objective is not only restoration of their property to returnees, but also reconciliation between the groups as well as peace in the country.

#### **Article 9**

##### **National Fund for *Sinistrés***

A National Fund for *Sinistrés* shall be established, and shall derive its funding from the national budget and from grants by bilateral and multilateral aid agencies or assistance from non-governmental organizations.

#### **Article 10**

##### **Vulnerable groups**

The Government shall ensure, through special assistance, the protection, rehabilitation and advancement of vulnerable groups, namely child heads of families, orphans, street children, unaccompanied minors, traumatized children, widows, women heads of families, juvenile delinquents, the physically and mentally disabled, etc.

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## **Protocol V**

### **Guarantees on Implementation of the Agreement**

#### **Preamble**

**We, the Parties,**

**Aware of** the importance of guarantees in any peace process, and particularly in the implementation of peace agreements,

**Having learned** the lessons from the failure of previous agreements in Burundi,

**Desirous** that peace and reconciliation should be based on an agreement that is clear, precise, specific, unequivocal, comprehensive and implementable in Burundi in accordance with the implementation timetable contained in [Annex V](#) to the Agreement,

**Having expressed** a solemn commitment to assume joint responsibility for the content of the Agreement,

**Concerned also** about the negative impact of the conflict on Burundian women and children,

**Recognizing** the unique potential of women to contribute to the healing, reconstruction and development of Burundian society,

**Aware** that the Burundian people is the focus and beneficiary of the Agreement concluded in its name,

**Confident** of the will and ability of Burundians to restore peace and harmony in their country, with the support of the international community,

**Resolved** to ensure the effective implementation of the Agreement,

**Have agreed as follows:**

#### **Article 1**

##### **Acceptance and support of the Agreement by the Burundian people**

All the Parties commit themselves to undertake a broad campaign to inform and sensitize the population about the content, spirit and letter of the Agreement.

#### **Article 2**

##### **Transitional institutions**

1. The transitional institutions shall be established and operate in accordance with the relevant provisions of [Chapter II of Protocol II](#) to the Agreement.
2. The men and women called upon to lead the transition must, at all times, show integrity, determination, patriotism and competence, and devote themselves to the interests of all Burundians without any discrimination. They must take a solemn oath before assuming their duties.
3. The duration of the transition period shall be as specified in [article 13 of Protocol II](#) to the Agreement.

#### **Article 3**

##### **Implementation Monitoring Committee**

A committee to follow up, monitor, supervise and coordinate the implementation of the Agreement, hereinafter referred to as the Implementation Monitoring Committee, shall be established.

1. Role of the Implementation Monitoring Committee

The functions of the Implementation Monitoring Committee shall be to:

- a. Follow up, monitor, supervise, coordinate and ensure the effective implementation of all the provisions of the Agreement;
- b. Ensure that the implementation timetable is respected;
- c. Ensure the accurate interpretation of the Agreement;
- d. Reconcile points of view;

- e. Arbitrate and rule on any dispute that may arise among the signatories;
  - f. Give guidance to and coordinate the activities of all the commissions and sub-commissions set up pursuant to each protocol for the purpose of implementing the Agreement. These commissions and subcommissions shall include the following:
    - The Technical Committee to implement the procedures for the establishment of a national defence force;
    - The Technical Committee to implement the procedures for the establishment of the national police;
    - The Ceasefire Commission;
    - The Reintegration Commission;
    - The National Commission for the Rehabilitation of *Sinistrés*;
  - g. Assist and support the transitional government in the diplomatic mobilization of the financial, material, technical and human resources required for the implementation of the Agreement;
  - h. Decide on the admission of new participating parties in accordance with [article 14 of Protocol II](#) to the Agreement;
  - i. Perform any other duty specifically allocated to it by the Agreement.
2. Composition and structure of the Implementation Monitoring Committee
- a. The Implementation Monitoring Committee shall have the following composition:
    - i. Two representatives of the Parties;
    - ii. One representatives of the Government;
    - iii. Six Burundians designated for their moral integrity;
    - iv. Representatives of:
      - The United Nations;
      - The Organization of African Unity;
      - The regional Peace Initiative on Burundi;
  - b. The Implementation Monitoring Committee shall be chaired by the representative of the United Nations, who shall act in consultation with the Government, the Organization of African Unity and the Regional Peace Initiative on Burundi;
  - c. The Implementation Monitoring Committee shall be based in Bujumbura and shall have an Executive Council, to which it may delegate such of its powers as it deems appropriate;
  - d. There shall be a secretariat to service the Implementation Monitoring Committee and the Executive Council.<BR
3. Functioning and powers of the Implementation Monitoring Committee
- a. The Implementation Monitoring Committee shall begin its operations upon the appointment of its chairperson, and its mandate shall end when the Government elected

during the transition period takes office. It shall draw up its own rules of procedure and work programme.

- b. The Implementation Monitoring Committee shall possess the requisite authority and decision-making powers to perform its functions impartially, neutrally and effectively.
- c. Decisions of the Implementation Monitoring Committee shall be taken by the Parties, by consensus or failing that by a **four-fifths** majority.

#### **Article 4** **The Facilitator**

The Facilitator shall continue in his role as moral guarantor, recourse authority and conciliation agent.

#### **Article 5** **Commissions**

1. The Implementation Monitoring Committee, in collaboration with the Government, shall establish commissions and sub-commissions responsible for sectoral activities as provided for in [paragraph 1 \(g\) of article 3](#). Their activities shall be coordinated by the Implementation Monitoring Committee, to which they shall report.
2. The Implementation Monitoring Committee shall, when setting up commissions and sub-commissions, specify their composition, functions, structures, location, decision-making process and leadership, as well as the timetable for the completion of their activities.
3. International Judicial Commission of Inquiry
  - a. The transitional Government shall address the request referred to in [article 6, paragraph 10, of Protocol I](#) to the Agreement to the United Nations Security Council within 30 days from its installation.
  - b. International criminal tribunal

The Government of Burundi shall address the request referred to in [article 6, paragraph 11, of Protocol I](#) to the Agreement to the United Nations Security Council within 15 days after publication of the report of the International Judicial Commission of Inquiry.

4. National Truth and Reconciliation Commission

The transitional Government, in consultation with the Bureau of transitional National Assembly, shall establish the National Truth and Reconciliation Commission pursuant to [article 8 of Protocol I](#) to the Agreement not later than six months after taking office. The Commission shall begin work within 15 days after its establishment.
5. Technical Committee to implement the procedures for the establishment of a national defence force
  - a. The establishment of the national defence force, its name, its strength, its training, its conditions of service and its functioning shall be as defined in the relevant provisions of [Chapter II of Protocol III](#) to the Agreement and in organic laws, regulatory texts and disciplinary rules adopted pursuant to [article 11, paragraph 5](#), and [article 19](#) of that Protocol.
  - b. The organic laws, regulatory texts and disciplinary rules referred to above shall be adopted by the appropriate transitional institutions within 30 days from the adoption of the Constitution.

- c. The Technical Committee to implement the procedures for the establishment of a national defence force referred to in [article 14, paragraph 1 \(d\)](#) of Protocol III to the Agreement shall be constituted within 15 to 30 days after the adoption of the texts referred to in [paragraph \(b\)](#) above. Its work shall begin within seven days after its constitution, and shall be concluded before the start of the electoral process.
6. Technical Committee to implement the procedures for the establishment of the national police
  - a. The creation, name, missions, composition, strength, training, conditions of service and functioning of the national police shall be as defined in the relevant provisions of [article 14, paragraph 2](#), [article 15](#), [article 17, paragraph 3](#), and [article 20](#) of Protocol III to the Agreement.
  - b. The Technical Committee to implement the procedures for the establishment of the national police set up pursuant to the provisions of [article 14, paragraph 2 \(c\)](#) of that Protocol shall be constituted within 15 to 30 days from the date when the transitional Government takes office. Its work shall begin within seven days after its constitution, and shall be concluded before the start of the electoral process.
7. Ceasefire Commission
  - a. The ceasefire, as defined in [article 25](#) of Protocol III to the Agreement, shall take place on the date of signature of the Agreement.
  - b. The Ceasefire Commission provided for in [article 27, paragraph 1](#) of Protocol III to the Agreement shall be established by the Implementation Monitoring Committee on the day the Committee starts its activities. It shall begin its work upon the appointment of its chairperson.
  - c. In conformity with [article 27, paragraph 1](#) of Protocol III, the Ceasefire Commission shall consist of representatives of the Government, the combatants of the political parties and movements, the United Nations, the Organization of African Unity and the Regional Peace Initiative for Burundi.
  - d. The Ceasefire Commission may establish offices in the military regions of the country, as well as in the quartering locations and at other points as its functions may require.
  - e. The functions of the Ceasefire Commission shall be as defined in [article 21](#), [article 27, paragraphs 1\(d\)](#), [2](#), [3](#) and [4](#) and [article 28](#) of Protocol III of the Agreement.
  - f. The operations consisting of the ceasefire, disengagement, quartering and demobilization of the forces shall be completed within six months from the commencement of the activities of the Ceasefire Commission.
  - g. Deployment and operations of the international peacekeeping force provided for in [article 27, paragraph 5](#) of Protocol III to the Agreement shall commence as soon as possible after the establishment of the Ceasefire Commission. They shall be conducted in coordination and cooperation with the Ceasefire Commission.
  - h. In performing their duties, the members of the Ceasefire Commission as well as those of the international peacekeeping and security force shall enjoy complete freedom of movement throughout the territory of Burundi.
  - i. The amnesty provided for in [article 26\(1\)](#) of Protocol III to the Agreement shall go into effect on the date of signature of the Agreement.
8. Reintegration Commission
  - a. The organ provided for in [article 21, paragraph 8](#) of Protocol III to the Agreement, hereinafter referred to as the Reintegration Commission shall have the role of organizing,

supervising, monitoring and ensuring the effective economic and social reintegration of the troops and combatants who, as a result of the demobilization process carried out in conformity with [article 21](#) of Protocol III to the Agreement, have become civilians.

- b. The Reintegration Commission shall consist of representatives of the Government, the United Nations and the Organization of African Unity. It shall be chaired by the Government.
- c. The Reintegration Commission shall commence its activities on the day of its establishment. These activities must be completed before the commencement of the electoral process.

#### 9. National Commission for the Rehabilitation of *Sinistrés*

The organ provided for in [article 3, paragraph \(a\)](#) of Protocol IV to the Agreement, shall be constituted within 30 days after the signature of the Agreement. It shall begin its work upon the election of its chairperson and shall report to the Implementation Monitoring Committee. It shall be based in Bujumbura. It shall be in place until the end of the transition period.

### **Article 6**

#### **Genocide, war crimes and other crimes against humanity**

The Implementation Monitoring Committee shall ensure implementation of the measures specified in [Protocol I](#) to the Agreement relating to the prevention, suppression and eradication of acts of genocide, war crimes and other crimes against humanity.

### **Article 7**

#### **Role of the international community**

1. The involvement of the international community in the implementation of the Agreement is necessary, both as a moral and diplomatic guarantee and as a provider of technical, material and financial assistance.
2. In this respect, the Burundian Government shall immediately following the signature of the Agreement send formal requests to the countries and organizations agreed upon by the Parties inviting them to participate in and render their financial, technical and material support to the implementation of the Agreement as provided for in the relevant provisions of the present Protocol and of Protocols [I](#), [II](#), [III](#) and [IV](#).

### **Article 8**

#### **Peacekeeping**

Immediately following the signature of the Agreement, the Burundian Government shall submit to the United Nations a request for an international peacekeeping force in conformity with and for the purposes set forth in [article 27, paragraph 5](#) of Protocol III to the Agreement. Account must be taken of United Nations practice in this respect. This force shall be responsible *inter alia* for:

- a. Ensuring respect for the ceasefire;
- b. Supervising integration;
- c. Providing technical support for demobilization aid and training;
- d. Ensuring protection of the institutions and of any public figure who so wishes;
- e. Assisting in the establishment and training of an ethnically balanced special unit for the protection of the institutions.

**Article 9**  
**Financial guarantees**

Implementation of all the reforms and programmes contained in the Agreement will require financial support from donors. In this context, the Facilitator, in coordination with the Implementation Monitoring Committee and the transitional Government, shall take the necessary steps for a donors' conference to be convened to raise funds for the reconstruction of Burundi.

**Article 10**  
**Role of the region**

1. The Parties urge the heads of State of the countries of the region to continue to provide their support for the peace process in Burundi.
2. The heads of State of the region shall also constitute guarantors of the Agreement.

\* \* \* \*

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**Annex I**

**Pledge by Participating Parties**

By the signature of its duly authorized representative affixed hereto,

\_\_\_\_\_ [party] hereby:

1. Affirms its willingness to participate in all institutions, structures and commissions to be established under, or for the proper implementation of, the Arusha Peace and Reconciliation Agreement for Burundi, including but not limited to the transitional National Assembly and the transitional Government;
2. Pledges itself to abide by all the obligations and duties imposed on participating parties under the Agreement;
3. Commits itself to peace and national reconciliation, and to oppose any political ideology and any action that has as its purpose the promotion of violence, hatred or unlawful discrimination;
4. Undertakes to participate in a public programme on peace and reconciliation;
5. Further pledges that it shall comply with directives given to it under [article 21.13](#) of Protocol II to the Agreement and do all in its power to promote respect for and observance of the Agreement by its members and by the public at large.

Signature: \_\_\_\_\_

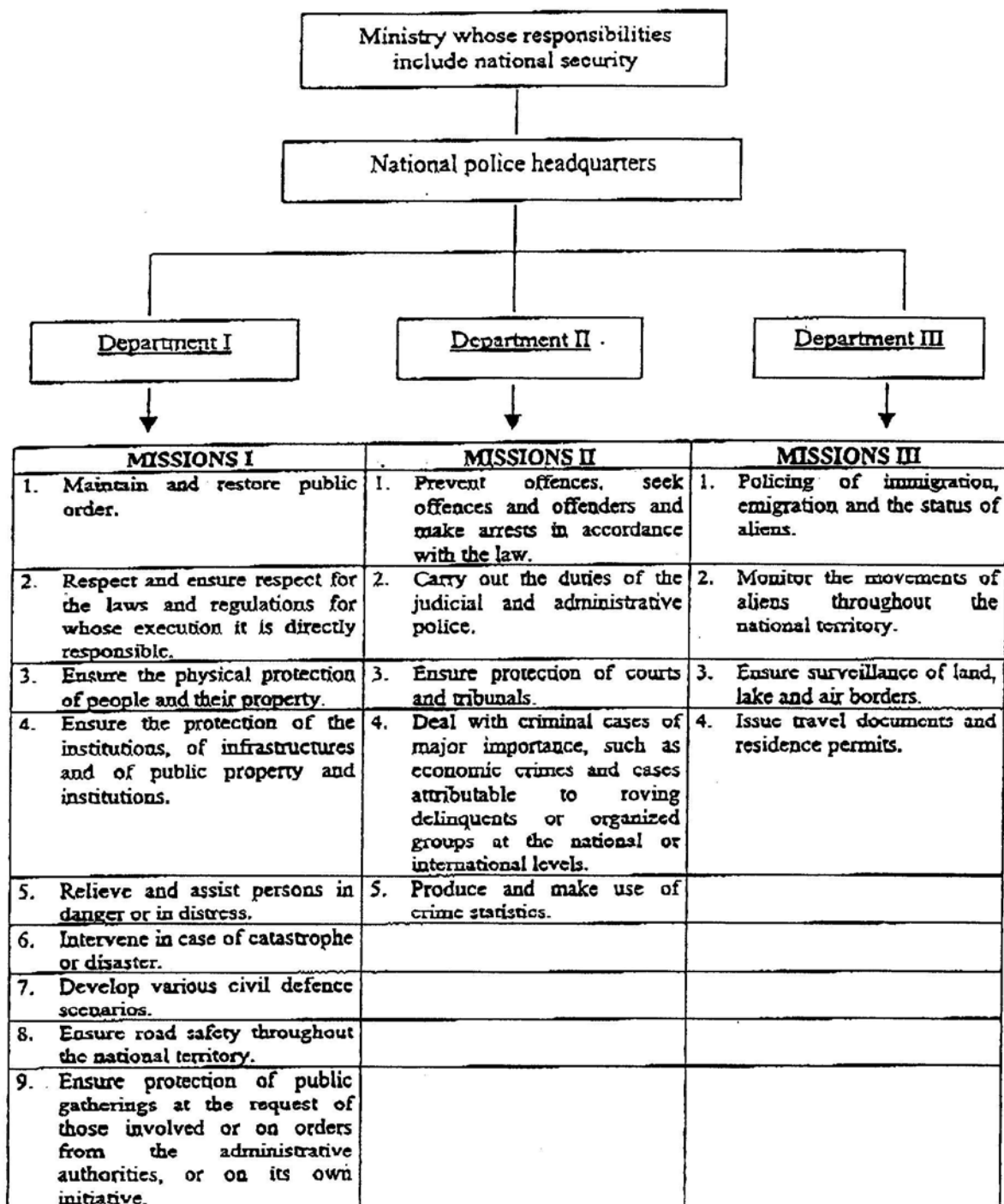
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Date: \_\_\_\_\_

\* \* \* \*

## Annex II

### Structure of the National Police of Burundi



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## Annex III

### Ceasefire Agreement

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## Annex IV

### Report of Committee IV

**Burundi Peace Negotiations in Arusha  
Committee IV: Reconstruction and Development  
19 August 2000**

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## **Chapter I Rehabilitation and Resettlement of Refugees and *Sinistrés***

### **1.1 Introduction and definitions**

#### **1.1.1 Introduction**

The Burundi conflict is political and ethnic in nature. It has major consequences in humanitarian terms. The victims of the conflict are above all part of the civilian population, more than 15 per cent of which are "displaced" and continue to live away from their homes. This situation has enormous repercussions in psychological as well as social and economic terms.

#### **1.1.2 Definitions**

### 1.1.2.1 Refugees

The 1951 Convention relative to the Status of Refugees and the 1966 Additional Protocol define a refugee as a person "who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."

The Organization of African Unity (OAU) Convention governing the Specific Aspects of Refugee Problems in Africa, for its part, defines as a refugee "every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it."

The same Convention adds that the term "refugee" shall also apply to "every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality."

Given that there are refugees who are no longer in their first country of asylum, Committee IV is in agreement that these persons should receive the same treatment as Burundian refugees who return to Burundi, and the National Commission for the Rehabilitation of *Sinistrés* (see [1.4.](#)) will decide on a case-by-case basis.

### 1.1.2.2 *Sinistrés*: displaced, regrouped, and dispersed persons and returnees

According to the United Nations, "internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or man-made disasters, and who have not crossed an internationally recognized State border."<sup>1</sup>

In Burundi, displaced, regrouped and dispersed persons are people who have remained within the national borders and are living away from their homes in camps, sites or other places of refuge. Insecurity is one of the main reasons that led these categories of people to leave their homes.

In Burundi, the term "*sinistrés*" designates all displaced, regrouped, and dispersed persons and returnees.

## 1.2 Rehabilitation and resettlement of refugees

### 1.2.1 Statistics<sup>2</sup>

- a. Estimated number of Burundian refugees in neighbouring countries as at 30 April 2000<sup>3</sup>

	Region	Population	Survey period	Observation
The United Republic of Tanzania	Ngara	94 393	10/04/2000	New arrivals
	Kigoma-Kibondo-Kasulu	264 199	26/04/2000	Arrived between 1993-2000 from Burundi, and between 1996-1997 from DRC

	<b>Subtotal</b>	<b>340 542</b>	<b>30/04/2000</b>	
	NB: In addition to these 340,592 in The United Republic of Tanzania must be added about 200 000 people who left in the 1970s but have not been receiving UNHCR assistance since 198??.			
Rwanda	Gikongoro (Kigeme camp)	457	July 1999	Old and new
	Urban centres	750	July 1999	
	<b>Subtotal</b>	<b>1 207</b>		
Kenya	Kakuma camp	143	31/07/1998	New
Congo-Brazzaville	Various sites		31/07/1998	Old and new
RDC	Kivu	20 000	31/12/1998	Old and new
Zambia		1 164	31/12/1998	
Angola		150	31/07/1998	
Malawi		200	31/07/1998	
Cameroon		270	31/07/1998	
<b>TOTAL</b>		<b>364 000</b>		

b.

c. Returnees from October 1996 to end June 2000 by province and entry post

Entry post PROVINCE	KOBERO (Muyinga Province)	GISURU (Ruyigi Province)	GATUMBA (Bujumbura Province)	CIBITOKÉ (Cibitoke Province)	TOTAL
Bubanza	6	18	15 000	75	15 099
Bujumbura Town	20	92	23 531	77	23 720
Bujumbura Rural	8	151	11 628	39	11 826
Bururi	13	93	207	16	329
Cankuzo	105	3 245	0	0	3 350
Cibitoke	7	116	57 099	7 071	64 293
Gitega	13	195	288	9	505
Karuzi	396	124	49	4	573
Kayanza	913	293	1 959	29	3 194
Kirundo	6 129	398	2 807	11	9 345
Makamba	0	186	47	0	233
Muramvya	2	57	206	1	266
Mwaro	0	3	106	7	116
Muyinga	29 676	645	146	6	30 473
Ngozi	2 010	360	1 423	27	3 440
Rutana	1	258	7	0	266
Ruyigi	98	49 791	332	0	50 221

<b>TOTAL</b>	<b>39 017</b>	<b>56 025</b>	<b>114 835</b>	<b>7 372</b>	<b>217 249</b>
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The total number of returnees between October 1996 and the end of June 2000 amounts to 217,249, but it should be noted that there have been fairly sizeable influxes and outflows. Thus this figure does not indicate the real number of returnees.

### 1.2.2 Principles

- a. All Burundian refugees must be able to return to their country. This is the right of return.
- b. Return must be voluntary and must take place in dignity with guaranteed security, and taking into account the particular vulnerability of women and children.
- c. The reception mechanisms must be put in place in advance of the return.
- d. Once they return, refugees must have their rights as citizens restored and recover their property in accordance with law and with the regulations in force in Burundi following the entry into force of the Peace Agreement.
- e. In the return of the refugees and the resettlement and reintegration of the returnees and displaced and regrouped persons, the principle of equity, including gender equity, must be strictly applied in order to avoid any measure or treatment that discriminates against or favours one category as compared with another.

### 1.2.3 International conventions and national regulations

The reference texts relating to the situation of refugees are the following:

- a. At the international level there are three texts:
  - The Convention relative to the Status of Refugees of 1951;
  - The Protocol relative to the Status of Refugees of 18 November 1966;
  - The OAU Convention of 10 September 1969 governing Aspects Specific to Refugee Problems in Africa;

These texts have been ratified by Burundi and must be respected by all signatory countries;

- b. At the national level, the only reference text is Legislative Decree No. 1/19 of 30 June 1997 on the restoration of the rights of persons who left Burundi following the events of 1972 and 1973, which was replaced by Legislative Decree No. 1/01 of 22 January 1991.

### 1.2.4 International refugee support programmes

Responsibility for the protection of refugees rests with the Office of the United Nations High Commissioner for Refugees (UNHCR) and the country of asylum. In the case of the Burundian refugees, The United Republic of Tanzania is the country most concerned, because it houses the largest number of them.

UNHCR is meeting the essential needs of the refugees with the support of other United Nations organizations and of local or international non-governmental organizations (NGOs). Most of these organizations are financed by multilateral or bilateral donors.

### 1.2.5 Responsibility of the Government of Burundi

The Government of Burundi undertakes to resettle and reintegrate the returnees with the support of other countries, international organizations and NGOs.

### **1.2.6 The old caseload refugees and the situation in the new camps in the United Republic of Tanzania**

The number of Burundian refugees living in the United Republic of Tanzania since 1972 is estimated at about 200,000. They were settled in the Mishamo, Katumba or Ulyankulu camps.

Even though they are able to meet their own needs, *inter alia* by farming land made available to them by the host country, the main concern of these refugees is to be able to return home. UNHCR is no longer providing assistance to this category of refugees, but it remains responsible for their protection. The administrative responsibility for them rests with the Tanzanian Government.

Because of their long absence from Burundi, the resettlement and reintegration of these refugees will call for a great deal of political will, *inter alia* with regard to recovery of the property they left behind, particularly their land. This issue will have to be properly resolved in order to avoid it becoming a source of new conflicts.

However, since 1994, other refugees from 1972 have left their countries of asylum to seek refuge in The United Republic of Tanzania. These refugees, as well as the refugees of the 1993 wave, have been temporarily settled in eight camps, namely Muyovozi, Mtabila, Nduta, Mukurwa, Mutenderi, Kanembwa, Lukole and Karago. They are surviving on the food ration provided by the World Food Programme (WFP). Their main concern is to return to Burundi as soon as a peace agreement has been signed.

Primary and secondary education is provided in the camps. The pupils follow courses under the Burundian curriculum.

## **1.3 Rehabilitation and resettlement of *sinistrés***

### **1.3.1 Statistics**

According to data from the Office for the Coordination of Humanitarian Affairs (OCHA), the total number of displaced and regrouped persons in Burundi at all sites is 371,161, 12 per cent of them Bujumbura Rural, 14 per cent in Bubanza, 24 per cent in Bururi and 33 per cent in Makamba.<sup>4</sup>

Of these persons, it is estimated that 650,000 wish to return and will be able to recover their former property once security has improved and is guaranteed. The remainder, however, feel that they would be unable to recover their property for fear of finding themselves ethnically isolated or becoming victims of acts of violence. One of the solutions for them would be for the Government to settle them on new land.

The statistics on dispersed persons are not well known because of their high degree of mobility.

### **1.3.2 Principles**

- a. All *sinistrés* wishing to do so must be able to return.
- b. For displaced and regrouped persons who are in camps or at sites, the principle of equity must be strictly applied in order to avoid any measure or treatment that discriminates or favours one category as compared with another.
- c. Specific conditions must apply to the *sinistrés* who believe that they can no longer return to their property, so as to enable them to return to normal socio-professional life.
- d. The restoration of security will permit a massive return of people to their land.

### 1.3.3 International and national regulations

There are no specific international or national laws that protect displaced persons. However, there are certain texts that govern their fundamental rights, namely:

- a. The Universal Declaration of Human Rights;
- b. The International Covenant on Civil and Political Rights;
- c. The International Covenant on Economic, Social and Cultural Rights;
- d. The Geneva Conventions relating to humanitarian law;
- e. National legislation, such as the Constitution, the Criminal Code, etc.

The instruments mentioned have been ratified by Burundi. More specifically, the United Nations has drawn up "Guiding Principles on Internal Displacement", but this text is not part of international law.

### 1.4 Actions relating to refugees and to *sinistrés*

The following actions shall be taken in relation to refugees and *sinistrés*:

A National Commission for the Rehabilitation of *Sinistrés* (CNRS) will be created. It will have administrative and financial autonomy and will replace the National Repatriation Commission established by Legislative Decree No. 1/01 of 12 January 1991. The new commission will deal with the problems of all *sinistrés*. It will have the mandate of organizing and co-ordinating, with international organizations and asylum countries, the return of refugees and *sinistrés*. It will help them resettle and reintegrate and deal with all the other issues as set out in the following list of measures ([1.4.2](#)).

A sub-commission will be established with the specific mandate of dealing with land-related issues (see mandate, [1.4.3.3.\(j\)](#)).

In the return of the refugees and the resettlement and reintegration of the returnees and displaced and regrouped persons, the principle of equity must be strictly applied in order to avoid any measure or treatment that discriminates against or favours one category as compared with another.

#### 1.4.1 Preparatory actions for the settlement and reintegration of refugees

- a. UNHCR is requested to update the standard gender and age disaggregated census in the new camps. The Ministry of Internal Affairs of the Republic of The United Republic of Tanzania, with the support of UNHCR, is requested to organize, in the settlements of the old caseload refugees, a more specific census designed to identify the wishes and complaints of the refugees in these camps with respect to recovery of their abandoned land or alternative measures. This work will be supplemented on the one hand by visits to the settlements and on the other hand by seminars and conferences in which representatives of refugees will participate.
- b. UNHCR and the partner NGOs should provide for and organize information sessions for the refugees before and after the signing of the Agreement, so as to give them a good picture of developments in the political situation in Burundi in general, and of the state of advancement or implementation of the results of the Arusha negotiations in particular.
- c. UNHCR and the Government of Burundi should organize and enable refugees to undertake travel to Burundi, if it is regarded as necessary, so that they can see on the spot the prevailing situation and the reception mechanisms, in order to help them decide definitively on their return.

- d. The Tripartite Commission will have to meet, and include representatives of the refugees and international observers, in order to engage in transparent deliberations and take into account the refugees' fears or complaints. (Action: UNHCR/GOB/GOT)

#### **1.4.2 Actions for the resettlement and reintegration of refugees and *sinistrés***

The following actions to resettle and reintegrate refugees and *sinistrés* shall be taken. These actions will be decided upon by the National Commission for the Rehabilitation of *Sinistrés*, taking into account a framework of priorities and the availability of resources.

Preparatory actions specifically targeting all *sinistrés*:

- a. Multidimensional census of *sinistrés* (Action: National Commission for the Rehabilitation of *Sinistrés* / OCHA);
- b. Information and awareness campaigns on the mechanisms for peaceful coexistence and on return to their *collines* of origin (Action: all organizations involved in the return);
- c. Organization of visits to places of origin with a view to psychological preparation for the return of all *sinistrés*, and in order to encourage mutual acceptance;
- d. Settlement, on sites close to home, of all those who for various reasons believe that they can not yet return home, in order to enable them initially to work their fields and then reoccupy their land later on;
- e. Specific measures, particularly through a good reintegration policy, to encourage people who abandoned their property because of the crisis and the war to return to their regions of origin, so that in the short, medium or long term there will no longer be anyone living in camps.

#### **Reconstruction principles:**

- f. To the extent possible, encourage "grouped" housing in the reconstruction policy in order to free up cultivable land. Rural regions must be urbanized by creating multi-ethnic small towns or villages which will become development and attraction poles and will ease the pressure on land;
- g. Ensure equity in the distribution of resources between the ethnic groups on the one hand and the provinces on the other, and avoid overlap between the various partners or participants by coordinating resettlement and reconstruction activities at the government level with the support of UNDP;
- h. Promote participation of the population in the resettlement activities;
- i. Help the returnees and other *sinistrés* to return to their properties.

#### **Material and infrastructure support:**

- j. Give all returning families, including female- and child-headed families, food assistance, material support and support for health, education, agriculture and reconstruction until they become self-sufficient (Responsibility of the Government, UNHCR and other international organizations);
- k. Provide communes, villages and *collines* with assistance in the reconstruction of community infrastructures (schools, health centres, water supply networks or developed springs, etc) and income-generating activities (Action: National Commission for the Rehabilitation of *Sinistrés*), paying special attention to women and enhancing their roles in building and sustaining families and communities;

#### **Administrative support:**

- l. Ensure the socio-economic and administrative reintegration of the *sinistrés* through the conception of consequent and appropriate programmes and actions;
- m. Assist the returnees in other important issues such as health care, psycho-social support, social security and retirement, education of children, and equivalency of diplomas awarded outside Burundi;

**Specifically:**

- n. Help returnees recover their property and bank accounts left in Burundi before their exile whose existence has been duly proven;
- o. To help with language problems, intensive language courses will be offered;
- p. Help persons entitled to the social security survivors' pension receive payment;
- q. Returnees who paid social security in Burundi may claim their entitlements;

**Administrative issues relating to returnees in their country of asylum:**

The Government of Burundi or the CNRS will:

- r. Help returnees settle their disputes in their country of asylum relating notably to immovable property, bank accounts, social security, etc;
- s. In the context of agreements between countries or social security institutions, help those who were employed in the country of asylum receive social security benefits to which they are entitled in respect of such employment;
- t. Assist pupils and students attending the two final years of primary, secondary and higher education and wishing to complete their studies in the host country;
- u. Study ways of indemnifying and compensating returnees for property in the country of asylum they are unable to take with them, profit from or sell;
- v. Analyse the case of refugees deciding to remain in their countries of asylum;
- w. Depending on resource availability, any other measure falling within the framework of the plan of action could be undertaken.

In order to obtain assistance in conducting these actions, the Government must allow international organizations and international and local NGOs unrestricted access to returnees and other *sinistrés* for purposes of the delivery of humanitarian assistance. It must guarantee the safety of the staff of such organizations and must also facilitate the provision of short-term aid for repatriation, appropriately supervised and without discrimination.

### **1.4.3 Measures relating to the land issue**

#### **1.4.3.1 The context**

With an area of 27,834km<sup>2</sup>, Burundi has a relatively small territory in relation to its population of more than 6 million. The population density is over 200 inhabitants per km<sup>2</sup>. The annual population growth rate is about 3 per cent, one of the highest in Africa, resulting in a doubling of the Burundian population every 20 years.

The population is strongly attached to its land, despite strong population pressure on rural land. The progressive dividing up of property, with an average agricultural holding size of 0.8 hectares per household,

remains one of the most disturbing phenomena. In some regions of the country, the land is no longer sufficient to feed families, and accordingly an escalating struggle for land is taking place.

The population explosion and the absence of a cadastral survey system for rural land, together with the various disturbances (ethnic or other) that Burundi has experienced at different times in its history, exacerbate the problem of land disputes.

#### **1.4.3.2 The problems**

It is in this context that the problem of the 1972 refugees' land must be viewed. Following the tragedy in 1972, thousands of Burundians were compelled to leave their land and go into exile. Many of these properties have subsequently changed ownership. This redistribution of land was undertaken by the State out of concern for good utilization of a scarce resource. This was undertaken on the basis of laws that some have contested and qualified as unjust because they violate fundamental rights. The question thus arises of deciding between restoration of their property to returnees and protecting the rights acquired - subjectively often in good faith - by current owners. This will be one of the tasks of the Sub-Commission referred to in paragraph [1.4.3.3.\(i\)](#) and [\(k\)](#).

There is also the case of the Regional Development Corporation in Rumonge, which in the name of the State took the property of private citizens and developed it in order to plant a new variety of palm tree. In this operation, the Corporation redistributed properties, giving each recipient in some cases one hectare and in some other cases four hectares. Those who previously had a larger area saw this as an injustice.

Some delegations assert that there are former landowners who have not been given land, whereas people who had no land have been given properties. Other delegations, on the other hand, believe that these are as yet unverified allegations.

In addition, the fair and prior indemnification promised to all persons whose land was expropriated has allegedly not been paid. Thus the refugees did not take part in this redistribution because they were still in exile, but that does not deprive them of the right to claim their land or their compensation at a later stage.

Lastly, and more recently, there is the problem of State-owned land, in relation to which irregularities and speculation have been observed. The allocation of State-owned land will henceforth have to take account of new needs relating to resettlement of *sinistrés*, to which priority must be assigned.

#### **1.4.3.3 Principles and actions**

To resolve this complex issue, the following principles and mechanisms have been decided upon:

- a. Property rights shall be guaranteed for all men, women and children. Compensation, fair and equitable under the circumstances, shall be payable in case of expropriation, which shall be allowed only in the public interest and in accordance with the law which shall also set out the basis of compensation;
- b. All refugees and/or *sinistrés* must be able to recover their property, including their land;
- c. If recovery proves impossible, everyone with an entitlement must receive fair compensation and/or indemnification<sup>5</sup>;
- d. Refugees who do not return may receive a just and equitable indemnification if their land had been expropriated without prior indemnification and in contravention of the principle mentioned in 1.4.3.3.(a);
- e. The policy with respect to distribution of State-owned land should be reviewed so that priority can be given to the resettlement of *sinistrés*;

- f. An inventory of destroyed urban property shall be drawn up with a view to making it habitable in order to return it as a priority to the original owners or to redistribute it;
- g. A series of measures shall be taken in order to avoid subsequent disputes over land, including the establishment of a register of rural land, the promulgation of a law on succession and, on a longer term, the conduct of a cadastral survey of rural land;
- h. The policy of distribution or allocation of new lands should take account of the need for environmental protection and management of the country's water system through protection of forests;
- i. Burundi's Land Act must be revised in order to adjust it to the current problems with respect to land management;
- j. A Sub-Commission on Land will be established within the framework of the National Commission of Rehabilitation of *sinistrés* and will have the specific mandate of:
  - i. Examining all cases of land owned by old caseload refugees and State-owned land;
  - ii. Examining disputed issues and allegations of abuse in the (re)distribution of land and ruling on each case in accordance with the above principles;

The Sub-Commission on Land must, in the performance of its functions, ensure the equity, transparency and good sense of all its decisions. It must always remain aware of the fact that the objective is not only restoration of their property to returnees, but also reconciliation between the groups as well as peace in the country.

#### **1.4.4 Managerial and administrative measures**

##### **1.4.4.1 Establishment of a national fund for *sinistrés***

This fund, whose establishment is obviously desirable, will derive its funding from the national budget and from grants by bilateral and multilateral aid agencies or assistance from NGOs.

##### **1.4.4.2 Establishment of reception committees**

These will be created where they do not yet exist, and will generally have to be better organized. They will necessarily include the local authorities, including commune administrators or their duly authorized representatives, security agents and other persons whose skills might be necessary.

The role of these committees shall be to receive and supervise all *sinistrés* returning to their homes, ensure their security and help them organize their socio-economic reintegration.

##### **1.4.5 Other measures: protection, rehabilitation and advancement of vulnerable groups**

The groups in question include among others children heads of family, orphans, street children, widows, women heads of family, unaccompanied minors, juvenile delinquents, the physically and mentally disabled as well as traumatized children.

The competent ministry needs to conduct a census of these groups and draw up special assistance programmes.

<sup>1</sup> OCHA, Guiding Principles on Internal Displacement. United Nations, New York, 1999, p.1.

<sup>2</sup> Data supplied by UNHCR, Burundi.

<sup>3</sup> There are Burundian refugees in other countries, such as countries in Europe, North America and elsewhere in Africa, who are not counted in this table.

<sup>4</sup> Statistics for August 2000 provided by OCHA-Burundi.

<sup>5</sup> Four examples by way of illustration:

- A resident of Burundi owns more than one piece of land. A returnee claims one of these pieces of land. In this case, it would be more reasonable to request the former to vacate the land in question against possible compensation;
- A resident of Burundi with a large family farms a small piece of land which he acquired in good faith. A returnee claims this land. In this case, it would be more reasonable to ask the returnee to accept another piece of land in compensation;
- In the case of infrastructure construction undertaken in the public interest, the returnee cannot claim this land;
- In the case of the exploitation of land by the returnee's family, a "friendly" solution will be sought, keeping in mind, nevertheless, the necessity to ensure the subsistence of all those concerned.

## **Chapter II**

### **Reconstruction**

#### **2.1 Introduction**

##### **2.1.1 Definition of reconstruction**

Broadly speaking, reconstruction is described as restoration of the living conditions of the population to their best previous level. In other words, reconstruction means the whole range of activities to be conducted in order to attain the highest, and hence the most significant, socio-economic indicators achieved in the past.

##### **2.1.2 Basic principles of reconstruction**

With respect to reconstruction, a number of basic principles can be cited:

Logically, only that which has been destroyed can be rebuilt, but everything cannot be rebuilt in the same way, or at the same time, for various reasons which include improving the quality of living conditions, the priorities set in the light of the urgency of the needs and the magnitude of available resources.

Generally speaking, reconstruction measures are short-term measures, but they need to be taken or decided upon with a view to preparing for reconciliation among the various categories of the population and for medium- and long-term development. Thus reconstruction implies an overall approach incorporating rehabilitation, peace-building, promotion of human rights and freedoms, economic growth and long-term development.

The reconstruction programme must be conducted and carried out in accordance with a realistic timetable that essentially takes account of local capacities and external inputs of human, material and financial resources.

The programme must be designed with a view to equity so that all categories of the population may benefit from it.

From the perspective of sustainable and permanent reconstruction, the Government and all of the political actors must do everything possible to prevent destruction for whatever motive.

### **2.1.3 The different aspects of reconstruction**

The most important aspects relate to physical reconstruction and political reconstruction:

- a. Physical reconstruction means all measures capable of facilitating the return of refugees and *sinistrés*. These measures also relate to reconstruction of destroyed physical capital. They must simultaneously benefit all of these people and the administrative bodies involved in this process;
- b. Moral and political reconstruction means all measures designed to promote national reconciliation.

## **2.2 Inventory of infrastructure**

The crisis and the war in Burundi led to much loss of human life and much destruction of public and private infrastructures as well as of individual property.

Existing sources of statistics on the destruction are not always in agreement. An accurate tally of all the destruction caused by the crisis must therefore be drawn up.

### **2.2.1 Housing**

According to the Ministry for the Reinsertion and Resettlement of Displaced Persons and Returnees (MRRDR), 90,648 families were homeless prior to September 1999, to which must be added an as yet undetermined number of regrouped persons since that month. Account will also have to be taken of the future returnees who will be homeless.

In 1997 and 1998, some 17,794 houses were rebuilt by the implementing partners, while between 1997 and June 1999, 16,633 houses were rebuilt by the Government. The exact number of houses built by the Government since July 1999 and by the partners since January 1999 is not known, but it is estimated at 35,000 to 40,000.

The MRRDR's projections place the number of houses to be rebuilt at 20,000 in 2000, 40,000 in 2001 and 20,000 in 2002, a total of 80,000. which is still below real needs. Of this total, the Government could bear the cost of 23,200 houses, while a further 56,800 would have to be rebuilt by the partners. On the other hand, in November 1999 the Ministry of Development Planning and Reconstruction estimated the number of houses destroyed at more than 120,000. If the expected number of returnee and other *sinistré* families is taken into account, the number of houses to be rebuilt may even be as high as 150,000 to 200,000.

The cost of the materials required to build a modest house, including 30 metal sheets per household, nails and woodwork, amounts to about BuF 250,000 (Burundi Francs) The total cost of all the houses to be built needs to be assessed.

There are other houses that are not included in these statistics, owing to the persistence of fighting in certain areas which is causing further destruction. This makes it difficult to give an exact number of houses to be rebuilt.

### **2.2.2 Water supply systems**

In the area of water supply, some 60 water supply systems and 56 standpipes were destroyed as of 1998. According to the MRRDR, a few standpipes and 48 water supply systems have been repaired.

According to the same Ministry, BuF 991.5 million would be needed in 1999 for reconstruction programmes in the water supply and sanitation sector.

In February 2000, UNICEF estimated that 15 per cent of the entire water supply infrastructure had been destroyed, and that a total of 50 per cent of all management and maintenance facilities in the sector were not operational on account of the war.

### **2.2.3 Health facilities**

In November 1999 the Government estimated that 75 hospitals and health centres had been destroyed. Some 62 of them have been rebuilt, according to the Ministry of Public Health.

In addition to the destruction of facilities, medicines were looted, and some health care personnel have died or gone into exile. Thus reconstruction will also involve equipment, medicine and health-care personnel.

### **2.2.4 Educational facilities**

With regard to school infrastructure, the Government reckoned that 233 schools had been destroyed as of 1998; of those, it had already rebuilt 114.

Although many of the schools had been rebuilt, UNICEF estimated that more than 500 primary schools were not operational and that 10 per cent of secondary schools had not opened their doors during that school year.

It is not enough to rebuild schools, since the crisis has left many teachers dead or in exile. More than 2,000 unqualified teachers have had to be recruited and trained on the job, and some pupils in compulsory civics classes have been pressed into service to deal with this crisis.

According to a 1998 UNICEF estimate, the cost of rehabilitating the education sector as a whole will be \$US 12.5 million. Obviously, a major effort will be needed to bring the crude enrolment rate back to pre-crisis levels, let alone exceed them.

### **2.2.5 Other physical destruction**

The crisis also entailed the destruction of much more property: shops and their inventory, equipment belonging to small and medium-sized enterprises, vehicles and homes, especially in Bujumbura and the secondary urban centres.

## **2.3 The essential conditions for reconstruction**

For reconstruction programmes to succeed, the following conditions are essential:

- a. Halting the war;
- b. A successful outcome of the peace process;
- c. A valid democratization process;

- d. Commitment on the part of the Burundian population and support from the international community.

### **2.3.1 Security**

Security for all in Burundi is of vital importance in that it gives the population confidence and contributes to the normalization of daily life. An effective decrease in, or better a total disappearance of, violence and a permanent cease-fire are required in order to guarantee the effective security of the population. Accordingly, all the parties to the Burundi conflict should declare and respect a definitive cessation of hostilities. This would make it possible to build without fear of further destruction.

### **2.3.2 A successful outcome of the peace process**

The culmination of the peace process in general, and the Arusha negotiations in particular, and the establishment of a transition Government and other transitional institutions that will follow will have a vital and decisive influence on the reconstruction of Burundi.

### **2.3.3 A valid democratization process**

Democratization constitutes one of the prerequisites for material and political reconstruction programmes. It is also one of the important accompanying measures for any equitable and sustainable development of the country in the short, medium and long term.

It is indeed important that reconstruction, both physical and political, should be conducted by authorities that inspire confidence. This will permit reconstruction with the hope that there will no longer be further destruction, and hence will encourage investment.

### **2.3.4 Commitment on the part of the Burundian population and support from the international community**

The reconstruction of Burundi must be supported from inside and outside the country. Mobilization of the Burundian people and support from the international community are essential in order to assemble the human, material and financial resources required for the reconstruction programmes. In order to reassure donors, it will ultimately be important to provide guarantees of good and equitable management of funds and their effective allocation for reconstruction activities.

## **2.4 Physical reconstruction**

Physical reconstruction has to do with the physical rebuilding of destroyed property. Burundi undertakes to finance this reconstruction with the aid of the international community. This exercise should be carried out transparently and equitably, in accordance with the following guidelines:

- a. Account shall be taken both of those who are being resettled or reintegrated and of those who are receiving them;
- b. Imbalances relating to public infrastructures, especially schools, should be corrected;
- c. Problems relating to the repayment of loans that some Burundians have borrowed from banks and financial institutions and for which the object financed has been destroyed must be solved. With the banks and financial institutions, the Government will look into the possibilities of reducing or eliminating interest payments or subsidizing interest rates as well as extending repayment periods for any persons in this situation;
- d. Infrastructures must be reconstructed and sound management of those rebuilt must be ensured. In the area of water supply, for instance, it will not be enough simply to rebuild the infrastructures; methods for their effective management and maintenance shall also be indicated;

- e. Human capital shall be considered an essential element of reconstruction;
- f. An environment conducive to reconstruction and the resumption of production activities shall be created and the macro- and micro-economic framework shall be improved. For example, the foreign exchange needed to import goods for reconstruction should be allocated and fiscal measures should be taken to help businesses whose property was destroyed resume their activities;
- g. The intervention capacity of the communes shall be enhanced;
- h. National solidarity: the cost of reconstruction is very high and the State shall invoke national solidarity by setting up a reconstruction fund whose resources will come from contributions from all economic agents.

## **2.5 Political reconstruction**

Physical reconstruction and political reconstruction must go hand in hand. Political reconstruction is aimed at making national reconciliation and peaceful coexistence possible. Many things must be done for national reconciliation to be successful. All the measures to be taken, however, should be directed towards the establishment of the rule of law, which will foster national reconciliation.

To ensure the success of political reconstruction, which seeks to bring about national reconciliation, measures must be taken to establish the rule of law in Burundi: reform of the judiciary, advancement of women, democratization of institutions and support for parliament, civil society, the independent media and political parties.

### **2.5.1 National reconciliation**

#### **2.5.1.1 Reasons for reconciliation**

Burundi is going through a politico-ethnic conflict which has lasted for over 30 years. Throughout this entire period, Burundians have experienced deep-seated divisions that have prevented them from prospering, thus making their future and that of their children uncertain. Today, all Burundians must regret this situation. They seek to rebuild a country which offers more opportunities for a better life for their children. It is to this end that measures should be taken to eliminate tensions, improve the political climate and create a political and legal environment which provides a new basis for understanding among the various groups in the population.

#### **2.5.1.2 A national reconciliation programme**

In the context of the peace agreement, all the parties to the conflict undertake to launch a multi-faceted programme of national reconciliation.

The programme will consist of the following actions:

- a. The Government will issue a declaration of national reconciliation which places emphasis on human rights and freedoms and on measures to combat impunity;
- b. The Government will undertake to ensure the moral rehabilitation of all conflict victims. Accordingly, it will erect a national monument commemorating all victims of genocide, war crimes and crimes against humanity which will bear the words "Never Again";
- c. Mutual self-help and teamwork will be promoted under the housing reconstruction programme and other economic and social development activities;

- d. A historical study that will lead to a common interpretation of Burundi's history will be undertaken. The researchers will have access to both the written and the audio-visual materials in the national archives;
- e. A centre for conflict observation, prevention and resolution will be established at the national and regional levels;
- f. The creation of political and ethnic ghettos is to be avoided. Accordingly, meetings must be organized among the various groups of the population so that they may learn to live together again;
- g. Examples of people who have contributed significantly to reconciliation activities will be disseminated;
- h. Special programmes will be set up for the psychological care of children, especially orphans, to help them overcome the trauma caused by the conflict;
- i. Peace and reconciliation committees will be established.

#### **2.5.1.3 Promotion of human rights and freedoms**

- a. Human rights and freedoms, particularly the right to life, should be taught. Political leaders and government officials will also benefit from this programme.
- b. Committees for the promotion and defence of human rights and freedoms should be established in the civil service, parastatal bodies, the private sector and in the *collines*.

#### **2.5.1.4 Education for a culture of peace**

- a. A nation-wide awareness-raising campaign should be conducted to help the various groups in the population live together again in peace.
- b. Political and administrative leaders and economic agents should receive training in the peaceful settlement of disputes.
- c. Education in the culture of peace should be included in school curricula, and the notions of democracy and the human rights and freedoms should be introduced.

### **2.5.2 The role of women in reconstruction**

#### **2.5.2.1 Why the advancement of women?**

Burundian women have suffered greatly from the various crises that have taken place in the country from independence to the present. Thousands of women have been widowed and traumatized. Their property has been looted and their children, have dropped out of school. Fearing for their lives, some of their husbands have fled the country, abandoning them with little or no means of survival. Over half of the refugees and *sinistrés* are women and children for whom the future looks bleak. This situation has had dire consequences for the lives of children: some have become orphans, vagrants and street children. Their quality of life has deteriorated considerably.

#### **2.5.2.2 Tangible actions for the advancement of women**

In order to support and promote the advancement of women, taking into consideration the difficulties they have been through and continue to experience, the following actions are necessary:

- a. Women must be included in all management bodies established as part of the reconstruction process. These include committees for the rehabilitation, resettlement and reintegration of *sinistrés*, aid distribution committees at all levels, etc.;
- b. Women must be made aware of national reconciliation activities and must be mobilized to take part in them. Women must be promoted as peace mediators;
- c. Meetings between women in Burundi and women of the diaspora should be held so that they can exchange ideas about their respective problems and the future of the country;
- d. Women and children who find themselves in the special position of heads of household must be taken into account. The entitlements of those widowed and orphaned by Burundi's various crises must be restored;
- e. A body should be established to identify women's problems in the context of the Burundian crisis and suggest appropriate solutions to the Government;
- f. Legislation on women's inheritance rights must be drafted, adopted and promulgated;
- g. Destroyed homes must be rebuilt for homeless women;
- h. Help should be provided to women to engage in income-generating activities;
- i. Counselling, training and assistance with reintegration should be provided to girls and women who have been subjected to sexual abuse and forced marriages during and after the crisis.

### **2.5.3 The justice system**

To make the Burundian justice system sufficiently operational and equitable, the following measures should be taken:

- a. Voluntary correction of ethnic imbalances existing among justice system personnel;
- b. System-wide institutional capacity-building;
- c. Training, on and off the job, for justice system employees;
- d. Measures to combat corruption;
- e. Improvement of the working conditions of magistrates and better logistical support (vehicles and equipment for courts and tribunals);
- f. Translation and dissemination of legislative texts in Kirundi so as to make them accessible and comprehensible to the entire population;
- g. Technical assistance for lawyers.

### **2.5.4 Democratization**

#### **2.5.4.1 Democracy as a concept**

Democracy is a relatively recent concept in the vocabulary and language of the Burundian people. However, it was accepted by the Burundian people in 1991, when the referendum on the Charter of National Unity was held, and in 1992, when the Constitution was adopted.

While democracy is by definition a system of government of the people by the people, the democratic system has yet to be well understood in Burundi. In addition to elections through which institutions accepted

by a popular majority are established, democracy is a whole process that provides for the establishment of institutions with checks and balances and the machinery for putting governments in office and allowing them to be replaced in their management of state affairs.

#### **2.5.4.2 Measures in support of democratization**

To ensure that Burundians understand what democracy is, the following steps shall be taken:

- a. Instruction in the culture of democracy shall be provided to politicians, in schools, in military camps, in communes, etc.;
- b. Codes of democratic conduct shall be developed and widely disseminated in order to spread information about democratic culture;
- c. A constitution and a social plan that ensure respect for democratic principles shall be drafted;
- d. Democratic principles shall be applied in the work of national institutions.

#### **2.5.5 The National Assembly**

##### **2.5.5.1 History of the Burundian Parliament**

In Burundi, the Parliament is an institution whose significance in political life is not yet sufficiently understood. The country first experimented with a parliament in the early 1960s. This institution has been suspended many times, particularly during the various *coups d'état*, and the country went for many years without one. Deputies or members of the National Assembly still do not comprehend the extent of their responsibilities and need to have a fuller understanding of their mission, their rights and their duties to the Burundian people.

##### **2.5.5.2 Steps to be taken**

To make the Assembly more operational and thus more valuable to Burundi and its people, the following steps must be taken:

- a. Parliamentarians must be made familiar with their mission, their rights and their duties to the Burundian people. To this end, seminars, training programmes, parliamentary days and study tours should be organized so that they can learn how parliaments are organized and function in other countries and thus understand the relationship that exists in a republic between the legislative branch of government and the executive and judicial branches;
- b. Members of the National Assembly should be allowed to meet with the public so that they can learn the public's views and thus uphold their interests;
- c. The National Assembly should be provided with the institutional capacity and logistical resources it needs in order to carry out its mission.

#### **2.5.6 Civil society**

##### **2.5.6.1 The status of civil society**

Civil society in Burundi is not yet sufficiently organized to form a structure strong and solid enough to uphold the interests of all groups in the population. The notion of civil society is in fact a new one and is not well understood by the population, just as civil society itself does not understand its own mission.

Other organizations exist in Burundi, such as labour unions and the Chamber of Commerce, Industry, Agriculture and Crafts. But these are bodies without enough resources to organize their members effectively or help them assume responsibility for defending their own interests.

#### **2.5.6.2 Support for civil society**

To help civil society play its role in Burundi as it does in other countries, principally by helping representative democracy take root and helping to establish a genuine State governed by the rule of law, the following support measures are indispensable:

- a. Assistance to civil society so that it can thoroughly understand its role, which is to serve as a pressure group that will advocate on behalf of its members and uphold universal values;
- b. The organization of seminars, training courses and study tours for members of civil society so that they can learn and understand what their critical role is in the democratic process and how they can be useful to the country;
- c. Provision of adequate logistical support.

#### **2.5.7 Independent media**

##### **2.5.7.1 The situation of the media in Burundi**

The media in Burundi are not sufficiently professional. Neither the public nor the private news media are very diverse, and this is true of both the broadcast media and the press. There are in fact few private or independent radio stations and few private newspapers.

Journalists working in the Burundian media today have not fully grasped their role, since most of them comment on the news or report it with an ethnic or partisan slant.

##### **2.5.7.2 Measures to support independent media**

To diversify the media in Burundi, support or assistance must be provided to independent media as follows:

- a. The Government must understand that private and independent media are an intrinsic part of good governance. It must therefore accept and even help the media, particularly during their infancy. The Government should agree to an increase in the number of independent radio and television stations and newspapers. These media should display professionalism, competence and respect for the journalistic code of ethics;
- b. The role and place of the national communications advisory board in the public and private media should be redefined and strengthened;
- c. Training programmes and seminars should be organized to teach journalists about their rights and duties;
- d. Support should be provided to the future school of communications at the University of Burundi to promote the training of journalists.

#### **2.5.8 Political parties**

Political parties are organizations that are indispensable to good governance. They are social structures for political thought and organization. It is primarily through political parties that civic and political education takes place. Rather than being blamed them for every problem in the country and destabilized, they should

be supported. They should be given government financing, in accordance with the legislation governing political parties, as is done in many democratic countries.

## **Chapter III Economic and Social Development**

### **3.1 Introduction**

Burundi is a very poor country. With a per capita income of \$US 143 in 1998 according to the Ministry of Development Planning and Reconstruction, it is one of the 10 poorest countries in the world. In 1999, the International Monetary Fund (IMF) estimated the total gross domestic product (GDP) at BuF 432.6 billion which corresponds to approximately 65,000 BuF per inhabitant.<sup>6</sup>

The ethnic conflicts that have marked Burundi's history since independence have prevented the country from achieving the political stability that is indispensable for any healthy and sustainable economic development.

Although Burundi has experienced long periods of political instability, it has nevertheless experienced a low but steady level of economic growth. However, the benefits of this growth have not been equitably distributed. In order to prevent any future conflicts, national wealth must be increased and equitably distributed.

Unfortunately, the civil war that has been taking place in Burundi since 1993 has wiped out the economic and social accomplishments of the past three decades and set the country back nearly 40 years. The GDP, which stood at \$US 125 (1987 value) in 1960, was only \$US 114 in 1996<sup>7</sup> and \$US 106 in 1999.

If the current generation is not to bequeath this weak economy to its descendants, Burundians must commit themselves to a major effort and even sacrifices to bring about the country's economic recovery, for the task is not an easy one.

### **3.2 The economic situation in Burundi**

Burundi's economic situation is dire, as all socio-economic indicators make clear.

#### **3.2.1 Worsening poverty**

There has been a drastic increase in poverty. In rural areas, the portion of the population living under the poverty threshold<sup>8</sup> rose from 36 per cent to 58 per cent between 1990 and 1998, or an increase of over 60 per cent. In urban areas, the monetary poverty level reached 66 per cent in 1997.<sup>9</sup> In 1999, all observers inside and outside the country acknowledged that the poor have increased in number, and that they are growing poorer.

Changes in per capita GDP and the human development index confirm this trend towards increasing poverty. According to the World Bank,<sup>10</sup> per capita GDP grew by 2 per cent annually from 1980 to 1985 and by only 0.9 per cent from 1986 to 1992. If the economic growth rate prior to the crisis had been maintained, per capita income, which was \$US 210 in 1992, would have doubled in 87 years.<sup>11</sup> From 1993 to 1999, per capita income continued to decline, with GDP shrinking by more than 20 per cent, according to the Minister of Finance. The human development index fell from 3.4 points in 1993 to 3 points in 1998.

#### **3.2.2 The bleak macroeconomic and financial picture**

### **3.2.2.1 The budget**

The situation of public finance has become rather alarming. Since 1996, the overall budget balance has stayed negative. Financing for current expenditure, investment and debt-servicing payments has always come from the country's banking system and from deferred internal and external payments.

### **3.2.2.2 Inflation**

Monetary financing of the budget, declining output in all sectors, and a shortage of foreign currency reserves inevitably led to across-the-board price increases. The consumer price index for households in Bujumbura rose to 295 in 1999 (against a base figure of 100 in 1991).<sup>12</sup> Current price levels are unsustainable, not only for households but for all other economic agents as well. Inflation has a depressing effect on all other sectors of the economy.

### **3.2.2.3 Depletion of foreign currency reserves**

Although the level of imports since 1996 remains low, foreign currency reserves have dwindled. According to the Bank of the Republic of Burundi, they fell from \$US 200 million at the end of 1995 to \$US 35 million as at 31 December 1999. This is not the first time that Burundi has had serious problems with its foreign currency levels, having experienced them in 1986. Thanks to its structural adjustment programme, Burundi obtained significant financing from the international community and was thus able to overcome the crisis imposed by the foreign currency shortage. Official development assistance rose from 14 per cent of GDP in 1985 to 23 per cent of GDP in 1993, falling back to 14 per cent in 1998. From 1994 to 1995, support for the balance of payments rose to 2 per cent of GDP. Since 1995 Burundi has received no support in this area.

Today the state of Burundi's foreign currency reserves is critical. As Burundi has no economic programme supported by IMF and the World Bank, the country has found it very difficult to obtain assistance to support its balance of payments. To cope with this situation, the Government has placed restrictions on payments and transfers for international transactions.

This depletion of foreign currency reserves is the main cause of the loss in value of Burundi's currency: the official rate of exchange of the BuF vis-à-vis the United States dollar fell from BuF 251.75 at the end of 1994 to BuF 637 as of 10 February 2000 (and from BuF 335 in April 1996 to more than BuF 1,200 in February 2000 on the parallel market).

### **3.2.2.4 Arrears in the repayment of external public debt**

Since 1995, Burundi has not been repaying all of its external debt. It does pay what is owed to IMF, the World Bank, the African Development Bank (ADB) and the International Fund for Agricultural Development (IFAD). Failure to meet these obligations would complicate Burundi's situation even further. The country has also accumulated significant arrears in payments to other creditors. By the end of 1998, the IMF estimated these arrears at \$US 70 million. Under these circumstances, the World Bank is recommending that the country rely more on grants than on loans.

### **3.2.2.5 International co-operation**

Since the end of 1995, the international community has significantly decreased its assistance to Burundi. International assistance, which amounted to \$US 300 million annually from 1990 to 1992, has decreased considerably (\$US 100 million in 1998) and is limited to expanded humanitarian assistance. In 1999, Burundi received through international co-operation a total of BuF 13 billion in credits and BuF 10.8 billion in grants, or \$US 42 million in all.

From July 1996 to January 1999, an embargo imposed on Burundi by neighbouring countries compounded the freeze on international co-operation, thereby contributing to the country's poor economic performance.

For most donors, the resumption of structural co-operation is conditional on the signing of a peace agreement at Arusha and the entry into force of the Agreement: cooperation must resume in a political environment that emphasizes democratic values, good governance and respect for human rights and for the rule of law.

### **3.2.2.6 Economic reforms**

Burundi has received a large volume of assistance from the international community in the context of its structural adjustment programme, which seeks primarily to help the Government reduce the role of the State in the economy, increase domestic savings, and reduce Burundi's dependence on external sources of assistance.

In the area of budgetary policy, current operations ought to yield a greater surplus, and the overall budget deficit should be brought down to a level that will allow the State to improve its position vis-à-vis the banking system while increasing credit to the private sector.

In the wake of the crisis which began on 21 October 1993, the economy collapsed, inflation accelerated, domestic savings remained negative, public investment declined significantly, and budgetary disequilibria reached unsustainable levels.

Many of the accomplishments of the long adjustment period, such as the liberalization of currency regulations and the lowering of taxes, were lost.

Some major reforms could no longer be pursued at the same pace, including the reform of public enterprises, liberalization of the coffee sector, promotion of coffee planters' associations and the development of areas other than coffee and tea.

## **3.2.3 The economy from a sectoral perspective**

### **3.2.3.1 The rural sector**

More than 90 per cent of Burundi's population live in rural areas. Agriculture is the main activity, with emphasis on the production of foodstuffs and export crops (coffee, tea, cotton). These three crops alone generate more than 90 per cent of the country's foreign currency earnings.

Given the lack of natural resources capable of generating significant revenue for the State, such as oil and minerals, the State derives much of its income by indirectly taxing the earnings of the rural population.

At the same time, the rural sector keeps the industrial sector going by being the largest market for most of the country's industrial output.

Development in Burundi requires an increase in the cash income of the rural population. To accomplish this, producers need to benefit from their output as much as possible.

### **3.2.3.2 The secondary and tertiary sectors**

The secondary sector accounted for only 15 per cent of GDP in 1998 and 11 per cent of exports in 1993. It is dominated by the public sector, especially in the areas of manufacturing, energy and infrastructure. With the exception of the banking sector, public enterprises are characterized by low productivity, overstaffing, high deficits and heavy indebtedness, both internal and external. These enterprises place a heavy burden on public finances and the banking sector. Public utilities such as Regideso and Onatel provide only limited service coverage. Less than 2 per cent of the population has access to electricity, and there are only three telephone lines for every 1,000 inhabitants. This hampers development in Burundi, particularly in the rural areas.

Moreover, the secondary sector is incapable of absorbing surplus agricultural labour.

With the advent of the crisis, the reforms that had been launched to improve the business climate were disrupted. The total liberalization of international transactions relating to current operations was disrupted by the return to strict currency controls. All these constraints, caused for the most part by the crisis, had an unfortunate effect on private sector development, which constitutes the basis for most economic development.

### **3.2.3.3 The social sector**

The crisis has led to a decline in social indicators:

- a. Immunization coverage fell from 83 per cent in 1992 to 48 per cent in 1998;
- b. The crude school enrolment rate at the primary level fell from 70 per cent in 1992-1993 to 53 per cent in 1998-1999. Infant mortality rose from 110 per 1,000 in 1992 to 127 per 1,000 in 1998;<sup>13</sup>
- c. Every month approximately 450,000 affected persons receive food aid, while nutrition centres feed 32,200 people a day. In financial terms, Burundi's food aid from WFP totalled \$US 24 million in 1999;
- d. Approximately 1 million people, who are simultaneously producers and consumers, live away from their homes, in camps inside Burundi and in refugee camps in neighbouring countries.

### **3.2.4 Political and institutional framework**

Fortunately, the political crisis has not destroyed the country's administrative and institutional capacity. Burundi still has sufficient administrative capacity to plan and implement policies. However, certain phenomena, such as laxity and corruption, appear to be on the rise in Government offices. This is partly due to the fact that poverty has hit the civil service. High inflation and the shrinking of the Burundian franc have wiped out the earnings of bureaucrats and civil servants. Today, the director of a Government department earns less than \$US 100 a month. This situation has adverse consequences for economic development.

### **3.3 Constraints**

As the foregoing shows, Burundi is in a very difficult socio-economic situation. For this situation to improve, the trends that have emerged in the wake of the crisis must be reversed, but the problems which hampered Burundi's economic development prior to the crisis must also be addressed. These include:

- a. A high population growth rate;
- b. Low school enrolment;
- c. A weak private sector;
- d. The country's landlocked status; and
- e. A low volume of exports.

#### **3.3.1 A high population growth rate**

The population of Burundi in 2000 is estimated at 6.65 million inhabitants, and this population is growing at the very high rate of 2.9 per cent annually, according to the United Nations Population Fund. At this rate, the population will have grown to 13 million in 20 years. The proportion of young people is high, with children

under the age of 15 comprising 45 per cent of the population. Such a high growth rate places tremendous pressure on the land, on employment and on social services such as education and health.

### **3.3.2 Low school enrolment**

It is hard for development to succeed in a country where the enrolment rates in schools and vocational institutes are as low as they are in Burundi. In 1998, the crude enrolment rate for young people between the ages of 7 and 23 was 26 per cent.<sup>14</sup>

### **3.3.3 A weak private sector**

The private sector in Burundi is very weak and acts as a constraint on the country's development. It offers little in the way of employment opportunities. In 1998, the total active population was estimated at more than 3 million, of whom 93 per cent were engaged in agriculture. The secondary and tertiary sectors accounted for only 2 per cent and 5 per cent respectively. The breakdown of employment has not really changed in years, and the public sector, the main employer, is nearly saturated.

The private sector accounts for 13 per cent of all investment (1998 figures from the Ministry of Planning), whereas it would need to exceed 25 per cent to stimulate accelerated growth. This sector currently faces serious handicaps which are slowing its development, namely a macroeconomic environment characterized by high inflation, foreign currency shortages, a fragile financial system, negative interest rates and lastly a population mired in poverty.

### **3.3.4 The country's landlocked status**

Burundi is a landlocked country. Long distances separate it from Indian Ocean transit ports. The port of Dar es Salaam in the United Republic of Tanzania is 1,428 kilometres away from Burundi, while Mombasa in Kenya is 2,273 kilometres away. It has been estimated that, on the whole, transport costs increase the cost of imports and exports by an additional 30 to 40 per cent. In terms of economic growth, Burundi's landlocked status retards the country's growth rate by 1 per cent.

### **3.3.5 A low volume of exports**

One of the objectives of the structural adjustment programme which began in 1986 was to increase the level of exports and diversify them so that the country would not continue to rely on a single product, namely coffee. This objective was not achieved, and Burundi continues to be heavily dependent on coffee.

## **3.4 Targeted objectives: towards sustainable growth with equity**

The conflict in Burundi is partly the result of an inequitable distribution of the country's limited resources. The current imbalances must be corrected without delay, and the country must endeavour to achieve sustainable growth with equity. Principal objectives to be achieved in this area are to;

- a. Increase rural and urban household income: per capita GDP should increase and double within one generation;
- b. Provide all children with primary and secondary education at least to the age of 16;
- c. Reduce the infant mortality rate by at least half;
- d. Give the entire population access to health care;
- e. Improve the well-being of the population in all areas.

### **3.5 Measures to be taken**

To achieve these objectives a number of measures should be taken, some of which will require a high degree of political will.

#### **3.5.1 Macroeconomic and financial stabilization**

##### **3.5.1.1. A positive budget balance and reduction of the overall budget deficit**

Fiscal administration must be improved. In addition to existing measures, the publication of annual reports and corporate records should be made compulsory. As well, the tax base should be broadened and exemptions should be significantly reduced.

At the same time, spending should be cut, especially military spending as the security situation improves, wages should be brought under control, and spending on goods and services should be reduced.

Budget allocations should be based on the actual volume of resources available to the State. Extra-budgetary accounts should respect the principle of a unified budget, as recognized by law, and should be kept to a strict minimum.

If these steps are taken, the overall budget deficit will be reduced and excessive bank financing will be unnecessary. This will also enable the State to make payments on its internal and external arrears.

##### **3.5.1.2 Monetary policy**

Monetary policy must once again be independent. This is indispensable if inflation is to be reduced and Burundi's currency stabilized. Monetary financing of the budget deficit must be significantly reduced.

In the banking sector, bankruptcies are extremely harmful to the country because the State must inject large amounts of public funds to bail the failed banks out. In future, the required reserve ratio should be strictly maintained and penalties for bankruptcy stiffened.

#### **3.5.2 Solving the problem of internal and external public debt**

##### **3.5.2.1 External public debt**

As at 31 December 1999, Burundi's external public debt amounted to BuF 676 billion, or 156 per cent of GDP. Multilateral debt accounts for 86 per cent of all indebtedness, while debts to the World Bank and the ADB account for 57 per cent. These debts cannot be cancelled or rescheduled. To reduce the burden that external debt imposes on the economy, one or more countries that are willing to help Burundi repay its debts must be found. The Government must meet all the conditions required for cancellation or rescheduling of a significant portion of its external debt. Lastly, as Burundi has reached the limit of its borrowing capacity, the country should try to rely on grants rather than on loans.

##### **3.5.2.2 Internal public debt**

Internal public debt, which totalled BuF 22,064,000,000 in 1990, fell to BuF 11,673,500,000 in 1994, rising again to BuF 61,965,680,000 in 1999. Much of this debt is short-term debt, as it was contracted from banks and financial institutions in the form of one- to three-month treasury certificates.

Problems in repaying this short-term debt were already apparent in 1997, when the Government decided in the Finance Act that the treasury certificates should be consolidated over a five-year period, with a two-year

deferment. The interest owed on this debt has become onerous, rising from BuF 1 billion in 1996 to 3 billion in 1999.

Appropriate measures must be taken to curb internal debts.

### **3.5.3 Structural reform**

In the coffee sector, producers must receive a greater share of the price of their product on international markets. This would result in higher cash incomes for rural Burundians.

In so far as the reform of public enterprises is concerned, enterprises posting repeated losses should be reformed as a matter of priority. Those that cannot be turned around should be dissolved. The Bankruptcy Act should also be applicable to non-strategic public enterprises.

Privatization must remain on the economic reform agenda in order to reduce the burden imposed by public enterprises. In its privatization policy, the Government will ensure that shares are distributed as widely as possible in order to maximize the number of shareholders. Privatization must not create new imbalances or strengthen existing monopolies.

### **3.5.4 A sectoral perspective**

#### **3.5.4.1 The rural sector**

Integral development in Burundi means rural development. The resources provided for the development of this sector have had mixed success, given the prevailing poverty and precariousness in rural areas, even though most politicians, government officials and employees in both the civil service and the modern private sector come from this background.

The following package of measures is intended to raise rural household incomes:

- a. There should be significant public investment in the food-crop sector and agro-industry;
- b. Burundians should invest in rural areas;
- c. Producers should be guaranteed prices that serve as incentives;
- d. Producers should be encouraged to organize themselves freely in order to defend their interests;
- e. Credit should be made available in rural areas on favourable terms;
- f. There should be increased investment in and the development of such production support services as telephones, water and electricity in rural areas;
- g. Crop security should be ensured: a recent phenomenon has been the theft of crops in the fields, which is demoralizing to farmers;
- h. Agricultural specialization should be encouraged as much as possible in order to take advantage of regional opportunities and promote trade;
- i. Policies should be implemented to integrate agriculture and livestock farming, thereby promoting the development of other branches that afford Burundi a comparative advantage in the global economy.

#### **3.5.4.2 The private sector**

An environment conducive to private sector development must be created. To this end, the following measures are necessary:

- a. Political stability is a prerequisite for the development of commercial and industrial activities;
- b. Relations between Government offices and the private sector must be improved. The training of certified public accountants should be encouraged so that these professionals can serve as an intermediary between taxpayers and the tax authorities;
- c. The harassment of economic agents must be stopped, particularly the harassment of merchants on Burundi's roads;
- d. Attractive incentives should be developed to promote the national and international private sector, particularly by improving the investment code;
- e. Special incentives should be created to encourage civil servants and youth who wish to set up their own enterprises, with priority given to rural enterprises;
- f. The business environment should be made more secure; in particular, stiffer penalties should be provided to deal with bad cheques, the execution of commercial court judgements should be accelerated, guarantees should be required and the training of notaries public should be encouraged;
- g. Legislation governing the free trade zone should be improved and investment in the zone should be encouraged;
- h. Investment aimed at developing the country's tourism potential should be encouraged.

### **3.5.4.3 The social sector**

#### **3.5.4.3.1 Education**

In today's society, formal education is the key that opens the door to a better life. It affords access to jobs in the public and private sectors, where salaries are higher than in rural areas. Moreover, education beyond the primary level, especially for women, would help solve the problem of accelerated population growth, since educated households have better control over their fertility. It is for this reason that everyone in Burundi should receive an education. As Burundi is not yet able to educate its entire population, it must ensure that equity prevails in the sensitive area of school enrolment. Equity must be reflected in the location of schools and school infrastructure, and in the assignment of qualified teachers.

The crisis in Burundi has caused enrolment levels to plummet. The short-term objective is to bring them back up to pre-crisis levels. The main objective, though, is to reform the education system so that all children can be enrolled. Initially, what is needed is a reform that will allow all children to attend school until at least the tenth grade. Investment in education should be directed towards the achievement of that objective. School capacity at the secondary level should be increased, and colleges at the commune level should be encouraged and supported, as should the establishment of private secondary schools. Teachers should be given appropriate training in adequate numbers, and all the requisite teaching materials should be provided. Particular attention should be paid in this regard to expanding the various areas in which vocational education is provided.

In the area of higher education, the establishment of higher technical institutes and universities, both public and private, should be encouraged.

#### **3.5.4.3.2 Health**

The crisis has also lowered the population's standard of health. Immunization coverage, prenatal consultations and childbirth attended by qualified medical personnel have all declined. Acute malnutrition is on the rise, particularly among vulnerable groups such as children and pregnant and nursing women. The country must return to pre-crisis conditions and even improve on them in all areas.

The incidence of AIDS has increased in both rural and urban areas. The number of AIDS orphans has also increased. A programme to combat AIDS and provide assistance to orphans is needed.

The distribution of medical personnel is skewed, with rural areas at a strong disadvantage: over 60 per cent of all doctors are based in the capital. Adequate incentives must be provided, and doctors' personal safety must be guaranteed so that they will be willing to serve in rural areas.

Medicines in Burundi are very expensive, and only those who work in the modern formal sector have health insurance. In order for everyone to have access to medicines, the Government will continue to take steps to make medicines more readily available to the population, chiefly by establishing a system of co-payment for persons in rural and urban areas who do not have insurance.

#### **3.5.4.3.3 Employment**

Although the 1990 census indicated that only 0.4 per cent of the population considered themselves to be unemployed, underemployment in rural areas is probably higher, and today affects even more people.

The modern sector (i.e. the public, parapublic and private sectors) employs less than 7 per cent of the population and has not grown in more than a decade. It has been severely affected by the crisis in that many enterprises have had to dismiss or cut back their staff.

The public sector is still the only major employer. All members of the country's elite jostle for positions in this sector, which is beginning to be saturated. Equity and transparency must characterise recruitment in the public sector.

The Government will have to make great efforts to create new jobs and an adequate framework and institutions in order to stimulate employment creation and production in the private sector, in the tertiary sector and in rural areas. These efforts should also be an answer to the challenge posed by the restructuring of the public sector, the return of refugees and demobilization.

#### **3.5.4.3.4 The economic and social aspects of demobilization**

Given that the actual decision regarding demobilization as well as specific measures (relating to number, timetable, etc) must be taken by Committee III, the following text is subordinated to the provisions of [Protocol III](#).

Demobilization is closely linked to the goals of national reconciliation and development and to the problem of employment (see 3.5.4.3.3.) Once the crisis is over, it will be necessary to demobilize the former combatants and proceed with their socio-professional reintegration. Demobilization and disarmament programmes are very expensive, which is why Burundi will require the assistance of the international community for this undertaking. The number of demobilized persons and armed forces members will have to be strictly monitored, as will expenditure in this sector, in order to justify continued financing by donors. On the basis of information provided by Committee III, an assessment of needs and costs should be made as soon as possible.

The following principles must be observed when implementing economic measures and carrying out demobilization:

- a. Equitable treatment of those demobilized;

- b. Establishment of an agency responsible for demobilization at the national and regional levels that will also ensure coordination with donors;
- c. Education of the target group and the communities about demobilization;
- d. Transparency and flexibility in the implementation of the demobilization programme;
- e. An integrated approach that includes among other items financial assistance, assistance with reintegration in the labour market and resettlement, legal advice and socio-psychological support;
- f. Economic integration based among other elements on education, vocational training, credit programmes, income-generating activities and employment programmes;
- g. Special attention to such target groups as child soldiers, women soldiers and the disabled;
- h. Facilitation of the integration of demobilized persons into their families and communities.

### **3.5.5 Political and institutional framework**

#### **3.5.5.1 Good governance**

It is universally accepted that the ethics of public affairs management in Burundi have eroded and that good governance is indispensable to accelerated economic growth.

Problems of governance are related to all kinds of conflicts and to a lack of social cohesion. The best way to remedy this situation is to practise transparency in the utilization of public resources, to ensure equity in public spending, and to promote decision-makers who do not favour one ethnic group or region. The civil service must also be reformed and an inspector general's office established.

To make the utilization of public resources more transparent, leaders and officials must be able to demonstrate that they are managing public affairs properly, and their performance in this regard will be evaluated. Decision-making should therefore be decentralized, and an anti-corruption strategy should be pursued. This strategy should seek to minimize opportunities for personal gain and include more effective monitoring mechanisms.

An effective civil service is an essential component of good governance. The basic criteria for recruitment, retention and promotion in an effective civil service are merit and competence. To the extent possible, civil servants should be well paid, honest and immune to requests from politicians.

Current ethnic imbalances in the civil service should be gradually corrected by means of a deliberate policy. This policy should be implemented with transparency and equity in every government body.

#### **3.5.5.2 Court of Audit**

A Court of Audit is an excellent tool for the proper management of public affairs. It should be established and made operational as soon as possible. In appointing staff to it, ethnic balance should be respected, for any imbalance would make it partial, and negative ethnic solidarity would soon be apparent, so that certain offences would go unpunished.

#### **3.5.5.3 Decentralization**

Decentralization seeks to make the communes focal points for development and to give the population greater access to State services. The Government will provide the communes with sufficient resources to establish a development policy covering, *inter alia*, education, health, roads and water supply. The decentralization of resources must respect the principle of equity.

### **3.6 The role of women in development**

Burundi has ratified the principal international human rights treaties, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of all Forms of Discrimination against Women and the Convention on the Rights of the Child.

Women's advancement, and their equality with men, are one aspect of human rights - one that is a condition for social justice and essential to building a viable, just and developed society. The empowerment of women is an essential prerequisite for the political, social, economic, cultural and ecological security of the entire population.

Equality between the sexes does much to enhance the well-being of women, men, girls and boys, and is indispensable for achieving people-centred sustainable development.

The Government should pay special attention to the status of women and combat all discrimination against them.

In Burundi as elsewhere, women have not been sufficiently involved in affairs of State. Nor have they been adequately represented in the modern private sector or in the business world. This is due to a lack of political will on the part of the Governments in office to date.

Future Governments will have to actively:

- a. Give women equal access to the running of the State. Women should be integrated in all sectors, including in the security and defence bodies;
- b. Mobilize women to ensure that their demands are heard in public;
- c. Ensure that all women's concerns are taken into consideration;
- d. Find solutions to the problems that prevent large numbers of girls from pursuing their education at the secondary and university level;
- e. Help women's groups and NGOs improve their organizational and financial capacity;
- f. Improve women's social and legal status;
- g. Give women access to the means of production, particularly land and credit;
- h. Require development programmes and projects to integrate women at all levels.

### **3.7 The role of youth**

In a country like Burundi where youth under the age of 15 make up nearly half the population, no sustainable development is possible if the needs and aspirations of youth are not taken into account.

Accordingly, specific measures must be planned for youth so that they can become participants in, and special beneficiaries of, development.

The following concrete measures should be taken on behalf of youth:

- a. Greater attention should be paid to youth and to the education of young people;
- b. Illiteracy should be eradicated among youth by the year 2005 through compulsory education;

- c. Young people not attending school should receive vocational and technical training that will allow them to carry out projects that will contribute to their personal development and to the economic and social development of Burundi;
- d. Income-generating activities should be organized for youth through the establishment of model agricultural and livestock farms;
- e. Young people should be employed in public service projects;
- f. Young people should be made aware of the problems they face - AIDS, vagrancy and delinquency - and educated through sports and cultural activities;
- g. A genuine cultural policy for youth that promotes development should be formulated;
- h. A policy to provide social assistance and supervision for youth in difficult circumstances (orphans, street children, abandoned children, etc.) should be formulated;
- i. Programmes to mobilize and sensitize youth to a culture of peace, democratic values and non-violence should be developed;
- j. Young people should be provided with forum in which they can express their views on questions of national interest.

All these programmes for youth must be integrated into overall development planning and should be contemplated from a long-term perspective. They must be prepared not only for youth but, more important, with and by youth.

### **3.8 Regional integration**

Regional integration can help Burundi solve its socio-economic problems. Burundi should therefore become a member of regional bodies, for it can truly benefit from them.

### **3.9 Development financing**

Burundi has few financial resources available for development, and it will have to make a major effort to increase them. External financing will also have to be mobilized. Burundi must send out political and economic signals strong enough to encourage donors to make a major contribution. These signals have to do with the process of national reconciliation, a strong commitment to economic reform, and the proper management of public affairs.

Effective co-ordination of donor activities will be necessary if Burundi's reconstruction and development are to be successful.

### **3.10 Equitable sharing of the benefits of development**

In Burundi, there are disparities between ethnic groups, regions and rural and urban areas, as well as between men and women, with regard to the distribution of economic riches. The modern sectors of the economy are often dominated by relatively small groups.

The Government must therefore set up an adequate framework to enable that the benefits of development are equitably distributed, particularly in the areas of secondary and higher education, universal health care, employment and equal access to such financial resources as bank credits and public markets. It must also ensure that interest groups do not thwart its efforts to uphold the general welfare.

### **3.11 Implementation**

For the implementation of the reconstruction and development measures, an Inter-Ministerial Reconstruction and Development Unit shall be created to which the Ministries of Planning, Finance and Reintegration shall second personnel. The Unit will receive support from the World Bank, UNDP, UNHCR, the European Commission and others. It will have the following mandate:

- a. The preparation, within six weeks of the signing of the Agreement, of an emergency reconstruction plan that will set the priorities for reconstruction and provide an initial estimate of costs. In preparing this plan, the National Commission for the Rehabilitation of *Sinistrés* shall be consulted and invited to submit proposals. This emergency plan will also serve as the basis for discussion at a donor conference;
- b. Subsequently, the preparation of a detailed reconstruction plan covering the transition period as set forth in [Protocol II](#) to the Agreement;
- c. At the same time, preparation of a medium- and long-term development.

The three plans shall be submitted to the National Assembly for approval. They will be guided by the measures proposed by Committee IV (see above, [chapters II](#) and [III](#)) while adapting the priorities in response to developments in the situation and bearing in mind opportunities for financing.

Donors will be involved in the work of the Unit and may request an international auditing company to monitor all financial operations and accounts that may be established.

### **General Conclusion**

Through the Burundi Peace Negotiations at Arusha it has been possible to assess how seriously the political and ethnic crisis that has torn Burundi apart since independence has affected Burundian society:

- Hundreds of thousands of Burundians are refugees, some of them for more than 25 years. Hundreds of thousands more are forced to live in camps where conditions are appalling;
- There has been widespread destruction: public infrastructure, homes and rental property, commercial centres, etc.;
- The Burundian economy has been badly damaged and is on the verge of bankruptcy;
- Burundi's population has grown increasingly poor: the number of people living under the poverty threshold exceeds 60 per cent in both rural and urban areas.

All Burundians are aware that a lasting peace is impossible so long as a definitive solution is not found to the problem of refugees and *sinistrés*. Likewise, peace is impossible so long as the country's wealth is not shared equitably.

Burundi cannot help the *sinistrés*, rebuild destroyed property and restore its economy without the assistance of the international community. The international community is waiting for a visible political gesture that will reflect the commitment of Burundians to refrain from ever again destroying their own country and their willingness to build the country together and ensure that equity prevails in the sharing and distribution of the country's resources.

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<sup>6</sup> Current market prices

<sup>7</sup> World Human Development Report, 1997, p. 180 of the French text.

<sup>8</sup> The poverty threshold has been set at \$US 104.

<sup>9</sup> Poverty in Burundi, a regional study conducted by the United Nations Department of Economic and Social Affairs, p. 13 of the French version.

<sup>10</sup> Memorandum from the President of the International Development Association to staff concerning the World Bank Group's aid strategy for Burundi, May 1995, p. 3

<sup>11</sup> Economic strategy and poverty assessment note by the World Bank, report No. 13592, January 1995, p. 33 of the French version.

<sup>12</sup> Burundian Institute for Statistics and Economic Studies.

<sup>13</sup> Human Development Report for Burundi, 1999, p.4

<sup>14</sup> Human Development Report on Burundi 1999, p119

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## Annex V

### Implementation Timetable

#### Annex V

#### Timetable for the Implementation of the Agreement: Protocols I, II, III and IV

Serial Sequences	Activities	Timing	Execution	Articles and Paragraphs
Signing + 30 days	1. First meeting of Implementation Monitoring Committee to decide on Executive Council	Immediately after signature	Facilitator, Parties	
	2. Informal donors meeting on a technical level	15 Sept. 2000 Brussels	European Commission / Facilitation, donors, international community	
	3. Pledge by participating parties	Immediate Within 7 days	Participating parties	<a href="#">Annex I</a>
	4. Establishment of mechanism to investigate the status and release of prisoners	Immediate	Government / National Assembly	
	5. <ul style="list-style-type: none"> <li>▪ Current National Assembly to adopt Peace Agreement</li> <li>▪ Law permitting free political activity</li> <li>▪ Repeal of repressive legislation</li> </ul>	Immediate	National Assembly	<a href="#">Protocol II, art. 22 para. 2(a), (b), (c)</a>
	6. Implementation Monitoring Committee set up in Bujumbura	Immediate	Implementation Monitoring Committee / UN / OAU / Facilitator / region	
	7. Peace forces to be solicited from UN / OAU / region	Immediate	Current Government / Facilitator / Signatories Implementation Monitoring Committee	
	8. Monitoring of current Government activity + IMC to monitor and set up mechanisms to resolve disputes among Parties	Immediate Within 7 days	Implementation Monitoring Committee	
	9. Campaign to popularize the Agreement	Immediate	Facilitator, participating parties, Implementation Monitoring Committee	<a href="#">Protocol II, art. 22, para. 16</a>
	10. Ceasefire dissemination	Immediate	BDF / Armed groups or interim force	
	11. Establishment of reception mechanisms for refugees and <i>sinistrés</i>	Immediate - 30 days	UNHCR, Govt. of Burundi + international organizations	<a href="#">Protocol IV, art. 2, para. 2(d)</a>

	12. Creation of National Commission for the Rehabilitation of <i>Sinistrés</i> (CNRS) and National Fund for <i>Sinistrés</i>	Immediate - 30 days	Government / UNHCR / Implementation Monitoring Committee	<a href="#">Protocol IV, art. 3(a) and 9</a>
	13. Other preparatory actions for the settlement and reintegration of refugees and <i>sinistrés</i>	Immediate ongoing	Govt. of Burundi, UNHCR and other international organizations	<a href="#">Protocol IV art. 3 (d) - (h)</a>
	14. Temporary immunity for political offences pending installation of transitional National Assembly	1 - 30 days	Current National Assembly	<a href="#">Protocol II, art. 22, para. 2(c)</a>
30 days to 180 days	15. Convening of Tripartite Commissions	30 days	Governments of Tanzania, Democratic Congo, Rwanda, / Burundian Government / UNHCR	<a href="#">Protocol IV, Art. 3(c).</a>
	16. Government assets register	Within 30 days	Current Government	<a href="#">Protocol II, art. 22, para. 6(b)</a>
	17. Creation of Reconstruction and Development Unit	30-45 days after signing	Technical ministries / donors / IMC, international organizations.	<a href="#">Protocol IV, art. 17, para. 1</a>
	18. Arrangements for start of transition in place including reception centres, assembly points security for assembly points.	30 days Continuous	Executive Council of Implementation Monitoring Committee	
	19. Members of the transitional National Assembly to be named	Within 60 days	Participating Parties / Implementation Monitoring Committee	<a href="#">Protocol II, art. 22, para. 3(b)</a>
	20. Transitional President to name members of the Cabinet	Within 60 days	Transitional President / Implementation Monitoring Committee	<a href="#">Protocol II, art. 22, para. 4</a>
	21. Implementation Monitoring Committee to check if conditions for Transitional National Assembly in place (what additional steps to be taken by Parties / Government / UN)	60 days after signature	Implementation Monitoring Committee	<a href="#">Protocol II, art. 22, para. 5</a>
	22. Members of transitional National Assembly and transitional Executive to return to Burundi	60 days	Parties / Implementation Monitoring Committee / Government	
	23. Logistics for returning members of the transitional National Assembly and transitional Executive including travel documents	1- 60 days	Implementation Monitoring Committee + Government	<a href="#">Protocol II, art. 22, para. 6(a)</a>
	24. Security arrangements for members of the transitional National Assembly / Executive and members of political parties in exile to be sought and installed	Within 60 days	Ceasefire Commission	<a href="#">Protocol III, art. 27, para. 4(a)</a>
	25. Preparation of an emergency reconstruction plan	45-60 days after signature	National Assembly / Reconstruction & Development Unit	<a href="#">Protocol IV, art. 17, para. 1(a)</a>
	26. High-level international donors'	45-120 days	Facilitator, donors,	

	conference	after signature	international organizations, IMC, CNRS, RDU	
	27. Prepare D-Day commitments for disarmament / demobilization / reintegration (personnel register)		BDF / Armed groups / interim force / Ceasefire Commission	
	28. Disarm, assemble and train armed groups	Interim period	Ceasefire Commission	
(Transition) D-Day	29. Confirmation of camps closed or transformed into voluntary villages	D-Day	Transitional Government	
	30. National Assembly disbanded Transitional National Assembly installed	D-Day	Transitional National Assembly / IMC	
	31. Transitional Executive installed - move into premises	D-Day	Transitional Executive / IMC	
	32. Transitional National Assembly meets to elect Bureau	D-Day + 3 days	Transitional National Assembly	
	33. Review the propriety of all contracts, recruitment, during preceding period	Ongoing D-Day	Transitional National Assembly / transitional Government	
	34. Establish Commission on Judicial Reform	D-Day + 30 days	Transitional National Assembly	<a href="#">Protocol II, art. 17, para. 1</a>
	35. Establish Administrative Reform Commission	D-Day + 30 days	Transitional National Assembly	<a href="#">Protocol II, art. 17, para. 1</a>
	36. Establish Constitutional Commission	D-Day + 30 days	Transitional National Assembly	<a href="#">Protocol II, art. 15, para. 4</a>
	37. Appoint heads of Police, Defence and National Intelligence		Transitional Government	<a href="#">Protocol II, art. 15, para. 18</a>
	38. Appoint Provincial Governors	D-Day + 30 days	Transitional Government	<a href="#">Protocol II, art. 15, para. 19(a)</a>
	39. Appoint Commune Administrators	D-Day + 30 days	Transitional Government / transitional National Assembly	<a href="#">Protocol II, art. 15, para. 19(c)</a>
	40. Appoint Constitutional Court judges	D-Day + 30 days	Transitional President	<a href="#">Protocol II, Art. 15, para. 19(b)</a>
	41. Establish Land Sub-Commission (subordinated to CNRS) which will take action on land issues	D-Day + 30 days	CNRS / participating parties / transitional Government	<a href="#">Protocol IV, art. 3(b)</a>
	42. Special assistance programmes for vulnerable groups	D-Day + 30 days	Transitional Government + international assistance + CNRS	<a href="#">Protocol IV, Art. 10</a>
	43. Prepare detailed plan for physical and political reconstruction for the transition period	D-Day + 30 days	Transitional Nat. Assembly + Reconstruction & Devpt. Unit + transitional Government	<a href="#">Protocol IV, art. 17, para. 1(b)</a>
	44. Request UNSC to set up International Judicial Commission of Inquiry	D-Day + 30 days	Transitional Government/UN	<a href="#">Protocol I, Art. 6, para. 10</a>
	45. Establish conditions of service and adopt organic laws of New	D-Day + 30 days	Transitional National Assembly / transitional	<a href="#">Protocol III, Art. 19</a>

Defence Force		Government	
46. Establish Commission on prisons, political prisoners, prisoners on death row and working conditions for prison guards	D-Day + 30 days	Transitional Government	<a href="#">Protocol II, Art. 15, para. 20</a>
47. Adopt laws on judicial reform	Ongoing from D-Day	Transitional National Assembly	
48. Review of all judges and solicit international assistance. Appointment of new ones judged	Ongoing from D-Day	Transitional Government	<a href="#">Protocol II, Art. 17, para. 10</a>
49. Review of all existing legislation (amendment or repeal)	Ongoing from D-Day	Transitional National Assembly + transitional Government	
50. Mass campaign on reconciliation	Ongoing from D-Day	Transitional National Assembly / transitional Government / political parties	<a href="#">Protocol I, Art. 6, para. 3</a> and <a href="#">Protocol IV, art. 13(c)</a>
51. Implement judicial and administrative reforms	Ongoing from D-Day	Transitional Government / transitional National Assembly	<a href="#">Protocol II, art. 17, paras. 1 &amp; 2</a>
52. Adapt Local Government Law	Ongoing from D-Day	Transitional National Assembly	
53. Preparation of a medium and long-term development plan	D-Day + 90 days	Government / Donors / international organizations / transitional Government / international assistance / National Assembly	<a href="#">Protocol IV, art.17, para. (c)</a>
54. Establish the Electoral Commission nominating authority	D-Day + 90 days	Transitional National Assembly / transitional Government	<a href="#">Protocol II, art. 20, para. 3</a>
55. Implement Committee IV proposals on economic development and reconstruction	D-Day + 90 days ongoing	Transitional Government / transitional National Assembly	<a href="#">Protocol IV, arts. 11 - 16</a>
56. Establish Truth & Reconciliation Commission	D-Day + 6 months	Transitional Government / transitional Nat. Assembly	<a href="#">Protocol I, art. 8</a> <a href="#">Protocol II, art. 5, para. 4</a>
57. Adopt Electoral Law	D-Day + 12 months	Transitional National Assembly	<a href="#">Protocol II Art. 20, para. 5</a>
58. Electoral Commission demarcates <i>collines</i> and zones. Prepare for <i>colline</i> elections	Within 18 months of D-Day	Electoral Commission	
59. Hold local government elections ( <i>Colline</i> level)	Within 18 months of D-Day	Electoral Commission	<a href="#">Protocol II, Art. 20, para. 12</a>
60. Hold local government elections (Commune level)	Within 18 months of D-Day	Electoral Commission	
61. Adapt new Commune Administrators	After commune level election	Commune Councils	<a href="#">Protocol II, Art. 20, para. 13(a)</a>
62. Pass Constitutional text	D-Day + 18 months	Transitional National Assembly	

63. Hold referendum on Constitution	Within 24 months of D-Day	Electoral Commission / transitional Government / transitional National Assembly	<a href="#">Protocol II, art. 15, para. 7</a>
64. Certify Constitutional text (or amend and resubmit)	Within 23 months of D-Day	Constitutional Court	<a href="#">Protocol II, art. 20, para. 4(a)-(g)</a>
65. Prepare for election: regulations, establish multi-party committee	Within 30 months of D-Day	Transitional Government / National Assembly / Electoral Commission	
66. Hold elections for the National Assembly	Within 30 months of D-Day	Electoral Commission	<a href="#">Protocol II art. 6, para. 17 &amp; 15</a>
67. Commune Councils to elect Senators. Co-opt Twa to Senate	Within 30 months of D-Day	Electoral Commission and Senate	
68. Merge Burundi Defence Force and armed groups	Transition period	Transitional Government	
69. Demobilize to new strength levels		Ceasefire Commission / transitional Govt.	
70. Confirm new defence force complies with 50/50 rule	After election	Transitional Government	
71. National Assembly (new) and Senate meet to elect new President			

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## Appendix I

### Explanatory Commentary on Protocol I

#### I. Summary of Constitutional and Transitional Proposals for Burundi

##### A. General Remarks

##### 1. Background

The proposals contained in [Protocol II](#) represent a more complex and interrelated set of propositions than they may appear when considered individually.

With this in mind, the Bureau of the Committee felt that there was a need to provide an outline of this "package" of proposals, if only to illustrate the overall balance the Bureau sought to achieve. It would also serve to illustrate that these proposals emanate from and have been canvassed in over a thousand hours of debate, negotiations and consultations with the parties since April 1999. Furthermore, the proposals themselves are directed at the actual concerns raised by all the parties. It is these concerns rather than the precise proposal formulations that parties have adopted that the Bureau's proposals have been fashioned to address. No party should have expected to have all its proposals incorporated, and certainly not in the identical form in which they were proposed.

The mandate given to Committee II, back in October 1998, was to establish an institutional setting for a future government of Burundi considered as "acceptable to all".

The Committee based its initial agenda on those aspects of the popularly endorsed 1992 Constitution that appeared to be uncontroversial, and attempted to set out those that were subject to dispute. Once the parties' responses were obtained on the issues in dispute, the Bureau established a nine-point working agenda for the Committee and duly conducted in the Committee debate lasting over 720 hours. The sessions ended on 15 April 1999.

Thereafter the Bureau established a first draft of a protocol for discussion. The initial draft, like the present protocol, was divided into two chapters. The first chapter dealt with the institutional setting and fundamental values that would have to figure in a definitive constitution to be drafted by the future transitional National Assembly. The second chapter covered the issues of the transition. Between April 1999 and April 2000 the protocol was updated seven times, in accordance with the debates, which took place either amongst or with clusters, individual parties or regrouped clusters, highlighting the points of disagreement and the options proposed by the groups to resolve them. It was the seventh draft which served as a basis for the final proposal. On the 10% of the text that remained in sharp dispute, the parties concluded that they would not find agreement no matter how much time was allocated for further negotiations. They requested the Bureau to make compromise proposals in regard to these outstanding items. The protocol thus represents both the uncontested text and also those proposals which were themselves fashioned from the options suggested by the parties.

There has been occasional confusion regarding the exact mandate of Committee II. Some have thought that the Committee's task was to write a new constitution for the Republic of Burundi. In fact, our mandate was to establish only such principles as the Burundi believed were necessary for the re-establishment of a democratic system within their country. It is the task of the Burundi to draft their own constitution in due course, to put the flesh on the constitutional skeleton.

## **B. Summary of Proposals**

### **1. Electoral system**

The "electoral system" does not merely concern the system of voting, but must be understood in the context of the full variety of the institutional and other mechanisms providing for inclusive and multi-ethnic participation in the structures of government and the Senate.

### **2. Ethnic over-representation**

The electoral system set out in the Agreement is premised on the principle of universal suffrage (supported by every one of the parties) with a common voter's roll (supported by at least 12 and possibly more of the parties). The electoral system envisages that voting will be in respect of party lists in a proportional representation system in which the lists are required to reflect a high degree of representation of minorities. A system of multi-ethnic lists was supported principally by the centrist parties, including the Government, and opposed only by a minority of parties which had proposed segregated political structures. Some parties have called for as many as 50% of the members of the National Assembly to come from the approximately 15% of the population made up of minorities. The electoral system as proposed here will yield a National Assembly in which, before co-optation as described below, approximately 38% of the members are from the minorities.

### **3. Additional co-optation to the National Assembly**

The proposals allow for the possibility of additional minority representation in the first elections by a co-optation mechanism which grants enhanced representation for opposition parties by allocating an equal proportion of a further 20 seats to all qualifying parties regardless of their popular support. In effect this would mean that members of minority groups (some 15% of the population including the Batwa) should fill

some 40% or more of the seats in the National Assembly. It would also mean enhanced opposition representation in the Assembly, and would partially allay fears of a dominant single party.

#### **4. Ethnically balanced Senate**

In addition the proposals envisage a second chamber in which two representatives, one Hutu and one Tutsi, will be indirectly elected from each province. This chamber, the Senate, thus has parity in respect of the ethnic membership of its provincial representatives. The Senate is given important powers to confirm or approve strategic appointments and laws of an important nature. It should be stated that the proposals regarding the establishment, powers and composition of the Senate were strongly supported by many of the parties purporting to represent minority concerns - and strongly opposed by the G-7 group of parties. The electoral college for the Senate is comprised of local-level councils constituted on a non-party basis. It need hardly be repeated that this proposal involves parity of membership between members of ethnic groups that constitute 85% and 13% of the population respectively. They will, however, be popularly elected.

#### **5. Co-optation at the local level**

In addition, the proposals provide for indirectly elected commune councils and appointed commune administrators, with a safety mechanism to ensure that minorities are adequately represented on the councils. These elections may not be conducted on a party political basis. Again, these proposals flow directly from concerns raised by groups purporting to represent minority concerns.

#### **6. Multi-ethnic presidency**

In addition, the proposals envisage that there will be two vice-presidents, each coming from a different political and ethnic group. These proposals also emanate from parties representing minority concerns.

#### **7. Government of national unity**

In terms of the proposals, opposition parties with more than 5% of the popular vote will be entitled to choose to serve in the cabinet. This proposal ensures an inclusive government and blunts the winner-take-all nature of party politics in Burundi.

#### **8. Indirectly elected President**

Although the President will in the longer term be directly elected, to accommodate minority concerns in the short term it is proposed that the President be indirectly elected with a high degree of support in the National Assembly. This proposal is also a response to proposals along such lines by parties purporting to represent minority concerns.

#### **9. High decision-making majorities**

In regard to decision-making majorities that are required for important matters and certain appointments, high, and some very high, majorities of support are required in the National Assembly. Again, these proposals emanate from the concerns of parties representing minorities. In particular, many important executive appointments are made subject to Senate and National Assembly approval.

#### **10. Security forces guarantee**

So as to provide an overall constitutional and security environment in which anxieties raised by the parties can be accommodated, the proposals include as an element of the constitutional framework a security guarantee on the composition of the armed forces. This guarantee requires that at least 50% of the security forces shall be members of minority ethnic groups.

## **11. Strong Constitutional Court**

In addition, against the opposition of the G-7 group of parties the Constitutional Court has been given full judicial power to enforce the Constitution and to act as its guardian even against the Executive and the Legislature. The ethnically-balanced Senate is to confirm appointments to this and other important courts.

## **12. Extensive Bill of Rights**

In this regard the Constitution also sets out a Bill of Rights and a blueprint for society which were supported by all parties. These provisions provide a broad framework for enforceable individual rights and freedoms and group security. The Bill of Rights itself is a progressive and generous charter of all the most important rights and freedoms.

## **13. Numerous prohibitions against discrimination, exclusion and ethnic hostility**

The proposals include various provisions to prevent the fomenting of ethnic violence, hatred or any form of ethnic discrimination or exclusion. The provisions are strict and are to be found in all parts of the Protocol dealing with political life and public administration. Special provisions exist to ensure the participation of the Twa in the Senate.

## **14. Promoting interest-based, not group-based, political parties**

The proposals thus attempt to marry the need for an overall framework of democratic accountability with a system that caters for the fears of minorities by allowing for their considerable over-representation in the institutions of government. It is a system which would, it is envisaged, minimize the potentially disastrous consequences of the correlation between ethnic boundaries and political party by requiring the parties to present a multi-ethnic façade, and yet ensure that the ethnic minorities are represented not only in the Legislature, but in the Presidency and in the Cabinet. In the longer term all parties have agreed that Burundi is required to develop a political party system founded on the aggregation of political rather than group interests.

## **15. Physical security and political rights**

The proposals have been criticized for not ensuring that the members of the National Assembly coming from minority ethnic groups represent those minority groups only. In other words, as it was explained, under these proposals the "wrong sort of Batutsi" will be elected. Tendencies within minority groups will be represented in accordance with their numerical electoral support only. The proposals do not ensure that those ethnic minority groups whose members are over-represented in the National Assembly and in the Senate will achieve such over-representation through ethnically exclusive mechanisms. This criticism has an element of truth in it. The groups of parties which had argued in favour of segregated representation also demanded that the results of such a segregated system must yield parity of power and representation between the representatives of the Bahutu and Batutsi, including alternating Presidents. This was necessary so as to ensure the physical safety of minority groups. The Bureau would have been quite happy to have made provision for such explicitly ethnically segregated mechanisms of representation had the Burundi as a whole agreed to such a proposal.

Parties in the centre of the spectrum and the parties arguing for an ethnicity blind democracy argued that such a system would be undemocratic, would entrench the legacy or existing pattern of inequality and privilege, would provide for two classes of citizenship and, more centrally, would constitute a permanent source of resentment and tension between the ethnic groups while frustrating the development of a national identity. Most parties agreed that demands to provide mechanisms, constitutional or otherwise, to reassure minorities and to guarantee physical security were legitimate and warranted. But, they argued, mechanisms guaranteeing a special and privileged hold over political and economic power by the political elite of a relatively small minority could not be the basis for stability. It was, they claimed, itself "unbalanced" and proposed by parties with no record of popular support, at least according to the last election. The same

comments were directed to the proposal that sought, on a common voter's roll, to accord a Tutsi vote six times the value of a Hutu vote. In effect, the two proposals constituted different approaches to achieving the same result.

## **16. Balance**

The question has arisen whether the proposals are "balanced". The proposals certainly tilt the democratic framework in favor of Tutsi participation and security. There are indeed cases elsewhere in the world where minorities are accorded special status or additional representation in national political structures, though none to the extent or manner proposed here. It was for this reason that most of the elements of the "package" cited above were opposed by adversary parties, yet ironically it has been the other parties in whose favour the proposals work which have objected to the lack of balance. When questioned informally some of these parties, claimed that such balance could only be achieved by a system that accorded the Tutsi minority (-/+ 13%) parity of power in all institutions with the Hutu majority (-/+ 85%). Whether this proposal would provide "balance" was not for the Bureau to decide. The real question for the Bureau was not whether such a proposal was undemocratic, or even whether there was any precedent elsewhere for such an arrangement. It was whether the Barundi, given the circumstances and history of Burundi, would support it. Despite close interrogation and extensive negotiations, the other parties indicated that they could not.

## **C. Transitional Arrangements**

The transitional arrangements and the basis for the compromise proposals in regard thereto are fully explained in [section II](#) below. It is necessary, however, to draw attention to the matters set out in 22 dealing with the implementation of the Agreement.

These matters were not tabled for discussion in this form, but were included when experts drew attention to the necessity to deal with the period between the signature of the Agreement and the actual installation of the transitional Government. These provisions are not exceptional. Most parties have agreed in private consultations that measures are necessary to protect the public assets of Burundi during this fluid and volatile period. While some have characterized these provisions as a limitation of Burundi's sovereignty, they are not. They merely limit the freedom of one of the parties, the Government, in respect of its actions which could affect the transition. The concrete measures described are analogous to the restraints on an outgoing administration in an electoral democracy.

What remains unspecified is the exact way in which the Barundi are to agree on determining the identities and political apportionment of the leaders and members of cabinet in the transitional period. This, however, was left as a matter for the Barundi themselves to decide.

There was also an expectation by a few parties that the Bureau would draft a complete transitional Constitution. Its brief, however, was to set out the special arrangements that would apply during the transitional period, and to leave those 1992 constitutional details that are unaffected by these proposals intact. In regard to these arrangements, the Bureau has sought to establish a balance based on three principles: inclusion of all parties; no one group to have a decision-making majority; and restoration, as far as possible, of the members and parties dislocated by the assassination of the elected President and the National Assembly members in 1993. The parties on both sides which have challenged this balance have argued for one or other of these balancing principles to be removed.

## **D. Amendment of the Proposals**

Finally, it needs to be emphasized that neither the principles nor the transitional arrangements are rigid or cast in stone. Indeed, the Agreement specifically allows for its amendment after signature if 90% of the transitional National Assembly so agree. This is a more flexible provision than that applied at the Burundi Peace Negotiations.

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## Appendix I

### Explanatory Commentary on Protocol II

#### II. Comments on Individual Points in the Proposals

##### Preamble, paragraph 3

The obligations with regard to the transitional institutions are covered both in the present Protocol and in [Protocols III](#) dealing with "Peace and Security" and [V](#) on the "Guarantees on implementation".

##### Article 1

The fundamental values are intended to set out that blueprint for society ("*projet de société*") on which all parties are agreed.

##### Article 2, paragraph 1

After exhaustive debate, no agreement could be reached on whether the Baganwa are a separate community or a dynastic clan. Nor could agreement be reached as to whether the various groups should be classified as "a community", an "ethnic group", a "people", or a "tribe". While some drew attention to the absence of distinguishing characteristics between these groups or communities (there are no religious, linguistic, colour or reliable physical distinctions), others pointed out that the distinction is nonetheless prominent in the people's consciousness. In the end result, all but one party insisted on "ethnic group" or "community", and the Bureau's proposal leaves a notion of ethnic identity to be recorded without preferring any particular classification. All parties agreed that Burundi is one Nation.

##### Article 2, paragraph 4

Many parties did not support this provision, but as it is only permissive in nature the Bureau can see no harm in its retention. If anything it underlines that the matter is to be determined by the National Assembly.

##### Article 2, paragraph 5

The latest submissions have raised for the first time whether French should be a national language. There are reasons to believe that such a proposal may be practical (major juridical instruments, public administration drafts, projects, etc. are often drafted in French). But as this issue was raised only in the final submissions, the Bureau felt that it would be unjustifiable to include this proposal in the provision without a previous discussion on the matter. In any case this provision would not apply during the transition period, and the current provision for the use of language in courts and official documents has been dealt with in Chapter II, under the provisional arrangements.

##### Article 3

The rights listed here do not constitute an exhaustive list. These rights in approximately the same formulation as here have been included in numerous previous drafts and have never been disputed, save that this text, for completeness, also includes the rights to education and development. The 1992

Constitution already contains an elaboration of these rights, and we have proposed only general formulations; their precise formulation will be the task of those drafting the definitive constitution.

#### **Article 3, paragraph 4, first sentence**

Contemporary practice recognizes the need to underline specifically, by reference to the equality of both women and men, that women are covered by the commitment to treat citizens as being equal in worth and dignity. The French translation of "everyone" does not solve the problem.

#### **Article 3, paragraph 6**

One of the parties had asked that the Bureau include in this provision a proposal on the abolition of the death penalty. Taking into account the current world-wide trend, the Bureau would be tempted to include such a provision, except that:

1. The Constitution of 1992 does expressly contain it;
2. It may well be included in the right to life, and if there is doubt on this question it should be for parliament or for the courts to decide;
3. It can be dealt with by the transitional National Assembly when it drafts the definitive text of the Constitution;
4. This is a provision that covers the post-transition period and would not have any influence on the transition period.

#### **Article 3, paragraph 20**

The last sentence neither adds to nor detracts from the right to strike, because reasonable limitations are possible in accordance with article 3, paragraph 29.

#### **Article 3, paragraph 27**

Children in armed conflict were not specifically covered in the discussion in the Committee, but in the light of recent international conventions and the rising concern regarding the plight of children, the Bureau included this provision, in the belief that it would receive the support of all parties.

#### **Article 3, paragraph 29**

This formulation accords with current comparative "jurisprudential" approaches to the need to provide for and yet restrain the extent of limitations of and derogations from human rights norms.

#### **Article 4**

All provisions of this article have been treated in accordance with the agreement reached between the majority of the parties. The essential provisions in this article are based on the need for all political parties to co-operate in ensuring that the right to vote can be exercised.

#### **Article 4, paragraph 3**

The definition of political parties is not the Bureau's. The latter has respected this phrasing, as it is the product of an agreement reached within the working group made up of the G-7, the G-3, ABASA and INKINZO.

#### **Article 4, paragraph 4**

Initially, one party expressed a reservation concerning the requirement that all parties be national in nature, but this reservation was withdrawn during the April 2000 session of Committee II.

#### **Article 5, paragraph 4**

The substantive proposals can be found in [Chapter II of Protocol II](#), which provides that some aspects of the electoral process are to govern only the first election, and to lapse thereafter.

#### **Article 5, paragraph 5**

One group made a detailed proposal on co-opting mechanisms. To the extent that they are dealt with in this text, certain provisions and particular issues have been taken up in [Chapter II of Protocol II](#).

#### **Article 6, paragraph 2, first sentence**

The figure of 100 is possibly large for a country of Burundi's resources, but is warranted on account of the need to provide for greater participation of its citizens in an inclusive political process (see Chapter II of [Protocol II, art. 15, para.3](#)).

#### **Article 6, paragraph 3**

A party had proposed that laws be actually adopted by way of referendum. The better approach is providing for the Legislature to be bound to pass a law as approved by referendum.

#### **Article 6, paragraph 5**

The original proposal was amended to bring the majority required in the National Assembly into line with that required in the 1992 Constitution. It does not seem appropriate to require the same very high majority in both the Senate and the National Assembly.

#### **Article 6, paragraph 8**

The current general trend is for the immunity of members of the Legislature to apply to their political activities, but not necessarily to general criminal affairs or failure to meet civic obligations.

#### **Article 6, paragraph 10**

The magnitude and exact modalities of enlarging the transitional National Assembly are specified in [Chapter II of Protocol II](#). Within Committee II various options were discussed for a possible enlarging of the definitive National Assembly, but no agreement was obtained.

#### **Article 6, paragraph 14, first sentence**

The Bureau is mindful that some parties on one end of the spectrum reject the notion of a senate, holding that Burundi has no need for a costly second house, that the senate will frustrate the law-making process, and that as an ethnically balanced house it will emphasize ethnic divisions. At the other end of the spectrum a senate is rejected because it is not an effective substitute for intra-community or segregated political representation; "unrepresentative Batutsi" would be elected rather than Batutsi in whom only Batutsi have confidence. In the absence of any common ground between these extremes, the Bureau has opted for a system that relies on:

1. Democratic government;
2. Guaranteed multiethnic representation in the Assembly;
3. A second house with an ethnic balance to provide a confidence-building mechanism;
4. An approach that promotes nation-building rather than ethnic competition. The senate is a mechanism used widely in such circumstances, and can hardly be considered abnormal.

#### **Article 6, end of paragraph 14**

The most difficult issue regarding the senate is the method by which the senators are to be elected. As its explicit purpose is to provide a forum for regional concerns within an ethnically balanced framework - and yet the system has no geographically distinct ethnic communities or explicitly segregated ethnic elections, nor any means of ethnic identification or registration - indirect elections appeared to the Bureau the only method possible. Yet the text proposed may still give rise to objections that the ethnic representatives are really regional representatives, not persons representing an ethnic constituency. However, in the long term this in itself may contribute to overcoming the past divisions. The Electoral College, furthermore, is made up of persons whose concerns will be grass-roots developmental issues.

#### **Article 6, paragraph 16**

The powers and functions of the senate have been focused on the questions of particular concern to regions and ethnic communities.

#### **Article 6, paragraph 16(c)**

Unlike the President of the Republic, the ombudsperson has a non-party political profile, but a major responsibility for ensuring a proper and clean administration. Accordingly, to perform a watchdog role a very high non-partisan degree of support is indicated.

#### **Article 6, paragraph 17**

This cooptation mechanism ensures there is no ethnic exclusion at the level of local government. However, if there is a mono-ethnic character to the community, or where there is an appropriate multiethnic character to the council, this mechanism would not come into play.

#### **Article 7, paragraph 1**

No agreement was obtained on the mode of election of the President. The system of politically alternating presidents was considered unworkable, democratically unsustainable or even a source of instability. The proposals made were mutually exclusive:

1. One was that the President of the Republic should be elected by the National Assembly and the Senate;
2. The other was that the President of the Republic should be elected by direct universal suffrage.

Because of the political context within Burundi, the Bureau proposes a compromise by creating an initial exception that would reflect the importance of demonstrably wider support for the first President, and would help to stabilize the political institutions by not holding additional presidential elections at the end of the transition. The proposal of indirect elections for the very first election is premised on the need for more universal support for the first President. It is no less democratic and yields an accountable Executive. There is no evidence to support the argument that directly elected presidents are less vulnerable to a *coup d'état* than indirectly elected ones provided both are constitutionally sound and based on free and fair elections,

The Bureau would propose that this be a unique case, with subsequent presidents being elected by direct universal suffrage.

#### **Article 7, paragraph 4**

Various proposals had been made on the Vice-Presidents. The proposal made by the Bureau is to be seen as a compromise suggestion between what the G-3, G-7 and G-8 had initially proposed. The Bureau believes that this option will function as an additional nation-building mechanism by enlarging the presidency so as to cover a wider political range, and therefore will also be seen as a mechanism that should reassure all citizens of Burundi. This is a mechanism that has been utilized elsewhere in deeply divided societies.

#### **Article 7, paragraph 6, first sentence**

There has been no objection to this initial Bureau proposal. This provision promotes the concept of a choice by the parties as to whether they participate in a Government of national unity or not. In deeply divided societies this mechanism is achieving ever wider application (see recently Nigeria, Indonesia, South Africa), as it promotes national acceptance of the Government, and hence stability.

#### **Article 7, paragraph 8**

This provision is not to be seen as a form of "vote of no confidence". The question of allowing a vote of no confidence will have to be studied by the Constitutional Commission that will be established by the National Assembly during the transition. The exact nature of the relationship of accountability between the President and the National Assembly will depend on the degree of separation of powers decided upon.

#### **Article 7, paragraph 9**

This proposal was made in conformity with the 1992 Constitution, which establishes that "The judicial inquiry may only be directed by a team of at least three magistrates from the general office of the Prosecutor of the Republic" (art. 81. 4).

#### **Article 8, paragraph 1**

The governors of the provinces fulfil administrative functions. In such a small country as Burundi, with limited resources, the Bureau felt that to submit the governors' posts to elections - or any other form of choice - would only complicate the electoral system and create certain forms of tension between the central power and the districts. In [Protocol II](#), decentralized power within the districts has been provided for.

#### **Article 9**

The reforms of the Judiciary have been extensively discussed within the working group of Committee II on the subject. The Bureau has tried within this article to reflect the very different decisions that were taken or discussed. Many of the proposals made during the debates on the Judiciary were subject to general agreement. With reference to paragraph 6, the term "Supreme Council of the Magistracy" has been replaced, here and elsewhere, by "Judicial Service Commission", which is the translation of "*Conseil Supérieur de la Magistrature*" recognized by the Council of Europe. This is therefore not a substantive change.

#### **Article 9, paragraph 5**

Various new suggestions were made in the final submissions given in by the parties. Nevertheless, the Bureau felt it necessary to reflect the decisions taken by the working group on the Judiciary, and even if important suggestions were offered in the final submissions on such issues as the court system, the

composition of the Chambers and the funding of the Courts, the Bureau felt that some of the suggestions departed from what had been discussed and agreed.

#### **Article 9, paragraph 8**

The aim of introducing the *Ubushingantahe* is to afford the national legislature a chance to provide for traditional justice as an institution at local level on matters affecting local communities. This proposal was backed by all parties, even though some parties stressed that the change in the nature of the *Ubushingantahe* justified their worries as to how this traditional institution would be used.

#### **Article 9, paragraph 9**

There was a mistake in the Bureau's initial proposal concerning the nomination of the magistracy. It has been modified to include the task of nominating magistrates in the functions of the Judicial Service Commission.

#### **Article 9, paragraph 12**

Widespread practice usually insists that there should be a link between public office bearers and judges; the linkage takes place in the Judicial Service Commission, and permits the other stakeholders to participate in the decision-making. Few, if any systems, allow the Judiciary to be completely insulated from accountability or influence from the people through their elected representatives.

#### **Article 9, paragraph 17**

The Bureau considered proposals which downgraded the Constitutional Court to a Council, which may serve to diminish its legal status and reduce accessibility to it by ordinary citizens. However, it was felt that this compact requires the firmest guarantees and, in line with the separation of powers doctrine, an institution of calibre and independence to enforce it. Such an institution would also strengthen the rule of law and a culture of legality.

#### **Article 10**

The proposals put forward in this article were subject to only limited debate. In the submissions made by the parties in April, most of the contrary proposals put forward related to the wording or fine details of the provisions in question. The Bureau has therefore taken into account those proposals on the structure or wording of the sentences which did not alter the sense of the provisions. Most of the provisions include the main precepts of good governance.

#### **Article 10, paragraph 10**

The principle of an Ombudsperson was agreed upon during the April 2000 session of committee II. During the same session various suggestions such as the creation of an Ombudsperson within the army were discussed, but no decision was taken. Nevertheless, the three-fourths approval of the nomination by the National Assembly and the requirement of the approval of the Senate are proposals put forward by the Bureau. It was felt that the Ombudsperson should possess extraordinary credibility - or legitimacy - to fulfil her/his function, especially if she/he is expected to play a conciliatory role.

#### **Article 11, paragraph 3**

The military matters dealt with here have been taken from the reports of the Bureau of Committee III, but here may be subject to arrangements that have emerged from the guarantees consequent upon adopting the electoral system set out herein. The issues referred to in [Protocol II](#), though they deal with military matters agreed in Committee III, remain fundamental constitutional issues. Also, only Committee II can

identify the final form of the political institutions which supervise certain military appointments and deployments.

**Article 11, paragraph 4(e)**

One of the groups proposed that this provision be extended to give jurisdiction to civilian courts over military personnel who have committed offences under the "general" or civilian law. There is some merit in this proposal. However, the Bureau feels that it should include such a provision only in consultation with Committee III.

**Article 12, paragraph 2(c)**

See the definition given in [Protocol IV, article 1.2](#).

**Article 13, paragraph 1, first sentence**

There is a need to establish the shortest period possible between the signature of the Agreement and its implementation. At an institutional and political level, the Bureau believes that within a month most of the administrative prerequisites to start the transition period can be met. It is conscious that other factors and imperatives coming from the other committees, especially Committee III, must be taken into account, and the time-frame might be modified, especially if an international military and observer presence is a precondition. If that force is a United Nations force, 6 months is a realistic outer limit.

**Article 13, paragraph 1, second sentence**

The necessary conditions may include: some of the statutory measures to be adopted; establishing reception arrangements for returnees, refugees and displaced people; providing security for the returning political leaders; establishing reception areas for armed groups; insertion of monitors and peacekeepers; confinement to barracks where appropriate; meeting benchmarks for cessation of hostilities if agreed; establishing the mechanisms to receive arms if agreed upon; providing security for armed groups; establishment of international or national bodies; closure of regroupment camps; release of political prisoners.

**Article 14, paragraph 5**

This provision is subject to a sunrise provision so that parties which do not yet comply with this requirement can subscribe to the Agreement and participate in its structures, and formally adjust their constitutions and structures later. The political parties must be given the opportunity to fulfil the necessary requirements established in the Protocols to the Agreement. The present situation makes it impracticable for some of the political parties to consult their constituencies and their militants before major decisions can be taken. The Bureau therefore proposes a suspended period of nine months so as to be able to allow such parties to adapt to the new requirements.

**Article 15, paragraph 2, first sentence**

The purpose of this provision is to ensure that any matter that has not been foreseen or considered will still be regulated by the law pending the adoption of the relevant laws by the transitional legislature. It does not affect or delay the entry into force of the Agreement, but merely serves to place an obligation on one of the Parties, the effect of which is to incorporate the obligations under the Agreement, which are effective upon its signature, into domestic law. This is a separate issue from the entry into force of the Agreement.

**Article 15, paragraph 3**

The transitional National Assembly is to be expanded to include the political parties not included therein, while ensuring that there are balances and that it has a popular character. The Bureau proposes that the starting point be the National Assembly which was disrupted by the assassinations of 1993, the ensuing violence and the coup which later followed it in 1996. To start on another basis would not be consistent with the last indicator of popular sentiment, even though the term of this legislature has now expired. On the other hand, the demands of the transition require, temporarily, an expanded and inclusive legislature. However, the mathematics preclude a simple extension if the resultant Assembly is not to provide for a simple rubber-stamping of a draft text prepared by one of the three clusters. This proposal thus marries three arguments:

1. It must in part reflect the last election (and thus be legitimate);
2. It must include all the parties to the Burundi Peace Negotiations (and thus be inclusive) and
3. It must facilitate true give-and-take in discussions (and thus not allow any one grouping more than two-thirds dominance).

The parties themselves could not agree on these principles, choosing to insist on either the first or only the second, and the Bureau received no assistance in this regard from them.

#### **Article 15, paragraph 3(a)**

In the 1993 elections FRODEBU won 65 seats, UPRONA 16, for a total of 81 members. The surviving original members will be offered their seats back even if they now belong to new political parties. If they decline or are nominated to the Executive, or are no longer alive, the political party they belong to, or belonged to at the time of their death, will elect to fill the seat or allow the current replacement to continue in office.

#### **Article 15, paragraph 3(b)**

There are 19 parties to the Burundi Peace Negotiations. Two of them are not political parties (Government/National Assembly). The Bureau assumed that two parties will join the Negotiations as additional members (if not, the figures will change slightly). This leaves 19 political parties in total. Of those 19 political parties, two will not be attributed additional seats (FRODEBU and UPRONA). One party (CNDD) is probably represented by its original members. This leaves 16 political parties to which seats must be attributed:  $16 \times 3 = 48$  new seats. The total adds up to 129 members of the National Assembly ( $81 + 48 = 129$ ). At the G-7 level, the figures are as follows:  $(65 \text{ FRODEBU}) + 7 \times 3 = 86$  or  $+ 8 \times 3 = 89$ . This gives G-7 **two-thirds** or more. The third principle requires that additional representation be provided for, which demands that we add some 15 members who do not belong to the G-7 parties. The unknown element of this equation remains the two political parties who could join the Burundi Peace Negotiations. It is impossible to know if there are members of the 1993 National Assembly amongst their militants, so the Bureau has calculated as if there were not, though this could be modified at the required moment.

#### **Article 15, paragraph 3(c)**

The Bureau considered increasing the number of seats per party to give effect to the principle that no group has more than **two-thirds**. However, it would need 5 or 6 seats per party and a legislature of +/-180 to do this, as parties on both sides would obtain additional representation. By taking the balancing group from sitting civil society members, this provision also reduces the opposition to the transition from the civil society sector within the current National Assembly. This brings the total potential number to 157 and demonstrably balances the political composition of the transitional National Assembly, especially in regard to the decision-making majority required.

#### **Article 15, paragraph 5, third sentence**

This provision is necessary to underwrite the principles in [Chapter I of Protocol II](#). Making the draft Constitution subject to judicial scrutiny does not affect the sovereignty of the "people". The Transitional National Assembly is an unelected body. The constitution to be approved by the people will not be adjudicated upon once approved by referendum.

#### **Article 15, paragraph 6**

A referendum is necessary because the constitution-making body is not an elected one.

#### **Article 15, paragraph 7**

This provision is intended to function as a last-resort measure, to break deadlocks and ensure that the time-frames are complied with.

#### **Article 15, paragraph 13**

The exact composition of the transitional Government is to be negotiated between the clusters of political parties at Arusha once the broad framework is agreed on. The G-7 at the Burundi Peace Negotiations consisted CNDD, FRODEBU, FROLINA, PALIPEHUTU, PL, PP and RPB. However, the group is taken here to include, if they eventually participate, the armed groups not at Arusha but which originate from or claim to represent parties in the G-7. In the interests of appropriate appointments on the basis of suitability and competence, the Bureau believes that candidates should come from clusters, not pro rata from 19 parties.

#### **Article 15, paragraph 20**

These matters were raised in earlier discussions but did not find expression in the earlier draft protocols. The Bureau believes that all parties welcome such a measure.

#### **Article 16**

To prevent disruption, any unforeseen breakdown in law and order, or judicial mismanagement, the Bureau considers it necessary to include the provisions listed in this article. These provisions do not preclude legislative and executive action to remedy the defects of the past or to conduct judicial and administrative reforms, but are rather directed at permitting an ordered reform process without disruption caused by legal challenges, legal vacuums or administrative chaos.

#### **Article 17, paragraph 2(b)**

In relation to the judicial sector, reference was made to the need for training colleges for "employees". The Bureau has extended the original formulation to cover all sectors of the judiciary, whether administrative employees, judiciary and prison personnel, lawyers, or prosecutors, as well as judges.

#### **Article 17, paragraph 7**

The Bureau felt that there was a need to establish a form of rotation within the Constitutional Court so as to ensure representation of diversity amongst the appointees. This form of rotation enables the composition of the Constitutional Court to change periodically but to retain the necessary continuity by designating half of its membership who will remain members of the Court for six years.

#### **Article 17, paragraph 10**

One initial proposal stated "foreign judicial personnel shall be appointed on an exceptional basis to form part of the courts and prosecutors' offices in order to create a climate of confidence between the judicial services

and litigants". This provision as formulated here will allow for such appointments, but will not prescribe them unless the availability of persons for appointment has been established and the appointment mechanism agrees thereto.

### **Article 20, paragraph 3**

One of the options proposed was that the Independent National Electoral Commission should be made up of representatives of the political parties, civil society and the State, including the Ministry of the Interior. In accordance with international trends, particularly in conflict-ridden societies, we have opted for a truly independent commission.

### **Article 20, paragraph 7**

The exceptional co-optation mechanism:

1. Ensures additional representation of all parties equally, thus providing for greater balance in debates when one party is overwhelmingly dominant. It does so by distributing the seats equally, by avoiding an arbitrary co-optation process or mechanism, and by confining co-optees to those who appeared on the electoral lists;
2. Is not intended to apply after the first election or if there is a balanced spread of parties;
3. Is warranted, despite its limited distortion of the electoral result, which would not drastically alter the outcome, because of the exceptional degree of conflict and insecurity in Burundi.

### **Article 20, paragraph 8**

The Bureau is mindful that some parties oppose the system of blocked lists with proportional representation. The Bureau seriously considered the many options put before it, as well as some that were not advanced (such as alternative preference voting; simple and multi-member constituencies; open list, preferential voting). For some, weighting "Tutsi" votes to achieve parity would provide the best system. However, where this type of weighting has worked, e.g. in the United Republic of Tanzania, it has been on the basis of geographical division, and never to the extreme extent proposed here. There was a belief amongst others of the need to conduct elections within the ethnic communities, on the basis of parity of representation between the two main ethnic groups, or using an alternative formula yielding the same result. This system would have been implemented directly or by indirect suffrage from the local level to the summit. However:

1. Such a proposal could find no common ground;
2. The risk exists that such an electoral system would exacerbate ethnic tensions and make the divisions within the ethnic communities rigid;
3. It might thus promote more extreme ethnic problems; and
4. It would be extremely complicated to organize owing to the fact that the communities within Burundi are not geographically separated.

The Bureau has therefore made its current proposal in the belief that an electoral system based on proportional representation with blocked lists together with a series of other mechanisms can guarantee the representation of both major ethnic groups. Nevertheless, a limited co-optation method has been included as a necessary balancing mechanism for the first elections.

### **Article 20, paragraph 13**

Various parties supported the idea of electing the commune administrator. The proposal did not obtain the necessary support of the others, and the Bureau has opted to exclude this possibility, owing to the problems of accountability and control that such a proposal could create:

1. The commune administrator must be attached to a legislative body, to whom he is accountable;
2. In case of corruption or other problems, the legislative body (in this case the commune council) should have the power to suspend him and nominate a replacement.

It is no less democratic for the administrator to be indirectly elected, and furthermore at an initial stage the Bureau is not sure there is a need to overload the electoral system by electing the *colline* councils, indirectly electing the commune council, and directly electing the commune administrator (to be followed by a referendum, and later national elections). Nevertheless, measures will have to be taken within the organic law on commune administration to protect the administrator's obligations and rights.

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## **Appendix II: Attendance at the Signing Ceremony**

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