THE PRETORIA PROTOCOL ON OUTSTANDING POLITICAL, DEFENCE AND SECURITY POWER SHARING ISSUES IN BURUNDI

PREAMBLE

The Transitional Government of Burundi (hereafter referred to as “TGoB”) and the National Council for the Defence of Democracy – Forces for Defence of Democracy (hereafter referred to as CNDD-FDD”) both hereafter referred to as “the Parties”, hereby;

Take note of the commitments of the TGoB and the CNDD-FDD to reach an all embracing agreement for the achievement of lasting peace, security and stability in Burundi;

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

Reaffirm their commitment to the Ceasefire Agreement between the Parties signed in Arusha on 2 December 2002 as well as the Joint Declaration of Agreement addressing the practical implementation of the December 2002 Ceasefire Agreement, signed in Pretoria on 27 January 2003;

Acknowledge further the Dar es Salaam Communiqué of the Regional Summit of 20 July 2003 re-committing the parties to a negotiated framework to resolve all outstanding issues related to Political Power Sharing and Technical Forces Agreement;

Recognise that the conflict in Burundi requires an inclusive dialogue and participation of all political groups and movements;

Conscious of the need to give impetus to the implementation of the content and spirit of the various agreements reached on the Burundi Peace Process;
Complementing the Pretoria Protocol on Political, Defence and Security in Burundi signed on 8 October 2003;

Hereby agree to engage in the following process in order to effect the power sharing agreement in terms of paragraphs 1.1.12 and 1.1.15 of the December 2002 Ceasefire Agreement between the CNDD-FDD and the Transitional Government of Burundi.

1. TRANSFORMATION OF THE CNDD-FDD INTO A POLITICAL PARTY

The parties confirmed the agreement contained in the Communiqué of the Regional Consultative Meeting on Burundi on 20 July 2003 as follows:

As soon as the process of cantonment begins, that action will indicate that the armed wing of the CNDD-FDD is being integrated, and would mean that they qualify to register as a political party.

2. TEMPORARY IMMUNITY

2.1 The parties agreed that all leaders and combatants of the CNDD-FDD shall receive temporary immunity.

2.2 They agreed that this shall also apply to the security forces of the Government of Burundi.

2.3 They agreed to establish a Joint Commission, which shall study individual cases of civilians currently serving sentence to determine that they should be granted temporary immunity.

2.4 They endorsed the agreements contained in the Arusha Peace and Reconciliation Agreement providing for the establishment of the International Criminal Tribunal and the National Truth and Reconciliation Commission.
3. SENATE

3.1 The CNDD-FDD indicated that it would not be able to participate in the Senate, while Article 147: 9 of the Transitional Constitution relating to the powers of the Senate remained in force.

3.2 The parties agreed that the CNDD-FDD would participate in the implementation of all the agreements that they have signed without requiring that the matter of its participation in the Senate is resolved.

3.3 They agreed that the CNDD-FDD may raise the question of its participation in the Senate again in future before the elections provided for in the Arusha Peace and Reconciliation Agreement, should it determine that it is necessary to do so.

3.4 The Transitional Government of Burundi agreed that in such an eventuality it would agree to a further discussion of this matter.

4. FORCES TECHNICAL AGREEMENT

The parties approved and signed the final text of the Forces Technical Agreement.

5. RECONSTITUTION OF THE TRANSITIONAL GOVERNMENT OF BURUNDI

The parties agreed that the Transitional Government of Burundi shall be reconstituted to include members of the CNDD-FDD not later than three (3) weeks from the signing of this Protocol.
Done in Pretoria, South Africa on 2 November 2003

For the Transitional Government of Burundi,

His Excellency Domitien Ndayizeye
President of the Republic of Burundi

For the CNDD-FDD Movement,

Mr. Pierre Nkurunziza
Legal Representative of the CNDD-FDD Movement

In the presence of:

His Excellency Jacob Zuma
Deputy President of the Republic of South Africa
Facilitator of the Burundi Peace Process
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FORCES TECHNICAL AGREEMENT (FTA)

BETWEEN

THE TRANSITIONAL GOVERNMENT OF THE REPUBLIC OF BURUNDI

AND

THE NATIONAL COUNCIL FOR THE DEFENCE OF DEMOCRACY –
FORCES FOR THE DEFENCE OF DEMOCRACY (CNDD – FDD)

Reference 1: Arusha Peace and Reconciliation Agreement.

2: Ceasefire Agreement 02 December 2002.

INTRODUCTION


(1) Burundi National Defence Force
(2) Burundi National Police
(3) National Intelligence Service

b. Part II. Formation of the Burundi National Defence Force (BNDF) and DDRR Process

1.1 For purposes of addressing the current security situation in Burundi, Article 1.1.7, 1.1.8 and 1.1.9 of Annexure 1 to the Ceasefire Agreement (CFA) of 02 December 2002 shall apply. The modalities of implementing article 1.1.7, 1.1.8 and 1.1.9 will be clarified in an MOU on Joint Military Force (JMF).

1.2 The two parties agree to provide the data concerning their forces to the Chairperson – Joint Ceasefire Commission (JCC) in confidence. (See details in Annex A to the FTA).
PART I

BURUNDI DEFENCE AND SECURITY FORCES.

2.0 Burundi National Defence Force (BNDF)

2.1 The Name

The new-armed force shall be called The Burundi National Defence Force (BNDF).

2.2 Roles and Principles:

a. Roles

(1) To defend the territorial integrity and national sovereignty of Burundi.

(2) To repulse any armed aggression directed against the institutions of the Republic.

(3) To intervene in exceptional circumstances in the maintenance of public order, on the formal request of the competent civil authority.

(4) To participate in rescue and assistance missions in the event of natural disasters.

(5) To contribute towards the development of the country with regard to major production and training activities.

(6) To protect strategic and vital national installations.

(7) To participate in peace support operations under the auspices of the United Nations (UN), the African Union (AU) or the Regional Organisations when the Government is ready to participate.
b. Principles

(1) The BNDF shall be:
   • Governed by the laws and regulations of the country.
   • At the disposal of the government, subordinate to its authority and accountable to the legislature.

(2) The BNDF shall be non-partisan.

(3) Members of the BNDF shall not be affiliated to political parties or any other organisation of a political nature. They shall neither take part in activities nor demonstrations of political parties or organisations.

(4) Members of the BNDF may exercise their civil right to vote in elections.

2.3 Command, Control and Supervision

a. The BNDF shall be placed under the control and supervision of competent civil authority.

b. The President of the Republic shall be the Commander-in-Chief of the BNDF.

c. The National Defence Forces shall be placed under the Ministry of National Defence.

d. The BNDF shall be under the direct command and control of the Chief of General Staff (CGS).

2.4.0 Size, Composition, Structure and Organization

Upon a proposal of the Integrated chief of staff, the Government will determine the structure of the NDF, the total size and composition of the officer corps.
2.4.1 Size

The size of the BNDF shall be determined by:

- Potential internal and external threats.
- Financial and economic means of the country.
- Defence Doctrine/Policy

2.4.2 Composition

- During the integration phase the BNDF shall be composed of selected members of:
  - The current Burundi Armed Forces (FAB).
  - Combatants of the CNDD-FDD Movement.
  - The combatants of other armed political parties.
- After integration volunteer Burundian citizens could be recruited.
- The BNDF shall not consist of more than 50% of any of the ethnic groups as per Arusha Peace and Reconciliation Agreement (protocol III chapter 2 article 14.1g).

2.4.3 Structure

The structure of the NDF is determined by the Government upon a proposal of the Integrated Chief of Staff.
2.4.4 Organization

The National Defence Force

a. Force Employment

The Supreme Commander (S-C) shall be responsible for force employment.

b. Functions of the CGS

(1) The CGS shall have the following functions:

- Implement decisions of the government.
- Command, control and administration of the National Defence Force.
- Co-ordinate the activities of the services and lower echelons.
- Liaison at the administrative level, between the BNDF - as an institution and the Government through the Minister of National Defence.

c. Force Preparation

The Chief of General Staff assisted by his deputy and service heads shall be in charge of force preparation in accordance with requirements of specified missions.

2.4.5 Military Career

a. Principle

Military career shall be exercised
either under contract or permanent terms. Details of terms and conditions of Service to be determined according to the rules and regulations.

b. Rank Structure

FAB rank structure shall be used in the New National Defence Force. In the interim the ranks of members of all signatories shall be recognized until a sub commission of the JCC responsible for the evaluating the ranks of the individuals makes a ruling.

c. Service

The service history of all members from FAB, CNDD-FDD and armed political parties shall be verified.

2.5.0 Training of the BNDF

2.5.1 Policy

- The general training policy aimed at upgrading the professional level of the National Defence Force shall be done according to the doctrine that will be adopted.

- The integrated National Defence Force shall undergo training for the purpose of standardizing skills, techniques, procedures and regulations.

- Leadership and specialist training may be conducted in or outside Burundi.
2.5.2 Training of Immediate Concern

- Training of immediate need to the selected members, will be the 'Bridging Training'. This will take into account the experience and training already received by individuals from the integrating forces. The training will be carried out in selected training institutions.

- Special emphasis shall be placed on civic and moral education.

3.0 BURUNDI NATIONAL POLICE (BNP)

3.1 Name

The Burundi Police Force shall be called 'Burundi National Police (BNP)'.

3.2 Roles and Functions

a. The Public Security Police

(1) Ensure respect for laws and regulations.

(2) Ensure physical protection of people and their property.

(3) Help and provide assistance to people in danger or distress.

(4) Intervene in the case of tragedies or calamities.

(5) Foresee various scenarios for civil protection.

(6) Maintaining and re-establishing public order.

(7) Ensure the protection of public
infrastructure and property.

(8) Ensure road security over the whole territory.

(9) Ensure the protection of public meetings upon the request of the parties concerned, upon instruction of the administrative authorities or on each own initiative when there is need.

(10) Ensure the protection of the institutions.

b. The Judicial Police (JP)

(1) Prevent crimes, search and prosecute their perpetrators and carry out arrests in accordance with the law.

(2) Ensure the missions of the judicial and administrative police.

(3) Ensure the protection of the courts and tribunals.

(4) Handling criminal affairs of great importance, like economic crimes, crimes by itinerant criminals or groups organized on a national or international level.

(5) Establish statistics on crime and use them.

(6) Ensure the Interpol service.

c. The Police of the Air, Borders and Foreigners (PAFE)
(1) Handling immigration, emigration and the status of foreigners;

(2) Controlling the movements of foreigners on the whole national territory.

(3) Guarding land, lake and air borders.

(4) Providing traveling documents and residential permits.

d. The Prison Police (PP)

(1) Ensure the security of the prison and detainees.

(2) Ensure the safety of the police camp

(3) Ensure the escorting of the detainees going to court and the various jurisdictions.

(4) Provide security of detainees during the production work.

(8) Ensure escorting of prisoners during transfers

(9) Ensuring the guarding of hospitalized prisoners.

(10) Ensuring the escorting of detainees during medical care or when leaving the prison with permission.

3.3 Principles

b. The Burundi National Police shall be:

- Governed by the laws and regulations of the country.

- At the disposal of the government, subordinate to its authority and accountable before the law.
b. The Burundi National Police shall be non-partisan.

c. Members of the Burundi National Police shall not be affiliated to political parties or any other organisation of a political nature. They shall neither take part in activities nor demonstrations of political parties or organisations.

d. Members of the Burundi National Police may exercise their civil right to vote.

3.4 Command, Control and Supervision

a. The National Police Force shall be placed under the supervision of the competent civil authorities.

c. The National Police Force shall be placed under a Ministry charged with responsibility of Public Security.

d. The National Police Force shall be under the direct command and control of the Director General of Police.

3.5 Size, Composition, Structure and Organization

3.5.1 Size

a. The size of the Burundi National Police shall be determined by the following factors:

(1) The Internal Security situation
(2) The different roles and functions to be carried out
(3) The Burundi population
(4) The economic and financial means
(5) The budget allocated to the National Police
(6) The permeability of the borders.
3.5.2 Composition

a. The Burundi National Police Force shall be composed of:

(1) Members of the current Burundi Police Force.

(2) Selected combatants from the CNDD-FDD Movement and other armed political parties.

(3) Volunteer Burundian citizens recruited on the basis of their competence.

b. The National Police Force will not consist of more than 50% of members from any of the ethnic groups. This is in accordance with Arusha Peace and Reconciliation for Burundi (Protocol III, Chapter 2 art 14 para 2 (e)).

3.5.3 Structure

The structure of the National Police is determined by the Government of Burundi upon a proposal of the Integrated Chief of Staff of the NP.

3.5.4 Police Service

a. Principle

Police service shall be exercised either under contract or permanent terms. Details of terms and conditions of service will be set in accordance with rules and regulations.

b. Rank Structure
(1) The current Police rank structure shall be used in the National Police Force.

(2) Entry point and the equating of ranks for members of FAB, CNDD-FDD and other armed political groups to be integrated into police shall be decided by a sub-committee of the JCC.

3.5.5 Training of the National Police Force

a. Policy

(1) The general training policy aimed at upgrading the National Police shall be based on the police doctrine.

(2) Each element of the force selected to constitute the Police Force shall undergo training for the purpose of:

- Acquiring and standardizing skills, techniques, aptitudes procedures and regulations.

- Achieving harmonious integration of servicemen.

b. Training of Immediate Concern

- Members selected to join the police from FAB, FDD and other political parties will receive accelerated training to enable them work together.
4.0 NATIONAL INTELLIGENCE SERVICE

4.1 Name

The Burundi Intelligence Organisation shall be called 'National Intelligence Service'.

4.2 Roles and Functions

a. Detect as soon as possible eminent threat to the state.

b. Collect, centralize and control any intelligence that may contribute to the protection of the state, its institutions and international relations, as well as the prosperity of the economy.

c. Detect as soon as possible what activities that may lead to insecurity and violence or a change in the state institutions through undemocratic means.

d. Detect as soon as possible attempts to manipulate ethnic or regionalist sentiments as a way to get or maintain power.

e. Detect as soon as possible any threat to the constitutional order, public security, territorial integrity and national sovereignty.

f. Detect as soon as possible any terrorist actions, illegal drug trafficking and forming of criminal organizations.

g. Detect as soon as possible any misappropriations in the state services.

h. Detect as soon as possible any threat to the ecological environment of the country.
4.3 Control

The intelligence service shall be placed under the Minister responsible for Intelligence.

4.4 Size, Composition, Structure and Organization

4.4.1 Size

The size of the National Intelligence Service shall be determined by its roles, functions and availability of resources.

4.4.2 Composition

a. The intelligence service shall be composed of:
   1. The current Intelligence service personnel.
   2. Selected members of CNDD-FDD movement.
   3. Members of armed political parties as well as other citizens who meet the requirements.

b. The National Intelligence Service shall not contain more than 50% of members belonging to a particular ethnic group.

4.4.3 Structure and Organisation

The structure of the National Intelligence Service is determined by the Government upon a proposal of the Integrated Chief of Staff.

4.4.4 Training

The National Intelligence Service personnel shall receive specific training inside and outside the country.
PART II

FORMATION OF THE BURUNDI NATIONAL DEFENCE FORCE

1.0 THE PROCESS

1.1.1 The Burundi National Defence Force shall be formed under the supervision of IMC, AMIB and JCC.

1.1.2 The following steps will be carried out in the formation of the BNDF:

a. Disengagement and separation of forces

This shall be conducted under the supervision of the AMIB and the JCC in accordance with the provisions of the CFA of 02 December 2002 in conjunction with the parties concerned (Transitional Government of Burundi and CNDD-FDD).

b. Cantonment and DDRR Process

(1) The cantonment and DDRR processes shall be conducted under the supervision of the AMIB and the JCC in conjunction with all the parties concerned and supporting international organizations. Cantonment should not be an end in itself, but rather a function of verification, military integration and demobilization activities, i.e. a place where these activities are completed as quickly as possible so that the peace process can be consolidated and demobilised soldiers can get back to civilian life.

(2) All necessary data for planning and conducting programmes concerning cantonment and DDRR shall be
immediately provided by all the parties to relevant bodies.

(3) All concerned stakeholders shall establish a joint Operational Plan to implement the DDRR programmes according to agreed time frame.

(4) The movement of forces of all the parties shall be conducted in accordance with the provisions of the 02 December 2002 CFA, namely Article 1.1.6 and 1.1.7 of Annexure I.

c. Integration Process

(1) Criteria for the selection of Servicemen in the BNDF.

The selection of servicemen to constitute the BNDF by each party and those to be demobilized shall be carried out in the cantonment sites. Service to constitute the National Defence force should meet the following criteria:

- Officers shall:
  - Be volunteers
  - Serving as officers
  - Be Burundian Nationals
  - Be physically fit
  - Have a degree or experience as officer

(2) The war-wounded and handicapped shall, however, remain eligible for Army service, according to their specializations, unlike the disabled servicemen who shall be demobilized but assisted. This shall apply to all categories of servicemen.

- Non-Commissioned officers shall:
  - Be volunteers.
• Serving as Non-commissioned officers.
• Burundian Nationals
• Physically fit
• Have a high school qualification or experience as non-commissioned officer.

Soldiers

• Be volunteers
• Be serving as Servicemen or combatants.
• Be Burundian Nationals
• Be physically fit
• Have a primary school qualification or experience as a soldier.

2.0 POWER SHARING IN THE DEFENCE AND SECURITY FORCES

2.1 National Defence Force

2.1.1 The Integrated Chief of Staff and the officer corps will consist of 60% of officers from the government army and 40% of officers from the CNDD-FDD.

The sharing of posts will take place on the level of the incumbents and deputies.

The post of Deputy Chief of Staff General will be created.

The sharing of posts takes place on the base of the current structure of the Burundi Armed Forces in accordance with the proportions agreed on.

2.1.2 The Integrated Chief of Staff determines the composition of the non-commissioned ranks, taking into account members of each party and the balances agreed on.

2.1.3 The allocation of command posts will also take place on the basis of the principle of ethnic balance (50/50).
as stipulated in the Arusha Agreement for Peace and Reconciliation in Burundi.

2.1.4 The President of the Republic will confirm and officialise the stipulations of this FTA through a presidential decree.

2.2 National Police

2.2.1 The Integrated Chief of Staff of the NP is established according to the principle of 65% to the TGoB and 35% to the CNDD-FDD.

The principle of ethnic equilibrium (50/50) is observed.

The sharing of posts will take place on the level of incumbents and deputies.

The sharing of posts will take place on the basis of the current structures of the police corps in accordance with the proportions agreed on.

2.2.2 Integrated Chief of Staff of the National Police will determine the composition of the non-commissioned ranks.

2.3 The National Intelligence Service

2.3.1 The Integrated Chief of Staff of the NIS is carried out according to the principle of 65% to the TGoB and the 35% to the CNDD-FDD.

The principle of ethnic equilibrium (50/50) is observed.

The sharing of posts is done on the level of incumbents and deputies.

The sharing of posts is carried out on the basis of the current structure of National Documentation.

2.3.2 The Integrated Chief of Staff of the NIS will determine the composition of the non-commissioned ranks.
3.0 INSTITUTIONS TO OVERSEE THE IMPLEMENTATION OF THE CEASEFIRE AGREEMENT.

The following institutions are mandated to oversee the implementation of the Ceasefire Agreement:


b. The Implementation Monitoring Committee (IMC).

c. The Joint Ceasefire Commission (JCC).

d. The Facilitator and the Regional Initiative on Burundi.

3.1 THE AFRICAN MISSION

The mandate given to the AMIB by the AU is attached to this FTA. It deals with all matters relating to the missions, composition and tasks of the civilian and military (African Force and Military Observers) components of the AMIB.

3.2 JOINT CEASEFIRE COMMISSION (JCC)

The mandate given to the JCC by the UN in conjunction with the Facilitator and the AU is attached to this FTA. It deals with all matters relating to the ceasefire implementation process.

3.3 IMPLEMENTATION MONITORING COMMITTEE (IMC)

The IMC has been set up in accordance with Arusha Peace and Reconciliation Agreement of 2000 that specifies its composition and duties. This all-inclusive institution shall accommodate all Burundian belligerents. Refer to Protocol V, Article 3 of Arusha Peace and Reconciliation Agreement 2000.
3.4 THE REGIONAL INITIATIVE ON BURUNDI AND THE FACILITATOR

The Regional Initiative on Burundi and the Facilitator are the initiators of the ongoing Peace and Reconciliation Agreement for Burundi as well as guarantors of all the agreements that have been signed between the parties. They continue to coordinate all efforts to reach an all-inclusive and comprehensive ceasefire to achieve peace and stability in Burundi and in the region. They are committed to gaining international support to the Burundi peace process.

4. PROTOCOL ON THE JOINT UNITS PRIOR TO THE ESTABLISHMENT OF THE NDF

1. In accordance with Article 1.1.8 of the Ceasefire Agreement of 02 December 2002 signed in Arusha, certain elements of the FAB will be exempted from confinement to barracks to execute security tasks;

2. In accordance with Article 1.1.9 of the Ceasefire Agreement of 02 December 2002 signed in Arusha, the Transitional Government of Burundi and the CNDD-FDD will constitute joint units prior to the establishment of the NDF in order to execute certain national security tasks;

3. Aware of the urgency of putting in place Joint Military Units to provide security protection to the national institutions, threatened by the FNL and other armed groups;

The parties agree as follows:

Article 1: The number of units from FAB that will be exempted from confinement to barracks will be determined by the new Transitional Government in accordance to the prevailing security situation.

Article 2: From the beginning of confinement and cantonment the Transitional Government of Burundi and the
CNDD-FDD will identify personnel who shall constitute the first joint military unit.

Article 3: This unit will receive specialised training for 45 days to enable it to carry out protection of national institutions.

Article 4: Before completion of the training of these units, members of the new Transitional Government of Burundi from the CNDD-FDD will be protected according to arrangements to be agreed on with AMIB.

Article 5: The members of the Integrated Chiefs of Staff (NDF, NP, NIS) from the CNDD-FDD will be protected according to arrangements to be agreed on with the interested parties: CNDD-FDD, current Transitional Government and AMIB.

Article 6: Other joint military units will also be formed to address elements of insecurity.

Article 7: The first joint military units that will be formed will progressively replace units mentioned in Article 1 of this Protocol.

Article 8: The duration of training will be between 45 and 60 days.

Article 9: The command structure of the joint military units set up prior to the establishment of the NDF will be proportionally established as per Pretoria Protocol of 8 October 2003.

Article 10: The stipulations contained in this protocol will be included in the appended timetable of the implementation of the FTA.
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<tr>
<td>Beginning of integration and DDRR.</td>
<td>The new Transitional Government of Burundi AMIB JCC</td>
<td>D Day +30</td>
</tr>
<tr>
<td>Beginning of training of the other units to constitute the NDF, NP and NIS.</td>
<td>The new Transitional Government of Burundi AMIB JCC</td>
<td>D Day +80</td>
</tr>
<tr>
<td>Completion of the establishment of the NDF, NP and NIS.</td>
<td>The parties AMIB Facilitation Regional Initiative</td>
<td>D Day +365</td>
</tr>
</tbody>
</table>

**NB:** The assignment of troops to different units within the NDF, the NP and NIS will gradually take place after training.

**NB:** Activities that are not mentioned in this timetable will take place according to the agreements and protocols that have already been concluded.
Done in Pretoria, South Africa on 2 November 2003

For the Transitional Government of Burundi,

[Signature]
His Excellency Domitien Ndayizeye
President of the Republic of Burundi

For the CNDD-FDD Movement,

[Signature]
Mr. Pierre Nkurunziza
Legal Representative of the CNDD-FDD Movement

In the presence of:

[Signature]
His Excellency Jacob Zuma
Deputy President of the Republic of South Africa
Facilitator of the Burundi Peace Process