

10-28-1992

Full Description of Multiple International Diplomatic Meetings on Rwanda (1992)

N/A

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Subject: Meeting with GOT MFA Diria 9/8/92

1. In his discussion with the French, Belgian and U.S. observers the morning of September 8, Tanzanian Foreign Minister Diria made the following points:

--The RPF proposal for a "super-commission," i.e., a political body composed jointly of representatives of the current GOR and the RPF, having broad executive and legislative powers, would duplicate the roles envisioned for the JPMC and most likely prove unacceptable to the GOR.

--It is necessary to keep the GOR and the constitution in place through a transition to ensure the internal security and administration of the country. Substantial modifications and amendments to bring about RPF participation would be needed, but not the cost of creating conflicting authorities.

--The negotiators, together with the facilitator and the observers, must be able to look at a variety of models for power-sharing arrangements.

--In the private consultations following the opening day's plenary, Diria had asked both parties to provide positions and proposals in writing, and had asked the African observers to provide a paper as well. These papers would serve as the basis for discussion during the afternoon's plenary; he hoped it would be possible to produce from them a single working document. The object of the exercise was to encourage the parties to focus on their specific goals, and the processes needed to achieve them.

--Diria also emphasized to the parties the need to avoid inflammatory public statements, and asked that both agree to limit their public comments to joint statements to be issued by a single spokesman.

2. Diria felt that the observers and the facilitator should encourage the RPF to pursue its goals through the agreed mechanisms of the JPMC and through participation in existing structures. The GOT, as fallback positions, would recommend consideration of mechanisms such as those employed in South Africa or Congo-Brazzaville, e.g., a special commission with advisory powers to recommend constitutional and legislative changes, or a commission of eminent but neutral Rwandans from the clergy or the judiciary with limited legislative powers to amend the constitution.

3. Referring to the RPF concerns expressed by Pasteur Bizimungu during the opening round regarding continuing violence in Rwanda, Diria said that he had urged the RPF to take their complaints to the JPMC. He feared that raising these concerns, however legitimate, in the context of the power-sharing negotiations threatened to distract from the focus of the talks. He added that he has asked the OAU to get the JPMC up and running and dealing with these problems as a confidence-building measure.

Session Sept. 9.

1. Plenary session open 5 PM under sharmanship of Prin Sec. of each negotiator on document presenteeby the other. For Min Diria returned evenening sept 9 and held long conversations with each side.

2. Minister Ngulinziraraised several questions regarding difference between apparent flexibility in Bizimungu's opening remarks and closed maximalist position of RPF paper, namely:

Did RPF intend to maintain existing state institutions or dissolve them;

Did CNr with its limited membership and extensive powers represent a force for national unity and reconciliation;

Did RPF wantto amend the constitution or substite a new one for it.

Did RPF want to clean up the administration ofdismiss all personnel.

3. In return, Commissioner Bizingu asserted taht existing constitution consecrated he coup of 1973 and the dictatorship of Habyarimana. The present constitution does not forse power sharing and must be scraped. Article 5 of the governments proposal is a mockery and an abdication of government's negotiating role. On the other hand, article 6 8, and 9 in the proposal had some merit. But on balance, he saw nothing in the governments proposal that hinted of sharing power.

4. Minister Diria convoked Rawson near midnight September 9 to review his impressions of where things stood and to seek Rawson's advice. Diria found the government displaying some flexibility but the RPF not moving from their position. He asked that the USG contact RPF Chairman Kanyarengwe and inform him that the RPF proposal cannot be accepted by the government because it abrogates all power to a self appointed committee and replaced a constitution sanctioned by popular referendum with a document drafted by RPF hierarchy. The proposal concentrates all power in the National Committee for Reconciliation, strips away the legal basis for guaranteeing rights of people and authorityof institutions and pushes back the democratic process for four years. He urged that Kanyarengwe have his negotiators look for other ways to achieve their objectives of a state that is secure for all and a democratic society free of sectarianism. Rawson urged the Foreign Minister to get senior people from each side talking to each other in closed sessions to try to hammer out points of common agreement which could get the negotiations started down the right track.

5 Plenary reopened September 10 to hear long observations by Nkulinzira on RPF document. His comments clarified the government position of power sharing and opened the door to constitutional change through legal channels. RPF demanded one day to prepare a reply. Meanwhile senior people form each side are meeting with OAU and facilitator to set forth areas of agreement in unified working document.

Sept. 11.

1. Plenary opened with Commissioner Bizimungu responding to Foreign Minister's statements of previous day. The commissioner's statement was a detailed and at times impassioned defense of RPF goals: to gain respect for fundamental liberties, to put an end to oppression under the MRND government and to establish democratic rule. He again asserted that MRND regime concentrates in its hands the presidency, administration, constitution and most of the government. The RPF wanted the end of the party-state and to lift the heavy hand of MRND rule from institutions of state. In brief it wanted to share MRND power not just power within the government, narrowly defined.

2. The old order must change, Bizimungu asserted. The transition is from dictatorship to democracy. Its tasks are to elaborate a new constitution, install displaced persons back in their homes, reintegrate Rwandese refugees and then have free, transparent and fair elections, which, Bizimungu claimed, Rwanda has not experienced since 1973. This takes time and the RPF did not think that 36 months from the establishment of the institutions of the interim government was excessive.

3. The transition must also insure security--this is indispensable for a civil society to which refugees can return. The MRND regime is determined to maintain insecurity. Bizimungu then quoted from tracts of various Rwandan human rights groups against the regime. The MRND attitude and actions make it impossible to consider power legitimate in Rwanda until elections change the regime.

4. Bizimungu cited three reasons to abrogate the constitution: Articles 101, 50, and 55 are against power-sharing in a transitional government; the presidential powers enumerated therein give the prerogative of overturning any accord which RPF might sign with the government and the constitution does not really protect individual rights--he cited the legal limits of freedom of

movement as defined in Article 21). Bizimungu concluded that the constitution must either be suspended or amended.

5. Some institutions should be suppressed, Bizimungu claimed, because they represented power that could not be shared. This included the CND, the Council of State, and the Constitutional Court. The latter two did not function properly because they were staffed with untrained hacks nominated by the President.

6. In a brief reply, the Foreign Minister reported on investigations now under way in Kibungu and on Rwanda's efforts to get an international committee to investigate human rights violations during the war period. The Minister of Justice has now invited Amnesty International to Rwanda and the foreign Minister hoped that other international groups would join them. He then presented a rather studious defense of Article 21 based on its origins in the international pact on civil and political rights.

7. The last hour of plenary was devoted to an introduction of the combined working document which the high-level drafting committee had worked out yesterday. This occasioned a heated exchange on the meaning of power in the title. The facilitator stopped the debate and had OAU's Mapuranga explain how the document was put together and delineate areas of agreement as well as areas for negotiation. After five days of rhetorical exchanges and lengthy breaks to translate yet another paper, the negotiators finally have in front of them a clear agenda for negotiation. There was no indication in this evening's work that the sides are any closer together but seeing their positions collated in one document makes one feel that agreement may eventually be possible.

September 12

1. Fonmin Diria convoked the observers for a conclave before the first plenary session to discuss the position of the two sides, the appropriate role for the observers and the facilitator, and whether the observers shared a common position on what would constitute a fair settlement. Most of the observers agreed that the two sides remained far apart in their views on the nature of power-sharing. They also agreed that the GOR was showing considerable flexibility in offering to try to accommodate RPF concerns with the existing state structures, but that it could not accede to the RPF's demand for power-sharing arrangements that would effectively displace the current government. The Ugandan observer, for example, noted that the RPF demand to exclude the MRND from its proposed supreme council was untenable. OAU rep Mapuranga, however, noted that the formulation of a "Broad-based Transitional Government" (BBTG) was the RPF's, and that it might be possible to move beyond the discussion of the meaning of power-sharing to negotiations about changes in specific institutions. US rep Rawson noted that the JPMC remained available as an agreed transitional authority with a broad mandate that could address many of the RPF's concerns. The consensus coming out of this meeting was that the observers should continue to play a behind-the-scenes role to try to move the RPF and the GOR towards discussion of the specific changes needed in existing institutions to meet the RPF's concerns.

The Plenary

2. The plenary, however, did not follow the proposed track. Although Diria (assisted by Mapuranga, who was to play a more active role at Diria's right hand as his "assistant chairman") opened with a proposal that the two sides move to a discussion of specifics rather than debating a statement of principle, both the RPF and GOR delegations continued to argue over the scope and definition of power-sharing. Diria, frustrated, launched into a stupefying and largely incoherent harangue, primarily at the the RPF, in which he accused them of backing away from commitments undertaken in the Rule of Law document agreed to at Arusha II. This was followed by a tendentious exchange between the RPF and the GOR over whether they were discussing power-sharing between the current government and the RPF or power-sharing as feature of the separate branches of government, with the RPF accusing the government of confusing the issues. Mapuranga, following all this, pointed out that the two parties seemed to agree at least that power-sharing between the RPF and the government had to extend beyond the executive, to legislative and local authorities. Diria, perhaps thinking there was more agreement than in fact was the case, intervened with a proposed amendment to the working document specifying that power-sharing was understood to mean power-sharing in the executive, legislative and judiciary, at the the central and local levels; but also that the three branches of government should remain separate. The RPF saw an opening in this formulation and accepted it; the GOR, however, rewrote it into a restatement of its prior position; i.e., that power-sharing meant power-sharing in the executive, with the government being willing to enact reforms that would enable the RPF to participate in other institutions. The RPF rejected the GOR reformulation.

French Position

4. The French observers stated their view that only way to change structures and people was through elections. The GOR would not accept the RPF's ideas about a supra-governmental council. The RPF should be encouraged to participate broadly in existing structures, including the JPMC. Their final concern was that any transitional period leading to elections be kept short; a long interim period would create uncertainties that could exacerbate internal tensions. The French noted, parenthetically, that the GoR team had said they were "willing to budge" on Article 101 of the Constitution, which mandates that the President and the Council of Deputies continue in power until new elections are held.

The Belgians

5. The Belgian observer agreed with the need to encourage the RPF to work within the existing framework, and suggested that if agreement were not reached in this round, a working group of the two parties be created to continue discussions in Kigali to further define what changes in the current system are required.

secstate and kigali, immediate
info usual suspects

Subject: Arusha III: Progress over the Weekend

1. Summary. The single working document created September 10-11 served as the basis of discussion at the plenary on September 12. The two sides immediately deadlocked over the scope and meaning of power-sharing. Following private meetings with the observers, the RPF delegation decided to give some ground on the formulation of power-sharing and move to a discussion of specific institutions and mechanisms that would meet their concern. On September 13 the RPF and GOR delegations agreed on compromise language on power-sharing and started to take up the mechanisms of RPF participation in the institutions of the transitional government. End Summary.

Power-Sharing: Deadlock...

2. At a meeting before the opening of the September 12 plenary, Tanzanian Fonmin Diria and the observer delegations agreed that the two sides remained divided over the definition and scope of power-sharing. The consensus was that the GOR was showing considerable flexibility but that it could not accept the RPF's demand for power-sharing arrangements that would override the existing constitution and government. The observers agreed to work with both sides to try to move towards discussions of how the RPF's needs could be accommodated within the framework of existing institutions, including the JPMC.

3. At the plenary, the RPF proposed an amendment to Article One of the working document to define power-sharing during a transitional regime as including all the institutions of the state. The government balked at such a sweeping definition, instead offering language that limited power-sharing to the government (narrowly defined as the executive branch and cabinet) but offering to consider reforms to other institutions such as the legislature and judiciary that would enable the RPF to participate with the other parties in managing the transition. Several attempts to find compromise language, including interventions by FonMin Diria and OUA Rep Mapuranga, failed to break the impasse. The RPF was concerned that the GOR formulation would leave the broad powers of the Presidency intact and leave them with no recourse if the GOR reneged or the transition process went awry. The plenary adjourned with the two sides still far apart. The one note of hope: the two sides agreed that the original drafting committee (which had produced the working paper) would sit down with OAU Rep Mapuranga and try to find a compromise formula.

...then Compromise

4. Following the plenary, US Rep Rawson met privately with RPF delegation head Bizimungu and Patrick Mazimhaka. He urged that the RPF move beyond the discussion of the general statement on power-sharing and focus on institutions. US Rep noted that the GOR offer of reforms to include the RPF was a potentially significant concession; the opportunity to negotiate the scope of these reforms should not be missed. In additional discussions with GOR Fonmin Ngulinzira and the facilitator, Fonmin Diria, US Rep emphasized that the GOR had to start making specific offers on institutional changes that would meet the RPF's concerns.

5. Before the September 13 plenary Mapuranga advised us that the two sides appeared ready to agree on a compromise formula on power-sharing. RPF rep Bizimungu told US Rep that the RPF had decided to try the tack we had suggested. At the opening of the plenary, the two sides assented to the following formulation:

Article One: The two parties reaffirm their acceptance of the principle of power-sharing within the framework of a broad-based transitional government in conformity with Article Five of the N'sele Ceasefire Agreement as amended at Gbadolite on 16 September, 1991 and at Arusha on 12 July, 1992 the modalities of implementation of which principle are the object of this Protocol of Agreement.

Article Two: In that connection, the two parties agree that the modalities consist of:

a) Maintenance of the present structures of the coalition government with appropriate adjustments to be mutually agreed upon in this protocol with a view to making room for the participation of the RPF and other political forces in the country;

b) Appropriate adjustments mutually agreed upon in this protocol to be carried out at the level of the state's powers with a view to allowing the RPF and other political forces in the country to participate, make for the efficient management of the transition and in respect of the principle of the separation of powers.

6. Following this advance, the plenary nearly bogged down again when the RPF proposed to skip over the next section of the working document, which deals with the functions of the transitional government, and move directly to a discussion of institutions. The GOR delegation wanted to agree on a common program for the transition before discussing institutions. The RPF insisted that as the talks were about power-sharing, it wanted to get to the institutional questions. Fonmin Diria pointed out that the parties were not committed to follow the working document clause by clause; they were free to take its sections in any order they agreed on. The GOR side accepted the RPF's proposal, but stated that it wished to first discuss the "broad-based transitional government," i.e., the executive and the cabinet. In a brief exchange between the heads of the delegations, the two sides decided to adjourn so they could consult directly together in an informal setting, and the plenary adjourned until September 14 on this positive note.

secstate immediate

kigali immediate

info usual suspects (make sure bonn and brussels included)

subject: arusha III: the gor makes an offer

1. summary. During the september 14 plenary sessions, the parties adopted a draft program for the transitional government. After some initial confusion, the GOR was then persuaded to present its offer on power-sharing in all branches of government as a single package. The RPF provided its comments and some counterproposals; a more formal response has been delayed until a plenary session now planned for this evening (september 15). end summary.

2. Before discussing power-sharing arrangements, fonmin Diria first asked the parties to adopt a program for the transitional government. During discussion of the program, RPF delegation head Bizimungu again indicated that he wanted to move the negotiations directly into power-sharing. The GOR was willing, but Diria, as chairman, refused to move until the two parties adopted the draft program. The RPF requested some clarifications; both sides then agreed to adopt the program as yet another working document.

3. GOR Fonmin Ngulinzira then called for proposals on power-sharing from the RPF. He said that his government had prepared proposals but were unaware of any from the RPF side. He added that if the RPF needed more time, he was willing to adjourn the talks for several days to let them consult. This idea produced an immediate uproar in the plenary, with the facilitators and observers huddling with the two delegations to urge them to continue. It became apparent the the RPF wanted to discuss power-sharing in the separate branches of government as a package; i.e., they wanted to see the government's entire offer. The GOR initially appeared to be unwilling to proceed this way, but ultimately relented.

4. Insisting that the transitional government should govern within the framework of existing laws to ensure "the continuity of state institutions," fonmin ngulinzira offered the following:

--a constitutional amendment providing that the peace agreement's provisions would prevail in any conflict with existing legislation or the current constitution (US Rep Rawson had suggested this approach to Ngulinzira before the plenary);

--President Habyarimana would retain office, but all Presidential actions would be taken only with the concurrence of the Cabinet;

--The RPF would join the cabinet, and would negotiate its share of portfolios directly with the other political parties;

--The Cabinet would make decisions by consensus;

--The Government would be open to all the parties that subscribe to the peace agreement;

--The ministers would remain accountable to the Prime Minister and the Prime Minister to the President;

--The existing legislature would be replaced by a new Transitional National Assembly (TNA), which would last through the transition period and include members elected from within Rwanda on the basis of proportional representation. The RPF would be able to nominate a number of members, as the assembly would be elected before the return of refugees;

--The TNA would enact legislation by majority vote in routine matters. In sensitive areas to be determined in the peace agreement, a three-fifths majority would be required. The RPF, in addition, would be given a veto in matters touching on the peace agreement.

--The existing judiciary would remain for the most part. The State Security Council would be abolished. A Court of Accounts would be created as an arm of the TNA to monitor the Treasury. A Supreme constitutional court would review legislation. The Broad-Based Transitional Government (BBTG) would propose to the Supreme Court candidates for judicial appointments.

--The BBTG would create a number of special commissions to deal with National Unity and Reconciliation, Public Security, Information and Education, Refugee Problems, the Constitution and the preparations for General Elections at the end of the transition period.

"Les jeux sont fait," concluded minister Ngulinzira. The plenary adjourned to give the RPF time to prepare its response.

5. When the plenary reconvened that evening, RPF delegation chief Bizimungu stated that the RPF accepted the government's proposal as a basis for discussion. He raised questions about the GOR stating that the transitional government would operate within existing laws, but also that the peace agreement would have primacy. He remarked sarcastically that the present conflict was not provided for in existing legislation. He accepted that the agreement should be supreme, but existing laws and constitutional provisions that contradicted it should be changed. He did not think that the GOR had made clear the effect of its proposals on the President's powers. The RPF accepted Habyarimana as the incumbent President but wanted him stripped of effective power. On forming a BBTG, the RPF was ready to discuss portfolios with the political parties, but thought that was what it had come to Arusha to do with the GOR. Did the GOR delegation not represent the coalition parties, Bizimungu asked. Nor did the RPF really understand the proposal for the TNA. It accepted the idea, but was uncomfortable with the notion of nominated RPF members (alone of all the parties) and an RPF veto, feeling that these measures would tend to isolate the RPF politically.

6. The RPF then provided counterproposals:

--As the incumbent President is head of the MRND party, two additional co-presidents should be provided, one by the RPF and one by the opposition coalition;

--The executive powers proposed for the RPF's Committee of National Reconciliation would be transferred to the Tripartite Presidency;

--In the BBTG, the Prime Minister would be provided by one of the current opposition parties (MDR, PL or PSD), but not the same party as the opposition co-president. The RPF would be given the post of Vice Prime Minister, who would also hold another ministerial portfolio;

--The RPF proposed a TNA of 40 members, all nominated instead of elected. Each of the major parties -- MRND, MDR, PL, PSD and the RPF -- would nominate 6 members. Five more would be nominated by the existing Associations for the Defense of Human Rights and the last five from "other political forces," provided that none came from existing MRND mass organizations;

--For the judiciary, the RPF referred to its charter language, where a Supreme Council of Justice, elected by the judiciary itself, would preside over the judiciary;

--The RPF accepted the GOR proposal for Commissions, but felt they should be under and responsive to the TNA.

The RPF also argued that the current constitution was so fatally flawed that it should be replaced by its own draft Transition Charter as an appendix to the peace agreement. It claimed that current legislation "maintained the environment" of the single-party system and thus needed to be revised.

7. In the following discussion, emphasizing its desire for strong protections for basic rights and the principle of equal access without quotas or special treatment. The GOR in turn, asked the RPF to propose the amendments and changes it thought were needed. During a break for private consultations, the RPF heard from most of the observers, including the US, that the idea of a tripartite presidency was probably unworkable and would not fly. The GOR emphasized its willingness to be flexible and to consider any proposals or changes the RPF wished to suggest. Ngulinzira emphasized that he spoke for the coalition government and the political parties. The plenary then adjourned with the RPF promising to present modified proposals the following day (September 15).

8. As we write this, we understand that the RPF has requested a delay until five p.m. this afternoon to prepare its proposals. Consensus among the observers is that the GOR has gone some distance towards meeting the concerns of the RPF, but that the RPF has been somewhat slow to fully grasp the implications of the GOR's offer -- legal primacy for the peace agreement, cabinet control of the Presidency, a new legislature with an RPF veto, and a role in judicial appointments. The GOR approaches the resolution of the conflict as a matter of including the RPF in a process of democratic reform; the RPF evidently feels that it must establish the outcome of the reform process in the peace agreement.