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Rwandan Government Says its Agreed to Enough, RPF Must Make Concessions

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1. entire text -

2. summary. rwandan fonmin ngulinzira told tanzanian president mwinyi that the gor has gone as far as it can and it's up to the observers to lean on the rpf. he assured the tanzanians that the gor stands behind the offer it made

at arusha III. mwinyi is arranging a meeting with rpf leader kanyarawengwe in dar es salaam this weekend to discuss this. rpf negotiator tito remarked confidentially to tanzanian delegate at addis jpmc meeting that the rpf can accept the government's current offer as its bottom line, but would naturally like to get more. the tanzanians think nmog commander opaleye is being unreasonable about both the need for more personnel and the per diem issue, and intend to raise this with oau secgen salim. tanzanian mfa africa director mpungwe is still trying to maneuver fonmin diria out of the chairman's seat, but has low expectations of success. end summary.

3. following his return from addis ababa, tanzanian mfa director for africa and the middle east ame mpungwe (strictly protect) met with poloff to discuss the arusha IV round. mpungwe said that foreign minister ngulinzira's visit on september 30 had been to relay two messages from president habyarimana: the gor stands behind the offer it made at arusha III, but that this is as far as it can go. It is now up to the observers to press the rpf to accept the government's offer. Mpungwe thought that Ngulinzira seemed sincere, but there is probably some give in the government's position, though not much.

4. mpungwe added that president mwinyi had decided to ask rpf leader kanyarawengwe to visit dar es salaam before the next round opens. He expects President Mwinyi will relay the GoR position in his usual low-key manner and ask that the rpf consider it seriously. Also, RPF negotiator rudasingwe is in town to meet with the MFA.

5. speaking of the addis jpmc meeting, mpungwe noted that the rpf's antics had been amusing but not helpful. The Tanzanians had brought BG Christopher Gimonge, their director of Military Intelligence, to discuss military issues. They were disappointed with the RPF's failure to bring any military advisors to the session. They are also a bit upset with Nigerian General Opaleye for his demands for more men and rather over-generous per diem. Mpungwe said he agreed completely with the U.S. observer's remarks about the OAU pricing itself out of the peacekeeping business. Mpungwe plans to see OAU SecGen Salim Salim in Gabarone around October 15, when the OAU Ad Hoc committee on Apartheid meets, and raise Opaleye's requests with him if they are not resolved beforehand.

6. but, mpungwe said, the most interesting thing which occurred at addis was that after the formal jpmc session mpungwe had a private tete-a-tete with rpf negotiator tito ----- . mpungwe states that tito assured him the rpf would, as its bottom line, accept the gor's offer pretty much as it stands. poloff

relayed the substance of ambassador carson's meeting with rpf chairman kanyarawengwe and said this seemed to corroborate what he heard in addis, but we agreed that the rpf's extreme distrust of president habyarimana and its feeling that their security can only be assured by stripping the president of most of his power remain serious obstacles.

7. And in our continuing comedy subplot, i.e., the effort to find another facilitator to replace Diria, Mpungwe says he is still working on it, but it's getting convoluted. He thinks he has enlisted Chief Secretary Paul Rupia in an effort to persuade President Mwinyi that his foreign minister is desperately needed to uphold Tanzanian interests at the UNGA. Or in South Africa. Or China.... As a fallback he has enlisted a wise old mzee, whom he believes Diria will actually respect, to try to talk some sense to the minister about keeping his mouth shut, not getting into arguments with the parties, and letting the Rwandans do the negotiating.

8. comment: all in all, we think have grounds for confidence that the two sides may make more substantial progress in Arusha IV, provided the RPF can be persuaded to desist in its posturing and both parties can focus on negotiating a settlement as opposed to scoring points off each other. Mpungwe says that despite their behavior at Addis both sides assured him at the end that they will come to Arusha prepared for serious discussions. We can only hope it's true. As for the effort to depose everyone's favorite facilitator, we think Rupia is much too smart and much too happy in his current job to risk trying to cross the President's best after-mosque schmoozing buddy. Nor do we think efforts to train him are going to have much success; Diria's not ineducable, but he is very dense.

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Arusha IV: First Day

The parties trickled into Arusha during the day on October 5, with the RPF delegation delayed in Uganda by problems with their travel documents (if true, a point to raise with the Ugandans). The mood was of anticipation mixed with concern. The Tanzanians feels that the GoR really cannot give much more ground than they already have, and they suspect that the RPF will make one more stab with its Presidential Council idea and set back the talks before they get started. President Mwinyi saw Chairman Kanyarengwe this morning in Dar es Salaam and urged that the RPF be flexible.

The plan for the evening of the 5th is, if the RPF arrives, to have a brief session to confirm the areas of agreement from the last round, discuss the agenda for the coming round, and then get to the substance October 6.

Mbapila, making the rounds of the observers, asked for suggestions. Poloff emphasized the need to focus the talks on specifics. Everyone seemed to agree on what the problems were in general terms, but the solutions to those problems had to be formulated in terms of concrete arrangements. The RPF needed to get clarifications of how exactly the government's proposal would work; the GoR, in its turn, had to be able to provide the concrete details that would indicate whether its proposals really addressed the RPF's concerns. Mbapila bemoaned the propensity of the francophone Africans to phrase their propositions in vague statements of sweeping principles, saying "we have a lot of problems with that at the OAU." But there may be more to this than a tendency towards generalizations. Clearly the two parties are speaking in a kind of code; the general term "the state powers" may not have the same meaning for both. Looking at how the RPF reacted to the phrase, "legal acts of the president" in the GoR's proposal (the RPF suspected a trap -- what about illegal acts or extralegal acts?) it is possible that what really concerns the RPF is the President's ability to just pick up a telephone, issue orders, and make things happen no matter what the constitution says.

Second Day at Arusha IV (October 6)

1. Summary. The Government presented the details of its proposals for a transitional regime in the morning plenary. These involved transfer much of the President's powers to a more powerful Prime Minister, while leaving the President a substantial role in the promulgation of decrees and legislation, in convening the Cabinet, and in submitting legislation to the National Assembly. In the afternoon, the RPF responded with a more detailed exposition of their ideas for a National Presidential Council, with three RPF members, and one from each of the other coalition parties (including the President as the MRND member). In the evening, GoR Fonmin Ngulinzira was just getting warmed up to his rebuttal when the power failed, forcing an early adjournment for the day.

2. The second day got off to a slow start, with the facilitator spending much of the morning in lengthy consultations with the two sides. The Tanzanians persuaded both parties to forego long (and possibly contentious opening statements) and try instead to pick up directly where they left off. Rwandan Foreign Minister Ngulinzira opened the plenary with a rather long set of "introductory remarks," to which the RPF's Bizimungu made a mercifully brief reply. Tanzanian MFA Principal Secretary Mbapila urged the GoR to move directly to discussion of power-sharing in the Executive, picking up from the end of the last session.

3. Thus prompted, Ngulinzira laid out the following details, amplifying the government's Arusha III proposal:

-- The President, in his capacity as Head of State, would exercise the following powers:

-- Naming the Prime Minister and receiving his resignation;

-- Appointing the other members of the Government proposed by the Prime Minister;

-- Accrediting Ambassadors and Envoys, who would be appointed by the Prime Minister, and receiving the accreditations of foreign ambassadors;

-- Formally representing the Republic in its relations with the outside world;

-- Sanctioning and Promulgating laws passed by the National Assembly within 15 days after their constitutionality has been approved by the Constitutional Court;

-- In urgent situations, the Government may make decrees which are then sanctioned and promulgated by the Head of State;

-- The Head of State may veto laws proposed by the National Assembly and return them to the assembly for review within 15 days of his veto. If the Assembly passes the law again, and it is again pronounced constitutional, then the President must sanction and promulgate the law.

-- Exercising the right of pardon;

-- Appointing magistrates following the advice of the Supreme Court and the Supreme Council of the Legislature.

Some of the powers of the President would be exclusive; other actions may not be taken unless on advice of the Cabinet and the Bureau of the National Assembly, such as:

- Dissolving the Assembly;
- Submitting draft laws or any issue to a referendum;
- Declaring war or promulgating amnesties.

4. Ngulinzira concluded that the Government felt the prerogatives of the Head of State could not really be shared but that his powers could be limited; he suggested that further limits were possible. On relations between the President and the Government (i.e., the Cabinet), Ngulinzira proposed the following powers for the Prime Minister of the Broad-based Transitional Government (BBTG):

- chairing cabinet meetings (currently, the President does). However, the President could convene and chair cabinet meetings whenever the issues concerned required the approval of the cabinet or the national assembly for action;
- determining national policies in consultation with the parties represented in the cabinet;
- presenting the government's program to the national assembly, as well as the members of the cabinet;
- directing all government activities and establishing the agenda for cabinet meetings which he chairs, and so informing the President;
- fixing the powers and authorities of the Ministers and the secretaries of state, and determining the nature and competencies of the services under their authority;
- appointing civilian and military officials. In particular cases determined by law where such appointments remained the prerogative of the president, the president would make such appointments upon the recommendation of the Prime Minister as agreed to by the Cabinet;
- countersigning laws adopted by the national assembly for promulgation by the President;
- executing the laws and regulations. The Prime Minister's decrees would be decided on by the consensus of the Cabinet.

5. The BBTG would have the following powers:

-- ensuring the implementation of the laws, and taking control of the civil administration and the army;

-- negotiating and concluding treaties and agreements with foreign countries, such agreements to be submitted to the President for ratification. However, peace treaties, alliances, treaties affecting the borders or sovereignty of the nation, or having financial implications for the government would not become effective until approved by the national assembly and promulgated by the President;

-- drafting laws for submission to the National Assembly;

-- In emergencies, drafting decrees for direct promulgation by the President;

-- adopting decrees submitted by the President or the Prime Minister regarding the implementation of the laws;

-- approving appointments to senior civil and military positions;

-- adopting acts relating to the printing of currency; the President would have the power to print money but only with the concurrence of the Cabinet (comment: they've been thinking about Zaire);

6. Ngulinzira concluded by saying that the GoR would be glad to consider any amendments the RPF might wish to make to their proposals, and offered to provide them as a document of the conference. Chairman Mbapila suggested that the conference defer the production of papers for the moment and suggested that the RPF reflect on the proposals and provide their thoughts in the afternoon plenary.

7. In the afternoon plenary, Chairman Mbapila turned the floor over to RPF delegation head Bizimungu. He began by referring to Articles 35, 39, and 57 of the current constitution, under which the President exercised power with the assistance of the government, ensured the functioning and continuity of state institutions, was the arbiter between state institutions, and the guarantor of national unity, and in which legislative authority was collectively vested in the President and the National Assembly. Bizimungu said that executive powers could be shared either by transferring them to other institutions, by ensuring collective decision-making, or by some combination of these techniques. He remarked that the RPF preferred collective decision-making but would not be "dogmatic" on that point. But he insisted that mechanisms had to be found to ensure that power-sharing arrangements would be operative during a transition.

8. Bizimungu then went through the government's proposals, point by point, claiming either that they were too vague, or simply duplicated provisions of the current constitution that had already proved incapable of effectively restraining the president, as shown by the Prime Minister's letter of September 22. He emphasized that he was not rejecting the government's offer, merely commenting on it. Ngulinzira attempted to further clarify the proposals, stating that their goal was to ensure that the president could not make decisions alone, that the Cabinet had to be involved. He agreed that some of the provisions reflected the current constitution but pointed out that this constitution had created a certain level of power-sharing already. Bizimungu replied that the RPF did not care to be offered the June 10 constitution. He referred to the Prime Minister's letter of September 22, and to the problems cited there with the President refusing to assent to appointments or decrees offered by the current Cabinet, thus stymying the government. Therefore the RPF preferred its National Presidential Council (NPC), whose seven members (including President Habyarimana) would exercise power collectively. All the current powers of the President would be exercised, during the transition, by the NPC. Under the RPF proposal, the NPC would:

--promulgate the laws passed by the Transitional National Assembly (TNA) and sanctioned by the Cabinet;

--together with the TNA, initiate new legislation;

--become the guarantor of the nation's sovereignty, unity and independence and of the independence of the judiciary;

--address messages to the nation;

- exercise the right of control over the government;
- become the arbiter between the institutions of state;
- assume the powers of appointment granted the president;
- appoint the judiciary;
- command the armed forces;
- declare was and sign amnesties, in accordance with the advice and approval of the Cabinet and the TNA;
- declare states of seige or emergency, upon approval of the TNA;
- control the printing of currency;
- exercise a suspensive veto over legislation;

The government would be left with proposing the budget to the NPC, and drafting presidential decrees for approval and promulgation by the NPC. Bizimungu finally suggested that because it included the parties as well as President Habyarimana, it could be called the "Broad-based Presidential Council." On that note, the plenary broke for tea.

9. During the break, the observers met briefly with the facilitators. The consensus was that while we had more clearly defined the positions of the two sides little real progress had been made. The government had elaborated its scheme to subsume Habyarimana in the Cabinet and strengthen the Cabinet and the Prime Minister; the RPF had replayed its proposal for a Council of National Reconciliation, repackaged as the NPC. When the plenary reconvened, Ngulinzira criticized the RPF proposal for needlessly duplicating existing institutions. He noted that it was not clear where in the hierarchy the members of the NPC would fit. He pointed out that the Government's proposals entailed a series of amendments to the current constitution to make the system work effectively. Mechanisms would be established to ensure that "the fate of the nation was not in hands of one man." He pointed out that because the President would be given only a suspensive veto, he would be unable to do more than delay any initiative of the Cabinet or the Assembly. The RPF was proposing an unweildy new structure that might be a new source of conflicts and confusion.

10. And at that point the power failed. With the plenary plunged into darkness amid caustic remarks about "power sharing" in Tanzania, the Chairman called it a day.

11. Comment: For the moment, the two sides appeared to have entrenched themselves in their current positions. And the scuttlebutt from the Ugandan observer is that the RPF is being strongly supported in its NPC idea by the opposition parties in Kigali, and may be operating on the assumption that if it holds out long enough, the internal conflicts within the government will force it to yield, at least to the extent of negotiating on the basis of the RPF's proposal. The government, on its side, seems to be counting on observer and regional (i.e., Ugandan) pressure to make the RPF more reasonable. Although RPF reps have told several observers now that they are willing to be flexible about the GoR's proposal provided it can be amended to meet their concerns, their presentations of October 6 indicate they intend to fight for every clause.

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Draft cable text:

Arusha IV: October 7

1. Summary. During the morning emboff met over breakfast and coffee with Amb. Kanyarashoki of the GOR delegation and later with Bizimungu and Mazimhaka of the RPF. In the plenary that morning, the Government went still further in amplifying and explaining its proposal, suggesting that it would effectively check any attempt by the President to exercise power unilaterally. Fonmin Ngulinzira noted that the Constitution provided an ultimate sanction -- impeachment -- if the President violated the constitution or the peace accord. The RPF, rather than respond in plenary, accepted the chair's offer for private consultations with the government, which continued through the evening. Initial reports from these indicated that the two sides continued to more clearly define their concerns and how their proposals would work but without closing the gaps between their positions. end summary.

2. At breakfast with dar es salaam poloff bentley and German observer Amb. Ventslaff on October 7, Rwandan delegate Amb. Kanyaroshoki indicated that the GOR felt the RPF was demanding executive powers for itself, going beyond what the Government could offer. He wondered if the RPF was fixated on its proposal for a National Presidential Council (NPC) because they had certain leaders who refused to enter the government as "mere ministers." He thought, however, that the objections the RPF raised about the President's ability to obstruct the process or do end runs around the government and the constitution represented real concerns. He felt that the government's proposals addressed these concerns by making it impossible for Habyarimana to act legally without the consent of the cabinet or the transitional legislature, and by moving much of his executive authority into the cabinet. Asked how the GOR could address the concerns about the President violating the constitution or reneging on an agreement, Kanyaroshoki said that if the President did so he could be impeached.

4. Later that morning, RPF negotiators Bizimungu and Mazimhaka detailed their problems with the GOR proposal. The RPF felt that the GOR offer was simply a repackaging of the current constitution and really did little to prevent the President from abusing his powers or renegeing on the peace agreement. They thought that the President would continue to obstruct and frustrate the process, even to the extent of continuing the killings which they claimed were still going on in Kibuye. They feared that the President, whatever the government agreed to, would use terror tactics and his control of groups like the MRND youth to abort the transition. Without mentioning what Kanyaroshoki had said about impeaching the President (God alone knows how that will play in Kigali), poloff suggested that the RPF should raise these concerns with the GOR negotiators, and should try to find out how far the GOR was willing to go to address them.

5. At the morning plenary, with Tanzanian MFA principal Secretary Mbapila in the chair, Rwandan Fonmin Ngulinzira offered further details on how power would be transferred from the President to the government (i.e., the Cabinet) and would be exercised through the transition. He made clear that the GOR envisioned constitutional amendments that would leave to Habyarimana the honor of approving those decisions and actions and appointments that the Cabinet or the legislature wanted approved. The suspensive veto was exactly that -- a means by which Habyarimana could suspend action and force a reconsideration, but could not block action. Finally, he noted that if the President violated the constitution or the terms of the peace agreement, if he sought to block implementation of government policies by refusing to decrees where the constitution required that he do so, the impeachment process offered a remedy.

6. The RPF, somewhat surprised by Ngulinzira's broaching of the threat of impeachment as a control on President Habyarimana's behavior, accepted the offer of Chairman Mbapila to consult privately with the GOR delegation to seek further clarification. The plenary then adjourned.

7. The private consultations between the GOR and RPF delegations continued through the evening of October 7. Early reports suggested that they were continuing to define and amplify their positions and concerns but that neither side showed much signs of movement.

October 9

Fomin Diria has had to take a quick trip to Zanzibar for a party meeting. Rawson urged him to let someone else chair the plenary so that observers could at least get a sense of where closed-door discussions were leading and could encourage negotiating parties to speed their efforts. The idea of an afternoon plenary was accepted, but it turned into a late evening meeting.

At dinner, Tanzanian Ambassador Mpungwe told Rawson that they, as facilitator, had stopped the speech-making, had told the Government that there should be no documents presented until there was basic agreement on substance of agreement and had encouraged direct contact between parties. Having witnessed the desire on one party or another to seek support for their case from observers, the facilitator had told them to work out their own solutions. This was the origin of Prin. Secretary Mbapila's caution to observers to let negotiators alone in this "delicate stage of negotiations."

October 10

Fomin Ngulinzira told Rawson that it appeared that negotiators were at an impasse. The government had offered a complete schema for allocation of respective power critical to the transition process. But the RPF was requiring a complete devolution of all presidential power leaving Habyarimana only with a ceremonial role. This was not acceptable back in Kigali. Rawson told Fomin that plenary ought to meet to hear where things stood.

When plenary met in AM, Fomin on behalf of negotiators went down list of items (12) on which there was convergence, items (5) on which there was partial convergence and items (10) on which there was disagreement. He prefaced his remarks by noting that the main issue was the role of the president in decision making. RPF seemed to want total transfer of power to Government. Government proposal was based on a semi-presidential system, political efficacy and separation of powers. Two principles guide their negotiating posture: negotiations must go on, and, negotiations should produce a balancing out of powers among government institutions. It has been agreed that the President will be involved, at least in a nominating of officilaizing role in minting of money, giving pardon, designating national orders of merit, signing treaties, receiving oaths. Areas of divergence include role of President as guarantor of national sovereignty and judicial independence, delivering messages to the nation, representing the state in relations with other states, declaration of war or making peace, implementation of laws, being chief of armed forces, proclamation of emergency and dissolution of National Assembly.

Commissioner Mazimhaka responded for RPF. RPF was trying to improve on proposal the government presented. They had no intention to exclude any party or any person from contributing to the success of the transition. They wanted to insure that no party or person could block the transition process. Mechanisms of government should be efficient, transparent and broad-based. They wanted to avoid pitfalls of too extensive consultation with possibilities of delaying legislation or tabling of counter legislation which could have a disastrous effect on impetus toward transition. The head of state may have perogatives, but he should share his powers with other forces in the executive. The ability of the President to challenge cabinet is a power. They sought

from the government side a clearer definition of how they distinguished prerogatives and powers. At the meeting's end, Fomin Ngulinzira said government was attracted by RPF idea of President exercising power in cabinet and of looking again at other prerogatives to make sure they were carefully defined.

During a break in plenary, Rawson told Fomin Ngulinzira and Fomin Diria that there appeared to be lot of progress and quite a few things parties could push forward toward convergence even if areas of disagreement were left in abeyance. He recommended that the parties meet again in head-to-head negotiation, while the secretariat tabulated for the record the areas on which they had agreed. On resumption of the plenary, this was given as the order of procedure.

Monday, October 12.

Closed door discussions continued Saturday afternoon and Sunday. Parties reported they were making progress on several issues. In comments to all parties, Rawson reiterated the theme that negotiated positions must deal with RPF concerns but will be meaningless unless they also satisfy the major political forces in Rwanda. Sunday afternoon's plenary was pushed back to Monday morning. At the beginning of that session, Amb. Mpungwe announced that there would be no technical discussion of military integration at the end of this negotiating session. Then, Commissioner Bizimungu took the floor to brief observers on behalf of both delegations. They had decided that the current president would remain in place until elections at the end of the interim period. The President should exercise certain prerogatives and participate in decision making but executive power would be exercised collectively in the Council of Ministers. The Prime Minister would direct the actions of government but the President could add items to the government agenda and participate in council if he wished--in such a case, he would preside over Council.

The President would have no veto power and would have to sign decrees and laws within ten days of their certification by the Constitutional Court. Presidential acts are countersigned as appropriate by the prime minister and the relevant minister. The President can name the Prime Minister and other ministers, name ambassadors, represent Rwanda abroad, sign pardons, orders to mint money, national awards, and treaties. The right to propose laws goes to the Council of Ministers and the national Assembly. Nomination of civil servants will depend on their rank. Nomination of military officers will be discussed in the integration negotiations. Declarations of a state of emergency, of war or of armistice must be taken in the Council of Ministers and approved by the National Assembly.

Areas yet to be resolved regarded who is guarantor of national unity and judicial independence, who gets to address the nation, who is chief of armed forces, who has the power to dissolve the national assembly, what is the formula of the oath of office although it is agreed that it will be sworn before the president, what is the modality to determine the program of the government and what happens when the Presidency is vacated.

Tuesday, October 13

Fomin Diria announced that he had to leave for OAU Ad Hoc Summit on South Africa; Ambassador Fall would temporarily chair. Diria handed out a statement from the chair prolonging the political negotiations beyond October 10 and urging respect of the ceasefire, something we had been after him to do since last week. OAU Assistant Sec Gen Maparanga reported that all six NMOG contingents were in Kigali and should be deployed to the front by the week-end. There would be no emergency meeting of the JPMC, but one might be called at the end of this negotiating session.

Fomin Ngulinzira presented the results of negotiations. The two parties had decided that the president would sanction and promulgate laws without right of veto within tens days after their constitutionality was certified. The Council of Ministers would decide on declarations of war and peace which would be authorized by the National Assembly but declaration made by the President. The President and Prime Minister would address to the nation messages whose contents had been approved in Ministerial Council. There had been agreement on the formula for oaths. The Government in Council of Ministers would safeguard national sovereignty, assure the national defense and organize the armed forces. The Prime Minister would declare national emergencies.

The parties had not yet agreed on issues regarding independence of the judiciary, especially who names judges; on whether the President would be Commander-in-Chief; on who signs nominating papers to civilian positions; on what to do in case of Presidential vacancy; on how the National Assembly is dissolved; on the choice of Prime Minister, and on establishing the national program

After the plenary, on a friendly visit the local produce market, Rawson raised with Ugandan Vice-Foreign Minister Didi, his concern that government had given away significant presidential powers in the last negotiating session, especially his emergency powers and that RPF ought to concede the Commander-in-Chief title if they wanted Habyarimana to be brought into the process rather than alienated from it. Such a concession would win them a lot of manoeuvring room on other issues. The Minister said he would try to talk to the "boys" about it.

Wednesday, October 14

In conversation over a goat chew, Vice-Minister Didi told Amb. Fall that Rawson's arguments had convinced him that Habyarimana should retain the Commander-in-Chief title; he was glad that the RPF had agreed to leave that prerogative to the President. (The unspoken import was that Didi had arranged RPF's acquiescence.)

Later that afternoon, Fomin Ngulinzira told Rawson that issues relating to presidential power had all been decided. The Council of Ministers meeting in Kigali had endorsed everything the negotiators had decided. MRND Ministers were part of that consensus. Questions of how to replace the CND, how to elect or nominate the interim National Assembly, and how to ensure independence to the judiciary remained to be discussed. He thought they might agree to reinstitute the Supreme Court and showed Rawson a draft proposal which jurists from both sides had worked out together.

Rawson congratulated the Foreign Minister on his successful negotiations and suggested the possibility of an enlarged assembly incorporating rather than replacing the CND as one possible approach to the legislative problem.

In a long conversation with UNDP ResRep Ndaw, Rawson stressed the importance of international supervision of the fragile, unstable process of seeking peace and democracy in Rwanda. He also mentioned the importance that international bodies and neighboring countries make all necessary arrangements for compliance with the Dar es Salaam agreement on refugees since peace might be soon at hand and Rwanda will be prepared to carry out its side of the bargain. Rawson made the same points later with OAU Sec Gen Mapuranga.

Thursday, October 15

Over a long breakfast, Dr. Rudasingwa shared his views of the

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negotiations with Rawson. Rudasingwa said the RPF were satisfied with discussions on Presidential powers which had been the most critical area for them. He felt that their particular concerns had been adequately covered. There should be no major problems on judiciary or the National Assembly. Rudasingwa noted RPF's concern to bring refugees back on to the political agenda at some point.

Rawson asked whatever happened to the idea of having local elections so as to have local officials whom the people could really trust, an idea Kagame had raised in Kampala. Rudasingwa said that local officials initially would be appointed but RPF favored electing them as soon as practicable. Rawson wondered to what extent the RPF wanted to push an "assainement administrative." Rudasingwa said RPF did not want wholesale changes, only changes in essential ministries or among those local officials who were not adequately performing their duties. Rawson noted the trade off between rapid structural change which brought instability with attendant administrative inefficiencies and maintenance of a status quo in existing structures and office holders which discouraged hopes for effective change. He noted the importance of a continual international presence guaranteeing the interim process to keep unstable interim political conditions from degenerating into political violence, if not civil war or genocide.

In plenary session at 7pm, Commissioner Bizimungu briefed observers on negotiating progress. Items regarding executive power had been decided, except for the question of presidential vacancy and who dissolves the National Assembly which had been reserved to another time. Bizimungu confirmed the the president would be Commander-in-Chief and that the Supreme Court would be recreated, thus finessing the question as to who is guardian of judicial independence and appoints judges. Decisions in government would be by consensus but after a second reading would be by two-thirds majority, except for questions of defense, security and amending the peace accord--all of which require consensus. Executive powers breakdown as follows:

The President:

--Remains commander-in-chief of the armed forces;

--Represents the state in foreign relations -- signs treaties, declares war or armistices, and receives ambassadors;

--Sanctions and promulgates laws (but without a veto) within ten days of their constitutional certification;

--Signs nominations of Chancellor de l'Ordre National, Governor of the Central bank, his own Director of Cabinet and personal secretary and counsellors, Rector of the University, Ambassadors, Secretaries-General, Directors of Cabinet, Ministerial Councillors;

--Signs pardons and orders to print money;

--Can add his concerns to the Council of Minister's agenda, attend and chair meetings as desired;

--May address to the nation a message whose contents have been approved by the Council of Ministers.

The Prime Minister

--Convokes, chairs and directs the work of the Council of Ministers and elaborates the program of the government;

--Chooses members of the government and sets their responsibilities;

--Signs nominations of Vice Rector of the University, his counsellors, prefets, sous-prefets, Bourgemestres, ministerial directors-general, directors of public enterprises, administrators of mixed companies;

--Countersigns laws and decrees;

--Proclaims a state of emergency;

--May address to the nation a message whose contents have been approved by the Council of Ministers.

The Government:

--Determines national policy and assures its implementation;

--Issues legal decrees when the national assembly is not in session;

--Names persons to civil service positions;

--Safeguards the nation and guarantees its sovereignty.

Yet to be examined are powers of the Vice-Prime Minister, the larger outline of the interim government program, means of forming the government and specifics about the specialized commissions. All aspects of the National Assembly of Transition have to be considered. The negotiators projected that they would have concluded their negotiations and be ready for signature of a protocol by Thursday the 22nd of October. After the meeting, Fomin Ngulinzira told observers that they hoped to have the regular monthly meeting of the JPMC in Arusha on October 22 and 23 so as to save time and money since so many of the participants were already here.

October 20-21

The two parties remained closeted with each other, essentially deadlocked during this period over the issue of the transitional national assembly and the actual arrangements for distributing portfolios within the transitional cabinet. On October 20 the government team referred the issue back to Kigali for further instructions; on the 21st, Ambassador Kanyarushoke told Rawson that the Government had decided on a formula for classifying ministries into three categories: national sovereignty (defense, foreign affairs, internal affairs); economics and development (transportation and communications, public works, finance, et al); social services (education, health, et al). The RPF would be guaranteed at least one ministry in the first category (either defense or interior), and one or two ministries in the others. No political party would have more than two ministries in any one category. The GOR felt that this plan should be incorporated into the peace agreement but that the actual distribution of portfolios should await the formation of the transitional government and be handled by the prime minister. The GOR also insisted that the peace agreement confirm the current prime minister (nsengyaremwe (?)) in his office.

In the late evening of the 21st RPF negotiator Theogen Rudasingwa told Bentley and AF/RA military advisor Marley that this formula for cabinet power sharing was acceptable to the RPF. But they insisted that they had to agree on which party would get which ministry in advance and that this agreement be incorporated into the peace agreement. They also objected to the peace agreement being used to confirm the current P.M. in his office; they felt that in principle the peace agreement should provide for parties to get portfolios but that individuals should not be named. We had the feeling that Rudasingwa was really saying that the political opposition and perhaps elements within his own party were not entirely happy with the P.M. and were seeking an opportunity to depose him.

Throughout the two days, in casual contacts with both the government and RPF team members, Rawson and other observers urged the two parties to seek ways around the impasse on the national assembly. Foreign Minister Ngulinzira, speaking to US Rep Rawson the morning of the 21st, described the government's current offer as a bicameral house, with the current CND retained as the lower house to deal with administrative law, while an appointed upper house would be created that would have the right to review and approve of legislation from the CND, and also would handle matters relating to the constitution and the peace agreement. The RPF felt that the government was attempting to retain the CND in its current form and that this was an unacceptable step back from its earlier

commitment to a transitional national assembly. They felt that the government's argument that it would be undemocratic to replace an "elected" assembly with an appointed body did not wash; Rudasingwa noted (and US Reps had to agree) that the current CND, as a single-party assembly whose candidates had faced no political competition and had been selected by the MRND hierarchy, was hardly a democratic or representative body in the way those terms are commonly understood. However, Rep Rawson also observed that the GOR offer was a reasonable way to try to accommodate both the RPF's concerns as well as MRND requirements in a transitional mechanism.

During their late sitting with Rudasingwa, Bentley and Marley also introduced the topics of military integration and the need to start thinking about the long-term, post-transitional arrangements. Marley provided Rudasingwa with copies of the Angolan and Mozambican agreements on military integration, together with an analysis by USLO Luanda of some of the problems and pitfalls that had been encountered in implementing the Angolan agreement. Bentley remarked that it was also time for the Rwandan leaders on both sides to start thinking about post-transition arrangements. As long as Rwandans continued to identify themselves by ethnicity the real danger of the Tutsi becoming an isolated permanent minority remained. Arrangements had to be developed that would incorporate the Tutsis into a broad, moderate center that would also embrace a majority of Hutus, thus isolating ethnic supremacists on the fringes. The politics had to be designed to work in such a way as to penalize rather than reward appeals to ethnicity; the situation to avoid was the Sri Lankan disaster, where a system of majoritarian democracy made ethnic accommodation impossible because any Sinhalese party that tried to reach an agreement with Tamils would be accused by the other Sinhalese parties of selling out.

Finally, Rudasingwa said that if agreement could not be finalized at this session, then perhaps it was time for a face-to-face meeting between President Habyarimana and RPF Chairman Kanyarengwe. This might be the only way to resolve the outstanding issues in a manner that would definitively commit both parties. US Reps' reaction to this (not shared with Rudasingwa) was that the RPF may be stalling on the negotiations in order to try to force such a meeting.

Thursday, October 22

At breakfast on the 22nd RPF negotiators told the US Reps that they had responded to the government's proposals regarding distribution of government portfolios and the government would this morning meet with them to go over the issue. It might be that they would be able to reach agreement on cabinet portfolios and to "put that in their pocket." In addition to cabinet portfolios, remaining items of business on power sharing included agreement on how the peace accord fits into the

constitution and agreement on how the national assembly is set up and how it is to operate. Rawson said he hoped the negotiators could move forward today; there were some practical proposals out on the table that could serve as useful ways of meeting each side's concerns. Rudasingwa said that there might be some surprises by the end of the day.

Later Rawson met privately with Amb. Kanyarushoki. Kanyarushoki said the RPF wanted to designate portfolios right now, but the government was concerned about the effect on ministerial authority in this time of instability if, two months before the interim arrangements were set up, certain ministers were known to be on the way out.. Rawson suggested that they agree on modalities of choice and commit themselves to dividing portfolios after the talks on military integration but before the final accord is signed. Kanyarushoki said that looked like a useful compromise.

Rawson also met with Commissioner Bizimungu. When Rawson hoped that there might be break-throughs today on pending issues, Bizimungu said one should not expect to end up things today. Rawson said he was not talking about final wrap up but about moving forward on practical ideas that could bridge current differences. Bizimungu said we would have to wait and see what the government's response was on ministerial portfolios.

Bentley and Rawson joined in an after dinner conversation between RPF Mazimpaka and Ugandan Vice-Minister Didi. They tried to stress the importance of coming up with a formula that co-opted the MRND and its members in the CND into the peace process rather than left them outside where they might try to undermine it. Mazimpaka said that sounded like black mail. Rawson and Bentley pointed out that an elected body, even if elected within a one-party system could not be dismissed out of hand; it had a right to ask why it should be replaced by the arbitrary process of nomination. The Minister reiterated his idea of keeping the CND in place but neutralizing their impact with appointed members. Mazimpaka saw this as an expensive and clumsy arrangement.

After Mazimpaka left for talks with the other side,

Friday, October 23

On the way to breakfast, Fomin Ngulinzira asked if we could convince the RPF to agree on modalities for dividing up government portfolios now and to specifically assign portfolios just before the peace agreement was to be signed. Rawson noted that that might depend on what the government was asking as a solution to the remaining problem--the Interim National Assembly. The Minister said they were not really ready to discuss that except to perhaps explore some possible scenarios. the government was now thinking of proposing a nominated National Assembly in which all parties and interest groups were represented, one seat or two for smaller

groups and several seats for larger parties. Rawson asked if they had given up on the idea of indirect elections and popular representation. The Minister reported that the Council of Ministers was meeting today to discuss that issue. He would not be in a position to make a concrete offer until after he had talked with his Prime Minister. Following her call to Kigali, Carol Fuller confirmed that in the President's meeting with parties yesterday, those present asked that if the CND was not to be replaced by elections that they be named to the new Assembly. The council of Ministers was discussing the issue.

Saturday, October 24

After breakfast, Andrew Rwigamba briefed Rawson and Bentley on the RPF position. They wanted a definitive distribution of portfolios made through negotiations in Arusha at this round. They did not believe they could simply entrust this to the Prime Minister's choosing. However, it might be possible to wait until after the military negotiations as long as ministerial allotments were clearly enshrined in a calendar of things that had to be done prior to the signing of the peace agreement. On the legislature, they had never felt that elections were possible at this time. Now the govt. had finally tabled the idea of an enlarged CND. The RPF felt that political forces should be equally represented in the Assembly. If you kept the current CND that meant a house of 240 people. Bentley told Rwigamba of the New Hampshire House of 400 plus legislatures for 800,000 people. Rwigamba was also aware of the MRD and PL statements denouncing the Fomin's position and wondered whom he represented. Rawson pointed out that parties in a multi-party system could hold opinions different from that of their members in coalition government. It was clear that the Fomin still represented the Rwandan government and was taking instruction from its Prime Minister. In any case, Rawson argued, the international setting of these negotiations was a guarantee that what was offered here and accepted here would endure regardless of political waves back in Kigali. He urged the RPF to understand that the Minister spoke authoritatively for the government and to work with him to get over the remaining obstacles to an agreement. Rawson asked Rwigamba if the RPF was really interested in reaching an agreement this round or if they preferred to come back after a period of reflection to deal with these issues. Rwigamba said that the RPF had come here to negotiate and wanted to leave with a signed protocol. Bentley pointed out that without that, by the time they came back to the table, the RPF might lose a lot of what they had worked so hard to get.

That evening Fomin Nuginzira gave a summary at plenary session of what had been decided betimes. This included agreement on the economic program for the government, agreement on professional standards for national service, agreement on the specialized institutions and on how they fit in the institutional structure. The Government had also agreed to drop the insistence that the prime Minister be returned to office. It had been agreed that the new Prime Minister will be chosen from some party other than the President's. There was basic agreement on how the cabinet should be distributed but a difference as to when portfolios would actually be assigned to political forces.

The Fomin then explained the government's position on the National Assembly. It had wanted an assembly that was representative of the

People's wishes and had proposed direct elections in three months, then indirect elections, electoral college, constituent assembly, a nominated second house with special powers and finally an expanded CND. The government was still looking for a compromise which RPF would accept.

Patrick Mazimpaka spoke for the RPF. Their idea on the government had been to have RPF share some of MRND portfolios. The government's breakdown of portfolio categories coincidentally matched their earlier allocation. Now it was a matter of timing when the allocation should be made. On the National Assembly, the RPF had not expected to ever again discuss the CND after having accepted in the first round the government's proposal of a national assembly of transition. The RPF was convinced that in the current political environment with the exclusion of an important part of the potential electorate and the security situation an electoral process was not possible. He also explained the problems with a nominated second house, nor were they happy about one house dominated by one party. They were still looking for ways to set up the National Assembly and he said, "We will find them."

Tuesday, October 27

At breakfast, observers were informed that the promised plenary that evening was to be instead an acceptance and signing of the JPMC reports. Rawson told Fomin Nuginzira that this was not acceptable. Observers needed to be officially informed of what progress there was in negotiations, even if there was not any. Rawson called Amb. Mpungwe over to the table and secured the facilitator's agreement that the evening session would include a report on negotiations.

An hour and a half late, the plenary began with Fomin Nuginzira again giving the summary. Agreement had been reached on the presidential oath, on immunities for the President and other high officials, on attaching presidential Offices of Information and Tourism to their respective ministries, and on the organization of judicial power. The Fomin then went into a long explanation of duties and powers of the Supreme Court as well as qualifications and means of nominating its officers. He promised that negotiations would resume on cabinet portfolios and on the National Assembly tomorrow.

Commissioner Bizimungu offered three observations: That they had indeed been cleaning up some peripheral matters in a spirit of frankness and friendship; that they would await any government proposals on government portfolios or the National Assembly but if there were no forward movement on these issues, the RPF proposed a pause and a third round which would include these elements plus refugee questions; and that given Habyrimana's agreement to meet with Kanyarengwe, that the two leaders chair this next round so as to help draw together these seemingly intractable issues.

Fomin Nuginzira did not think the matters recently negotiated to be peripheral but central to the functioning of a new institution they had agreed on--the Supreme Court. He noted that the government had offered many proposals for compromise on the National Assembly and the RPF had not offered anything other than its original idea of a nominated assembly. He also remarked with some asperity that he was not in position to determine who would lead the Government's delegation the next round and claimed ignorance of any offer by Habyrimana to meet with Kanyarengwe. He hoped the meetings tomorrow would prove fruitful. The plenary adjourned with words of encouragement from Ambassador Fall especially to reach agreement on modalities and timing of portfolio allocations on which the parties seemed so close to agreement.

Wednesday, October 28

facilitator Mpungwe told me mid-day that the Tanzanian Ambassador to Kigali had met with President Habyarimana. the president said he could not accede to RPF demands on the National Assembly. the council of Ministers was deadlocked. He believed that the negotiations should have a recess. The Prime Minister on the other hand wanted a protocol signed and told the Fomin to work out any arrangement he could. the President thought it was not fair to burden one man with such responsibility. The Rwandan needed to work out a common solution to this. Mpungwe had checked with both sides and they agreed to initial what they had already negotiated as soon as documents could be prepared. The parties were however still meeting to discuss issues. Thomas Kalisa told Rawson they were still hoping for some "surprises" at plenary that evening.

At the Plenary, however, the Minister simply explained that the two parties intended to sign a formal protocol on Power Sharing--Part I. Negotiations would resume in 15 days dealing with refugees issues, formation of the interim government and nature and functions of the interim National Assembly. Bizimungu spoke at length about the kind of issues involved in the refugee question. There were numerous inquiries from observers regarding the time-table and whether neighboring states and refugee organizations could be prepared in two weeks to address refugee issues. The Fomin suggested an alternate schedule in which formation of government and National Assembly would be dealt then military integration opened during two week's discussions followed by another pause before concluding work on the military and treating refugee issues. Bizimungu expressed the hope that negotiations could be completed in time to give the Rwandan people a Christmas present of peace.

Thursday, October 29

The day was spent in preparing the draft protocol and communique. in the evening Amb. Mpungwe wanted to talk about alternatives for the National Assembly. Rawson pointed out that an elective process would have by constitutionally moving the CND aside would have avoided the political dilemmas that have stalled current negotiations. Further, in our view, processes of conflict resolution should move quickly through to elections so as to break political deadlock and remove ambiguities of mandate. Mpungwe made all the standard arguments why elections would be counter productive in the Rwandan situation. Ugandan High Commissioner to Tanzania supported his arguments. Rawson argued that the important thing was to listen to all sides and try to understand why Habyrimana has problems with an appointed legislature. We were negotiating in a political marketplace and should try to arrange a deal that did not exclude anyone or leave something they had been had by the process. It seems apparent that Mpungwe will push for a new totally nominated legislature when his President sees Ruhigira. Rawson urged that somehow be devised to keep key members of the CND in the political process and hence committed to the peace accord.

in conversations with Fomin Diria, Rawson found him favoring the government position against early distribution of portfolios but against an electoral process that could challenge and upset the delicate power-sharing balance which was being put together in the government. He had some ideas of a two-level legislative process with a "national conference" handling legislative issues related to the interim process. This idea had already been tried out in the government's two-house proposal and rejected. Diria may not have been made aware of this due to his extended absence from the negotiations.