

UNAMIR - MINUAR

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FROM: BOOH-BOOH, UNAMIR, KIGALI

DATE: 19 MARCH 1994

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SUBJECT: EFFORTS TO INSTALL THE TRANSITIONAL INSTITUTIONS

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1. As you are aware, the two signatories to the Arusha Peace Agreement recently sought the assistance of the Facilitator, H.E. President Mwiayi of Tanzania, to help break the impasse holding up the installation of the transitional institutions. President Mwiayi, consequently, sent his Foreign Minister to Rwanda on 11 March. The Minister left Rwanda yesterday, 18 March, after intensive consultations with the various political leaders as well as with members of the diplomatic corps in Kigali, the representative of the OAU Secretary-General and I. Prior to his departure, Minister Rwegasira made a statement, a copy of which is attached hereto.

2. As reflected in the Minister's attached statement, he also came to the conclusion following his consultations in Rwanda that the stumbling block to putting into place the transitional institutions evolves around the internal difficulties within the Parti Libéral (PL). While both factions within the Party have apparently agreed on a six-five formula for sharing the eleven seats assigned to them in the Transitional National Assembly (TNA), they still differ on the formula for the distribution of their assigned ministerial portfolios. Although the PL is allowed only three ministerial portfolios under the Peace Agreement, including the post of Minister of Justice, both factions of the Party are seeking two ministerial positions each, including the Justice Ministry. Hence the deadlock.

CASE NO. CR-98-44C-1

EXHIBIT NO. D91

DATE ADMITTED. 25/08/2005

TENDERED BY DEFENCE

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3. The Tanzanian Foreign Minister stressed, on behalf of the Facilitator, that the power struggle within the PL was unacceptable as it had no legal basis within the framework of the Peace Agreement. The composition of the Broad-Based Transitional Government was within the prerogative of the Prime Minister Designate as long as he respected the lists of ministers submitted during consultations with the political forces concerned. The Minister further stated that the rejection by the Rwandese Patriotic Front (RPF) of the compromise reached within the PL on the sharing of the seats for parliament was both "irrelevant and illegal going by the Peace Agreement". The Minister emphasized overall that in the Facilitator's view all political leaders should strictly adhere to the terms of the Peace Agreement, with each political force exercising its mandate in constituting the TNA and the Prime Minister Designate exercising his prerogative in picking his cabinet.

4. Following the Tanzanian Foreign Minister's departure, the Prime Minister Designate yesterday evening addressed the nation over Radio Rwanda in the course of which he announced the proposed composition of his government (please see list attached). This evening, the Prime Minister of the current coalition government also announced the names of the deputies for the TNA. The government announced by the Prime Minister Designate includes the twenty-one ministerial portfolios provided for under the Peace Agreement. The numerical distribution among the political forces concerned is as follows:

MRND: 5 portfolios, RPF: 5 portfolios, MDR: 4 portfolios (including the post of Prime Minister), PSD: 3 portfolios, PL: 3 portfolios, PDC: 1 portfolio.

5. It is not clear if the Prime Minister Designate:

- a) informed President Habyarimana in advance of the announcement of the composition of the government;
- b) has the agreement of the two factions within the PL on the lists of names of ministers. In this connection, it is to be recalled that the two factions within the PL had each been seeking two of the three ministries assigned to the Party, including the Ministry of Justice. It is not clear at this point to which faction of the PL the Prime Minister Designate's choice of Justice Minister belongs.

6. In his radio address, the Prime Minister Designate indicated that consultations underway with a view to putting into place the transitional institutions should not go beyond 21 March. According to the Peace Agreement, the Prime Minister Designate shall, following his selection of candidates for the ministerial portfolios distributed among the various political forces, present them to the President of the Republic for appointment as well as to the TNA. Since the Prime Minister Designate has now announced the proposed composition of his government, it is to be expected therefore that, according to the Peace Agreement, he will submit the list of ministers to President Habyarimana. The President should normally perform the formality of appointing the ministers proposed by

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the Prime Minister Designate at the official installation ceremony of the BBTG. Similarly, the list of members of the TNA will be submitted to the President, who would preside over the first session of the TNA. Although the President should legally not interfere with the Prime Minister Designate's prerogative in selecting the members of his government or with the political forces' designation of their TNA members, this possibility cannot be ruled out completely. In that event, there could be a collision, especially if, as we now understand it, both the Prime Minister Designate and the RPF, as well as the current Prime Minister, appear determined to proceed with the installation of the BBTG and the TNA with or without the President.

7. Bearing that possibility in mind, we would have a number of concerns for which we would like your guidance, including in particular the following:

- a) since the installation ceremonies would most likely take place at the CND complex where the RPF battalion for which we are providing security, is housed, what should UNAMIR's reaction be if there is a violent confrontation relating to the installation?
- b) should the Government and RPF, the two signatories to the Peace Agreement, decide to proceed with the installation ceremonies even if President Habyarimana objects, what should UNAMIR's position be if we are invited to attend and requested to provide security for participants at such ceremonies?
- c) as you are aware, under the Peace Agreement, the President of the Republic shall preside over the first session of the transitional parliament unless he is unable to do so, in which case, the President of the constitutional court shall preside. It is not clear whether the President of the Republic's refusal would constitute an inability to preside within the framework of the Agreement. If not, would it be legal for the President of the constitutional court to preside in place of the President of the Republic?

8. Members of the international community in Kigali, including the diplomatic corps and representatives of international and intergovernmental organizations plan to meet on Monday, 21 March, to assess the situation and consider possible reactions to the latest developments. It may also be advisable for the Secretariat at headquarters to request the Ambassador of Rwanda at the UN to convey to the President Habyarimana our view that, in light of the latest political developments, there is a necessity for him to ensure the prompt and peaceful installation of the transitional institutions. Meanwhile, in our continuing consultations with the various political leaders, we are stressing the need for a peaceful and smooth installation ceremony. In this connection, I today appealed to President Habyarimana, through one of his close political associates, to meet with the Prime Minister Designate to ensure that the arrangements for the installation and the event itself proceed in a non-confrontational climate.

9. As usual, we shall keep you informed of relevant developments and look forward to receiving your earliest possible reactions to our concerns above.

9. Regards.

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**STATEMENT BY HON. JOSEPH C. RWEGASIRA, TANZANIAN
FOREIGN MINISTER AND REPRESENTATIVE OF THE
FACILITATOR ON 18.03.94 IN KIGALI AT THE END OF
HIS VISIT TO RWANDA.**

On 4th March, a delegation of the RPF came to see the Facilitator to say that there were problems in the Implementation of the Arusha Peace Agreement, and sought the intervention of the Facilitator to resolve and allow for the set up of the Transitional Institutions. Similarly on 8th March the President of the Republic of Rwanda also came to Dar es Salaam to see the Facilitator and said that they were facing problems and therefore implementation of the Peace agreement had stalled. He also sought the intervention of the Facilitator.

The Facilitator had heard from various other sources that indeed there were problems, but had refrained from any intervention because as we all know supervision of the implementation of the Peace Agreement was placed under the United Nations. However, upon request by the two signatories of the Peace Agreement, the Facilitator felt under moral responsibility and legitimacy to try and help. It is for this reason, the Facilitator saw the need to dispatch me to Kigali to see how we can jointly solve the problems and have the Institutions put into place.

I thought the best way to go about my assignment was to consult as largely as possible, first bilaterally or separately and if necessary collectively. In this context, since my arrival, I engaged in separate consultations. I have had very exhaustive consultations with all parties called upon to implement the Arusha Peace Agreement, even to the extent of consulting with what is now commonly known here as tendencies.

More specifically, I met the president of the Republic twice,
I met the current prime Minister twice,
I met the RPF Leadership at Mulindi,
I met the Prime Minister Designate twice,
I met the leadership of other political forces including MRND,

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MDR, PSD, PDC and both "tendencies" of PL.

I also had occasion to meet some members of the international Community and the leadership of the Catholic and protestant Churches in Rwanda.

Let me point out that, the second round of consultations were basically held to seek agreement and consensus on the opportunity of holding a collective consultations of the above.

If I were to make a rundown of my report to the Facilitator at this juncture, I would say the above consultations were very useful, frank and sincere. I learnt many aspects the Facilitator was not aware of in so much detail. I received explanations and reasons for certain positions and even managed to get useful suggestions on how we should proceed.

I am extremely grateful to the President of the Republic Government leaders, political forces, the Special Representative of the United Nations Secretary General, the OAU Representative in Rwanda, members of the Diplomatic Corps without forgetting the entire people of Rwanda; for the unreserved support they have extended to me. It is out of these consultations and contributions that I thought a collective consultation of all political forces to enable me to complete my assignment was necessary. Unfortunately this latter part of consultation has not succeeded because three parties did not take part in the meeting for the purpose, namely MRND, Mugenzi tendency of the PL and the representative of the Presidency.

Now allow me to briefly, share with you how the current problem is perceived according to the above consultations. It is a shared opinion of all with whom I consulted that the only remaining stumbling block to the putting into place of the Transitional Institutions evolves on the difficulties within the PL party. Earlier there was a problem with the list of deputies but later on a compromise was reached to share the 11 deputies on a 6/5 formula between Mr. Ndasigwa and Mr. Mugenzi "Tendencies" respectively. During my consultations with the leadership of the two tendencies they both repeated to me that their agreement on this sharing formula still holds. It is true, however, that both Mugenzi and

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Ndasingwa demand two ministerial portfolios to go with the formula and both of them want of necessity the Justice portfolio. It is the strong opinion of the Facilitator that such linkage has no legal basis and, therefore, not acceptable. This is exactly what I told the leadership of the two tendencies. Moreover, according to the provisions of the Peace Agreement this amounts to encroachment on the prerogatives of the Prime Minister Designate.

Connected to this Problem, is RPF rejection of the sharing formula under the contention that it was arrived at under duress during the meeting of 27th February, 1994. The RPF contends that they have moral authority to question compromise reached following alleged intimidation and coercion; especially when the compromise was reached at the meeting of 25th and 27th February whereat they did not take part, as opposed to the different compromise reached at the earlier meeting of 18th February in which they participated. The RPF also believes that the linkage with the cabinet has a background which must be considered.

It is the opinion of the Facilitator that not only that the linkage is irrelevant and illegal going by the Peace Agreement, but also finds the RPF contention not acceptable especially when the leadership of the PL party insist they have reached compromise amicably for the interest of their party, and early setting up of the Institutions despite earlier positions to the contrary.

Allow me also to emphasise that the opinion of the Facilitator is based on the belief that all players should strictly adhere to the mandate prescribed to him/her by different articles of the Peace Agreement. La. each political force exercise their mandate in constituting the National Assembly and the Prime Minister Designate exercise his prerogative in picking up his cabinet as long as he respects the lists given to him during consultation with the Political forces.

As I mentioned earlier the Facilitator is aware of various meetings and consultations held at various levels to try and bring about a speedy installation of the Transitional Institutions. These meetings were held within the spirit of negotiating a

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political compromise to the difficulties facing some political forces.

I wish to point out that noble and well meaning as these meetings might have been, there is no doubt however that they took place outside the framework of the Arusha Peace Agreement. This also includes the consultations I am making now as representative of the Facilitator. May be we need to take stock and if we come to the conclusion that the spirit is not there or rather not sufficient, we may wish to come to an end to this politicking and negotiations outside the Peace Agreement and therefore strictly adhere to the Arusha Peace Agreement which as we all know is now the Fundamental law of the Republic of Rwanda. Let us give Peace a chance by giving implementation of the Peace Agreement a chance.

Let me not tire you further as we are all conversant with the situation and problems facing implementation of the Arusha Peace Agreement.

THANK YOU ALL FOR LISTENING TO ME SO ATTENTIVELY.