

ANNEX IV

**PROTOCOL OF AGREEMENT ON POWER-SHARING WITHIN THE
FRAMEWORK OF A BROAD-BASED
TRANSITIONAL GOVERNMENT BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF RWANDA AND THE RWANDESE PATRIOTIC FRONT**

The Government of the Republic of Rwanda and the Rwandese Patriotic Front;

Agree on the following provisions which are an integral part of the Protocol of Agreement on Power-sharing:

CHAPTER 1: GENERAL PRINCIPLES

ARTICLE 1:

The two parties reaffirm the acceptance of the principle of power-sharing within the framework of a Broad-Based Transitional Government, in conformity with Article V.3. of the N'sele Ceasefire Agreement, as amended at GBADOLITE on 16th September, 1991 and at ARUSHA on 12th July, 1992. The modalities of implementation of this principle are the object of the present Protocol of Agreement on Power-sharing.

ARTICLE 2:

The two parties agree that those modalities shall consist of:

- (a) the maintenance of the current structure 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 to be mutually agreed upon in this Protocol, to be made at the level of the State powers with a view to enabling the RPF and other political forces in the country to participate in and make for the efficient

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management of the transition, in compliance with the principle of separation of powers.

CHAPTER II: TRANSITIONAL INSTITUTIONS

Article 3: During the Transitional Period, the State institutions shall be:

- (i) The Presidency of the Republic;
- (ii) The Broad-Based Transitional Government;
- (iii) The Transitional National Assembly;
- (iv) The Institutions of the Judiciary.

CHAPTER III: THE EXECUTIVE POWER

Article 4: The Executive power shall be exercised collectively through decisions taken in Cabinet meetings, by the President of the Republic and by the Government.

SECTION 1: THE PRESIDENT OF THE REPUBLIC AND HEAD OF STATE

Article 5: Upon the signing of the Peace Agreement, the incumbent President of the Republic and Head of State shall remain in office until the outcome of elections to be held at the end of the Transitional Period.

Article 6: As Head of State, the President of the Republic shall have the following prerogatives:

- (a) He shall nominate the Prime Minister and other members of the Cabinet within three days following their appointment by the relevant bodies. After this period, the Prime Minister shall assume office and appoint other Members of the Cabinet.



Modalities for the appointment of the Prime Minister and other Members of the Cabinet shall be provided for in this Peace Agreement;

- (b) He shall nominate and accredit Ambassadors, Plenipotentiaries and Extraordinary Envoys abroad, after their appointment by the Cabinet. He shall receive credentials of Ambassadors and Extraordinary Envoys from abroad, after their approval by the Cabinet;
- (c) He shall represent the Rwandese State in its relations with other States;
- (d) He shall sanction and promulgate, without any right of veto, bills passed by the National Assembly and Orders in Council adopted in the Cabinet meetings within ten days following the date of receipt of the ruling on their constitutionality. After this period, Orders in Council shall be sanctioned and promulgated by the Prime Minister, and the bills shall be sanctioned and promulgated by the Speaker of the Transitional National Assembly;
- (e) He shall declare war and sign armistice upon the decision of the Cabinet and after authorization by the National Assembly. To this end, he shall bear the title of Commander-in-Chief of the Armed Forces. The Army and other security forces shall be accountable to the Cabinet, in accordance with the modalities specified in the Peace Agreement.

Article 7:

The President of the Republic shall have the right to include any issue of national interest on the agenda of Cabinet meetings.

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Article 8:

The President of the Republic may, if he so wishes, attend meetings of the Cabinet. In this case, he shall chair the Cabinet meetings.

Article 9:

Executive Orders by the President of the Republic, shall be discussed and adopted by the Cabinet. Since the President of the Republic shall have the right to be involved in decision-making in the Cabinet, he shall have no right of veto on decisions regularly taken by the Cabinet, in particular, draft Presidential Orders when these are submitted to him by the Prime Minister for signature. This signature officializing the Presidential Orders adopted in the Cabinet, shall be effected within ten days following the day of receipt of the said Orders at the Presidency of the Republic. After this period, the decision shall come into force by way of a Prime Ministerial Order.

Article 10:

Legal Acts by the President of the Republic shall be countersigned by the Prime Minister and by relevant Ministers and Secretaries of State.

Article 11:

In pursuance of the decisions of the Cabinet and in conformity with the procedure defined under Article 9 of the present Protocol, the President of the Republic shall sign Presidential Orders with regard to the following:

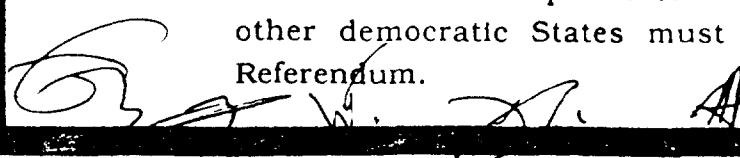
1. the prerogative of mercy;
2. the minting of currency;
3. Award of the National Orders;
4. the implementation of laws, when he is so required;

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5. the appointment and termination of services of the following senior civil servants:

- * the Principal Private Secretary to the President of the Republic;
- * the Chancellor for National Orders;
- * the Governor of the National Bank of Rwanda;
- * the Rector of the National University of Rwanda;
- * Ambassadors;
- * the Secretary to the Cabinet;
- * the Personal Secretary to the President of the Republic
- * Advisors in the Presidency of the Republic;
- * Principal Private Secretaries in Ministries;
- * Advisors in Ministries;
- * Head of the Prosecution Department at the Supreme Court;

6. Ratification of International Treaties, Conventions and Agreements. However, Peace Treaties, Treaties of Alliance, Treaties which may entail altering national borders or affect the rights of sovereignty, Treaties on the association of the Republic with one or several other States, as well as Treaties, Conventions and Agreements with financial implications not catered for in the budget, shall be implemented only after their approval by way of a law. The federation of the Republic of Rwanda with one or several other democratic States must be approved through a Referendum.



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Article 12:

The President of the Republic shall address messages to the Nation, the content of which shall be decided upon by the Cabinet.

SECTION 2: The Broad-based Transitional Government

Article 13:

The current structure of the Government, namely, the number and appellation of Ministries shall remain unchanged. However, a Secretariat of State in the Prime Minister's Office in charge of Social Rehabilitation and Integration shall be established.

It shall be responsible for:

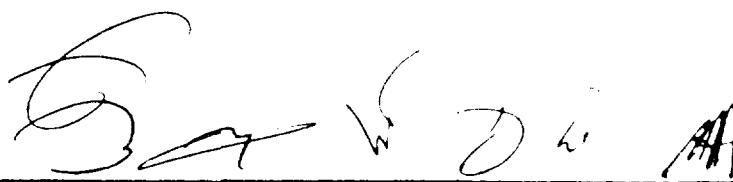
1. Repatriation and social and economic reintegration of the Rwandese refugees who may wish to go back home;
2. A Post-War Rehabilitation Programme as defined under Item 23.D of the present Protocol.

Article 14:

The political parties participating in the Coalition Government established on 16th April, 1992 as well as the Rwandese Patriotic Front shall have the responsibility to set up the Broad-Based Transitional Government. They shall decide, by consensus, on the other political formations which may participate in that Government.

Article 15:

The Government shall be composed of the Prime Minister, the Deputy Prime Minister, Ministers and Secretaries of State.

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Sub-section 1: The Powers of the Government:

Article 16:

The Government shall be responsible for the management of the country. It shall determine and implement national policy. In so doing, the Government shall:

1. Be responsible for the implementation of laws and regulations;
2. Negotiate and conclude international Treaties, Conventions and Agreements;
3. Discuss and adopt draft bills and present them to the National Assembly;
4. Discuss and adopt Orders in Council, in situations of emergency or when the National Assembly is unable to seat, and transmit them to the President of the Republic for promulgation;
5. Appoint and dismiss civil servants.
6. Discuss and adopt Presidential, Prime Ministerial and Ministerial Statutory Orders on the implementation of laws.

Article 17:

The Government shall be the guarantor of national sovereignty and national unity.

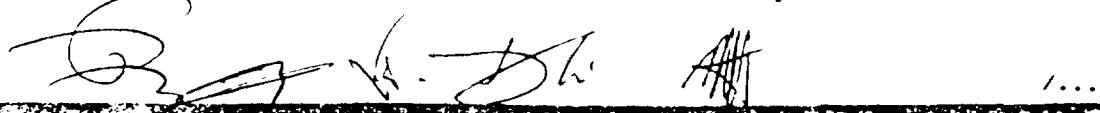
Sub-section 2: The Prime Minister

Article 18:

The Prime Minister shall:



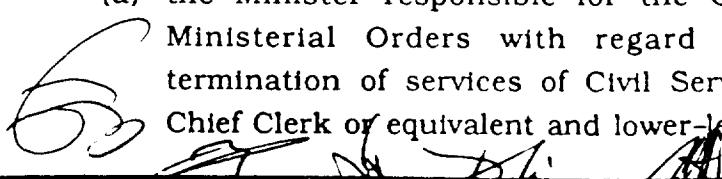
1. In accordance with the Peace Agreement and in consultation with the political forces, prepare the Government programme;
2. In conformity with the modalities provided for in the Peace Agreement, select the other members of the Cabinet;
3. Present the Government programme and the Ministerial team responsible for its implementation to the National Assembly;
4. Lead Government business, convene and chair Cabinet Meetings. He shall prepare the agenda for cabinet meetings, in consultation with the other members of the Government. The Prime Minister shall communicate the agenda to the President of the Republic and to the other members of the Government, at least two days before the date of the meeting.
5. Determine the functions of the Ministers and Secretaries of State as well as the nature and extent of powers of the services under them.
The Ministers and Secretaries of State shall be delegated powers by the Prime Minister for the management of the duties of their departments. The Prime Minister shall determine the extent of this delegation of power.
6. In pursuance of the decisions of the Cabinet, sign Prime Ministerial Orders for the appointment and termination of services of the following senior civil servants:
 - the Principal Private Secretary to the Prime Minister;
 - Deputy Governors of the National Bank of Rwanda;
 - Vice-Rectors of the National University of Rwanda;



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- Advisers and "Chefs de Service" in the Prime Minister's Office;
- the "Préfets de Préfecture" [District Commissioners];
- Director in Public Enterprises;
- Directors General in the Ministries;
- Planning and Coordination Officers in Public Enterprises;
- Directors in Public Enterprises and Representatives of the Government in Parastatals;
- Directors and Heads of Division in the Ministries;
- "Sous-Préfets" [Assistant District Commissioners];
- Bourgmestres [County Administrators];
- Deputy Directors of Public Prosecution at the Supreme Court;
- Head of the Prosecution Department of the Courts of Appeal;
- Deputy Directors of the Courts of Appeal;
- Head of the Prosecution Department at the Courts of First Instance;
- Assistant State Attorneys.

Upon delegation of power by the Cabinet,

- (a) the Minister responsible for the Civil Service shall sign Ministerial Orders with regard to appointments and termination of services of Civil Servants from the rank of Chief Clerk or equivalent and lower-level posts.
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- (b) The Minister of Justice shall sign Ministerial Orders for the appointment and termination of services of judicial staff other than magistrates.
- (c) In Public Enterprises, senior staff shall be appointed by the Board of Directors and the rest of the staff by the relevant Director.
- 7. Countersign, after their promulgation by the President of the Republic, bills passed by the National Assembly as well as Statutory Orders in Council adopted by the Cabinet.
- 8. By way of Orders decided upon during cabinet meetings, implement laws and regulations when he is required to do so.
- 9. Address messages to the Nation, whose content shall be decided upon by the Cabinet.
- 10. May, under exceptional circumstances, after a decision taken by the Cabinet and on consultation with the Bureau of the National Assembly and the Supreme Court, declare a State of Siege or a State of Emergency.

Article 19:

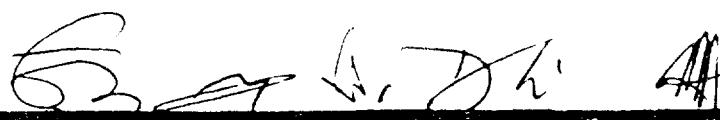
Legal acts by the Prime Minister shall be countersigned by the relevant Ministers and Secretaries of State.

Sub-section 3: Functions of the Deputy Prime Minister

Article 20:

The Deputy Prime Minister shall:

- 1. Upon formal delegation of power, replace the Prime Minister in the event of his absence or hindrance.

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2. Act as Prime Minister when the post falls vacant, until a new Prime Minister is appointed, following modalities provided for in the Peace Agreement.
3. In addition, hold a Ministerial Portfolio.

Sub-section 4: Mode of Decision-Making within the Government

Article 21

Prior to the deliberations, the Cabinet meeting shall adopt its agenda.

Cabinet decisions shall be taken by consensus. Where consensus is not reached, the issue at hand shall be returned to the relevant Minister for further study.

Consensus on the issue shall once again be required subsequent discussions, and if no consensus is reached, a decision shall be taken on the basis of a partial consensus of a 2/3 of the members of the Government present.

For the following issues, however, consensus shall be mandatory:

- amendment to the Peace Agreement;
- declaration of war;
- exercise of the prerogative of mercy and mitigation of sentence;
- defence and security matters.

Article 22

For each Cabinet Meeting, minutes and a summary of decisions shall be written. The summary shall be approved and signed by members who attended the said meeting.

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Sub-section 5: Outline of the Broad-based Transitional Government Programme

Article 23:

The Broad-based Transitional Government shall implement the programme comprising the following:

A. Democracy

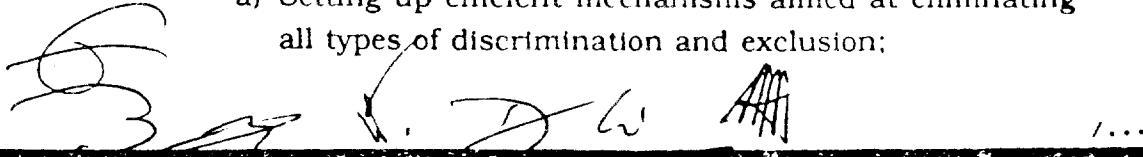
1. Consolidate the democratic process by establishing the necessary mechanisms for the implementation of the provisions of the Protocol on the Rule of Law.
2. Prepare and organise general elections to be held at the end of the Transition Period.

B. Defence and Security

1. Consolidate peace by taking the necessary measures for the eradication of the causes of war, especially those stemming from the non-respect of National Unity, Human Rights and Democracy.
2. Ensure internal and external security.
3. Take the necessary measures for guaranteeing the security of all the people and their property.
4. Organise defence and security institutions.

C. National Unity and National Reconciliation

1. Restore national unity, in particular and as a matter of urgency by:
 - a) Setting up efficient mechanisms aimed at eliminating all types of discrimination and exclusion;



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- b) Working out appropriate legislation in this regard;
- c) Establishing a recruitment system for senior government posts, for all other posts, and for admission to schools, based on fair competition giving equal opportunity to all citizens.

2. Organise a national debate on National Unity and National Reconciliation.

D. Post-war Rehabilitation Programme

1. Provide humanitarian assistance, especially through the supply of foodstuffs, seeds and some building materials in a bid to contribute in the resettlement of those displaced as a result of the war and social strife encountered since the outbreak of the war, in their original property.
2. Rehabilitate and rebuild the areas devastated by war and social strife encountered since the outbreak of war, especially through mine-clearance and rebuilding of socio-educational and administrative facilities.
3. Set up a programme of assistance to the victims of war (both civilian and military) and of social strife encountered since the outbreak of the war, to the physically handicapped, orphans, widows and widowers.
4. Set up appropriate programmes for the economic and social integration of the demobilised military personnel.

E. Repatriation and Reintegration of Refugees

Repatriate and reintegrate all Rwandese refugees who may wish to go back home, following the modalities specified in the Peace Agreement.



F. The Economy

1. Stimulate the economy by, as a priority, orienting economic programmes towards the disadvantaged regions and social strata.
2. Review the country's priorities with the aim of promoting food security (application of selected seeds and fertilizers, storage, etc.)
3. Diversify export products.
4. Encourage small and medium scale industries.
5. Draw up and apply strategies for better utilization of the country's resources (natural and human).

G. National Ethics

1. Establish a mechanism for guaranteeing a professional code of ethics, integrity and patriotism.
2. Establish a system for the eradication of all forms of corruption.
3. Evaluate and clean up all the State administrative institutions.

CHAPTER IV: SPECIALISED COMMISSIONS

Article 24:

In addition to the Commissions already agreed upon in the previous Agreements, the following broad-based specialised Commissions shall be established:

A. COMMISSION FOR NATIONAL UNITY AND NATIONAL RECONCILIATION

This commission, which reports to the Government, shall be responsible for:



1. Preparing a national debate on national unity and national reconciliation.
2. Prepare and distribute information aimed at educating the population and achieving national unity and national reconciliation.

B. LEGAL AND CONSTITUTIONAL COMMISSION

This Commission shall be responsible for:

- 1) Drawing up a list of adaptations of national legislation to the provisions of the Peace Agreement, in particular those provisions relating to the Rule of Law.
- 2) Prepare a preliminary draft of the Constitution which shall govern the country after the Transitional Period.

C. ELECTORAL COMMISSION

This Commission shall be responsible for the preparation and organisation of local, legislative and presidential elections.

CHAPTER V: THE JUDICIARY

SECTION 1: General Principles

Article 25:

1. The powers of the Judiciary shall be exercised by Courts, Tribunals and other Jurisdictions. The Judiciary is independent of the Legislature and the Executive.

Justice shall be rendered on the territory of the Republic in the name of the people.

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SECTION 2: Jurisdictions

Article 26:

The following ordinary jurisdictions shall be recognized:

Canton Courts, Courts of First Instance, Courts of Appeal and the Supreme Court.

The following Military Jurisdictions shall also be recognized:

Court Martials and the Military Court.

The law may establish any other specialized Courts. However, no special Courts may be established.

SECTION 3: The Supreme Court

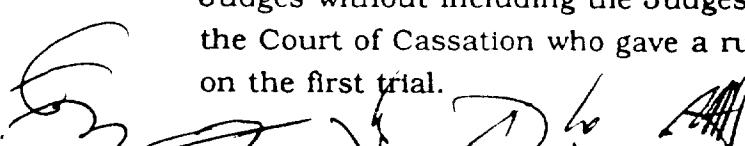
Article 27:

The Supreme Court shall particular exercise the following functions:

- (a) direct and coordinate the activities of the Courts and Tribunals of the Republic. It shall be the guarantor of the independence of the Judiciary. To this effect, it shall be responsible for the professional code of ethics;
- (b) ensure the constitutionality of laws and Orders in Council. In so doing, it shall ensure their constitutionality before promulgation;
- (c) give a ruling on the petition for annullment of regulations, orders and decisions issued by administrative authorities;

- (d) ensure the regularity of popular consultations;
- (e) provide, upon request, legal opinions on the regularity of draft Presidential, Prime Ministerial and Ministerial orders as well as on other draft public administration regulations;
- (f) give the authentic interpretation on customary practice in case written law is silent thereon;
- (g) give a ruling on appeals to the Court of Cassation to have a new trial ordered and on transfer of cases from one Court to another;
- (h) arbitrate on institutional conflicts between various State organs;
- (i) judge the Accounts of all Public Institutions;
- (j) have criminal jurisdiction over the President of the Republic, the Speaker of the National Assembly, the Presiding Judge of the Supreme Court, the Prime Minister, the Deputy Prime Minister, Ministers, Secretaries of State, the Deputy-Presiding Judges of the Supreme Court, Deputies in the National Assembly, the Presiding Judges of the Courts of Appeal, the Public Prosecutors and Deputy Directors of the Supreme Court and of the Courts of Appeal.

On first trial, the above-listed officials shall be tried by the Court of Cassation. On appeal, they shall be judged by the Supreme Court, in the presence of all the jurisdictional sections, with at least eleven Judges without including the Judges of the Bench of the Court of Cassation who gave a ruling on the case on the first trial.



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Article 28:

The Supreme Court shall comprise the following five sections:

- (a) The Department of Courts and Tribunals;
- (b) The Court of Cassation;
- (c) The Constitutional Court;
- (d) The Council of State;
- (e) The Public Accounts Court.

Article 29:

The Supreme Court shall be chaired by a Presiding Judge assisted by five Deputy Presiding Judges. The Presiding Judge and the Deputy Presiding Judges shall be selected by the National Assembly from a list presented by the Government based on two candidates for each post. Each Deputy Presiding Judge shall also be Head of one of the sections of the Supreme Court.

The services of the Presiding Judge and Deputy Presiding Judges of the Supreme Court shall be terminated by the National Assembly voting by a 2/3 majority, either upon its initiative, or upon the proposal of the Government. The instruments of appointment and termination of the services of the Presiding Judge and Deputy Presiding Judges shall be signed by the President of the Republic.

Article 30:

Candidates for the post of Presiding Judge and Deputy Presiding Judges of the Supreme Court must meet the following requirements:

1. Hold at least a University Degree in Law.

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2. Give proof of at least five years' practical experience in the field of Law.

Article 31:

Judges of the Supreme Court, of the Court of Appeal as well as the Presiding Judges of the Courts of first instance must hold at least a Degree in Law or equivalent.

Article 32:

Upon the decision of the Supreme Council of the Magistrates, the Presiding Judge of the Supreme Court shall sign the Instruments of appointment and termination of services of Judges of the Bench.

Article 33:

An organic law shall determine the powers, the organisation and the rules of procedure of the Supreme Court. Pending the adoption of the said law, the legislation in force relating to the powers, organisation and the rules of procedure of these Courts shall remain in force.

SECTION 5: Relationship between the Supreme Court and the Government

Article 34:

The Government shall delegate one or several Commissioners to one or all sections of the Supreme Court to represent it and to avail any required information.

The Government Commissioners shall participate in discussions on matters for which they have been designated but as non-voting members.

Article 35:

The implementation of the decisions by the Supreme Court, as well as ~~the~~ financial management of, and other administrative measures

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concerning the Supreme Court shall be vested in the Government. However, the law organizing of the Supreme Court shall define the administrative measures coming under its jurisdiction.

Article 36:

In matters relating to the organization of the Judiciary, the Supreme Court may submit to the Government any reform proposals which, in its opinion are of general interest.

SECTION 6: The Supreme Council of Magistrates

Article 37:

The Supreme Court of Council of the Magistrates shall comprise:

- The Presiding Judge of the Supreme Court as Chairman;
- the Deputy-Presiding Judges of the Supreme Court;
- two Judges of the Bench of the Supreme Court;
- a Judge of the Bench from each Court of Appeal;
- a Judge of the Bench from Courts of First Instance under the Jurisdiction of each Court of Appeal;
- a Magistrate of Canton Court under the Jurisdiction of each Court of Appeal.

The Government Commissioners to the Department of Courts and Tribunals shall attend meetings of the Supreme Council of Magistrates as non-voting members.

The Council shall elect from its members a Vice-Chairman and a Rapporteur.

Article 38

With the exception of the Presiding Judge and the Deputy-Presiding Judges of the Supreme Court, members of the Supreme Council of Magistrates shall be elected by their peers of the same level of Jurisdiction.

Applications shall be submitted to the Supreme Court at least one month before the date of elections. Each candidate shall give proof of at least five years' practical experience in the field of Law.

Elections shall be organized by the Supreme Court.

Article 39:

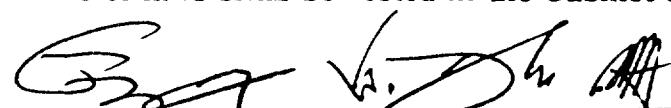
The Supreme Council of the Magistrates shall have the following powers:

- (a) Decide on the appointment and termination of services and, in general, the administration of the career of Judges of the Bench other than the Presiding Judge and Deputy-Presiding Judges of the Supreme Court.
- (b) Give advisory opinion upon its own initiative or upon request, on any proposal relating to the judicial staff regulations within its jurisdictions.
- (c) Give advisory opinion, upon its own initiative or upon request, on any matter concerning the administration of Justice.

CHAPTER VI: OTHER AREAS OF AGREEMENT

Article 40:

The initiative of laws shall be vested in the Cabinet and the National Assembly.



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Ministers, Secretaries of State, the Assistant Presiding Judges of the Supreme Court and Deputies, shall be individual.

However, they shall not be subjected to custody. They may appear before justice through their proxies. They shall be judged by the Supreme Court.

Deputies shall not be prosecuted or sued as a result of opinions expressed or votes cast in the exercise of their duties.

Article 46:

As a matter of urgency and priority, the Broad-based Transitional Government shall rid the administrative apparatus of all incompetent elements as well as authorities who were involved in the social strife or whose activities are an obstacle to the democratic process and to national reconciliation.

In any case, all local authorities (Bourgmestres, [County Administrators], Sous-Préfets [Assistant District Commissioners], Préfets de Préfecture [District Commissioners]) shall have been either replaced or confirmed within three months after the establishment of the Broad-based Transitional Government.



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Done at Arusha, on this 30th day of October, 1992 in French and English, the French text being the original.

For the Rwandese Government



NGULINZIRA Boniface
Minister of Foreign Affairs and
Cooperation

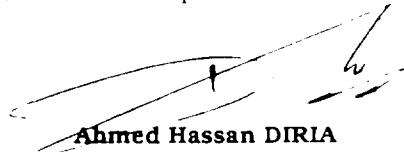
For the Rwandese Patriotic Front



BIZIMUNGU Pasteur
Member of the Executive Committee and
Commissioner for Information and
Documentation

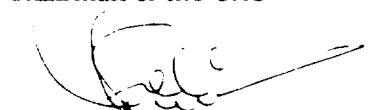
In the presence of Representative of Facilitator

(The United Republic of Tanzania)

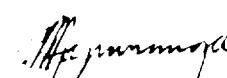


Ahmed Hassan DIRIA
Minister for Foreign Affairs and International Cooperation

In the presence of Representative of
Chairman of the OAU


Papa Louis FALL
Ambassador of Senegal to Ethiopia and
Tanzania. Representative to OAU

In the presence of Representative of
Secretary General of OAU


Dr. M.T. MAPURANGA
Secrétaire Général Adjoint,
charge des Affaires Politiques.