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Situation Report

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Update on the DRC transition: The case of the Kivu provinces

Executive summary

Over the past two years the Democratic Republic of Congo (DRC) has seen the transition from a situation of all-out war, through political and security deadlock and internationally sponsored negotiations, to a transitional period that should lead the country to its first democratic elections. The population of the DRC, however, particularly in the Kivu provinces, has benefited only to a very limited extent from the political settlement negotiated in South Africa.

The population is still subject to sustained, albeit reduced, violence in many of the territories of the North and South Kivu provinces. OCHA (the United Nations Office for the Co-ordination of Humanitarian Affairs) reported in April 2004 that in these two provinces alone there are still over 1.2 million internally displaced persons. Moreover, there are still thousands of refugees dispersed in the countries neighbouring the DRC, afraid to return home and lacking assistance to facilitate their repatriation and reintegration.

The more sedentary population continues to face high degrees of violence and abject poverty. Military and militias, foreign and Congolese, still have to fend for themselves, although the Transitional Government (TG) pays most of the members of the recognised Congolese forces a monthly fee of around US\$10. The result is that nearly all the military continue to plunder Congolese resources as well as the population.

Despite the DRC's mineral riches and generally high soil fertility, the population is virtually incapable of benefiting from these. There are only a few communities that have been able to create a secure environment that allows them to take up their pre-war economic activities. Violence and fear are perhaps the most important reasons for the general lack of confidence in the future, which prevents people from investing in their livelihoods. However, bad governance, tribalism and lawlessness impose further constraints.

The territories of Masisi and Rutshuru in North Kivu have somehow managed to become positive exceptions. Even here, however, there is an unacceptable level of violence within communities, mainly due to the presence of large numbers of soldiers and foreign and local militias. There

are also reports of a continued presence of the Rwandan Defence Forces (RDF), which will be discussed later in this text.

In North Kivu, not all ethnic communities benefit to the same extent from the relative stability created under the leadership of Eugène Serufuli, the governor. On the positive side, the economic environment has improved considerably and North Kivu is once more on the way to becoming one of the breadbaskets of the DRC. Whereas four years ago there were hardly any cattle left in Masisi or Rutshuru, there are currently around 50,000. Agricultural crop production has also increased considerably and the surplus product is being air-freighted to Kinshasa, among other destinations. Although an important part of the population benefits from this economic growth, and there are now few instances of malnutrition in these territories, it is a small group of people, often RCD (*Rassemblement Congolais pour la Démocratie*) officials or other local leaders, who reap the real benefits.

It should also be added that the rest of the Kivu, in particular the *Grand Nord* (the part of the North Kivu province that was run by another rebel movement, the RCD-K-ML – *Rassemblement congolais pour la démocratie-Kisangani-Mouvement de Libération*) sees the leadership in Goma as a threat. The independent attitude of the North Kivu communities, the dominance of the Banyarwanda and the local defence forces that the province has created over the past couple of years all contribute to this mistrust. The independent political discourse and the local defence forces (many call them “Serufuli’s militias”) feed the impression among some that North Kivu has become an almost independent entity within the DRC, while for others it is an area already under Rwandan control. It is striking that such a controversial area is the most prosperous (half) province, at least in the East of the DRC but possibly in the entire country.

In most other areas, life remains a struggle for survival for more than 80% of the people. There are the fortunate few that are involved in various trades, including the illegal or semi-illegal exploitation of mineral resources, or in the import-export business. But most people, including government officials and the military, have no regular, substantial sources of income.

One of the reasons why this did not change following the transition that started on 17 June 2003 with the signing in of the Transitional Government (TG) is that the different parties within the TG are very suspicious of each other, and this has paralysed the decision-making process. Participants, or at least a substantial number of them, were forced into this government by the international community and by internal, Congolese, public opinion.

The continuing existence of parallel structures in the capital, Kinshasa, creates a great deal of confusion and also regularly leads to open conflict in the provinces. Most, if not all, tense situations in the provincial capitals of Goma and Bukavu since 17 June 2003 are attributable to political infighting in the TG. This lack of unity among the members of the TG has a very important, negative impact in the Kivu provinces, not least because there are still numerous ethnic and political tensions. The latest events in Bukavu have caused a new flare-up of ethnic tensions, directed mainly against the Banyamulenge.

Since 1989, the Banyamulenge had gradually become more accepted by the

other communities, but the political manoeuvring in Kinshasa and the events in Bukavu were seized upon by a small group of extremists to renew the propagation of xenophobic ideas. A clandestine radio station, Radio Patriot, has recently resumed broadcasting since being silenced in 1997. This radio station is again disseminating messages inciting hatred among the different groups. And, although it is fairly successful in avoiding the direct mentioning of ethnic groups, the station's discourse leaves no doubt that it is referring to the Tutsis, Banyamulenge and Rwandans. Although it is not clear to exactly what extent, it is obvious that some of the politicians in Kinshasa as well as a number of Church and civil society leaders support these extremist ideas.

In order to preserve the very delicate transitional process in the DRC, the following need to happen:

- The different parties who are members of the TG need to collaborate and facilitate the progress of the transition as planned. For example, the nomination of governors has been delayed several times and is still pending. Furthermore, since the start of the transition only one law has been approved (this does not include the *Lois Organiques*);
- The military command structure must be effectively unified. Currently there is a unit in the president's office called the *Maison Militaire*, which gives parallel orders to ex-government soldiers and some Mayi-mayi groups. But other groups, including the RCD, RCD-K-ML, Mayi-mayi and MLC (*Mouvement pour la Liberation du Congo*), also give parallel orders to "their" military;
- The nationality issue needs to be resolved in a legal way, accompanied by a widespread and intensive civic education effort;
- All foreign militias and refugees must be repatriated to their countries of origin;
- Governance practices should be improved, especially with regard to tribalism and the financial habits of many of the officials and politicians; and, finally,
- A comprehensive strategy for engagement with Rwanda must be developed, and regional cooperation needs to be promoted.

If no progress, or too little, is made on these points, one has to fear for the transition, national unity and, more particularly, the well-being of the Congo's population. There are already signs that the TG could disintegrate at any time. In Kinshasa there have been armed clashes, and in addition to the troubles in the provinces, there is clear evidence that the infighting among and within the participants in the TG could lead to further trouble.

Establishing the Transitional Authority in the Kivu

The lack of decisiveness in Kinshasa has serious repercussions in the provinces. Neither the administration nor the army is effectively unified. The TG should have appointed governors to all the provinces in January 2004, but it has still not done so. The provinces of North Kivu (RCD/G in Goma and RCD-K-ML in Beni) and North Katanga (RCD/G in Kalemie and ex-Government in Lumubashi), for example, each still have two governors.

Within the territories, the situation is pretty much the same. Many of the territories in the Kivus were controlled by two or three movements at a time, with each party having its own administration; this has not changed since the beginning of the transition.

The administration inherited by the TG from the rebel groups is particularly ineffective and corrupt, as many of the officials are aware that it is unlikely they will be retained in the long-awaited reshuffle. This is, however, different in the case of the North Kivu/Goma administration. Governor Serufuli and the group surrounding him have made it clear, although not officially, that they are not ready to cede control of the province to another party. The majority of the population in the southern parts of North Kivu, in particular the Banyarwanda, support this position as the climate created by the current administration favours economic development and security. At the same time, however, there is strong opposition to Serufuli and widespread suspicion about his objectives.

Some technical governmental departments, such as health, social affairs and education, have started to function under the national authority. However, these are all non-strategic, and the police, security services, and the water, electricity and tax authorities continue to operate along the respective party lines.

The unification of the army and the DDR of Congolese military and militias

The army, the *Forces Armées de la République Démocratique du Congo* (FARDC), has been only superficially unified. In Kinshasa there is the *Etat Major* in which all of the principal former belligerents are represented. And, although a similar situation is found in the military regions (provinces), in reality the army is not unified. The components of the previous government and several Mayi-Mayi groups continue to report to the *Maison Militaire*. This unit, within the president's office, is managed by Brigadier General Kabulo in conjunction with General John Numbi.

When some of my colleagues were arrested by a group of Mayi-Mayi in Uvira and released a few hours later, we asked the Mayi-Mayi afterwards why they had taken their prisoners into the mountains above Uvira and not to the official Uvira gaol. Their response was that this gaol is RCD-controlled, as is the military region (even though its commander is from the previous government). And the Mayi-Mayi openly admitted that they did not report to the recognised hierarchical structures but to the Presidency. The same can be said of Colonel Masunzu, the Munyamulenge commander who rebelled against the RCD and RDF and who still controls the High Plateau of Itombwe as a separate entity within the province, independently of the command structure in Bukavu.

The problems that occurred in February and March 2004 in Bukavu were also directly linked to these parallel command structures. General Nyabiolwa received orders from the *Maison Militaire*, while the RCD leadership instructed Colonel Mutebutse. The result was several days of clashes in a town that is still effectively divided, and a flare-up of anti-Banyamulenge sentiments.

The RCD does not have a separate structure such as the *Maison Militaire*, but more informal parallel systems. However, the impact of these parallel structures is less important as the former rebel movement is disintegrating into smaller interest groups and, moreover, does not have access to sufficient resources.

The DDR (disarmament, demobilisation and re-integration) of Congolese

military and militias, including child soldiers has, once again, been delayed by the Kinshasa bureaucracy. Decisions are taken by means of a time-consuming process and some key issues have not been resolved. As a consequence, the national demobilisation programme has not yet started.

This is not, however, the only reason for the delays. International organisations involved in the process of DDR are not ready to process the caseload. Less than a month ago, UNDP-Bukavu invited international NGOs and UN agencies that received World Bank money for demobilisation for a meeting. Few were clear about what they could offer, while others mentioned that they were doing road, water and sanitation projects in support of DDR. A number of local NGOs have received some funding but they have neither the means nor the political weight to get the process going.

DDRRR of foreign forces

Considerable progress was made on the DDRRR (disarmament, demobilisation, repatriation, resettlement and reintegration) issue a few months into the transition. MONUC (United Nations Observer Mission in the Democratic Republic of Congo) benefited from the “unification” of the army, which compelled the Mayi-Mayi to release all Rwandan elements within their ranks. The majority of those, as well as some FDLR (*Forces Démocratiques de Libération du Rwanda*) units and individuals, were repatriated. Thanks to the peace process in Burundi, progress was made with the Burundian militias as well.

Unfortunately, this period did not last long enough. There are still thousands of FDLR, FDD and FNL troops along with several renegade bands of foreign militias throughout the Kivus. Moreover, the number of Rwandan and Burundian refugees still total 100,000 or more. In fact, almost anywhere in the Kivus, the local Congolese population complains about foreigners’ presence and behaviour, and refugees and even militias are often seen in the local markets and in health facilities in remote areas.

Many refugees claim they want to return to Rwanda but the process remains painfully slow. The main reason for this is the extraordinary control certain extremist elements have over the refugees. For example, the FDLR has developed military police units that are especially eager to identify, intimidate and even kill those that speak with MONUC or Congolese authorities and civil society organisations about their return to Rwanda.

However, there have recently (April to May 2004) been some positive signs. In Lubero (in the *Grand Nord*), the FDLR and the local authorities met and discussed the return of all refugees and militias operating in this area. They claim they want to return to Rwanda, not in small groups, as MONUC is offering, but all at once. At the same time, some senior FDLR commanders in South Kivu have shown an interest in returning to Rwanda, making contact through Mayi-Mayi channels.

On the other hand, there have also been negative developments, such as the recent attacks in the north-west of Rwanda and an attempt to cross from the Ruzizi Plains via Burundi to the Nyungwe Forest in the south of Rwanda. It was the FNL, apparently, who repelled this attempt because of their involvement in negotiations with the Burundian government.

In the past few months, MONUC has become a more muscular force that has gained greater authority in the Kivus. However, the various clashes that have taken place in Bukavu have not contributed positively to the organisation's popularity. As few people have confidence in the Congolese army and politicians, many had pinned their hopes on MONUC. Unfortunately this also implies that most of the setbacks are blamed on it.

MONUC's DDRRR effort would benefit from more structural and active collaboration with local organisations or individuals that have access to the FDLR or refugees. The latter have their suspicions, not just about MONUC but the international community as a whole, and have developed personal and strategic partnerships with Congolese communities.

The reconstruction of the Kivus

The international community has promised large amounts of money for the reconstruction of the DRC. There is also a great deal of interest on the part of foreign entrepreneurs in investing in the country, particularly in the mining industry but also in other sectors. And finally, the Congo is generating quite a lot of money of its own.

This should be enough to develop projects that on the one hand give the Congolese people hope that better times are coming and on the other contribute to sustainable development. However, corruption, infighting and mistrust, and to a lesser extent insecurity, have meant that no significant projects have started in the Kivus.

In these provinces, millions of dollars elude the treasury every month. In locations like Kitutu, Lugushwa (+/- 140 kg of gold/month), Kamituga (+/- 120 kg of gold/month), Kalima (gold and cassiterite), Walikale (+/- 10 MT cassiterite/day, diamonds and gold) and Lulingu (gold and cassiterite) are produced in large quantities, but none of this (or very little) is being taxed. Also of importance is the fact that coltan has lost its attraction and has been almost entirely replaced by cassiterite; the two minerals are usually found side by side.

Smuggling on the borders also continues unabated. Cargoes worth tens of thousands of dollars cross the official borders every day, yet almost entirely evade the tax authority. There is no other explanation than that officials at all levels are involved in this fraud, which is evident in the shape of the grandiose villas that are being constructed in all the major towns.

Even so, each province sends a few hundred thousand dollars to Kinshasa each month, 90% of the revenues, but hardly anything is used to pay the officials across the country or to pay for social services. The military have, however, received a salary (\$10 to \$12 a month) for several months, although around 40% of this is skimmed off by the high command.

The World Bank is channelling a large part of the international community's money via a structure called the BCECO (*Bureau Central de Coordination*). The BCECO is supposed to work in close collaboration with the Ministry of Planning. In the Kivus, its policy is to work mainly with civil society structures and only in towns, as "the security in the interior is not guaranteed". Local communities are surprised to learn that their government is more "security conscious" than the international NGOs. In addition, local NGOs and businesses claim that to gain access to the BCECO's money, they

have to bribe their way through an enormous bureaucratic jungle involving governors, mayors, ministers and the BCECO itself.

The Congolese therefore realise that they still have to fend for themselves and, in cases of emergency, rely on the international humanitarian NGOs.

Banyarwanda and the nationality issue

Although one of the four vice-presidents of the DRC is from the Banyamulenge community, the nationality of the Banyarwanda remains a controversial issue in many circles. In the first instance, this arises from messages conveyed to the public by certain politicians and civil leaders, both in Kinshasa and the Kivus. For opportunistic reasons these politicians and civil society leaders accuse the Banyarwanda of being behind all the troubles in the Kivus – this despite their having supported the TG from the onset (the Banyamulenge more than the Banyarwanda from North Kivu). There is a logic in this, as their small community has had a very important influence, both on politics and in the army.

However, some of the Banyamulenge, and more importantly the Banyarwanda of North Kivu, have been reluctant to put all their eggs in the transition basket. They realised that despite the political and military positions occupied by their leaders, they were still not fully accepted as Congolese. The suspicions of the Banyarwanda as well as of other communities, and the fact that some of the military commanders refused to carry out their duties in Kinshasa, gave Kivu radicals the opportunity to suggest that Banyarwanda were plotting a new rebellion, continuing to be in the service of Rwanda. Others went further and claimed that in fact they were all Rwandans.

Until the affair of Nyabiolwa-Mutebutshe, most people in the Kivus, and many in Kinshasa, preferred not to get involved in these controversies and were simply glad that the war was over. However, when tensions increased in South Kivu, the Banyamulenge were perceived by the public, once again, as the aggressors. It was also from that time that Radio Patriot resumed broadcasting. This radio station is supported by elements in civil society who have, by means of tracts and statements broadcast by the officially accredited radios, supported the thesis that all Banyamulenge were collaborating with Rwanda and were in favour of starting a new war. As a result certain Banyamulenge as well as some Rwandans have been attacked by civilians and military elements in Bukavu. The Banyamulenge community, in its turn, has reacted with equally uncompromising and exaggerated messages, which have further fuelled the conflict.

The situation has now calmed down somewhat, but meetings such as those organised by Minister Vital Kemerhe in Kinshasa (on 2 May) and press reports identifying Banyarwanda from North and South Kivu as part of the Rwandan military, show that the issue has not yet been resolved.

Rwanda's involvement

Rwanda continues to have a great interest in the DRC, in particular in the Kivu region. It follows what is happening closely, and as was shown by a report published by MONUC, some of its troops from time to time cross the borders into the DRC. It is doubtful whether these troops are permanently in the Congo. It is more likely that they carry out hit and run operations in

the border regions of North Kivu. Borders are long, and on the DRC side sparsely populated and undemarcated. In fact, MONUC required GPS equipment to establish that the location where they encountered the RDF soldiers was in the DRC.

The situation in North Kivu appears to be very complex. There are continuous reports that there are Rwandan troops on the ground, but except for a recent MONUC report, there has been little to prove that this is, indeed, the case. It is unlikely that there are any Rwandan troops in South Kivu. Even during the attacks on some FDLR positions in early May, Rwandan troops were present in the frontline areas and apparently not involved, despite several reports suggesting the opposite.

Whether or not Rwanda has troops on the ground in North Kivu is an important question, but there are other issues that are more important. Recent statements by Rwandan politicians and military leaders indicate that Rwanda has serious doubts about the capacity of the FARDC and MONUC to secure the DRC–Rwanda border. They are partly right about this, although on the other hand it is not at all clear that the FDLR will make use of the permeable borderline to attack Rwanda with a force large enough to destabilise the country.

As Rwanda is usually well informed about the situation in the Kivus, the threat made by senior Rwandan officials, including the president and the army chief of staff, to return to the DRC for security reasons should be viewed with some reservation. Rwanda faces no immediate security threat from the DRC that cannot be handled and if it wants to return now, there may also be other reasons.

Rwanda, even if it respects all relevant agreements and applicable international laws, has an enormous influence in DRC politics. This tiny neighbour is very often used to distract both the Congolese population and the international community from issues that are equally or even more important. Rwanda is the shield behind which many internal failures are hidden. Congolese politicians are not able to explain why their huge and rich country is not able to channel its resources in such a way that its military and administration can take care of internal tensions, foreign militias and border security.

Conclusion

The transitional process and peace building in the DRC are in a very difficult phase and there is no obvious – and certainly no easy – solution. The leadership of the country is divided along former belligerent lines but also between the formal TG and parallel informal structures.

To deal with the country's many problems, members of the TG need to work together and have clear objectives beyond the implementation of the accords and the constitution that guides the transition. These provide the framework for ending the war and a process leading to elections, but do not resolve the underlying issues. Unless the root causes are resolved, the environment will continue to provide fruitful ground for new rebellions. Alternatively, we could simply see a gradual disintegration of the DRC.

However, even the process agreed in South Africa is not being implemented or, at its best, is well behind schedule. The members of the TG lack common objectives and deeply mistrust each other. The process is often paralysed simply because one of the parties is afraid that another may gain

something. One result is the current stalemate in the appointment of the new administration at provincial level; another is the absence of proposals for laws on issues like the national census, elections or nationality to parliament.

In the Kivus, there are numerous problems between and within communities and political groupings, as well as with the country's neighbours, Rwanda, Burundi and Uganda. But those problems have not and would not easily have turned violent without the poor leadership of the TG. The most important trigger of crisis situations in North or South Kivu, has been the non-unified command structure. Although officially unified, the *Maison Militaire* at the presidency and the RCD leadership regularly bypass the army chief of staff and give their own instructions to their loyalists in the field.

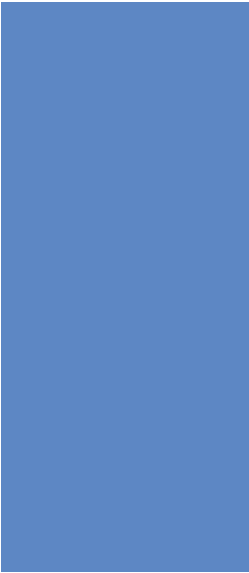
The main reason for the lack of unification of the DRC's security forces is the mistrust between former belligerents. Another factor is that there are tensions and internal opposition groups within all the parties. Many harbour doubts about the level of control that President Kabila or Vice-President Ruberwa have over their respective adherents. It appears that structures such as the *Maison Militaire* are operating with a large degree of independence, even within their own group.

The people of the DRC, together with many of the military and politicians, whether in the east or the west, have gained too little from this peace process to fully support its main actors. This needs to change within the foreseeable future, otherwise there is a huge risk that more groups will start to distance themselves from the TG. This has been the case with some Mayi-Mayi, Masunzu and individual RCD commanders in the Kivus as well as, for example, Jérôme Kakwavu in Ituri, groups in Katanga and the Kasais or the ex-FAZ in Brazzaville. Although, the resistance from these parties is not recognised as rebellion it is tantamount to rebellion. It is important to note that many of these "rebels" are supported by groups within the TG, particularly those from the previous government.

In this regard, the group surrounding North Kivu strongman Serufuli is perhaps the most prominent threat for the TG. This group has clear objectives and will only accept being part of the transition if Governor Serufuli is confirmed as governor by the transitional authority and, moreover, that the decentralisation process takes root. If these two conditions are not fulfilled it is likely that North Kivu will become unmanageable for the authorities in Kinshasa.

As was previously discussed, anti-Banyarwanda feelings frequently expressed by both civil society and certain politicians pose another threat. The Banyamulenge passionately supported the transition at the beginning, but they have gradually started to realise that having a vice-president and several generals does not provide them with the security and acceptance they seek. Those who accuse their community of collaborating with Rwanda or preparing new rebellions, push them into precisely that corner where they may develop the feeling that they have no choice but once again to join the opposition, possibly a rebellion, against the government in Kinshasa.

In the meantime, Rwanda will continue to defend its interests. Among these, security is an important issue, but so is access to and security of its



business community in the east. In this regard, it needs, especially in the Kivus, authorities favourable to its interests. However, because the TG is unable to guarantee any of the above, Rwanda may support groups with the potential to oppose or undermine the transition.

The way things are going, the future of the DRC appears grim. Even if the transition carries on, it is unlikely that security in the Kivus will return to acceptable levels in the foreseeable future. Even more unlikely is that the government will be able to pay its officials or carry out rehabilitation and development projects. Unless things change dramatically, there is a significant risk of new rebellions breaking out.

At this point in time, the initiative needs to be taken by the TG and its members. The international community, MONUC, the International Committee to Accompany the Transition (CIAT) and individual governments have only limited means of influencing this process.

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