BLACK GOLD IN THE CONGO: THREAT TO STABILITY OR DEVELOPMENT OPPORTUNITY?

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WORKING TO PREVENT CONFLICT WORLDWIDE

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

Although it should provide development opportunities, renewed oil interest in the Democratic Republic of the Congo (DRC) represents a real threat to stability in a still vulnerable post-conflict country. Exploration has begun, but oil prospecting is nurturing old resentments among local communities and contributing to border tensions with neighbouring countries. If oil reserves are confirmed in the east, this would exacerbate deep-rooted conflict dynamics in the Kivus. An upsurge in fighting since the start of 2012, including the emergence of a new rebellion in North Kivu and the resumption of armed groups' territorial expansion, has further complicated stability in the east, which is the new focus for oil exploration. New oil reserves could also create new centres of power and question Katanga's (DRC's traditional economic hub) political influence. Preventive action is needed to turn a real threat to stability into a genuine development opportunity.

Potential oil reserves straddle the country's borders with Uganda, Angola and possibly other countries and could rekindle old sensitivities once exploration commences. In the context of a general oil rush in Central and East Africa, the lack of clearly defined borders, especially in the Great Lakes region, poses significant risk for maintaining regional stability.

Clashes between the Congolese and Ugandan armies in 2007 led to the Ngurdoto Accords establishing a system for regulating border oil problems, but Kinshasa's reluctance to implement this agreement and the collapse of the Ugandan-Congolese dialogue threaten future relations between the two countries. In the west, failure to find an amicable solution to an Angolan-Congolese dispute about offshore concessions has worsened relations between the two countries and led to the violent expulsion from Angola of Congolese nationals. Instead of investing in the resolution of border conflicts with its neighbours before beginning oil exploration, the Congolese government is ignoring the problem, failing to dialogue with Uganda and officially claiming an extension of its maritime borders with Angola.

The abduction in 2011 of an oil employee in the Virunga Park, in the Kivus, is a reminder that exploration is taking place in disputed areas where ethnic groups are competing for territorial control and the army and militias are engaged in years of illegally exploiting natural resources. Given that the Kivus are high-risk areas, oil discovery could aggravate the conflict. Moreover, confirmation of oil reserves in the Central Basin and the east could feed secessionist tendencies in a context of failed decentralisation and financial discontent between the central government and the provinces.

Poor governance has been the hallmark of the oil sector since exploration resumed in the east and west of the country. Even with only one producing oil company, the black gold is the main source of government revenue and yet, with exploration in full swing, oil sector reform is very slow. Instead of creating clear procedures, a transparent legal framework and robust institutions, previous governments have behaved like speculators, in a way that is reminiscent of practices in the mining sector. Reflecting the very degraded business climate, they have allocated and reallocated concessions and often acted without considering the needs of the local people and international commitments, especially regarding environmental protection.

The official division of exploration blocks includes natural parks, some of which are World Heritage Sites. It also directly threatens the resources of local populations in some areas. Initiatives to promote financial and contractual transparency are contradicted by the lack of transparency in allocating concessions. The state's failure to adequately regulate the diverging and potentially conflicting interests of companies and poor communities is clearly causing local resentment, which could easily flare up into local violence that could be manipulated.

In a context of massive poverty, weak state, poor governance and regional insecurity, an oil rush will have a strong destabilising effect unless the government adopts several significant steps regionally and nationally to avert such a devastating scenario. Regionally, it should draw on the close support of the African Union (AU) and the World Bank Group to design a management model for cross-border reserves and help facilitate a border demarcation program. Nationally, the government should implement oil sector reform, declare a moratorium on the exploration of insecure areas, especially in the east where the situation is again deteriorating, until these territories are made secure, and involve the provinces in the main management decisions concerning this resource.

RECOMMENDATIONS

To the Countries of the Sub-Region:

1. Negotiate a framework agreement for the exploration and development of cross-border reserves, with the support of the AU and the World Bank Group, to provide for the involvement of one or more companies, revenue-sharing and dispute resolution mechanisms.

To the Government of the Democratic Republic of the Congo and neighbouring countries:

2. Begin a border demarcation program, with support from the AU Border Programme, before allocating any more exploration blocks in disputed areas, to clarify the situation on various borders; implement the Ngurdoto Accords with Uganda; and seek a comprehensive and amicable agreement to end disputes with Angola.

To the Government of the Democratic Republic of the Congo:

3. Declare a moratorium on exploration in insecure areas of eastern Congo and enforce the ban on exploration in World Heritage Sites.

4. Reform oil governance, including by:

   a) defining a policy for the sector and setting up an hydrocarbons code;

   b) ensuring contractual and financial transparency;

   c) democratising the decision-making process for the awarding of oil rights and the assessment of the implementation of the production sharing contracts signed with the companies;

   d) granting exploration and production rights following an open and transparent competition and banning mutual agreements and allocation of exploration and production rights to companies whose beneficial ownership information is not publicly available; and

   e) determining clearly the fiscal, social and environmental obligations of companies according to international good practice and making information and consultation of local communities compulsory, as well as a participatory approach for local development.

5. Involve affected provinces in main oil management decisions and, if oil reserves are confirmed, ensure the provinces and local communities benefit from revenues.

To the African Union, the World Bank Group and donors:

6. Provide technical and financial assistance to the Congolese authorities for the border demarcation, the framework agreement for the exploration and development of cross-border reserves and oil governance reform.

7. Support the Congolese civil society efforts to build a monitoring capacity in the oil sector.

To the Oil Companies:

8. Disclose contracts and payments made to the Congolese government.

9. Respect international laws and agreements and Congolese laws.

10. Include a human rights assessment in their preliminary studies.

Kinshasa/Nairobi/Brussels, 11 July 2012

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I. INTRODUCTION

Oil production in the Democratic Republic of the Congo (DRC) began in the 1960s along its tiny Atlantic Ocean coastline. Although it is the main resource of the state budget, it has been overshadowed by the mineral wealth and mainly ignored by successive governments. However, after the frenetic upsurge in exploration on the continent in the last few years,[1] Congo's increasingly prominent oil sector is the subject of renewed interest by international oil companies. If their expectations of new finds are confirmed, Congo's black gold may dislodge the mining sector from its prime status in the country.

However, in the wake of the November 2011 fraudulent national elections,[2] amid deteriorating security and heavy presence of armed groups in the east,[3] border tensions with Angola and Uganda, and lack of real reforms, an "oil rush" presents more of a threat than an opportunity. There are real doubts that the population will benefit from the new oil wealth. Inadequate legislation, the absence of state regulation, a lack of financial transparency and the "presidentialisation" of this strategic sector risk casting a curse on the oil industry – much like the mining sector – and becoming a new centre of tension between local and foreign interests. Similarly, without an institutionalised dialogue with civil society and genuine decentralisation, provinces and communities where the hydrocarbons are located may not benefit from the revenues, which could fuel resentment and further weaken national cohesion.

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[1] John Ghazvinian, *Untapped* (London, 2007) and Douglas Yates, *Scramble for African Oil: Oppression, Corruption and War for Control of Africa's Natural Resources* (London, 2012). East Africa has attracted significant interest from oil companies, but the DRC is lagging behind its eastern neighbours (Burundi, Tanzania, Rwanda) in terms of exploration and its oil and gas potential remains speculative. See "Scramble for East Africa's black gold likely to hot up, say analysts", *The East African*, 26 March 2012. "Multinational firms flock to East Africa in search of oil", *The East African*, 31 March 2012.

[2] There was significant international acknowledgement that the elections were highly fraudulent and marred by violence and corruption. See "Democratic Republic of the Congo Legislative Election Results Compromised", Carter Center, 23 February 2012; European Union (EU) Election Observation Mission, Final Report, 29 March 2012; "DR Congo: Learning the Lessons", Crisis Group Africa Peacebuilding blog at www.crisisgroupblogs.org/africanpeacebuilding.

[3] Security in the east has worsened since the November 2011 elections, particularly with a mutiny led by ICC-indicted General Bosco Ntaganda that turned into a new rebellion. See "Mutinies in the East: Beyond the Terminator", Crisis Group Africa Peacebuilding blog at www.crisisgroupblogs.org/africanpeace building.

II. OIL: A PROBLEM OF BORDERS

The oil resources currently being exploited in the DRC are located on the Atlantic Ocean coastline in Bas-Congo province. There has been a revival in exploration in Bas-Congo since 2000 and in eastern Congo since 2006.[4] In both regions, the oil reserves straddle borders with Angola and Uganda, respectively. However, flawed demarcation of the DRC's incredibly long borders has contributed to already turbulent and contentious relations with its neighbours. What some authors call "the first continental African war"[5] has left a legacy of difficult issues between Central African countries (eg, migrations and cross-border rebellions).[6] In this context, oil exploration has revived very sensitive border issues with Uganda and Angola that have provoked inter-state tension.

A. Offshore Disagreement between the DRC and Angola

One of the biggest oil fields in the DRC is probably located along its 37km-long Atlantic Ocean coastline, but the country currently only produces 27,000 to 28,000 barrels per day (bpd) in total,[7] partly because its exclusive economic zone (EEZ)[8] is very small.[9]

The country's sea access, as well as its territorial waters, is squeezed between Angola and its Cabinda exclave. This territorial division was established during the Berlin conference in 1885[10] and remained intact when the Organisation of African Unity agreed to recognise these and other colonial boundaries under its principle of the inviolability of colonial borders. Unfortunately, most of DRC's borders inherited from the colonial period were not well defined.[11] President Mobutu Sese Seko did not take issue with these contentious divisions and the DRC vaguely defined its maritime borders in 1974 and accepted the status quo.[12] As a result, Angolan oil blocks surround Congolese territorial waters. In the light of developments in the offshore oil industry, Kinshasa is now challenging these colonial arrangements.

1. The creation of a common interest zone

Since June 2003, the DRC has officially claimed (and unofficially for a long period prior)[13] a proportion of the oil extracted from the deep-water Angolan production blocks. Kinshasa could not negotiate prior to 2003 because of Luanda's military support for Laurent Désiré Kabila and his successor Joseph Kabila during the civil war.[14] Angola has increased oil production from deep-water operations in the disputed blocks since the beginning of the century[15] and now produces 1.7 million bpd,[16] including 220,000

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[4] In an indication of this revival of interest, Kinshasa hosted the Fourth African Petroleum Congress and Exhibition (CAPE IV) in 2010. See Appendices B, C and D for the geography of oil production and exploration in the DRC and Appendix E for the oil contracts approved by the government.
[5] Gérard Prunier, *From Genocide to Continental War: The Congolese Conflict and the Crisis of Contemporary Africa* (Oxford, 2009).
[6] For the turbulent history of regional relations and intertwined civil wars of the 1990s, see Crisis Group Africa Report N°181, *Implementing Peace and Security Architecture (I): Central Africa*, 7 November 2011.
[7] Hydrostat, "Hydrocarbon sector statistics 2004-2010", hydrocarbons ministry, Kinshasa, 2011.
[8] According to the Law of the Sea, coastal states have sovereign rights in their exclusive economic zone (EEZ) "for the purpose of exploring and exploiting … natural resources". The EEZ "shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured". Articles 56 and 57 of the UN Convention on the Law of the Sea (UNCLOS), Montego Bay, 10 December 1982.
[9] See the map of the coast and oil concessions in Appendix B.
[10] "Convention entre le Portugal et l'Association Internationale du Congo", Appendices to the protocol of the Berlin conference, 14 February 1885.
[11] Cases of precise demarcation in the colonial period were rare. The DRC's borders were first defined in the treaties agreed by the colonial powers (France, Portugal, Germany, UK and Belgium) in 1885. They were demarcated at the beginning of the 20th century, but remained imprecise because of mapping errors, the selection of rivers that necessarily change their course and non-sharing of islands. Other treaties from the colonial period caused border disputes before and after independence. For example, tension between the then Zaire and Burundi about the Ruzizi border area in the 1980s echoed the Germany-Belgium tensions at the beginning of the 20th century. Célestin Nguya-Ndila Malengana, *Frontières et voisinage en République démocratique du Congo* (Kinshasa, 2006).
[12] Law 74-009 of 10 July 1974 demarcating the territorial waters of Zaire, *Daily Gazette*, Special Number, 15 October 2005.
[13] Informal negotiations took place under Mobutu's rule, but without much pressure because there was no production in the disputed areas at that time.
[14] For more details, see Crisis Group Africa Report N°26, *Scramble for Africa: Anatomy of an Ugly War*, 20 December 2000. When Laurent Désiré Kabila came to power in 1997, these discussions ended because the minister of state responsible for the economy and later for oil in 1999, Pierre-Victor Mpoyo, was very close to Angola. He was also director of the Angolan subsidiary of the Elf oil company in the 1990s and behind Angola's support for Laurent Désiré Kabila. He reportedly felt that Luanda's political and financial assistance required the DRC to act with a degree of restraint over the offshore oil fields. Crisis Group interview, member of Laurent Désiré Kabila's government, Paris, January 2012. *Africa Energy Intelligence*, no. 464, 4 June 2003.
[15] Major oil companies, including BP, Chevron, Exxon, and Total, made important discoveries in deep-water, particularly in blocks 14, 15 and 31.
[16] BP Statistical Review of World Energy, June 2012.

bpd in block 14[17] and 640,000 bpd in block 15,[18] which are in DRC's claimed EEZ.[19] As a result, Angola is the second oil producer in Africa.[20]

Despite Luanda's economic, political and military superiority, the two countries began negotiations in May 2003 and signed their first memorandum of understanding (MOU) in August 2003.[21] This agreement established joint technical committees mandated to prepare proposals to resolve maritime border disputes. In 2004, the two countries created, in principle, the common interest zone (CIZ) as a new special exploration area.[22] The Angolan government approved this initiative in September 2004,[23] but DRC only did so in November 2007.[24] The CIZ arranged for the two neighbours to share oil revenues equally; once the arrangement implemented, DRC would receive the prorata reimbursement of revenues made by Angola from its investments in the CIZ; and unitisation agreements[25] for the oil fields that straddle the border.[26]

Although the DRC ratified the MOU, the decision was not unanimous. Senator Lunda Bululu opposed it because the area and coordinates of the CIZ were imprecise and the members of the Congolese Assembly did not have information on the extent of hydrocarbon reserves or the blocks where production was already underway.[27] The MOU was all the more disadvantageous to the DRC because it did not provide compensation for the loss of a share of the royalties already received by Angola from blocks under production.

2. The Montego Bay option

The CIZ has not resolved the territorial dispute between Angola and the DRC. In April 2009, the Congolese hydrocarbons minister, René Isekemanga Nkeka,[28] presented a bill, approved by the Senate on 7 May, including blocks 1, 14, 15 and 31 in the country's EEZ and referring explicitly to the continental shelf dispute.[29] On the same day, in a move angering Luanda, which believed the CIZ had put an end to the DRC's demands, Kinshasa lodged a complaint to the UN Commission on the Limits of the Continental Shelf stating "the area of the continental shelf … is under de facto occupation by Angola".[30] Article 77 of the UN Convention on the Law of the Sea (UNCLOS, also known as Montego Bay Convention from where it was signed) says "the coastal State exercises over the continental shelf sovereignty rights for the purpose of exploring it and exploiting its natural resources". These rights

[17] Country Analysis Briefs, Angola, US Energy Information Agency, August 2011.
[18] Ibid.
[19] Offshore E&P, Area of activity, Sonangol, www.sonangol.co.ao. See also map in Appendix B.
[20] Nigeria remains the first. *Annual Statistical Bulletin*, Organization of the Petroleum Exporting Countries, 2010-2011, p. 108.
[21] "Adoption d'un memorandum sur l'exploitation du pétrole", Angola Press, 19 August 2003.
[22] Common interest zones (CIZs), which can be established when a deposit is located on the maritime borders of two or more states, consist of an ad hoc arrangement for joint administration of the maritime area in question. See Ménélik Essono, *Différends frontaliers maritimes et exploitation pétrolière dans le Golfe de Guinée*, international public law dissertation, (Kisangani University, 2010-2011). Angola created another CIZ in June 2003 with Congo-Brazzaville, in which both countries agreed to share the revenues from the Lianzi oil field. "Champ pétrolier de Lianzi: plus d'un milliard de dollars pour l'exploitation", *Journal de Brazza*, 2 March 2012.
[23] "Zone pétrolière commune", *Africa Energy Intelligence*, no. 494, 22 September 2004.
[24] Then-minister of hydrocarbons, Lambert Mendé Omalanga, approved it on 30 July 2007, and the National Assembly ratified it in November. Law 07/004 of 16 November 2007 authorising ratification of the agreement on the development and production of hydrocarbons in the maritime common interest zone signed by the DRC and Angola in Luanda, on 30 July 2007.
[25] "A unitisation agreement is an agreement between parties about the joint development of several concessions from the same reservoir", Madeleine Moureau and Gérald Brace, *Dictionnaire du pétrole et autres sources d'énergies* (Paris, 2008). This practice has been widespread in the petroleum industry since the North Sea petroleum fields were brought on stream by the UK and Norway. Others include the 6 March 2003 International Unitisation Agreement between Australia and East Timor; the 3 April 2002 treaty between Equatorial Guinea and Nigeria on the joint production of crude oil, particularly in the Zafiro-Ekanga field located on the maritime border of the two states; and the 20 March 2007 framework treaty on joint development of the hydrocarbon reserves that extend across the borders of Trinidad and Tobago and Venezuela. Angola and Congo-Brazzaville have also signed a unitisation agreement for the Lianzi offshore field. "Angola/ROC sign agreement for joint exploration", *Petroleum Africa*, 20 March 2012.
[26] Agreement between the DRC and Angola on the development and production of hydrocarbons in the maritime CIZ, 30 July 2007, Articles 3, 4 and 5. "Les frontières de la discorde: RD Congo-Angola", *Jeune Afrique*, 29 March 2010.
[27] Memo for the attention of the honourable senators, Honourable Lunda Bululu, 1 October 2007.
[28] René Isekemanga Nkeka was born in 1951 in the Equateur Province. He was managing director of Petro-Zaire (Cohydro's predecessor) and chief executive of the Société zaïro-italienne de raffinage (SOZIR), which was ruling Moanda's small refinery. He was also one of the directors of the national mining society Gécamines and served several terms as an MP for Befale constituency, in Equateur.
[29] Law 09/002 on the demarcation of the Democratic Republic of Congo's territorial waters, 7 May 2009.
[30] Preliminary information to the Commission on the Limits of the Continental Shelf, in accordance with Article 76, paragraph 8 of the United Nations Convention on the Law of the Sea, 1982, concerning the Gulf of Guinea, Democratic Republic of Congo, 7 May 2009.

are exclusive, whether the state exploits its continental shelf or not.[31]

Angola rejected the Congolese initiative as a move "aimed at the unilateral delimitation of all maritime areas"[32] aggravating tensions. On 21 June 2009, the Congolese prime minister, Adolphe Muzito, the foreign and interior ministers, and Bandundu and Bas-Congo governors, went to Luanda to iron out the problem. But both countries began a wave of reciprocal expulsions, which was denounced by the UN and non-governmental NGOs.[33] In 2009, 32,000 Congolese and 18,000 Angolans were respectively expelled.[34] On 13 October 2009, an Angolan ministerial delegation met its Congolese counterparts to reach agreement on the need to review their land borders and halt expulsions,[35] but the Angolan Armed Forces then briefly crossed into Congolese territory and occupied two villages in Tshela Territory in Bas-Congo.[36] A few days later, the Angolan president refused to attend the fourteenth ordinary summit meeting of the Economic Community of Central African States (ECCAS) in Kinshasa.[37]

Reciprocal financial claims are one of the root causes of this dispute. Angola estimated that the illegal production of diamonds by Congolese prospectors in its northern provinces cost the country between $350 and $700 million in annual revenues[38] while the DRC claimed that Luanda owed it $650 million in oil revenues.[39]

At the ninth session of the Angola-DRC bilateral commission held in Luanda on 15-17 December 2009, the Angolan government took the opportunity to remind its neighbour of the 2007 CIZ agreement and its responsibility to ensure its implementation.[40] It also highlighted the commitments made by Laurent Désiré Kabila, including an agreement to pay financial compensation for the offshore oil exploitation and allow the Angolan army to enter Congolese territory in pursuit of the rebels of the Front for the Liberation of the Enclave of Cabinda (FLEC).[41] The two countries agreed to create a joint working group to demarcate their maritime borders.[42] However, violent expulsions and Angolan military incursions continued and increased in 2011 while discussions about sharing oil revenues ground to a halt.[43]

3. Negotiations on the Cabinda/Soyo gas pipeline

The gas pipeline between the Cabinda enclave and the town of Soyo, in northern mainland Angola, was another bone of contention between Luanda and Kinshasa, but both governments eventually reached an agreement. This project, which is run by Chevron and its subsidiary Cabinda Gulf Oil, will transport gas extracted from the Cabinda waters to the future Angolan liquefied natural gas plant in Soyo. Approved by the Angolan government in December 2007, the plant is scheduled to begin operations in 2012. In order to avoid the additional costs of installing extremely deep submarine links, the gas from the Cabinda waters must be transported through Congolese territorial waters to the Soyo refinery.

Negotiations with the Congolese authorities on this project began in 2007. Kinshasa immediately wanted to use the pipeline as a bargaining chip in negotiations on the disputed offshore blocks. However, the Council of Ministers agreed in principle to the passage of the gas pipeline

[31] Article 77-2 of UNCLOS. The convention's Annex II created a Commission on the Limits of the Continental Shelf, whose decisions must be observed by coastal states.
[32] Letter from the permanent mission of the Republic of Angola to the UN, New York, 31 July 2009.
[33] "Ivan Simonovic condamne la violation des droits des Congolais expulsés d'Angola", Radio Okapi, 10 May 2012.
[34] "Une crise humanitaire frappant les dizaines de milliers de personnes expulsées par la République démocratique du Congo (RDC) vers l'Angola voisin commence à surgir." Integrated Regional Information Networks (IRIN), 21 October 2009. "L'ambassadeur Emilio José de Carvalho: L'expulsion des Congolais de l'Angola relève de la souveraineté de chaque pays d'établir la légalité sur son territoire". *Geopolis Magazine*, October-November 2010.
[35] "L'Angola et la RDC vont réévaluer les limites frontalières", Angola Press, 13 October 2009.
[36] "Bas-Congo: Nouvelle incursion de l'armée angolaise à Tshela", Radio Okapi, 21 October 2009.
[37] "14ème sommet de la CEEAC", *L'Observateur*, 23 October 2009.
[38] Cable 09Kinshasa1061, SA Wolpe in Kinshasa 2/3: Angolan resources, cable from U.S. embassy of Kinshasa, 7 December 2009, as published by WikiLeaks.
[39] "Congo-Angola: partir loin des 'six cent cinquante millions' des dollars déclarés provenant des ZIC, pour finalement tomber à l'arrivée avec des dettes non déclarées", *La voix du Congo*, 22 December 2009.
[40] Joint communiqué of the ninth session of the Angola-DRC bilateral commission, Luanda, 15-17 December 2009, Articles 9 and 10.
[41] "Congo-Angola: partir loin des 'six cent cinquante millions' des dollars déclarés", op. cit. Created in 1963, the FLEC is fighting for the independence of Cabinda since Angola became independent in 1975.
[42] Joint communiqué of the ninth session of the Angola-DRC bilateral commission, op. cit., Articles 13 and 14.
[43] On 3 May 2011, clashes between the FAA and FLEC around the village of Mbata Yema in Tshela Territory, in Bas-Congo, left at least two Angolan soldiers dead. Following this clash, the Congolese government deployed the army to Tshela to patrol the border. The Congolese prime minister, Adolphe Muzito, visited Luanda on 23 June 2011. The FAA clashed again with FLEC forces in Tshela on 31 July. Crisis Group interview, deputy, Kinshasa, June 2011.

through Congolese territory in August 2009[44] and confirmed by Congolese presidential decree on 12 January 2011.[45]

B. Difficult Dialogue between Uganda and the DRC

Like all the Great Lakes, Lake Albert in the Ituri District is a natural border, whose demarcation between Uganda and the DRC became a problem as soon as oil exploration started. Since 2003, Lake Albert's oil has been associated with violence in Ituri and is one of the causes of Ugandan military incursions.[46] In 2007, the imprecise delimitation of the border led to brief military clashes between the two neighbours. Despite attempts to reach agreement, mistrust remains a prominent feature of Uganda-DRC dialogue, which stumbles over several outstanding issues. This is highly problematic because exploration is progressing fast on the Ugandan shore of the lake while it seems very slow on the Congolese side.

1. The problematic exploration of Lake Albert

The presence of oil in the region has been known for a long time. Shell explored the Ugandan side of Lake Albert in 1938 and the Congolese side between 1952 and 1954.[47] Interest in the lake only revived with the signature of the first exploration contract in 1997 between the Ugandan government and Heritage Oil and the arrival of the Tullow Oil company in 2006 in Congo.

In 2002, while Ituri was in the throes of inter-ethnic violence and occupied by the Ugandan army, which plundered natural resources,[48] Heritage Oil, a London-based oil company, approached the Congolese government about assessing the oil potential for this district of Orientale Province.[49] Heritage Oil signed a Memorandum of Understanding with Kinshasa on 2 June 2002 to explore an immense area of 30,000 sq km stretching from the town of Rutshuru, south of Lake Edward, to Mahagi, at the northern end of Lake Albert.[50] Despite the agreement, no exploration took place on the Congolese side for various reasons, including the security situation, which only stabilised after 2005.[51] However, it was carried out on the Ugandan side,[52] reviving tensions between the two countries, particularly over the sovereignty of Rukwanzi Island.

Exploration continued on the Ugandan side but the legacy of the war and Congolese resentment towards Kampala was exacerbated, notably by Kampala's refusal to pay war reparations.[53] In frustration, many Congolese accused oil companies working in Uganda of a biased approach to drilling in the lake and of "stealing Congolese oil".[54] On 1

[44] Minutes of the extraordinary meeting of the Council of Ministers, Chapter 2: Study of dossiers, paragraph 5, hydrocarbons ministry, 4 August 2009. "Dans un avenir proche: la pose d'un gazoduc entre les champs pétroliers de Cabinda et Soyo", *L'Avenir*, 5 August 2009.

[45] Presidential Order 11/001 of 12 January 2011 approving the 7 October 2010 agreement between the DRC and Cabinda Gulf Oil Company Limited on the installation and operation of a gas pipeline between the Cabinda oil fields and Soyo in Angola crossing the DRC's territorial waters, *Daily Gazette*, 13 January 2011.

[46] Dominic Johnson, "Les sables mouvants: L'exploitation du pétrole dans le graben et le conflit congolais", *Regards Croisés*, no. 9, Pole Institute, March 2003.

[47] Benjamin Augé "Border Conflicts Tied to Hydrocarbons in the Great Lakes Region of Africa" in Jacques Lesourne, *Governance of Oil in Africa: Unfinished Business* (Paris, 2009).

[48] Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of Congo v. Uganda), Judgment of 19 December 2005, International Court of Justice, 19 December 2005.

[49] In 1999, a conflict between the Hema, Lendu and Nandé ethnic groups, respectively organised in the Union of Congolese Patriots (Union des patriotes congolais, UPC), the Integrationist Nationalist Front (Front des nationalistes intégrationnistes, FNI) and the Congolese Rally for Democracy (Rassemblement congolais pour la démocratie, RCD-K/ML) broke out in Ituri District. This conflict was an expression of old rivalries for control of land and trade. The Ugandan army occupied Ituri and began to trade natural resources, while Kampala encouraged secessionist attempts by some Ituri leaders. In June 2003, at the request of the UN Security Council, the EU sent a peacekeeping force to Bunia. For more details, see Crisis Group Africa Report N°64, *Congo Crisis: Military Intervention in Ituri*, 13 June 2003.

[50] "In-depth: Ituri in Eastern DRC", IRIN, 25 November 2002.

[51] Following the death of nine peacekeepers in February 2005, the UN and the government chose a military solution to the conflict. But when a militia held seven peacekeepers hostage in 2006, they were compelled to start a dialogue with the armed groups in Ituri. The 2006 elections were also an opportunity for the militias to become political parties and obtain seats in the provincial institutions. For an analysis of the conflict in Ituri, see Crisis Group Africa Report N°140, *Congo: Four Priorities for Sustainable Peace in Ituri*, 13 May 2008.

[52] "Exploration work on the Ugandan part of the lake has been very successful with six out of six wells discovering oil in the last 18 months", in "2007 Second Quarter Report", Heritage Oil Corporation, p. 1.

[53] "Consequently, and pursuant to the aforementioned international legal obligations, to adjudge and declare that: […] the Democratic Republic of the Congo is entitled to compensation from Uganda in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable to Uganda, in respect of which the Democratic Republic of the Congo reserves the right to determine at a later date the precise amount of the damage suffered, in addition to its claim for the restitution of all property removed". "Case concerning armed activities on the territory of the Congo (DRC v. Uganda)", 19 December 2005, International Court of Justice, paragraph 23, p. 17; Crisis Group interview, journalist, Kampala, July 2011.

[54] Many Iturians continue to complain about alleged "oil theft" by the companies operating on the Ugandan shores of Lake Al-

August 2007, the Congolese army (Forces armées de la République démocratique du Congo, FARDC) captured four soldiers of the Ugandan Patriotic Defence Forces (UPDF) and accused them of crossing the border at Rukwanzi.[55] Two days later, the two armies clashed close to a boat owned by Heritage Oil, killing one of the company's engineers.[56] Faced with the risk of renewed hostilities between Uganda and the DRC,[57] the UN Mission in the DRC (MONUC) force commander, General Babacar Gaye, was dispatched to Kampala by the UN Secretary-General's special representative in the DRC to defuse tensions.[58]

On 8 September, the Tanzanian president facilitated a meeting between Joseph Kabila and Yoweri Museveni at Ngurdoto, leading to an agreement to improve cooperation, especially for cross-border oil exploration and production.[59] The Ngurdoto Accords reaffirmed acceptance of the borders inherited from the colonial period and provided for the joint development of Lake Albert's oil reserves. However, on 25 September, seventeen days after the accords were signed, another deadly clash between the FARDC and the UPDF took place.[60]At the same time, troubles were brewing in Kinshasa over Lake Albert contracts, which further delayed exploration work in Ituri.[61]

2. Words without action

Uganda took the lead in bringing oil resources on stream on its side of the shores of Lake Albert[62] and expects production to begin in 2014.[63] Congo only allocated certain Lake Albert blocks in June 2010 and reportedly only to companies previously unknown in the oil world.[64] Despite their differences, the two countries are obliged to seek agreement on one point: their border. Demarcation on the lake was never a sensitive issue before oil exploration began.

Although the Ngurdoto Accords reaffirmed the inviolability of the colonial borders between the two countries, they also recognised that the 3 February 1915 agreement between Belgium and the UK was insufficiently precise to determine the border on Lake Albert. Indeed the accords provided for the creation of a joint commission to determine the exact border on the lake, demilitarise the disputed area and establish a joint administration for Rukwanzi Island.[65] The island is located in the south of the lake and no evidence indicates the presence of hydrocarbons in its vicinity.[66] Although the accords provided for joint administration to begin one month after the signature,[67] the DRC has never put this into practice.[68]

On 17 March 2008, work began on demarcating the border on Rukwanzi Island. However, ten days later, the governor of Orientale Province, Medar Autshai, said that it was Congolese territory and donated one million Congolese francs to the police and intelligence officers on duty there.[69] The

bert. Crisis Group interviews, politicians and members of civil society, Bunia, July 2011.

[55] See Crisis Group Report, *Congo: Four Priorities for Sustainable Peace in Ituri*, op. cit.

[56] The clash between armed men presenting themselves as FARDC and members of the UPDF left two dead, including a civil engineer employed by Heritage Oil. "British man shot dead on Ugandan lake", *The Sunday Times*, 7 August 2007.

[57] This was not the first border incident between the two countries. In 1988, relations between Uganda and the DRC, then Zaire, deteriorated following clashes between the Zaire Armed Forces (FAZ) and members of the Congo Liberation Party (Parti de libération du Congo, PLC) in the Ruwenzori mountains of North Kivu. In November 1988, the FAZ conducted military operations against the PLC in north-west Uganda, which led Kampala to close the border between the two countries. In December 1988, the FAZ attacked a military post in north-west Uganda. In April 1990, the two neighbours agreed to cooperate in the judicial, security and defence fields and signed a secret cooperation agreement in Kampala on 23 June 1990.

[58] "Bunia: empêcher d'éventuels affrontements entre les FARDC et l'UPDF", Radio Okapi, 15 August 2007.

[59] Annex to the letter dated 25 September 2007, from Uganda's permanent representative at the UN to the president of the Security Council, Accord on bilateral cooperation between the Democratic Republic of Congo and Uganda at Ngurdoto (Tanzania) on 8 September 2007, 25 September 2007, Chapter II, paragraph 2, S/2007/564.

[60] "La RDC proteste après la mort de six congolais tués par la marine ougandaise", Agence France-Presse, 26 September 2007.

[61] See Section III.A.2.

[62] On recent oil developments in Uganda, see Crisis Group Africa Report N°187, *Uganda: No Resolution to Growing Tensions*, 5 April 2012 and Petrus de Kock and Kathryn Sturman, *The Power of Oil: Charting Uganda's Transition to a Petro-State*, South African Institute for International Affairs Report N°10, March 2012.

[63] Crisis Group interview, oil expert, Paris, May 2012.

[64] See Section III.A.2. Crisis Group interview, oil expert, May 2012.

[65] Annex to the letter dated 25 September 2007, Ngurdoto Accords, op. cit., Chapter I, Article 3, paragraphs 3, 5 and 6.

[66] Hydrocarbons were discovered on the Ugandan side before any study was made of the Congolese side. "RDC/Ouganda: et au milieu coule une rivière", *Jeune Afrique*, 25 November 2009.

[67] Annex to the letter dated 25 September 2007, Ngurdoto Accords, op. cit., Chapter I, Article 3, paragraphs 6, S/2007/564.

[68] Uganda and DRC agreed to deploy their teams in Rukwanzi island between 8 and 31 January 2008. Report of the ministerial meeting of the fifth session of the joint commission of the Democratic Republic of Congo and Uganda, Chapter I, paragraphs 1.3.1, 1.3.2, 1.3.3, pp. 4-5. On 11 May 2008, Joseph Kabila and Yoweri Museveni, in their joint communiqué, agreed again to accelerate the establishment of a joint administration for Rukwanzi Island. "Communiqué conjoint sanctionnant la fin du sommet de Dar-Es-Salaam", Digital Congo, 13 May 2008.

[69] "Bunia: l'îlot de Rukwanzi est congolais, réaffirme le gouverneur Autshai", Radio Okapi, 30 March 2008.

Congolese government reiterated his statement on 22 September 2008.[70] Since then, waiting for funds and infrastructure it deems indispensable to any solution, Kinshasa has made no progress on the matter, leaving the controversy about Rukwanzi Island and the lake border to fester.[71]

Production on the Ugandan side posed new challenges between the two countries, including the securitisation of the oil fields area, the transport of oil from Ituri (if its presence was confirmed) and its refining. Both countries want a refinery and a pipeline.[72] In view of the financial implications, Kampala prefers its neighbour's oil to be transported and refined in Uganda, while Kinshasa sees this as an energy dependency risk. The Congolese authorities have countered this prospect by discussing the transport of the oil westwards.[73] Ugandan moves to promote industrial and economic cooperation between the two countries[74] have thus come up against Kinshasa's lack of enthusiasm.[75]

Finally, in February 2011, Kampala announced the construction of a pipeline to link the DRC to the port of Mombasa via Uganda[76] and the construction of a refinery.[77] Nonetheless, relations between DRC and Uganda remain plagued by mutual accusations and distrust,[78] and Kampala is unilaterally tightening security on Lake Albert, which may heighten tensions.[79]

C. Problems on the Horizon: Other Cross-border Reserves

Geologists believe that DRC has other promising geological basins, but they too are in disputed border zones. To the south of Lake Albert, Lakes Edward, Kivu and Tanganyika are all natural borders. The Central Basin[80] covers 800,000 sq km at the heart of the DRC and also stretches across the borders with Congo-Brazzaville and the Central African Republic, but the demarcation of these borders is imprecise. In addition, East Africa is attracting a lot of oil companies[81] and the DRC is lagging behind its eastern neighbours (Burundi, Tanzania, Rwanda) in terms of exploration. The Congo's gas and oil potential remains hypothetical and gives rise to speculation.

1. The cross-border lakes

Lake Edward

Exploration of Lake Edward is about to start on both sides of the Uganda-DRC border. Dominion Petroleum obtained exploration rights for Uganda's block 4B while the Congolese government allocated block 5 to Soco International and Dominion Petroleum in 2010.[82]

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[70] "La RDC n'a jamais cédé l'Ile de Rukwanzi à l'Ouganda!", Digital Congo, 23 September 2008.

[71] "Uganda blames delay on DR Congo", *Sunday Vision*, 25 April 2009.

[72] Uganda wants to build a pipeline between Lake Albert and the East African coast via Kenya, while the DRC wants to build a pipeline between this lake and the Atlantic coast. Crisis Group interview, member of the Congolese government, Kinshasa, March 2011.

[73] In order to transport its oil, the Congolese government is considering building a 6,500km-long pipeline linking the east of the country to the Atlantic coastline. "Hydrocarbures du cœur de l'Afrique à l'Atlantique", Italy-Central Africa Chamber of Commerce, 13 December 2010. Crisis Group interview, member of the Congolese government, Kinshasa, March 2011.

[74] Many oil companies believe that Uganda has the advantage because its production capacity is estimated at 400,000 bpd. They believe that the Congolese pipeline would only be feasible if massive oil reserves are discovered in the Central Basin. Crisis Group interview, oil expert, Paris, 30 September 2011.

[75] A meeting on this subject took place between the Ugandan and Congolese presidents at the inauguration of President Museveni, in May 2011, when the proposal to transport oil eastwards was apparently formulated. Crisis Group interview, member of the Congolese government, Kinshasa, March 2011.

[76] "Uganda says it will build pipeline carrying oil through Congo to Kenya's coast", Associated Press, 1 February 2011.

[77] "Uganda: Refinery must go ahead, says govt", *East African Business Week*, 15 April 2012.

[78] The plunder of natural resources is especially a cause of tension. In 2008, the Congolese government authorised the UPDF to conduct an operation against Joseph Kony's LRA on its territory. The operation was bogged down but Ugandan troops remained in north-east DRC and were again accused of plundering natural resources. See Crisis Group Africa Report N°182, *The Lord's Resistance Army: End Game?*, 17 November 2011. "Museveni appuie le 'Plan anglo-saxon' contre la Rdc en proposant un 'Sud Soudan' congolais", *Le Potentiel*, 5 February 2009.

[79] "Tighter security on lake Albert", *Africa Energy Intelligence*, 11 April 2012.

[80] The Central Basin was divided into 21 blocks in 2007, then into 25 blocks in 2011 and finally into 35 blocks in 2012. Ministerial order 118/CAB/MIN-HYDR/CMK/2011 of 27 October 2011 amending ministerial order 009/MIN-HYDR/IMO/2007 of 2 August 2007 partly setting out the geographical coordinates defining the outline of blocks opened for development in the Central Basin, hydrocarbons ministry, 27 October 2011. "La cuvette centrale redécoupée", *Africa Energy Intelligence*, no. 670, 29 February 2012. The latter boundary change was allegedly questioned by the presidency. Crisis Group telephone interview, oil expert, March 2012.

[81] "Scramble for East Africa's black gold likely to hot up", op. cit.; and "Multinational firms flock to East Africa in search of oil", op. cit.

[82] Order 10/044, approving a production sharing contract concluded on 5 December 2007 between the DRC and Dominion Petroleum Congo, Soco Exploration-production ROC and La Congolaise des Hydrocarbures for block 5 of the Albertine Graben of the DRC, 18 June 2010.

Block 5 is located at the centre of troubled areas in North Kivu. 52 per cent of the block is in Virunga National Park, which poses a major environmental challenge[83] and the Rutshuru and Lubero territories, where militias have a strong presence and armed groups regularly clash with each other, the FARDC and the Rwandan Armed Forces. The army commander and the chief of the Ugandan defence forces recently outlined the security risk posed to the Ugandan border oil fields by one armed group – the Allied Democratic Forces (ADF) – operating in this area of Congo.[84] In addition, the M23 rebellion seized control of Rutshuru Territory on 8 July 2012.

In an area where the illegal extraction of natural resources thrives, security remains highly precarious as discovery progresses. A South African employee of a Soco subcontractor was held hostage by the Democratic Forces for the Liberation of Rwanda (FDLR) on 14-16 February 2011.[85]

Lake Kivu: Rwanda makes progress

Belgian experts identified significant quantities of methane gas in Lake Kivu in 1935, but the first attempt to extract it from the lake only took place in 1963 by engineers working for Union Chimique Belge. The gas was used until 2005 to supply a brewery in Rwanda.[86] This lake, which is shared by the DRC and Rwanda, is unique for another reason: it is likely to produce aquatic eruptions.[87] The unclear borders around the lake have not caused problems between the two neighbours.[88] An agreement signed in Bukavu in 1975 provided that operations to extract methane must be conducted jointly. This was reaffirmed at a bilateral summit meeting at Gisenyi, on 26-28 March 2007, to which international experts were invited.[89]

Only Rwanda has begun to implement some projects. The most serious project started in 2009. After conducting research into the lake's potential, Contour Global signed an agreement with the Rwandan government in March 2009 for a 100 MW project. On 25 August 2011, Contour Global launched the first stage of the project by installing a methane extraction barge with a production capacity of 25 MW.[90]

Rwanda is planning for the joint development of gas reserves with the DRC. Following a meeting in June 2009 between the chair of the Board of Directors of the Congo National Electricity Company (SNEL), Eugène Serufuli Ngayabaseka,[91] and the Rwandan energy minister, Albert Butaré, an agreement was signed for the construction of a joint 200 MW project to extract methane gas from Lake Kivu.[92] Presidents Joseph Kabila and Paul Kagamé discussed the project at the Goma summit on 6 August 2009.[93] The Rwandan, Congolese and Burundian energy ministers met at Rubavu in Rwanda on 15-16 August to create a joint steering committee with a mandate to produce a feasibility study.[94] The Economic Community of the Great Lakes Countries (ECGLC),[95] particularly its energy department, was closely associated with this project.

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[83] See Section III.A.3.
[84] "Uganda: Army to keep an eye on oil fields", *The New Vision*, 9 May 2012.
[85] The FDLR dissident group Soki attacked a Soco convoy on 14 February 2011. Two South African employees of a security company contracted by Soco and four DRC soldiers were on the convoy. The rebels agreed to exchange their hostage for members of their group imprisoned in Goma and Rutshuru. The Soco subcontractor's employee was released after the alleged payment of a $2,000 ransom. Crisis Group interviews, civil society, Goma, 20 July 2011. "Rutshuru: les FDLR ont kidnappé un employé de Soco International au parc des Virunga", Radio Okapi, 16 February 2011.
[86] Benjamin Augé, "Border Conflicts Tied to Hydrocarbons in the Great Lakes Region of Africa", in Jacques Lesourne, op. cit., p. 17.
[87] Aquatic eruptions are gas explosions due to the saturation of the water with carbonic gas. This phenomenon is only present in three African lakes. The other two are Lakes Nyos, where an eruption in 1986 killed 1,700 people, and Lake Monoun, in Cameroon. Lake Kivu is even more dangerous because it is close to the cities of Goma and Bukavu in the DRC and Gisenyi and Kibuye in Rwanda.
[88] The DRC-Rwanda border is defined by the Brussels Protocol, signed by the Belgian, German and British governments on 14 May 1910. For more details, see Nguya-Ndila Malengana, op. cit.
[89] "Lambert Mende: "La RDC a un important gain à tirer de l'exploitation du gaz méthane du lac Kivu", *Le Potentiel*, 3 March 2007.
[90] "Methane gas extraction barge now afloat", *The New Times*, 26 August 2011.
[91] Eugène Serufuli Ngayabaseka is one of the founding members of the Rassemblement congolais pour la démocratie (RCD/Goma) in 1998. In 2000, he became vice president of RCD/Goma and was appointed governor of North Kivu. He led a local militia, the Local Defence Force (LDU). In 2006, he became a provincial parliamentarian for the RCD. In 2011, he left the RCD and founded his own party, l'Union des congolais pour le progrès (Union of the Congolese for Progress), and joined the coalition supporting Joseph Kabila.
[92] "RDC-Rwanda : 300 millions de dollars pour l'exploitation commune du gaz méthane du lac Kivu", Radio Okapi, 12 June 2009 and "RDC/Rwanda: signature d'un avenant sur l'exploitation du gaz méthane au Lac Kivu", Xinhua, 22 July 2009.
[93] Joint communiqué, summit meeting between Rwanda and the Democratic Republic of Congo, Goma, paragraph 6, 6 August 2009.
[94] "Méthane du Kivu: un jeu à trois", *Africa Energy Intelligence*, no. 610, 26 August 2009.
[95] The ECGLC is a regional cooperation agency formed by the DRC, Rwanda and Burundi, which was inactive during the Congo wars but relaunched in 2004.

Although Rwanda has made headway,[96] rivalries between the Congolese environment and hydrocarbons ministries have blocked progress in the DRC.[97] In order to catch up with Rwanda and move forward, a two-day seminar was recently organised in Kinshasa by the hydrocarbons ministry on Lake Kivu's energy potential.[98] Meanwhile, the Rwandan government has reportedly been negotiating with a company that should begin oil exploration research in Lake Kivu in 2012.[99]

Lake Tanganyika

Lake Tanganyika is a new oil exploration area shared by four countries: DRC, Zambia, Burundi and Tanzania. Only the latter two countries have issued exploration licences. Tanzania has allocated the southern block to the Australian company Beach Energy and its Tanzanian subsidiary Beach Petroleum Tanzania in 2008, and the northern block to Total in 2011.[100] Burundi has granted Surestream a licence for blocks D and B,[101] A-Z Petroleum for block A and Minergy Ree for block C.[102]

In 2008, the Congolese hydrocarbons ministry divided the country's share of the lake into ten blocks. However, this division is not yet official. The lake is not currently a focus of major problems, but the Ruzizi River delta was disputed in the 1980s.[103] In May 2008, the DRC and Tanzania signed an agreement for joint exploration of the lake,[104] which Congolese senators strongly criticised. This agreement was signed by the then hydrocarbons minister, Lambert Mende Omalanga, but never implemented.[105] In addition, the emergence of piracy by the Mai-Mai on the banks of South Kivu in the second half of 2011 compounded insecurity around the lake until military operations pushed the rebels back into the hinterland.[106] However, the Mai-Mai have recently restarted operating on the lake.[107]

2. The Central Basin

The Central Basin (Cuvette centrale) is a very large area measuring 800,000 sq km. It stretches from the edge of Kinshasa province, through the provinces of Equateur, Bandundu, Kasai Oriental, Kasai Occidental and Maniema to the north of Orientale Province, with some geological continuity in Congo-Brazzaville and Sudan. The absence of infrastructure and the dense equatorial forest represent a major logistical challenge and a consequent exponential growth in research costs.

In the 1970s, the American companies Esso and Amoco carried out seismic studies and drilled two test wells but the results were disappointing. Japan National Oil Corporation also conducted some geological studies in the Kisangani area, again without results. In the 1980s, the World Bank provided $6 million to studies conducted by Petrozaïre, particularly in Bandundu. However, the area was neither mapped nor divided into exploration blocks. At the end of 2005, DRC hydrocarbons ministry officials visited Tervuren Museum in Belgium to examine all the available geological data with a view to preparing a map.[108]

On 30 January 2008, the DRC government contracted the Brazilian company, High Resolution Technology Petroleum (HRT), to review the available geological data and issue a call for tenders.[109] HRT was associated with Compagnie minière du Congo (Comico), which signed the contract on its behalf in Kinshasa.[110] Before withdrawing in 2009, HRT proposed dividing the Central Basin into 21 blocks, but a decree of 2 August 2007 had already opened the basin to exploration[111] and some blocks had been allo-

[96] "Contourglobal signs loan agreement for phase 1 of the Kivu watt electricity project in Rwanda, celebrates important construction milestones", press release, Contourglobal, 25 August 2011.
[97] "Lac Kivu: l'exploitation du gaz méthane traîne les pieds", Radio Okapi, 13 July 2010. "A quand l'exploitation du gaz méthane dans le lac Kivu", *Geopolis Magazine*, June 2010.
[98] "Exploitation du gaz méthane du lac Kivu: les experts négocient le dernier virage", *Le Potentiel*, 13 June 2012.
[99] "Canadian firm, Kigali to sign new oil sharing deal", *The East African*, 3 March 2012; "Canadian company preparing to sign oil deal", Rwanda Energy, 4 March 2012.
[100] Total is present in West Africa, but is increasingly interested in East Africa. Crisis Group interviews, Total managers, Paris, 2011. "Tanzania", *Petroleum Africa*, December 2011.
[101] Crisis Group interviews, Surestream managers, Bujumbura, September 2011.
[102] Decree 100/193 of 30 June 2011 granting type H exploration licences for hydrocarbons (Block A) to A-Z Petroleum Ltd and decree 100/195 of 30 June 2011 granting type H exploration licences for hydrocarbons (Block C) to MinergyRee Limited.
[103] A joint commission responsible for "studying the demarcation of the border in Lake Tanganyika north of the Ruzizi delta" was created in 1988. See Nguya-Ndila Malengana, op. cit.
[104] "Quiet on the Tanganyika Front", *Africa Energy Intelligence*, no. 464, 21 May 2008.
[105] Note à l'attention des sénateurs, Vincent de Paul Lunda-Bululu, 1 October 2010.
[106] The Mai-Mai Yakutumba robbed boats sailing on Lake Tanganyika to the south of South Kivu and north of Katanga. UN Group of Experts report, op. cit.
[107] Crisis Group interview, provincial representative of the Congolese business association, Bukavu, June 2012.
[108] Crisis Group interviews, Surestream and Cohydro managers, Paris, Kinshasa, May and December 2011.
[109] "Accord pétrolier entre la RDC et le Brésil", Agence congolaise de presse, 30 January 2008.
[110] Ibid.
[111] Presentation by His Excellency the Minister of Hydrocarbons, Fourth African Oil Congress and Exhibition (CAPE), Kinshasa, 24-27 March 2010.

cated to Comico, Soco and Divine Inspiration.[112] However, no presidential decree allowing prospection was issued for these blocks.

Some parties expressed an interest in exploring the basin. The DRC and South Korea signed several investment agreements, notably in the energy sector.[113] According to the Congolese press, a contract was signed between the Korean National Oil Agency and Cohydro,[114] after an initial agreement on 10 August 2010.[115] On 24 June 2011, Cohydro and the Brazilian company Petrobras signed a technical and financial support agreement.[116]

Although the basin is mainly located in stable provinces (Bandundu, Equateur, Kasai Oriental and Kasai Occidental), security problems have occurred. In 2009, in Kundu Territory, South Oubangi District in Equateur, a dispute between two villages for control of fish ponds turned into a rebellion against the Kinshasa government.[117] Although the movement was neutralised,[118] most of the people who sought refuge in Congo-Brazzaville have still not all returned to the DRC.[119]

In order to anticipate possible problems on the border, the two Congos drafted a joint agreement to exploit hydrocarbon reserves.[120] On 24 April 2011, the National Assembly of Congo-Brazzaville ratified the agreement but Kinshasa has yet to do the same.

[112] Ibid. See Appendix C.
[113] "Lee Myung-bak à Kinshasa, Rdc-Corée: Des accords d'investissement signés entre les deux pays", *L'Avenir*, 8 July 2011.
[114] "Le 4ème accord, relatif à l'étude conjointe d'exploitation pétrolière, a été signé entre le président de l'Agence nationale du pétrole Kang Young Won et l'ADG de Cohydro Alex Mutombo", see "La Corée du Sud apporte 150 millions USD pour construire une usine de production d'eau de Lemba/Imbu à Kinshasa", Digital Congo, 30 July 2011.
[115] "Hydrocarbures: des investisseurs sud-coréens à Kinshasa", *Le Phare*, 23 September 2011.
[116] "Exploitation des ressources pétrolières et gazeuses dans la cuvette centrale", *L'Observateur*, 5 July 2011. "DRC negotiates with IOC to boost output", *Petroleum Africa*, August 2011.
[117] In September 2009, a 63-year-old conflict between members of the Enyele and Monzay ethnic groups over the control of fish ponds resurfaced. The chair of the Enyele Council of Wisemen and the group's medicine man, Ibrahim Mangbama Manbenga, created the Mouvement de libération indépendant et allié (MLIA) and attacked the town of Dongo on 30 October 2009. It also launched a failed offensive in December 2009 against the town of Gemena. In February and March 2010, the MLIA occupied the town of Mbandaka, capital of Equateur, but was retaken on 3 April 2010 by the FARDC with logistical and military support from MONUSCO. The clash led to 115,000 people seeking refuge in the Congo-Brazzaville. Manbenga was arrested on 2 July 2010 and tried on 4 August 2011. See Crisis Group Africa Briefing N°73, *Congo: A Stalled Democratic Agenda*, 8 April 2010.
[118] On 22 July 2010, six MLIA members were sentenced to death, five were sentenced to ten years imprisonment and fourteen were acquitted by the Mbandaka courts. A further seventeen were sentenced to life imprisonment on 2 February 2012 by the Gemena military courts.
[119] "Ajournement du rapatriement des 124 000 congolais réfugiés à Brazzaville", *L'Observateur*, 22 March 2011 and "Equateur: rapport humanitaire mensuel", January 2012, Office for the Coordination of Humanitarian Affairs (OCHA), 21 February 2012.
[120] "Congo/RDC: accord pour l'exploitation de réserves communes d'hydrocarbures", Xinhua, 24 April 2011.

III. OIL: A PROBLEM OF GOVERNANCE

An oil boom in the DRC could provide new sources of revenue and challenge the pivotal role of the rich mining Katanga province in influencing national politics. The oil sector could also play a central role in improving the country's dire development condition, but this prospect is elusive. Nine years after civil war ended, the DRC remains fragile; the government has no control of some parts of its territory and exerts little or no authority over some factions in the army.[121] Governance remains eminently problematic, notably in the oil sector, despite reform efforts.[122] Comprehensive legal framework and institutions able to ensure transparency in the awarding of contracts or arbitrate disputes between companies and local communities' interests are strongly needed. A core concern will be how to share national income from the country' oil wealth, which, if not managed transparently, could cause further national disunity.

A. Speculator State Rather than Regulator State

In addition to an extremely unfavourable business climate,[123] the DRC has neither an oil policy nor an adequate legal framework for the oil production. State speculation, a key feature of the mining industry,[124] can be found in the oil sector too, compounding the risks of marginalisation of the local population, presidentialisation of decisions, monopolisation of revenues, and a lack of consideration for the environment. The management of oil resources appears to be based on short-term speculation rather than a sustainable development policy.

1. Legal and administrative shortcomings

DRC's prominent mining industry has long overshadowed the oil sector, which explains the absence of comprehensive regulations in this neglected field. The country first introduced legislation on hydrocarbon resources in 1967.[125] It was replaced by a decree law on mines and hydrocarbons on 2 April 1981.[126] In 2002, the DRC began to reform the mining sector with the support of the World Bank and adopted a new mining code, which excluded the hydrocarbon resources.[127] The latter is still regulated by the outdated 1981 legislation, which does not take into account either the sector's changing practices or important developments, notably the creation of the national hydrocarbons company, Cohydro,[128] and subsequent fiscal regulations.

Only the fiscal regulations have been updated. In June 2006, the Congolese government introduced specific fiscal rules for hydrocarbons, which set tariffs for duties, taxes, charges, and signature bonuses.[129] However, although the hydrocarbons minister considered the adoption of a hydrocarbons code to be a matter of urgency,[130] the DRC still has no such legislation and the new prime minister, Matata Ponyo, outlined this problem in his first speech in Parliament.[131] In 2010, a member of parliament circulated a bill which was submitted to oil operators for consultation, but it remains a draft.[132] The absence of comprehensive regulations for hydrocarbons creates legal confusion and indi-

[121] As illustrated by Bosco Ntaganda's mutiny in April 2012 and the emergence of the new armed group, M23. See "Mutinies in the East", op. cit., and "DRC: Understanding armed group M23", IRIN, 22 June 2012.
[122] For more on the failure of reforms undertaken since the end of the political transition, see Theodore Trefon, *Congo Masquerade: The Political Culture of Aid Inefficiency and Reform Failure* (New York, 2011).
[123] The World Bank's Doing Business list downgraded the DRC from 176th to 178th in 2012. "Doing Business 2012", World Bank, 20 October 2011, p. 6.
[124] For more on the problems of the mining sector in the DRC, see Jacques Nzumbu Mwanga, *Pouvoir et affaires dans une zone à déficit de gouvernance* (Kinshasa, 2011), and the accusations of a British member of parliament, Eric Joyce, about the undervalued sale of mining shares in the DRC, at http://ericjoyce.co.uk/2011/11/congo-fire-sale/.
[125] Decree 67-231 of 11 May 1967 on legislation on the mining and hydrocarbon sectors, completed by ordinance law 67-416 of 23 September 1967 on regulation of the mining sector.
[126] Decree law 81-013 of 2 April 1981 laying down general legislation on mines and hydrocarbons, *Daily Gazette*, 15 April 1981.
[127] "Le nouveau Code ne régit pas la reconnaissance, l'exploration et l'exploitation des hydrocarbures liquides ou gazeux ainsi que les activités ou opérations concernant les eaux thermales ou minérales qui relèvent des législations particulières", law 007/2002 of 11 July 2002 on the mining code, *Daily Gazette*, 15 July 2002, Chapter I: Definitions, terms, fields of application and basic principles.
[128] The Congolaise des Hydrocarbures (Cohydro) was created in 1999 at the instigation of Laurent Désiré Kabila. Previously known as SEP-Zaire, then SEP-Congo, it was responsible for managing and administering state participation in oil production and services companies, as well as managing fuel stocks and distribution.
[129] Interministerial orders 21/CAB/MIN/ENER/2006 and 096/CAB/MIN/FINANCES/2006 of 12 June 2006 laying down rates for duties, taxes and charges to be levied on the initiative of the Ministry of Energy, hydrocarbons sector, *Daily Gazette*, 15 June 2006.
[130] "Célestin Mbuyu: le code des hydrocarbures est une urgence", *Geopolis Magazine*, April 2010.
[131] Speech about the programme of the Prime Minister Matata Ponyo Mapon, Parliament, Kinshasa, 7 May 2012.
[132] Crisis Group interview, oil company manager, Kinshasa, June 2011.

cates a lack of coherence in oil policy.[133] As the sector is regulated by an outdated law, the state's participation (through Cohydro) in exploration and production projects varies according to the contracts and the interests at play.[134] Aware of this problem, the new government wants to adopt a new hydrocarbons law before the end of 2012.

Similarly, Congolese legislation includes no obligation for the government to provide information to local populations, while the law's obligations for oil companies regarding local development fall far short of international best practice.[135] Depending on the contracts, the companies' contribution to social projects varies, for example, between $100,000[136] and $1 million[137] per year during the exploration and between $200,000[138] and $4 million per year during the exploitation phase.[139] This huge variation is due to the lack of clear government policy on this essential issue. Finally, the oil sector is the president's exclusive domain because exploration cannot be carried out without his authorisation.[140]

A central problem is the government's disregard for its commitments, notably with the World Bank and the International Monetary Fund (IMF), and the rule of law. Despite its statements, during the previous mandate of President Kabila (2006-2011), the DRC government has missed its rendez-vous with the Extractive Industries Transparency Initiative (EITI)[141] and has failed to publish all the contracts[142] and to implement the "oil" component of its economic governance improvement programme.

The DRC joined EITI in 2005 but was only recognised as a "candidate country" on 22 February 2008, after which it had two and a half years to become "compliant country".[143] Though it aimed to achieve this in March 2009, it has not to this day, and this was denounced by civil society.[144] There have been serious delays in the publication of EITI reports; the 2008-2009 report should have been published by 11 June 2011 but was only released in February 2012. According to this report, the oil sector's contribution to the state budget rose to more than $550 million in 2008-2009, while that of the mining sector was less than $200 million.[145]

In addition, the report's financial information reveals a $1.3 million gap between payments disclosed by companies and fiscal revenues disclosed by the government in

[133] Emery Mukendi Wafwana, "Exploitation of hydrocarbons under DRC law", juricongo.com, 28 April 2010.
[134] Cohydro's participation varies between 7 (CPP Divine Inspiration consortium) and 15 per cent (CPP Soco and Total).
[135] The law only provides for a minimum program of local development activities, in an annex that is short on detail. Decree law 81-013 of 2 April 1981 laying down general legislation on mines and hydrocarbons, *Daily Gazette*, 15 April 1981, Section VIII, Chapter II, Article 84.
[136] Production sharing contract between the Democratic Republic of Congo and the association Tullow DRC BV, Heritage DRC Ltd and la Congolaise des Hydrocarbures, Bloc I et II du Albertine Graben, July 2006, paragraph 5.3, p. 15.
[137] Amendment n°1 to the production sharing contract between the Democratic Republic of Congo and the association South Africa Congo Oil (Pty) Ltd et la Congolaise des Hydrocarbures, block 3, June 2010, Article 1, p. 2.
[138] Production sharing contract between the Democratic Republic of Congo and the association Surestream and La Congolaise des Hydrocarbures, op. cit., paragraph 5.3, p. 15.
[139] Amendment n°1 to the production sharing contract between the Democratic Republic of Congo and the association South Africa Congo Oil (Pty) Ltd et la Congolaise des Hydrocarbures, block 3, June 2010, Article 1, p. 2.
[140] Decree law 81-013 of 2 April 1981 laying down general legislation on mines and hydrocarbons. Section 3: Special provisions on hydrocarbons, Chapter 1: General principles, Article 79.
[141] The EITI sets global standards according to which companies are required to publish what they pay and governments to disclose what they receive. See http://eiti.org/.
[142] The publication of oil agreements within 60 days following approval is part of the package of measures to enhance governance and transparency agreed on by DRC government with the World Bank and the IMF. This publication was made compulsory by a decree of the prime minister (Prime minister decree no. 011/26, 20 May 2011). See Appendix II: "Enhancing governance and transparency in extractive industries" in "Third Review of the Three-Year Arrangement Under the Extended Credit Facility, Financing Assurances Review, and Request for Modification of Performance Criteria", IMF, 14 April 2011. The oil contracts are published on the mines ministry website: http://mines-rdc.cd/fr/index.php?option=com_content&view=article&id=92. For example, that website does not include the agreement between Total and Sacoil giving Total 60 per cent interest in block 3 in Albertine Graben, in eastern Congo. "Total farms-in to DRC's block III", *Petroleum Africa*, 4 March 2011; and "SacOil/Total DRC deal passes muster", *Petroleum Africa*, 18 January 2012.
[143] "Report of the Independent Mediator, Financial Year 2007", Initiative for transparency in the management of extractive industries in the DRC, PricewaterhouseCoopers, 22 December 2009, p. 1. The EITI has two categories of members, candidate and compliant countries, which entail different obligations and are verified by the initiative's Board of Directors. In order to be declared compliant, countries must satisfy a number of requirements. A twelve-month extension is possible in exceptional circumstances. See http://eiti.org and EITI Rules, Oslo, 2011.
[144] "ITIE RDC: Un consultant de la Banque mondiale dénonce la faible volonté politique du gouvernement congolais", CENADEP, 24 October 2009.
[145] "La RDC dévoile ses revenus miniers et pétroliers pour les années 2008 et 2009", EITI press release, 8 March 2012. "Report of the EITI Independent Administrator on revenues for 2008-2009", Democratic Republic of Congo, hydrocarbons sector, February 2012.

2009.[146] But the EITI report is far from exhaustive; it only mentioned the sums paid by operating companies while signature bonuses[147] were not included.[148] However, in a bid to become EITI compliant, the DRC has published quarterly reports on oil revenues.[149] It has also made public some, though not all, oil contracts since April 2011.

The lack of genuine commitment to the financial and contractual transparency policy nurtures doubts about the government's sincerity, as do significant delays in implementing the economic governance improvement program it agreed on with the IMF and the World Bank, which provided for a law on hydrocarbons, standard oil agreements, reorganisation of the ministry, etc.[150]

On the financial side, the government's compliance with its own regulation of signature bonuses has been questioned. The 2006 ministerial order on taxation of the energy sector set the level of signature bonuses for oil exploration and development agreements at 215,635,000 Congolese francs[151] (approximately $523,000)[152] per block. However, signature bonuses have increased. For example, production sharing contracts show that, while the bonus for Lake Albert blocks was $500,000 per block in 2006;[153] it was $3 million in 2010 for the very same blocks.[154] Because signature bonuses for contracts in 2007 and 2008 were higher than half a million dollars, a parliamentary inquiry into the allocation of production sharing contracts in the Albertine Graben was set up.[155] The hydrocarbons minister claimed that a ministerial order raised signature bonuses to $2.5 million per block at the start of 2010.[156]

2. Negotiations and the struggle for influence: The Lake Albert saga

Oil exploration is marked by speculative government management, much like the mining sector. The allocation and reallocation of licences and the lack of transparency against a backdrop of multiple struggles for influence are already a reality. The Lake Albert contracts saga is a compelling illustration of these practices.

Oil exploration was long delayed in Ituri, mainly because of two reallocations of licences (2007 and 2010) from Tullow Oil and Heritage Oil ultimately to two companies previously unknown in the oil sector. In October 2007, the then hydrocarbons minister, Lambert Mende Omalanga, claimed that the 2006 contract for blocks 1 and 2 with Tullow Oil and Heritage Oil was not valid because it had been signed by a deputy minister rather than the minister himself and that a single consortium would be awarded a monopoly on Lake Albert.[157] In a nutshell, these oil exploration projects were victims of the historically poor relations between the two countries.[158]

On 16 January 2008, the hydrocarbons minister signed a production sharing contract (PSC) with another consortium interested in exploring block 1 and led by South African Divine Inspiration[159] and the French-Spanish group, H-Oil.

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[146] "Report of the EITI Independent Administrator on revenues for 2008-2009", Democratic Republic of Congo, hydrocarbons sector, February 2012, paragraphs 4.1, 4.2, p. 7.

[147] A signature bonus is the payment of a fee to a host government upon signing a production sharing contract or a concession licence agreement.

[148] "Report of the EITI Independent Administrator on revenues for 2008-2009", op. cit.

[149] Official communiqué 002 of 29 April 2011, finance ministry, 29 April 2011.

[150] Economic governance programme, Technical committee for the reforms, finance ministry, Kinshasa, March 2011.

[151] Interministerial orders 21/CAB/MIN/ENER/2006 and 096/CAB/MIN/FINANCES/2006 of 12 June 2006 laying down rates for duties, taxes and charges to be levied on the initiative of the Ministry of Energy, hydrocarbons sector, *Daily Gazette*, annex, 15 June 2006.

[152] In 2006, 235,635,000 Congolese francs were equivalent to $523,377 at an exchange rate of $1 = 450.22 Congolese francs, official exchange rate of the Congolese Central Bank, 19 June 2006.

[153] Production sharing contract between the Democratic Republic of Congo and the association Tullow DRC BV, Heritage Oil Ltd and La Congolaise des Hydrocarbures, op. cit., paragraph 12.8, p. 25.

[154] Production sharing contract between the Democratic Republic of Congo and the association Caprikat Limited, Foxwhelp Limited and La Congolaise des Hydrocarbures, op. cit., paragraph 12.8, p. 25.

[155] "L'Assemblée nationale décide l'audit de la gestion du ministre des Hydrocarbures", Digital Congo, 14 July 2008. Ministerial Order 002/CAB/MIN/HYDRO/RIN/2009 of 7 January 2009 creating a commission to examine and implement National Assembly Recommendation 0064/RDC/AN/CP/VK/2008 of 12 July 2008 on management of the hydrocarbons sector in the Democratic Republic of Congo, *Daily Gazette*, 1 February 2009.

[156] Response by His Excellency Célestin Mbuyu Kabango, Minister of Hydrocarbons, oral question, 6 October 2010, Ministry of Parliamentary Affairs, www.mirepa-rdc.info/index.php?option=com_content&view=article&id=287&Itemid=143; Response by His Excellency Célestin Mbuyu Kabango, minister of hydrocarbons, to the assembly's concerns to the oral question put by the Honourable Bamanisa Jean, oral question, 10-12 December 2010.

[157] "Controverse autour de l'exploitation du pétrole de l'Ituri", *Geopolis Magazine*, June 2010 and Augé, "Border Conflicts Tied to Hydrocarbons in the Great Lakes Region of Africa", op. cit., p. 175.

[158] For a more detailed analysis of these relations, see Petrus de Kock and Kathryn Sturman, *The Power of Oil*, *Charting Uganda's Transition to a Petro-State*, South African Institute for International Affairs Report N°10, March 2012.

[159] Blocks 1 and 2 were the second acquisition made by a South African company, after block 3 was obtained one year earlier, in 2007 by Sacoil. According to Sacoil, this PSC was formally

In addition to Cohydro, other small Congolese companies, such as Congo Petroleum and Gas and Sud Oil were also associated with the contract.[160] The South African state company PetroSA was also included by the consortium "as a technical partner".[161] The others did not specialise in oil exploration.[162]

Despite the payment of a signature bonus,[163] this new contract for block 1 was not confirmed by a presidential decree. This issue was included twice on the Council of Ministers's agenda, but was repeatedly ignored by the president and the prime minister.[164] Lambert Mende was disavowed by the president, who forbade him in summer 2008 from engaging the DRC in any negotiations.[165] The deadlock was only broken two years later. On 18 June 2010, Joseph Kabila signed decrees allocating blocks 1 and 2 to two previously unknown companies, Caprikat and Foxwhelp.[166] The hydrocarbons minister justified the government's selection on "security considerations" and presented Foxwhelp and Caprikat as a "third way".[167]

Registered in the British Virgin Islands,[168] Caprikat and Foxwhelp were initially reported to be owned by Khulubuse Zuma, South African President Jacob Zuma's nephew.[169] Michael Hulley, who has served as legal adviser to Zuma,[170] signed the PSC for blocks 1 and 2 on behalf of Foxwhelp and Khulubuse Zuma signed on behalf of Caprikat.[171] The awarding of oil rights to these companies was presented as a rapprochement between the DRC and South

signed on 4 December 2007 and a $2 million signature bonus was paid to the Congolese government. This PSC was ratified by a presidential order of 18 June 2010. Circular to Sacoil shareholders, Sacoil Holding Limited, 16 March 2011: order 10/042 on the production sharing contract signed on 4 December 2007 between the Democratic Republic of Congo and South Africa Congo Oil (PTY) Ltd – La Congolaise des hydrocarbures, for block 3 of the Albertine Graben of the Democratic Republic of Congo, *Daily Gazette*, 22 June 2010.

[160] The distribution of shares in the consortium is as follows: Divine Inspiration/Petro SA 51 per cent; H-Oil 37 per cent; Cohydro 7 per cent; Congo Petroleum and Gaz 3 per cent; Sud Oil 2 per cent. Production Sharing Contract between the Democratic Republic of Congo and the Consortium formed by Divine Inspiration Group (PTY) Ltd and Petro SA, H-Oil Congo limited, La Congolaise des Hydrocarbures, Congo petroleum and gaz SPRL, Sud Oil SPRL, op. cit., Article 15.3, p. 26.

[161] "In April 2007, PetroSA was approached by Divine Inspiration Group (DIG) to assist Divine as a technical partner in its oil exploration activities in the Democratic Republic of Congo (DRC). In pursuance of this objective, PetroSA agreed to work with Divine Inspiration Group Consortium, Encha Group and Sacoil to evaluate and pursue exploration and production opportunities in the DRC, specifically in Albertine Graben and offshore". Production sharing contract between the Democratic Republic of Congo and the Consortium formed by Divine Inspiration Group (PTY) Ltd et Petro SA, H-Oil Congo limited, La Congolaise des Hydrocarbures, Congo petroleum and gaz SPRL, Sud Oil SPRL, op. cit., January 2008. See Appendix E.

[162] Congo Petroleum and Gas is not known to have done any exploration. Crisis Group interview, oil industry expert, Paris, May 2012. Sud Oil is a fuel distribution company. Crisis Group interviews, Sud Oil managers, Kinshasa, 17 December 2011. H-Oil has a stake in Angolan oil fields but it is not an operator. According to its website, H-Oil has had a presence in Angola since 2001 and is a partner of the Gema Group. It was awarded a licence for production in the Kwanza basin. For further details, see "Les actifs de H Oil", *Africa Energy Intelligence*, 28 February 2007; and "Angola – H-Oil African history and presence", H-Oil Group, 18 December 2007, http://hoilgroup.blogspot.com/2007/12/angola-h-oil-african-history-and.html.

[163] Circular to shareholders, Sacoil, 4 September 2010, p. 5.

[164] Crisis Group interview, oil sector expert, Paris, 2010.

[165] *Africa Energy Intelligence*, no. 593, 26 November 2008.

[166] Order 10/041 approving the production sharing contract between the Democratic Republic of Congo and Caprikat Ltd and Foxwhelp Ltd for blocks 1 and 2 of the Albertine Graben in the Democratic Republic of Congo. Blocks 3 and 5 were allocated to Sacoil, the Dominion Petroleum Congo consortium and Soco exploration-production RDC Order 10/042 and 10/043 approving the production sharing contract concluded on 4 December 2007 between the Democratic Republic of Congo and South Africa Congo Oil (PTY) Ltd-La Congolaise des Hydrocarbures for block 3 of the Albertine Graben in the Democratic Republic of Congo; Order 10/044 approving the production sharing contract concluded on 5 December 2007 between the Democratic Republic of Congo and Dominion Petroleum Congo, Soco exploration-production RDC and La Congolaise des Hydrocarbures for block 5 of the Albertine Graben in the Democratic Republic of Congo, 18 June 2010.

[167] "Se basant sur des considérations sécuritaires, le Gouvernement de la République a préféré trancher de manière définitive en optant pour une troisième voie". Response of His Excellency Célestin Mbuyu Kabango, op. cit.

[168] Caprikat Limited is registered in the Virgin Islands under number 1577164 and Foxwhelp under number 1577165. Production sharing contract between the Democratic Republic of Congo and Caprikat Limited and Foxwhelp Limited, block 1 and 2 of the Albertine Graben, 5 May 2010. Status, Caprikat RDC SPRL, notary's report 184.261 Folio 1 – 16 Volume MCDXXXII, 23 July 2010, Article 5.

[169] "Oil firms of South Africa leader nephew to start Congo exploration in 2012", Bloomberg, 25 June 2010; "Zuma nephew wins oil probe rights in DRC", *Times Live*, 27 June 2010; "Secret Oil Deal", *Africa Confidential*, vol. 51 no. 14, 9 July 2010. Suggestions that President Zuma was personally involved in the deal in any way have been strongly denied. "Zuma Inc's DRC oil coup", *Mail & Guardian Online*, 30 July 2010.

[170] Michael Hulley represented Jacob Zuma in case 19577/09 at the South African High Court, statement by Michael Hulley, Democratic Alliance against Acting National Director of Public Prosecutions, the head of the Directorate of Special Operations and Jacob Gedleyihlekisa Zuma, South African High Court, North Gauteng High Court, Pretoria, case 19577/09, p. 3.

[171] Production sharing contract between the Democratic Republic of Congo and Caprikat Limited and Foxwhelp Limited, op. cit., p. 3.

Africa.[172] Further questions surrounding the actual ownership of these companies have emerged more recently.[173]

On the ground in Ituri, Caprikat and Foxwhelp are represented by their Congolese subsidiary, Oil of DRCongo.[174] Once again, few people were aware of the negotiation of this contract. The presidential cabinet's hydrocarbons committee was not informed of the decision.[175] Tullow Oil initiated legal action but eventually decided to abandon its claims over blocks 1 and 2.[176] Prior to that, on 16 November 2010, then-Prime Minister Adolphe Muzito had agreed to the Divine Inspiration Group's request for reimbursement of the signature bonus it had paid.[177] Oil of DRCongo announced it will begin seismic surveys in 2011, but preliminary work only started in 2012.[178] This delay raised concern about the company's capacity[179] among local and international actors and the press recently mentioned a possible withdrawal of exploration rights, which the hydrocarbons minister strongly denied.[180]

3. Oil against the environment: A head-on clash

The new wave of exploration clashed head-on with environmental concerns and has provoked international outcry.[181] Pollution is a constant worry in Moanda Territory in Bas-Congo, where the country's only oil production site is located. In the east, government allocation of blocks has led to standoffs between oil interests and environmentalists.

30, 85 and 52 per cent of blocks 3, 4 and 5,[182] respectively are located in Virunga National Park,[183] which was selected as a World Heritage Site by the UN Educational, Scientific and Cultural Organization (UNESCO)[184] in 1979 and included on the list of endangered heritage sites in 1994 because of the continuing degradation of the environment

[172] "Cette entreprise commune permettra à la RDC et l'Afrique du Sud de travailler en étroite collaboration pour consolider leurs industries et économies". Interview with Dr Ciccarelli in "La RDC pourrait devenir un des premiers producteurs pétroliers du continent", *La Prospérité*, 9 July 2010.
[173] "Congo ready to rescind two oil licences over lack of activity", *Financial Times*, 24 June 2012.
[174] Crisis Group interviews, Oil of DRCongo employees, Bunia, 17 July 2011.
[175] Crisis Group interviews, hydrocarbons ministry officials, June-July 2010.
[176] "Tullow commenced legal proceedings to challenge [the award of contracts] and obtained an interim injunction preventing those companies carrying out any work until Tullow's rights had been legally determined. In subsequent proceedings, it became clear that Tullow's rights were not likely to be upheld so long as the DRC Government maintained its position that it had the right to ignore or revoke the earlier award to Tullow. Given the expense of further proceedings and the difficulty in enforcing any award against the DRC even in the event of success, the Board has regretfully taken the decision to discontinue the legal proceedings and withdraw from the DRC", Tullow Oil plc 2010 annual report and accounts, Tullow Oil plc, 8 March 2011, Section 3: Operative review, Other Africa, p. 57.
[177] In an oral response to an oral question from Deputy Christophe Masumbuko to the government during the parliamentary session on 6 October 2010, the hydrocarbons minister stated that his "records show that Divine received a letter and that discussions on compensation had already begun and were continuing. Tullow systematically refused to take receipt of its letter despite the efforts of the Minister of Hydrocarbons. This attitude did not surprise the ministry because this company has behaved in the same way since it came to the Democratic Republic of Congo". Response of His Excellency Célestin Mbuyu Kabango, op. cit. In compensation for its loss of Lake Albert exploration rights, the Divine Inspiration consortium was granted licences for blocks in the Central Basin. Crisis Group interview, hydrocarbons ministry officials, Kinshasa, December 2011; and speech by His Excellency the Minister of Hydrocarbons, Fourth African Congress of Oil and Exhibition, Kinshasa, 24-27 March 2010.
[178] "Oil of DR Congo annonce la campagne sismique des blocs 1 et 2 du Albertine Graben ", Radio Okapi, 20 August 2011. Crisis Group phone interview, member of civil society, Bunia, June 2012.
[179] Crisis Group phone interview, member of civil society, Bunia, June 2012; Crisis Group interview, oil expert, Paris, May 2012.
[180] "Congo ready to rescind two oil licences over lack of activity", op. cit. "Statement from Crispin Atama Tabe Mogodi, oil minister for the Democratic Republic of Congo", African Press Organization, 26 June 2012. The minister stated: "Caprikat and Foxwhelp have made significant investment into R&D and seismic investigations and have invested heavily in social welfare projects in the area. This is the progress that the DRC Government expected when awarding the blocks and we are satisfied that our expectations are being met".
[181] "Une société pétrolière menace le parc des Virunga", *La Libre Belgique*, 9 March 2012 ; "Parc des Virunga: autorisation de prospection "illégale" selon D. Reynders", Belga, 8 March 2012; "RD Congo: la prospection du bloc V suscite une vive opposition de la Belgique", Agence Ecofin, 10 March 2012; "Le pétrole du parc national des Virunga au centre d'une polémique", Radio Okapi, 20 January 2011.
[182] Block 3 was allocated Sacoil in 2010 then Total; block 4 is still unallocated and block 5 was allocated to Soco in 2010. See Appendix E.
[183] See Appendix D. Virunga National Park, or Albert Park as it was called until 1969, was created in 1925 and covered an area of 20,000 hectares. The park has always been a focus for controversy and the colonial authorities had to compromise between the desire to protect nature and the rights of residents, including their right to fish, fell trees and farm. The boundaries of the park changed several times before being definitively established by royal decree on 15 May 1950. In 1999, it was declared an endangered world heritage site. Marc Languy, Emmanuel de Merode, *Virunga, survie du premier parc d'Afrique* (Brussels, 2006).
[184] Decision – 03 COM XII.46. Consideration of nomination as a World Heritage Site, CC79/Conf, 003/13, Paris, UNESCO, 30 November 1979.

in the area.[185] In addition, Congolese legislation prohibits any exploration or extraction activity in natural parks.[186]

While Total in 2011 decided against prospecting in Virunga Park "for the moment" and contacted the WWF,[187] Soco bought a concession in the centre of the park and this triggered an international controversy. The company's initial attempts to establish its presence in block 5 and to start prospection[188] were challenged not only by the FDLR-Soki but also by environmentalists and the agency responsible for managing the park, the Congolese Institute for the Conservation of Nature (Institut congolais de conservation de la nature, ICCN).

On 17 February 2011, the ICCN lodged a complaint against Soco for illegal entry into the park.[189] The environment minister suspended oil exploration in the park on 17 March[190] so that an EU-funded "strategic environmental study" could be carried out.[191] Against all expectations, in September, the environment ministry authorised Soco to conduct aeromagnetic and aerogravity surveys in the park and granted the company an exploration licence in October.[192]

This U-turn was all the more surprising in that in a January 2011 joint statement by the Congolese prime minister and the UNESCO director general the Congolese government renewed its commitment to protecting the World Heritage Sites.[193] The environment minister's decision provoked a strong reaction from the park creator (Belgium) and UNESCO.[194] Insofar as aerial surveys should be complemented by seismic surveys and interest in exploring other larger areas of ecological interest remains,[195] Virunga Park is a symbolic case for UNESCO and defenders of the environment,[196] but also for the DRC.

An ambitious program to restore the park was launched in 2008. The European Union (EU) and other donors committed significant funding to it and tourism was restarting. The granting of oil exploration rights is obviously at odds with this project. This contradiction again highlights the Congolese authorities' failure to comply with the law and the international agreements and develop a coherent policy. As outlined by the environment minister, the failure to take environmental considerations into account when allocating the blocks risks seriously damaging the DRC's image.[197] The World Heritage Committee has recently reiterated "its request to the State Party to cancel all permits for petroleum exploration within the property boundaries

[185] The park is subject to deforestation, poaching, demographic pressures, illegal fishing and insecurity, which is the main problem. Armed groups are very active in the park. Decision - 18COM XI – Inclusion on the List of World Heritage in Danger, Convention Concerning the Protection of the World Cultural and Natural Heritage, World Heritage Committee, eighteenth session, UNESCO, Phuket, Thailand, 12-17 December 1994.

[186] Article 33 of law 11/009 of 9 July 2011 on the principles of environmental protection.

[187] Crisis Group interviews, Total consultants, Bunia, 19 July 2011. "Prospection au Bloc 3 du Albertine Graben: Total se rapproche de WWF", *Le Potentiel*, 25 August 2011.

[188] "Soco va se déployer dans le bloc 5 au Nord Kivu", *Geopolis Magazine*, June 2010.

[189] "Legal Action by ICCN against SOCO", Virunga National Park official website (gorilla.cd), 20 February 2011.

[190] "Le gouvernement congolais suspend la prospection pétrolière pour sécuriser le Parc des Gorilles de Montagne", press release, environment, nature conservation and tourism ministry, 17 March 2011.

[191] On 7 September 2011, the EU selected Safege SA, a subsidiary of Veolia Environnement, to conduct this study. Crisis Group interview, member of the EU delegation, Kinshasa, December 2011.

[192] Ministerial order 049/CAB/MIN/ECN-T/15/JEB/2011 of 1 September 2011 issuing a certificate of environmental acceptability, Ministry of the Environment and ministerial order 016/ CAB/MIN-HYDR/CMK/2011 of 26 October 2011 issuing an exploration licence to Dominion Petroleum Congo – Soco Exploration & Production RDC – la Congolaise des Hydrocarbures for block V of the Albertine Graben.

[193] "Déclaration de Kinshasa sur les sites du patrimoine mondial de la RDC", Kinshasa, 14 January 2011.

[194] Questioned in parliament, the Belgian foreign minister, Didier Reynders, challenged the legality of the ministerial authorisations, which he said were "contrary to Congolese legislation and to the country's international commitments". He also said: "At the end of the day, Soco is perfectly aware of international and Congolese legislation, especially after the events of 2011. But this company continues to put pressure on the Congolese authorities to begin exploration activities". Verbatim record, Commission of Foreign Relations, 7 March 2012, Chamber of Deputies, Belgium. "Explorations aéromagnétiques et aérogravimétriques au Parc National des Virunga: le Centre du patrimoine mondial exprime sa préoccupation", UNESCO, 13 March 2012.

[195] Division of the basin did not spare the Salonga National Park, which is also on the World Heritage List (Decision - 08COM IX.A – Entry: Salonga National Park (Zaire), SC/84/CONF.004/9, Buenos Aires, UNESCO, 2 November 1984). In addition to the tropical forest, another sensitive area is Lake Tanganyika, the second largest African lake by size after Lake Victoria, the second in the world in terms of volume and depth after Lake Baikal and the longest lake in the world (677km). The discovery of oil will pose an environmental problem given the importance of this ecosystem for the survival of its lakeside communities. "RDC, Burundi, Zambie et Tanzanie: vers une gestion législative unique du lac Tanganyika", *L'Avenir*, 16 March 2012.

[196] Crisis Group interviews, UNESCO officials, Paris, September 2011.

[197] Letter from the Minister of Environment to the Prime minister, N°665/CAB/MIN/ECN-T/27/JEB/011.1, March 2011.

and recalls its position on the incompatibility of petroleum exploration and exploitation with World Heritage status".[198]

In Moanda, Bas-Congo, the country's only production zone, environmental problems have repeatedly provoked disputes between the local population and the exploration company, Perenco. In June 2007, Abdoul Karim Ngoma Kosi, a member of parliament, submitted a motion denouncing environmental damage allegedly caused by Perenco. The report of a subsequent parliamentary inquiry in Moanda published on 27 May 2008 concluded that it was responsible for polluting water sources and agricultural land and recommended that compensation be paid to local communities.[199] The Congolese parliament then asked the government to order the company to conduct an environmental impact assessment, but the government failed to do so. It conducted its own environmental investigation but did not communicate it to Perenco. However, the company keeps doing its own and frequent environmental monitoring and is open to any additional government environmental study.[200]

In December 2009, sixteen people were arrested following a demonstration in front of the Perenco oil terminal in Mibale.[201] In April 2010, a national deputy for Bas-Congo, Jean-Claude Vuemba, lodged a complaint against the company, which he accused of discharging toxic waste into the Atlantic Ocean.[202] Harried by repeated accusations, Perenco has at times blamed the local population and deplored what it claimed were unpunished "acts of vandalism",[203] though it has also notably engaged the local community and supported social projects. The local administration confirmed that pipe breakages have occurred[204] and agreed that some cases were acts of sabotage, but did not know if these were an expression of local resentment against the oil company or an easy way to make money.[205]

B. Weakening National Cohesion

The revival of oil exploration in the DRC risks weakening national cohesion. In such a poor country, every allocation of exploration rights both raises expectations and arouses fears and distrust from politicians and local communities. The lack of transparency in these allocations increases scepticism by the population, for which the main issue is development in a context of complex local rivalries and indigenous demands. In the east, questions about the feasibility of exploration remain but its impact on local conflicts is certain. In an area subject to chronic insecurity for years, where the roots of conflict are far from being eradicated and illegal exploitation of natural resources thrives, oil exploration can only exacerbate local rivalries for territorial control.

In the longer term, successful exploration programs will alter and even disrupt the DRC's economic geography, challenging its image as a mining country and the economic and historic importance of Katanga province as its main source of wealth. The emergence of a new source of income in marginalised regions will shift economic centres of power, impact on internal geopolitics and revive the debate about the national division of revenues from natural resources between the centre and the periphery.

1. The cost of not consulting: Distrustful and hostile communities

The lack of sufficient obligations of oil companies to the Congolese population, which is among the poorest in Africa, is causing tension with local communities whose interests have been either ignored or only merely acknowledged. Companies are not compelled to inform or consult the population and the law makes only minimal provisions for local development activities,[206] strengthened by

[198] Convention concerning the protection of the world cultural and natural heritage, World Heritage Committee, 36th session, Saint Petersburg, 24 June-6 July 2012.
[199] Parliamentary recommendations to the government taken from summary reports by experts of the Ministry of Relations with Parliament, Ministry of Relations with Parliament, 20 August 2010.
[200] Crisis Group telephone interview, Perenco-DRC representative, 6 July 2012.
[201] "Affaire pollution de la nature par Perenco à Muanda: le RRN exige la libération des 16 paysans", Digital Congo, 31 December 2009.
[202] "Un député de la RDC porte plainte contre la société pétrolière PERENCO", Xinhua, 20 April 2010.
[203] "The vast majority of accidental discharges of hydrocarbons that we are aware of are caused by acts of vandalism perpetrated by 'antisocial elements', for example, sawing through oil pipelines, tampering with wells in production, without mentioning the theft of electrical materials and the destruction of equipment. It is regrettable that these acts remain unpunished". Yvonne Mbala, Perenco-RDC representative, *Cœur d'Afrique Madame*, 6 February 2009.
[204] In Moanda, the local environmental services were called more than twenty times to deal with oil leaks in 2010. Its managers believe that some leaks are due to defective material while others are due to sabotage. Crisis Group interview, environmental services manager, Moanda, June 2011.
[205] The company recruits locals for clean-up operations and affected site owners receive compensation. In a poor society, the polluter pays principle has a negative effect. In Nigeria, the population does not hesitate to cause leaks in order to be employed to clean them up. Cyril Obi and Siri Aas Rustad, *Oil and Insurgency in the Niger Delta* (London, New York, 2011). This practice also seems to occur in the Moanda region. Crisis Group interview, civil society representative, Moanda, June 2011.
[206] Decree law 81-013 of 2 April 1981 laying down general legislation on mines and hydrocarbons, *Daily Gazette*, 15 April 1981, Section VIII, Chapter II, Article 84.

a requirement to include at least an agricultural and social activity and owning a building.[207]

In Bas-Congo, despite a local development mechanism, tensions between communities and the area's only oil producing company, Perenco, led to arrests in 2009 and forced the provincial authorities to convene a roundtable "to defuse the crisis prevailing in the oil exploration zone" and "to find lasting solutions to the various conflicts between local communities and oil production companies".[208] The grievances expressed explained local communities' discontent: pollution, lack of involvement in management decisions and insufficient benefits for the people.

Perenco has been producing oil for several years and established local arrangements for dialogue and social projects in 2002. These include a cooperation committee, which is responsible for choosing projects following a consultation process at village level, and allocating $210,000 annually, to which Perenco has added a discretionary $2 million, to implement them.[209] This committee has twelve members, the majority of which represents the three main tribes living in the company's concession. It takes decisions by consensus and has a rotating chair, which changes every two years.[210] It is the main mechanism for channelling and managing demands for local development and, insofar as the population can observe implementation of decisions on the ground,[211] this local self-management tool operates in a satisfactory manner. Moreover, Perenco has a policy of buying from local enterprises. It subcontracts work to local companies, which are required to be members of the Moanda Federation of Congolese Enterprises.[212]

However, despite management of the social fund by local representatives, grievances linger. Tribes disagree over representation on the cooperation committee and about the area that should be covered by the initiative.[213] In addition, the Council of Wisemen would like to "supervise" the committee, which is perceived to be an important centre of local power. Second, Moanda civil society, which is stronger in urban areas, wants a seat in the committee because Perenco's social actions essentially benefit rural areas. In addition to a request to restructure the committee, the peripheral tribes in the concession would like to extend the boundaries of the social intervention area. The tribes currently benefiting from the arrangement oppose such a change. The company's use of territorial criteria for its social fund exacerbates local territorial issues. The two other companies active in this region, Surestream and Energulf, are at the exploration stage in their respective blocks and have only limited interaction with the population.[214]

Although exploration has only commenced in the Albertine Graben, civil society in eastern DRC is distrustful because of the lack of information and consultation. Following the allocation of block 1 to Divine Inspiration, Iturian civil society expressed its dissatisfaction in 2008 on the failure to consider local development needs.[215] Its elected representatives criticised the hydrocarbons minister, Lambert Mende Omalanga, for deliberately marginalising them.[216] According to an Iturian deputy, "the contract with Divine was a surprise from the minister".[217] In 2010, allocation of blocks 1 and 2 to Foxwhelp and Caprikat again provoked anger in Ituri civil society,[218] which wrote to the president on 23 June 2010, accusing the government of selling off Ituri's natural resources.[219]

In accordance with the PSC, Caprikat and Foxwhelp, through Oil of DRCongo, began their social projects by restoring a health centre and distributing vehicles to the national Congolese police.[220] Civil society, however, has been critical of Oil of DRCongo, for what they see as supporting existing projects already carried out by inter-

[207] Law 86-008 of 27 December 1986, *Daily Gazette*, 1 January 1987, Articles 1 and 2.
[208] Final report of the roundtable held in Moanda, 26-28 January 2010 on conflicts in the oil exploration area, Moanda, 28 January 2010.
[209] Crisis Group interviews, Perenco representatives, Kinshasa, 30 May 2011.
[210] In addition to the chair, the committee has three representatives each from the Woyo, Assolongo and Kongo de Boma communities, and two representatives from peripheral communities. Crisis Group interviews, cooperation committee members, Moanda, June 2011.
[211] For more on Perenco's corporate social responsibility policy, see www.perenco-corporate-social-responsability.com
[212] Perenco's subcontractors account for a third of the 30 members of the federation. Crisis Group interview, Federation of Congolese Enterprises official, Moanda, June 2011.
[213] Crisis Group interviews, cooperation committee members, civil society representatives, Moanda, June 2011.
[214] Crisis Group interviews, Surestream managers, Paris, May 2011.
[215] Position of Ituri civil society on the 13 June 2008 debates on the oil dossier in the DRC, Ituri civil society, 19 June 2008.
[216] "The unfortunate example of the Moanda oil sector in Bas-Congo should be a lesson for others elsewhere in the country, but we note, with great regret, that no lessons have been learned and that the Ministry of Hydrocarbons continues to consider the sector to be its own exclusive concern and ignore questions raised on this issue. Did he not declare on the radio that he was not accountable to either civil society or the notables of the Ituri community?", Position of Ituri civil society, op. cit.
[217] Crisis Group interview, parliamentarian, Kinshasa, May 2011.
[218] Statement by the Ituri population on the Albertine Graben oil initiatives for the attention of the President of the Democratic Republic of Congo, Ituri civil society, 29 July 2010.
[219] "Pétrole de l'Ituri: la société civile s'oppose au contrat de Caprikat", *L'Observateur*, 25 June 2010.
[220] "Oil Of Congo inaugure ses premières œuvres sociales à Bunia et Kasenyi", *Le forum des As*, 27 January 2011.

national NGOs and UN agencies and for not consulting the local population.[221] Conversely, before it even had local representation or began exploration, Total made contacts with civil society to inquire about local demands, inform it about its activities and "manage expectations".[222]

Civil society opposition is even fiercer in North Kivu. Although about 40 deputies signed a petition in favour of oil exploration in block 5 and some deputies tried to persuade the public to support oil exploration,[223] some local associations have opposed oil production and criticised Soco for, allegedly, not consulting the population as part of the environment impact assessment, not providing local jobs and threatening Pygmy fishing interests and habitat.[224] As a result of mounting local and international criticism, Soco decided to launch an information campaign to support local development and contribute to the ICCN.[225] In addition, a well-known human rights organisation in the DRC accused Soco of threatening environmental activists, which the company's staff denied.[226]

Behind these environmental and social demands lies the longstanding historic territorial competition between antagonistic ethnic groups. In fact, the environmental protection organisations opposed to oil production in Virunga Park are mainly dominated by the Nande, which is the minority ethnic group in Rutshuru, where Soco wants to base itself, but a majority in the fishing communities on the shores of Lake Edward.[227]

2. Exacerbating conflict dynamics in the Kivus

The east, which is the new focus for exploration, is a high-risk area. Ituri District and the two provinces of South and North Kivu have historical grievances against the central government. These regions are poor, plagued by many longstanding intercommunal conflicts, and suffer from heavy militia presence, racketeering and predatory schemes of armed groups and security forces. These areas have for several years been the scene of Congolese army operations, with and without MONUSCO support, against the militias, which nonetheless remain present and active as demonstrated by the recent offensive of the M23.

The Kivus have constituted the epicentre of the Congolese wars since 1996. Since the integration of the National Congress for the Defence of the People (CNDP) into the national army in 2009,[228] the region is officially "in the process of stabilisation".[229] With UN support, the Congolese government has been putting military pressure on the militias. Progress has been very slow, however.[230] Successive military operations have yielded no tangible results; these include: Umoja Wetu (2009), Kimia 2 (2009), Amani Leo (2010), Ruwenzori (2010) and Amani Kamilifu (2012). The many armed groups operating in the east (ADF-Nalu, FDLR, Mai-Mai and Front for Patriotic Resistance in Ituri,

[221] Crisis Group interviews, civil society representatives, Bunia, 19 July 2011.
[222] Crisis Group interviews, civil society and Total representatives, Bunia, 19 July 2011.
[223] Caucus of North Kivu national deputies, Recommendation favourable to oil exploration in block 5 of the Albertine Graben, North Kivu, 30 December 2010. Local politicians Célestin Vunabandi and Muhindo Nzangi Butondo organised public meetings where they argued in favour of production in block 5. Crisis Group interview, civil society activist, Goma, July 2011. Letter from the Innovation for the Development and Protection of the Environment Association (Association innovation pour le développement et la protection de l'environnement) to the Honourable Nzangi Butondo, provincial deputy for North Kivu, Goma, 26 February 2011, 13/IDPE/DG/MATH/2011.
[224] Petition by North Kivu civil society environmental organisations about the production of oil in block 5 of the Democratic Republic of Congo, Network for the Conservation and Rehabilitation of Forest Ecosystems (Réseau pour la conservation et la réhabilitation des écosystèmes forestiers), Goma, 21 October 2010. Final communiqué of participants attending the workshop on oil exploration in block 5 of the Albertine Graben, Goma, 5 February 2011. Crisis Group interviews, members of environmental protection associations, Goma, 21 July 2011.
[225] Soco also briefed the European ambassadors in Kinshasa. Crisis Group interview, Soco executive, Goma, May 2012. See "Exploitation du pétrole dans le parc des Virunga: la biodiversité du lac Edouard sera préservée, selon l'entreprise Soco", Radio Okapi, 19 June 2012.
[226] "L'ASADHO s'inquiète au sujet des menaces de mort proférées contre les acteurs de la société civile du Nord Kivu", Asadho (Association africaine de défense des droits de l'homme) press communiqué, 11 April 2012. Crisis Group interviews, Soco staff, Goma, May 2012.
[227] Inhabitants of Rutshuru and Masisi territories, the "Petit Nord", who live in the vicinity of Virunga Park, are mainly from the Tutsi, Hutu and Hunde ethnic groups. The Nande mainly occupy the "Grand Nord", in Lubero and Beni territories. The former area has economic ties with Rwanda and the latter with Uganda. These economic rivalries are expressed politically in the dispute between the Petit Nord and the Grand Nord for control of North Kivu provincial institutions. Since 2009, following a rapprochement between Kinshasa and Kigali, "Petit Nord" politicians have tried to take control of provincial institutions previously dominated by the Nandes.
[228] The CNDP is a political armed militia established by Laurent Nkunda in December 2006. Defending the Tutsi community in North Kivu, the CNDP was run by Bosco Ntaganda after Nkunda's arrest in 2009. See Crisis Group Africa Report N°165, *Congo: No Stability in Kivu despite Rapprochement with Rwanda*, 16 November 2010.
[229] For the history of conflict in the Kivus, see Crisis Group Africa Report N°53, *The Kivus: The Forgotten Crucible of the Congo Conflict*, 24 January 2003; Africa Briefing N°25, *The Congo: Solving the FDLR Problem Once and for All*, 12 May 2005; and Africa Report N°133, *Congo: Bringing Peace to North Kivu*, 21 October 2007.
[230] See Crisis Group Africa Report N°165, *Congo: No Stability in Kivu Despite Rapprochement with Rwanda*, op. cit.

FRPI) still control certain rural areas[231] and oppose the Congolese army after failed attempts at integration[232] and trade in minerals.[233] Since the start of 2012, there has been an upsurge in insecurity and a new armed group, M23, has emerged.

In North Kivu, the FARDC have been conducting an offensive against the FDLR and their allies since the start of 2012. In February, the army regained control of two mining sites held by the Mai-Mai Cheka.[234] In March, with MONUSCO support, it launched the "Radi Strike" offensive against all armed groups in South and North Kivu.[235] However, these offensives have had limited success and the security situation deteriorated when, in early April, General Bosco Ntaganda organised a mutiny in the Kivus to avoid his arrest. This attempt failed but since then a new armed group (M23) run by one of his close allies has emerged.[236] As a result, in May 2012 there were about 220,000 displaced people in North Kivu[237] and 20,000 refugees in Uganda and Rwanda.[238]

Armed groups remain active in South Kivu despite Operation Amani Kamilifu and defections from the FDLR.[239] Moreover, new groups have appeared, including the Raïa Mutomboki self-defence groups in Shabunda and Fizi territories.[240] In Fizi, the Mai-Mai Yakutumba and Burundian militia of the National Liberation Forces (Forces nationales de libération, FNL) remain active.[241] As a result, civil society is complaining about the rising insecurity.[242] To the south of Ituri, the FRPI has expanded its territorial control.

Although they have been reorganised into regiments, the FARDC are incapable of controlling armed groups in the two Kivus and Ituri and are facing a new rebellion in North Kivu. Internal corruption and inadequate logistics has made the army a liability and threat to national security as demonstrated by Ntaganda's mutiny. According to the UN Group of Experts, FARDC officers control a large part of the illegal mining operations and trade in minerals in South and North Kivu and Ituri.[243] The UN High Commissioner for Human Rights has also largely implicated the army in atrocities and human rights abuses in the areas under its control.[244]

Competition and fighting for natural resources have brought racketeering and predatory schemes to the economy of the Kivu provinces. The informal mining sector is under the control of armed groups and the Congolese security forces.[245] This longstanding militarised extraction of minerals has led to the development of a deeply-rooted mafia system, while low intensity guerrilla movements are involved in mining operations in other territories (eg, Walikale and Shabunda). Meanwhile, lasting and complex land

[231] For a list of the main armed groups active in the east, see Appendix F.
[232] In 2011, the Congolese government unsuccessfully tried to integrate most of the armed groups into the FARDC in an attempt to stabilise the two Kivu provinces. This operation was hampered by antagonisms between the various groups and the failure to reform the army. In North Kivu, in March 2011, ex-Mai-Mai fighters integrated into the national police demonstrated to demand wages that had been due to them since their demobilisation one year previously. In South Kivu, following a disagreement about the ranks allocated in the army and a protest about the award of senior office to members of the Federalist Republican Forces (FRF) militia, members of Pareco, a rebel group allied to the FDLR, threatened to desert and mutiny in September 2011, while the FRF complained about their situation in the army. Crisis Group interviews, FRF members, Bukavu, February 2012; "Nord-Kivu: des ex-miliciens intégrés dans la police réclament leur solde", Radio Okapi, 29 March 2011.
[233] See the report by the UN Group of Experts, op. cit.; letter dated 29 November 2011, UN Security Council, op. cit.
[234] "Nord-Kivu: les FARDC reprennent deux carrés miniers de Walikale", Radio Okapi, 8 February 2012.
[235] "Les FARDC et la MONUSCO lancent ensemble l'opération 'Coup de foudre' contre les rebelles rwandais FDLR dans le Nord-Kivu", *Le Potentiel*, 22 March 2012.
[236] For a more detailed analysis of this mutiny, see "Mutinies in the East: Beyond the Terminator", op. cit. The creation of M23 in May 2012 was announced by a CNDP press statement. Press communiqué n°011/ANC/CNDP/2012, Rutshuru, 6 May 2012.
[237] Presentation of the humanitarian situation, North Kivu, OCHA, 8 June 2012.
[238] "Nord-Kivu: de nombreux Congolais se réfugient chaque jour en Ouganda", Radio Okapi, 13 March 2012. "Thousands flee as Congo battles renegade general", Reuters, 10 May 2012.
[239] "Sud-Kivu: l'opération 'Amani Kamilifu' provoque de nombreuses redditions des Fdlr", *Le Potentiel*, 23 March 2012.
[240] "Un nouveau groupe armé créé au Sud-Kivu", Radio Okapi, 8 February 2012.
[241] Crisis Group interviews, civil society, international NGOs and MONUSCO personnel, Baraka, February 2012.
[242] "Sud-Kivu: la société civile dénonce à nouveau la situation d'insécurité", *L'observateur*, 2 March 2012.
[243] Letter dated 29 November 2011, UN Security Council, op. cit.
[244] "The High Commissioner is particularly concerned by the situation in the east of the country, especially in Orientale and Kivu provinces, where soldiers of the Armed Forces of the Democratic Republic of the Congo (FARDC) continued to subject the local population to arbitrary executions, sexual violence, arbitrary and illegal arrests and detentions, torture and ill-treatment, extortion, looting and forced labour". Report of the UN High Commissioner for Human Rights on the human rights situation and the activities of her Office in the Democratic Republic of Congo, A/HRC/19/48, 13 January 2012, p. 5.
[245] The reports of the UN Group of Experts have documented this situation every year since 2001. Also see the many reports published by the Pole Institute, www.pole-institute.org.

conflicts between entire communities generate very sensitive local political situations.[246]

In addition to dealing with the physical dangers present in this multi-conflict environment, companies will have to come to an agreement with the people who are really controlling the territory before pursuing exploration activities. The brief kidnapping of a Soco subcontractor,[247] the killing of a dozen Virunga Park security guards[248] in 2011, as well as the withdrawal of a Total team from Ituri in March 2012 because of FRPI unrest, show the danger of operating in areas outside of state control. This resurgence of violence is evidence of the tensions rife in an area already coveted for natural resources other than oil (timber, minerals, bush meat, etc.) and where protection of the environment has had to be militarised.[249] If oil reserves are discovered in eastern Congo, these high-risk areas can expect an exponential growth in racketeering and predatory schemes.

3. New centres of power in Congo: Changes in internal geopolitics

Questions on the unity of the DRC are as old as the country and continue to haunt Congolese politics. When Zaire became independent on 30 June 1960, the richest province of Katanga, led by Moïse Tshombe, declared a short-lived independence on 11 July 1960.[250] At the instigation of Albert Kalonji, a close associate of Moïse Tshombe, South Kasai province also declared independence on 8 August 1960. Katanga's secession was promoted by interests in its lucrative mines.[251] A second attempt at secession in Katanga in 1978 was quashed by another foreign intervention.[252]

Historically, one of the central issues of Congolese politics has been how to share income from natural resources between rich and poor provinces. In theory, the issue was settled by the fiscal decentralisation provisions in the 2005 constitution.[253] However, in practice, seven years later, nothing has been solved and decentralisation has stalled.[254] After several years of inaction on this issue, the Congolese authorities clearly favoured centralisation. In January 2011, constitutional amendments strengthened central government powers over the provinces.[255] The dispute between the provinces and Kinshasa about fiscal decentralisation continues to nurture the periphery's grievances against the centre. Katanga, which still harbours secessionist tendencies,[256] refuses to pay tax revenues to the central government on the grounds that the latter is not complying with the constitutional provisions for fiscal redistribution.[257] These disputes could fuel separatist desires in other resource-rich provinces if no solution is found.

Since independence, the country's collective consciousness has identified the mining province of Katanga and, to a lesser extent, the diamond-producing provinces of Kasai as the "useful" parts of the DRC. From a strictly budgetary perspective, Bas-Congo is financially more important to the country than Katanga as it produces 27,000 bpd of oil. According to the finance ministry, in 2011, oil was the highest source of tax revenues, exceeding the mining sector's contribution to the state budget. In 2009, mining tax revenues were above $50 million while the oil tax revenues were above $150 million.[258] If exploration in the

[246] Chris Huggins, "Land, Power and Identity: Roots of violent conflict in Eastern DRC", International Alert, London, November 2010. Rapport du dialogue intercommunautaire entre les communautés des territoires d'Uvira et de Fizi, Life & Peace Institute, Bukavu, March 2010; "Who belongs where? Conflict, displacement, land and identity in North Kivu, Democratic Republic of Congo", International Refugee Rights Initiative and Social Science Research Council, March 2010.
[247] "Rutshuru: les FDLR ont kidnappé un employé de Soco international au parc des Virunga", Radio Okapi, 16 February 2011.
[248] Crisis Group interview, civil society representative, Goma, June 2012.
[249] Ibid.
[250] Katanga's independence lasted until the UN military intervention in January 1963.
[251] During the colonial period, South Katanga was the historical centre of the mining industry. The colonisers discovered and exploited the minerals in the south of the province (copper and cobalt). Today, most of the industrial mining operations in the DRC still take place in this region.
[252] Robert Cornevin, *Histoire du Zaire: Des origines à nos jours* (Brussels, 1989).
[253] Article 175 of the DRC constitution stipulates that "the share of national revenues allocated to the provinces shall be 40%. It shall be retained at source".
[254] The non-implementation of decentralisation and the reasons for this were detailed in Crisis Group Briefing, *Congo: A Stalled Democratic Agenda*, op. cit. About the uncertainty of the decentralisation in the DRC, see also Pierre Englebert, "Incertitude, autonomie et parasitisme: les entités décentralisées et l'Etat en République démocratique du Congo", *Politique africaine* (June 2012), pp. 169-188.
[255] In the event of serious malfunctioning of provincial assemblies, the president can now dissolve them after consultation and can remove provincial governors from office, Law 11/002 of 20 January 2011 amending articles of the Constitution of the Democratic Republic of Congo, of 18 February 2006, *Daily Gazette*, 1 February 2011, Article 1, amendment to Article 226.
[256] See Crisis Group Africa Report N°103, *Katanga: The Congo's Forgotten Crisis*, 9 January 2006. In March 2012, the Katanga National Transition Council (Conseil national de transition du Katanga) called on Katangans to join a march for independence and, in July, the chairman of the provincial assembly initiated a petition about federalism. "RDC: pétition pour l'autonomie des provinces", Radio France Internationale, 4 July 2012.
[257] "Budget 2012: Le Katanga annonce la retenue à la source des 40 %", *Le Potentiel*, 1 October 2011.
[258] Official communiqué 002, Ministry of Finance, 29 April 2011. See also Appendix G.

east leads to further discoveries, the country's economic geography will be profoundly transformed and, consequently, so will its internal geopolitics. The demands for autonomy already expressed during the war of the eastern provinces (Ituri, North and South Kivu)[259] could easily be revived.

IV. TURNING A CURSE INTO AN OPPORTUNITY FOR DEVELOPMENT

To turn the threat to stability represented by an oil rush into an opportunity for development, the government must clarify borders that are straddled by reserves, reform the entire oil sector and declare a moratorium on oil exploration in high-risk areas and world heritage sites.

A. Resolving the Border Problem

The cross-border oil reserves continue to cause tensions between the DRC and concerned neighbouring states. The governments need to take two measures to ensure the peaceful development of these reserves.

1. Preparing a framework agreement

Under AU and World Bank Group auspices, a meeting with neighbouring states could be organised to prepare a framework agreement that would provide for the participation of one or more companies (a joint selection procedure if only one company is involved), sharing of oil revenues and a mechanism for institutional dialogue through which to resolve problems and jointly supervise the company. Previous joint management arrangements, such as the Ngurdoto Accords, the agreement between Congo-Brazzaville and the DRC and the unitisation accord between Angola and Congo-Brazzaville, could be used as a reference.

At the same time, in order to revive the Uganda-DRC dialogue on oil issues, Kinshasa should implement the Ngurdoto Accords, particularly by deploying personnel for the joint administration of Rukwanzi Island and participating in the joint commission on demarcating the border.

Violent expulsions from Angola must end and Luanda and Kinshasa should establish a dialogue at the highest level. As financial disputes are one of the causes of the deterioration in their relations, the two governments should create a commission of experts to examine their respective financial grievances and propose an amicable agreement that meets their demands on both diamonds and oil. A bilateral arrangement would avoid inflaming maritime border problems and getting tangled up in a political-legal stalemate if the Commission on the Continental Shelf recognises the DRC's rights. In any case, Angola is unlikely to transfer those blocks to the DRC given current production in offshore areas.

2. Demarcating the borders

Before allocating further exploration rights in the east, the Congolese government should begin a border demarcation program that focuses on areas where it expects oil explo-

[259] For more on the secessionist political tendencies, see Crisis Group Report, *The Kivus: The Forgotten Crucible of the Congo Conflict*, op. cit.; and Alphonse Maindo Monga Ngonga, "La républiquette de l'Ituri" in "République démocratique du Congo: un Far West ougandais", *Politique africaine* (March 2003), pp. 181-192.

ration activities to take place. Joint commissions responsible for demarcating borders could be formed with neighbouring countries and with the AU's technical and financial support.

The objective of the AU's border program is to prevent conflict and promote integration.[260] It aims to delineate and demarcate borders, develop cross-border cooperation and build border management capacities. As it encourages the "joint exploitation of cross-border resources" and recognises the "special challenges" posed by river and lake boundaries,[261] this program is an ideal tool to demarcate the borders between the DRC, Tanzania, Burundi, Rwanda, and possibly the DRC's western neighbours to develop the Central Basin. This program was instrumental in demarcating maritime borders between Tanzania, the Seychelles and Comoros Islands.[262]

B. Reforming Oil Governance

The previous government led by Adolphe Muzito (October 2008-March 2012) included oil governance reform[263] – sectoral strategy, legislation and regulatory mechanisms – as part of the broad economic governance program drafted with support from the World Bank. However, initiatives to promote contractual and financial transparency were not fully achieved. "Presidentialisation" of the oil sector has disrupted change and resulted in opaque and discretionary decisions.

The new Congolese government should draw inspiration from the previous economic program, the Natural Resource Charter and the findings of the EU/AU working group on the governance of natural resources,[264] to commence reform of oil governance. It should start with the adoption of the long-awaited hydrocarbons code. Such a step would update and clarify Congolese law. Preliminary discussion about the management of the sector started at the African Petroleum Congress and Exhibition in 2010 (CAPE IV) and the drafting of a bill. The code would create a hydrocarbons management system based on transparency, development and democratisation of decision-making.[265]

To ensure transparency, the code should make publication of all signed oil agreements mandatory and integrate the EITI into Congolese law on hydrocarbons. Only published contracts should be regarded as legally valid. It should also include a procedure for the allocation of oil rights, provide a framework agreement and define fiscal, social and environmental obligations for companies.

The allocation procedure should create a system of open competitive tendering for exploration and production. The law should ban mutual agreements and allocation of exploration and production rights to companies whose beneficial ownership information is not publicly available. In accordance with the CAPE IV recommendations, a tendering process manual should specify financial, social, environment and technical criteria for tenders and for their evaluation.[266]

Companies should have clearer legal obligations for consultation, cooperation and social responsibility. By drawing on good practices in this field,[267] these should determine a minimum contribution to local development (jobs, education, health, infrastructure, etc.) – that companies would be free to exceed – which would be taken into consideration when evaluating their tenders. Companies should conduct detailed socio-economic studies before beginning their activities, include a human rights assessment in their preliminary studies[268] and apply due diligence when recruiting local staff and hiring contractors. They should start a dialogue as early as possible with the local population. Corporate social responsibility initiatives should use a participatory approach and be managed jointly with the population. Transparency criteria should also be included;

[260] Summary Note on the African Union Border Programme and its Implementation Modalities, African Union, Addis Ababa, 2007.
[261] Second International Symposium on Land, Maritime, River and Lake Boundaries Management, African Union, Maputo, 17-19 December 2008.
[262] "The African Union welcomes the signing by Seychelles, Comoros and Tanzania of agreements on the delimitation of their maritime borders", press release, African Union, 12 February 2012.
[263] Economic governance programme, Technical committee for the reforms, finance ministry, Kinshasa, March 2011.
[264] Prepared by a group of independent experts chaired by the Nobel Economics Prize winner, Michael Spence, the Natural Resource Charter sets out principles for the good management of natural resources. See www.naturalresourcecharter.org. The EU/AU working group on the governance of natural resources met several times in 2011 and defined principles for good governance, notably how to avoid conflict over natural resources. See www.africa-eu-partnership.org/news/working-group-discusses-governance-natural-resources.
[265] These three principles are among the twelve precepts in the Natural Resource Charter.
[266] "Gestion du dispositif juridique et contractuel comme accélérateur des investissements pétrolier", CAC presentation, CAPE IV, Kinshasa, 23 March 2010.
[267] Studies and comparisons of corporate social responsibility policies have made it possible to identify best practices. See especially the work of Chr. Michelsen Institute and the World Bank, *Company codes of conduct and international standards* (Washington, March 2004).
[268] Human rights due diligence is recommended by the UN Guiding Principles on Business and Human Rights. "Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises", Human Rights Council, 21 March 2011, paragraphs 17 to 21.

for example, tendering companies should be required to publish the list of their shareholders.

To democratise decision-making, the management of calls for tenders should be entrusted to an inter-ministerial commission that also includes parliamentarians, provincial elected representatives and civil society actors. Proposals for the allocation of oil blocks should be submitted to the National Assembly and Senate for examination before consideration by the Council of Ministers. In terms of ex-post assessment of partnerships with oil companies, a second inter-ministerial commission with the same composition should be created and the results of its assessments should be published, as recommended at Cape IV.[269] If further oil discoveries happen, the Treasury should design an oil revenue policy.

In order to adjust the oil governance reform, the Congolese government should call on expertise from the World Bank Group and it should also benefit from its assistance when awarding oil rights. The African Legal Support Facility of the African Development Bank could be mobilised to enhance the legal capacity of the Congolese authorities involved in negotiating oil contracts.[270] In the same way, the World Bank Group and other willing donors should support the Congolese civil society efforts to build a monitoring capacity in the oil sector.

C. Preventing the Rise of Local Tensions

The DRC must ensure that development of the oil sector does not take place to the detriment of local people and does not generate easily manipulated resentment. Consequently, the environment on which local people depend for their livelihood must be preserved and the security situation should be a decisive factor in allocating exploration rights.

The DRC should declare a moratorium on exploration in insecure areas of the Ituri District and the Kivus. Given the new rebellion and the high density of militias in the Kivus, the government should wait until security problems are solved and state authority is restored before awarding new exploration rights.

To prevent local tension, the Congolese authorities should also respect a ban on exploration and production of natural resources in World Heritage Sites. A procedure for changing status should be prepared to authorise production in other natural parks and a joint committee of experts from the environment and oil ministries should be formed to examine requests for exploration licences in the natural parks. Authorisation of prospection and exploitation in natural parks should be based on a comprehensive assessment resulting from a participatory approach and including social, economic, political and security parameters. As several parks may be concerned by oil exploration in the near future, this procedure should be quickly established.

To stem the growing tension between central government and provinces frustrated by the failure to decentralise, the latter should participate in the main management decisions regarding exploration and production and receive a predetermined percentage of oil revenues. This sum should be used to help fund the provincial institutions' budget and development of local services for the population. Oil commissions in provincial assemblies should conduct studies into the impact of oil company activities on local communities and how best to use the province's share of oil revenues.

The hydrocarbons code should make it compulsory for companies to use "clean technology" (ban on flaring), enforce the polluter pays principle, conduct an environmental impact study every two years and publish the results. Appointed by the government, an environmental commission composed of pollution experts, local politicians and civil society representatives should continuously monitor the Congo River estuary in order to clear up controversies about the repeated bouts of pollution in populated and environmentally sensitive areas.

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[269] "Gestion du dispositif juridique et contractuel comme accélérateur des investissements pétroliers", op. cit.

[270] The African Development Bank is ready to support African governments for the contract negotiations and the management of hydrocarbons reserves. "AfDB ready to aid Tanzania", *Petroleum Africa*, 31 May 2012.

V. CONCLUSION

The opaque management of mineral resources by both the state and private companies has historically fuelled conflict in the Democratic Republic of the Congo. In a country marked by local tensions and deep strains with some neighbouring countries, oil exploration could revive the dynamics of conflict by exacerbating resentment among an extremely poor and neglected population, redrawing the geopolitical map of the country and fuelling greed in the most sensitive areas where armed groups have been involved in the illegal exploitation of natural resources for years. If significant oil reserves are confirmed, national authorities will have to prevent the black gold from becoming a new cause for conflict or accentuating the country's internal and external vulnerability.

The new Congolese government must discard all thoughts of speculation, fight the lack of transparency that has traditionally prevailed, postpone the start of oil exploration until certain key problems are resolved (decentralisation, undefined borders and territorial rivalries), and develop governance tools favourable to development and democratic control of this resource. These steps are vital to turn the oil's potential threat to stability into an opportunity for development.

Kinshasa/Nairobi/Brussels, 11 July 2012

APPENDIX A

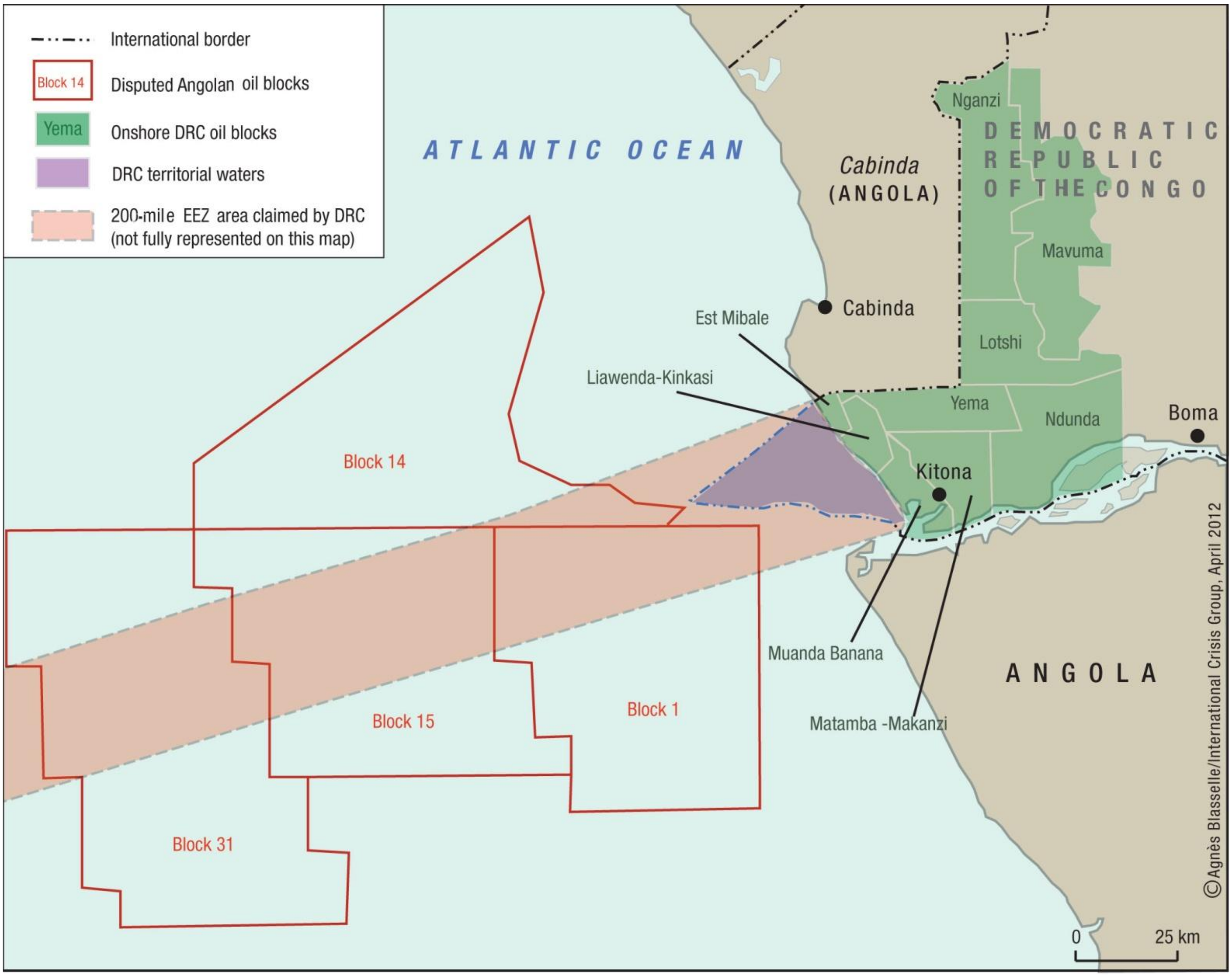
MAP OF THE DEMOCRATIC REPUBLIC OF THE CONGO

Map No. 4007 Rev. 9 UNITED NATIONS
July 2011

Department of Field Support
Cartographic Section

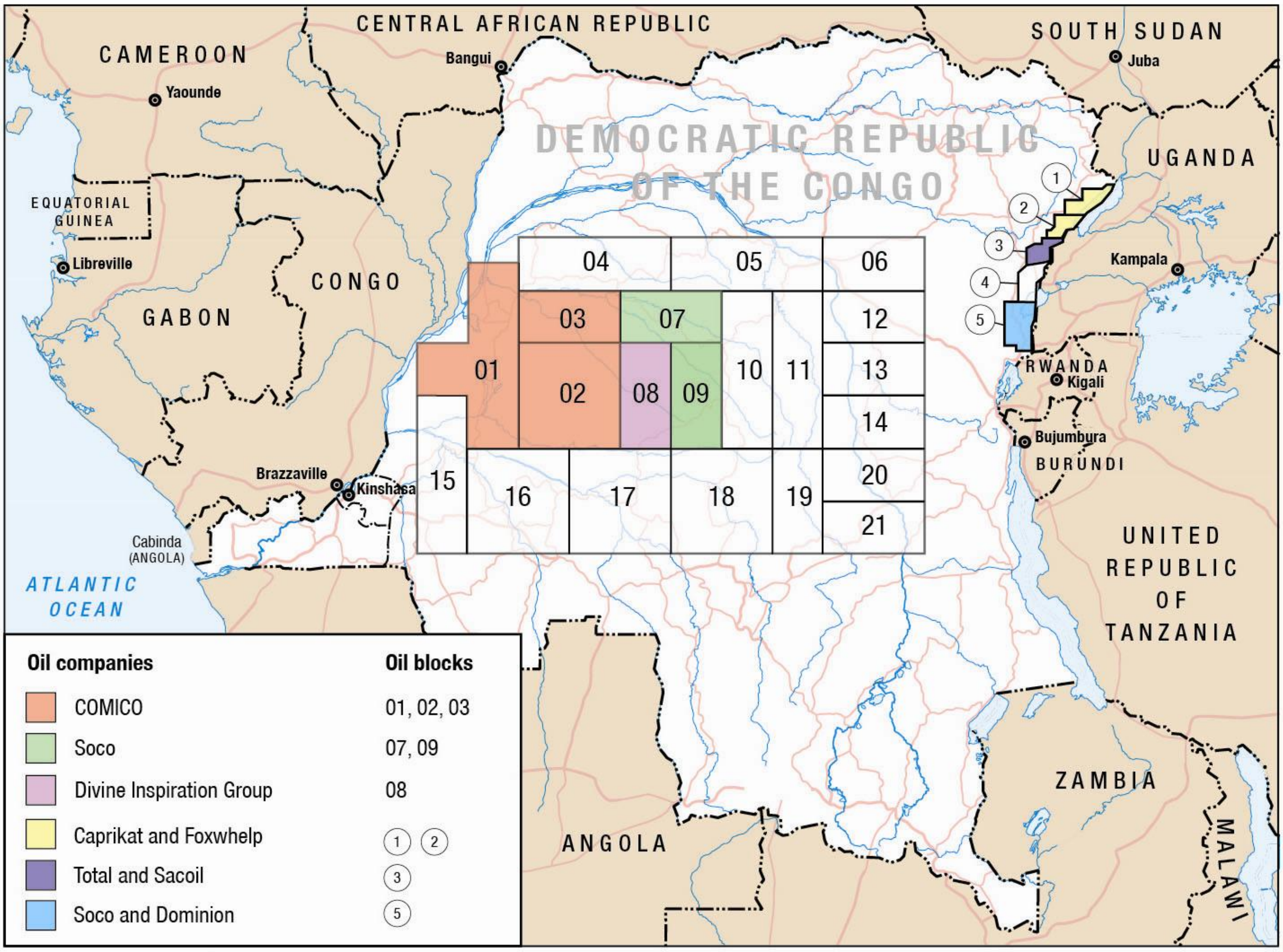
APPENDIX B

MAP OF ATLANTIC COAST OIL BLOCKS



APPENDIX C

MAP OF CENTRAL BASIN AND EASTERN CONGO OIL BLOCKS

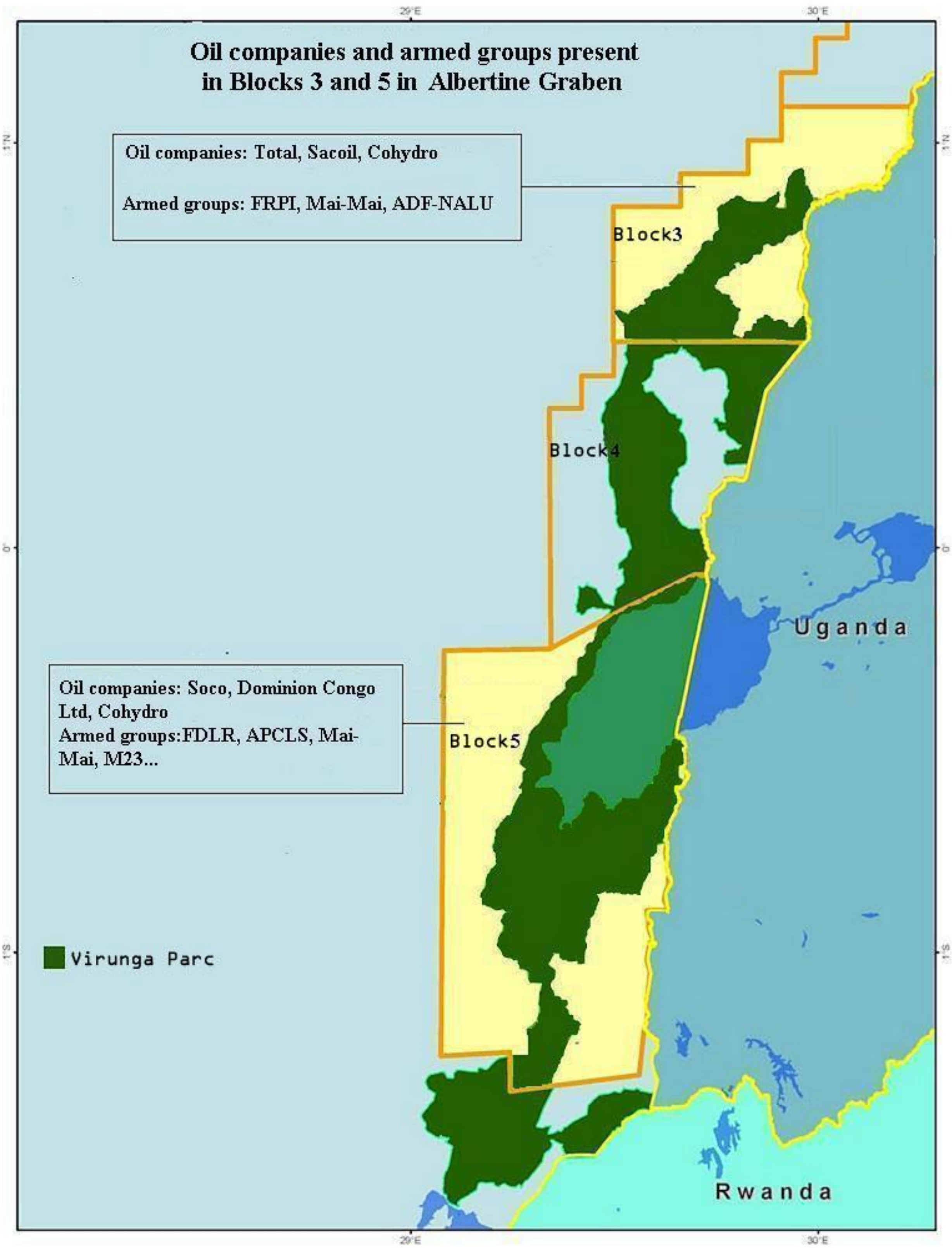


Based on UN Map No. 4007 Rev. 10 (July 2011). The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations or Crisis Group.

Source: Presentation by His Excellency the Minister of Hydrocarbons, CAPE IV, Kinshasa, 24-27 March 2010.

APPENDIX D

MAP OF OIL BLOCKS IN VIRUNGA PARK



Based on the WWF map, WWF-U.S., CSP February 2011.

APPENDIX E

CHRONOLOGY OF THE PRODUCTION SHARING CONTRACTS APPROVED BY THE CONGOLESE GOVERNMENT FROM 2005 TO 2012

<table>
<tr><th>Region</th><th>Block</th><th>2006</th><th>2007</th><th>2008</th><th>2010</th><th>2011</th></tr>
<tr><td rowspan="6">Albertine Graben</td><td>Block 1</td><td rowspan="2">PSC between Heritage Oil (39.6%), Tullow Oil (48.4%) and Cohydro (12%), June 2006.</td><td>A ministerial decree took away block 1 from Tullow Oil, 17 October 2007.</td><td>PSC between Petro SA, Divine Inspiration, (51%), H Oil (37%), Sud Oil (2%), Congo Petroleum and Gas (3%), Cohydro (7%), 21 January 2008.</td><td rowspan="2">PSC Caprikat-Foxwhelp, May 2010.

Approved by presidential decree (10/041) on 18 June 2010.</td><td rowspan="2"></td></tr>
<tr><td>Block 2</td><td></td><td></td></tr>
<tr><td>Block 3</td><td></td><td>PSC between South Africa Congo Oil (SacOil) 85% and Cohydro 15%, 4 December 2007.</td><td></td><td>PSC approved by presidential decree (10/042 et 10/043) 18 June 2010.</td><td>Agreement between SacOil and Total that buys 60% of SacOil shares in Block 3.[271]</td></tr>
<tr><td>Block 4</td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>Block 5</td><td></td><td>PSC between SOCO (38.25%), Dominion Congo Ltd (46.75%) and Cohydro (15%), November 2008.</td><td></td><td>PSC approved by presidential decree

(10/044) 18 June 2010.</td><td></td></tr>
</table>

[271] "Total farms-in to DRC's block III", *Petroleum Africa*, 4 March 2011.

<table>
<tr><th>Region</th><th>Block</th><th>2000</th><th>2005</th><th>2006</th><th>2007</th><th>2008</th><th>2010</th></tr>
<tr><td rowspan="7">Bas-Congo</td><td>Matamba-Makanzi Block</td><td></td><td rowspan="3">PSC between Surestream Oil and Cohydro (8%), 16 November 2005.</td><td rowspan="3">PSC approved by presidential decrees (05/003 and 05/004), 2 February 2006</td><td rowspan="2"></td><td></td><td></td></tr>
<tr><td>Yema Block</td><td></td><td></td><td></td></tr>
<tr><td>Ndunda Block</td><td></td><td></td><td></td><td></td></tr>
<tr><td>Lotshi Block</td><td></td><td>PSC between Energulf Africa Ltd and Cohydro (10%), 16 November 2005.</td><td></td><td></td><td rowspan="2">PSC approved by presidential ordinance (08/021), 12 March 2008.</td><td></td></tr>
<tr><td>Nganzi Block</td><td></td><td></td><td>PSC between Soco DRC 85% and Cohydro (15%), 29 June 2006.</td><td></td><td></td></tr>
<tr><td>“Perenco” Est Mibale Block</td><td>Perenco buys onshore blocks of Fina Elf</td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>Offshore Block</td><td></td><td></td><td>PSC between Nessergy and Cohydro about Congolese deep offshore, October 2006.</td><td></td><td>PSC approved by presidential ordinance (08/022), 12 March 2008.</td><td></td></tr>
</table>

Source: Ministry of Mines
PSC: production sharing contract

APPENDIX F

ARMED GROUPS PRESENT IN OIL BLOCKS

<table>
<tr><th>Province</th><th>Oil block</th><th>Oil company with a CCP</th><th>Territory</th><th>Armed group</th></tr>
<tr><td rowspan="3">Oriental Province, Ituri District</td><td>Block 2</td><td>Caprikat, Foxwhelp</td><td rowspan="2">Irumu Territory</td><td rowspan="2">FPRI (Front for Patriotic Resistance in Ituri)</td></tr>
<tr><td rowspan="3">Block 3</td><td rowspan="2">Total, Sacoil</td></tr>
<tr><td>Mambasa Territory</td><td>Colonel Kasambasa aka Simba, deserter</td></tr>
<tr><td rowspan="4">North Kivu</td><td>Total, Sacoil</td><td>Beni Territory</td><td>ADF-Nalu, Mai-Mai</td></tr>
<tr><td>Block 4</td><td></td><td>Lubero Territory</td><td>ADF-Nalu, Mai-Mai</td></tr>
<tr><td rowspan="2">Block 5</td><td rowspan="2">Soco, Dominion</td><td>Masisi Territory</td><td>FDLR, APFSC (Alliance of Patriots for a Free and Sovereign Congo), CDF (Congolese Democratic Front), Pareco Fort, Mai-Mai</td></tr>
<tr><td>Rutshuru Territory</td><td>FDLR, Mai-Mai, M23</td></tr>
<tr><td rowspan="2">South Kivu</td><td rowspan="2">Lake Tanganyika</td><td></td><td>Uvira Territory</td><td>Mai-Mai, FNL (National Liberation Forces)</td></tr>
<tr><td></td><td>Fizi Territory</td><td>FDLR, FNL, Mai-Mai Yakutumba, Mai-Mai Bwasakala, Raïa Mutomboki Mboko</td></tr>
</table>

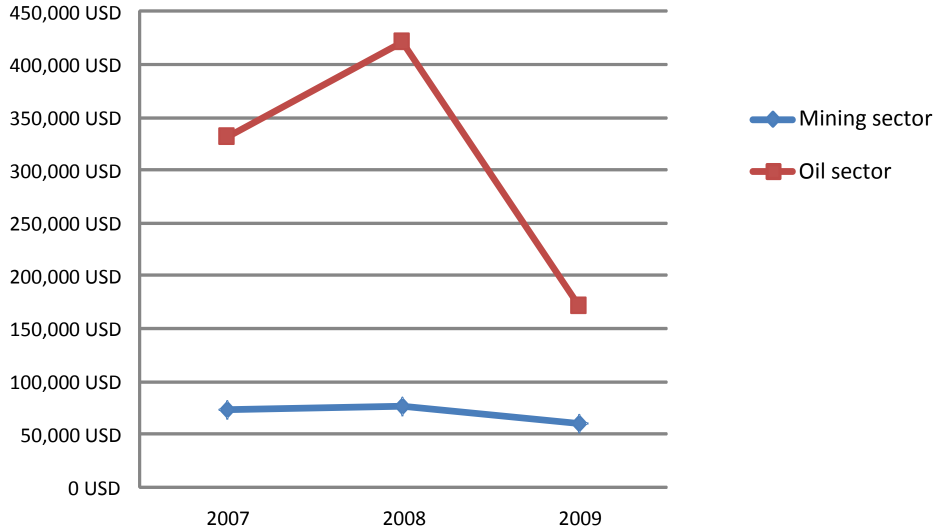
APPENDIX G

EVOLUTION OF FISCAL REVENUES FOR OIL AND MINING SECTORS

Evolution of tax revenues for oil and mining sectors

(in thousands of USD)

This graph shows the tax revenues as declared by the state authorities



Source : Extractive Industries Transparency Initiative (EITI)

Rapport du conciliateur indépendant, exercice 2007, PricewaterhouseCoopers. Kinshasa, 22 December 2009.
Rapport de l'Administrateur indépendant de l'ITIE sur les revenus 2008-2009, Fair Links, Paris, 1er February 2012.

APPENDIX H

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is chaired by former U.S. Undersecretary of State and Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters is in Brussels, and the organisation has offices or representation in 34 locations: Abuja, Bangkok, Beijing, Beirut, Bishkek, Bogotá, Bujumbura, Cairo, Dakar, Damascus, Dubai, Gaza, Guatemala City, Islamabad, Istanbul, Jakarta, Jerusalem, Johannesburg, Kabul, Kathmandu, London, Moscow, Nairobi, New York, Port-au-Prince, Pristina, Rabat, Sanaa, Sarajevo, Seoul, Tbilisi, Tripoli, Tunis and Washington DC. Crisis Group currently covers some 70 areas of actual or potential conflict across four continents. In Africa, this includes, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Sierra Leone, Somalia, South Sudan, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Burma/Myanmar, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Malaysia, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in Europe, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, Macedonia, North Caucasus, Serbia and Turkey; in the Middle East and North Africa, Algeria, Bahrain, Egypt, Iran, Iraq, Israel-Palestine, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia, Western Sahara and Yemen; and in Latin America and the Caribbean, Colombia, Guatemala, Haiti and Venezuela.

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July 2012

APPENDIX I

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APPENDIX J

INTERNATIONAL CRISIS GROUP BOARD OF TRUSTEES