

CONGO: CONSOLIDATING THE PEACE

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CONGO: CONSOLIDATING THE PEACE

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Elections in the Democratic Republic of Congo were a milestone in the peace process but much remains to be done to consolidate the gains. A return to full-scale war is unlikely but violence in Bas-Congo and Kinshasa in early 2007 with over 400 people killed and renewed threats of war in the Kivus show the country's fragility. The new government's relations with the opposition have deteriorated sharply, raising the possibility of a drift to authoritarianism and urban unrest in the West, while militias continue to clash with the weak national army in the East, displacing hundreds of thousands of civilians each year, many of whom succumb to hunger and disease. The elected democratic institutions need to promote transparent and accountable governance, which should in turn stimulate continuous international support as opposed to gradual disengagement. A new partnership arrangement is urgently required between the government and the international community to push forward on deep governance reforms.

The transition was in some ways an outstanding success. It unified a divided country and improved security in much of its territory. The six main armed groups were integrated to form a national army, however flawed it remains. The Independent Electoral Commission organised provincial and national elections, considered by most observers to be relatively free and fair and ushering in the first truly democratic government in 40 years. Foreign troops withdrew, and relations with Rwanda, one of the main sponsors of the war, improved dramatically. However, the new governing institutions remain weak and abusive or non-existent.

The integrated army has become the worst human rights abuser, and the corrupt public administration is unable to provide the most rudimentary social services. While the security situation in areas like Ituri is better, there is little progress in disarming militia groups in the Kivus, and new political tensions have come to the fore, in particular in the West, which voted heavily for the opposition. The government's use of force in Bas-Congo and the capital to crack down on its opponents instead of seeking a negotiated

solution has entrenched animosity in those areas, creating the potential for further urban unrest and pockets of latent conflict.

The Kabila government has a strong mandate but the opposition, with the support of over a third of the electorate, has a role in building democracy which needs to be protected if Congo is to be stable. Despite late but commendable efforts to grant it more space in parliament, the opposition's capacity to play that role remains severely undermined by the recurrent use of force against its supporters and the exile of Jean-Pierre Bemba, the main challenger to President Kabila during the recent election. The opposition's virtual exclusion from governorships despite winning five provincial assembly elections is another sign of shrinking political pluralism. The constitutional requirement to set up strong local governments capable of providing accountability for management of 40 per cent of national tax revenues is also at risk.

To rebuild the state and augment its authority, the government must strengthen democracy or risk being paralysed by recurrent unrest, structural impotence and renewed instability in ever more parts of the country. Only a change of governance can provide the legitimacy and capacity to raise the revenues necessary to distribute peace dividends to all sectors of society.

The government still lacks the capacity to control the national territory. The main problems are well known: ill-disciplined, ill-equipped and often abusive security forces, continuing control by militias of large areas of the East and the risk of civil unrest and repressive violence in the West, where there is little government authority. The problems are closely intertwined: the weakness and partisanship of the security forces fuel popular resentment and allow militias to prosper. Creating a national, apolitical army out of the various armed groups and competent police able to handle urban disorder peacefully and provide genuine security is central to consolidating stability.

Donors have often treated security sector reform as purely technical but the governance and security challenges are inherently political and must be treated as such. The command structure, size and control of the security forces (in particular the 12,000-strong Presidential Guard) and the financial administration of the sector suffer from blatant political manipulation and pervasive, high-level corruption that have made real reform all but impossible. The logic of the transition was to buy peace by giving all signatories to the deal lucrative positions, an accommodation that came at the cost of continued impunity for human rights abuses and corruption and left intact patronage networks that permeate the state and army, undermining much-needed reforms.

The way forward lies in strengthening democratic governance. The government must allow the opposition and institutions – parliament, press and courts – to do their jobs. Reform requires genuine political will to tackle impunity by vetting police and army officers and making courts independent. The government also needs to live up to its promise to review mining and timber contracts and audit key sectors, including the army, state companies and the Central Bank. Donors must stay engaged, linking aid (over half the budget) to a political framework for a new partnership with Congo's institutions to deal with peacebuilding priorities.

RECOMMENDATIONS

To the Government of the Democratic Republic of Congo:

Regarding Security

1. Launch with the support of the UN Mission in Congo (MONUC) and in collaboration with parliament and provincial institutions a comprehensive peace initiative for the Kivus, emphasising diplomacy and dialogue more than military action, including:
 - (a) a diplomatic chapter addressing bilateral sources of tension, cross-border economic relations, the return of refugees and the restoration of full diplomatic relations with Rwanda and Uganda;
 - (b) a political chapter seeking lasting solutions to inter-communal tensions, addressing land security and promoting the role of provincial institutions to settle local political tensions;
 - (c) a security chapter, addressing small arms, army integration, disarmament, demobilisation and reinsertion (DDR) of militias and foreign armed groups;
 - (d) an economic chapter addressing local regulation of resource exploitation, including foreign investment and contracts signed during the war, and creation of an economic environment conducive to stabilisation of the provinces;
 - (e) a transitional justice chapter, addressing crimes committed by all sides during and after the war and the modalities of inter-communal reconciliation;
 - (f) an outreach campaign to inform and reassure the population about the peace initiative; and
 - (g) an action plan, drafted with MONUC, for integration of the mixed brigades and militia remnants.
2. Ratify the Pact on Security, Stability and Development in the Great Lakes Region, re-open embassies in Kigali and Kampala and work jointly for resolution of the FDLR (Forces Démocratiques de Libération du Rwanda) and LRA (Lord's Resistance Army) threats from Congo territory.
3. Prepare an army White Paper in consultation with parliamentarians, civil society and donors that includes provisions for a well-funded, independent oversight body and an ombudsman to register complaints about human rights violations, and allow parliament's defence and security commissions to monitor the implementation of reforms.
4. Start the drawdown of the Presidential Guard to brigade size and the integration of its remaining personnel into the regular army rather than police.
5. Open judicial inquiries into the killings of security and civilian personnel in Bas-Congo and Kinshasa in January and March 2007 and immediately suspend the commanding officers of the units involved.

Regarding Democracy

6. Prepare a justice White Paper and introduce in parliament the organic laws envisaged in the constitution to establish the Constitutional Court and High Council of Justice and ensure judicial independence.

7. Start negotiations and information sessions with provincial institutions over the transfer of competencies pursuant to the law on decentralisation, revenue sharing and establishment of an equalisation fund, and set up a permanent forum, including national and provincial government, parliament and civil society representatives, to talk through decentralisation issues instead of referring every problem to the Constitutional Court.
8. Ensure that the required laws and regulations on decentralisation are swiftly adopted to minimise the risk of a legal vacuum during implementation of the decentralisation program and that parliament adopts the organic law on the new independent electoral commission so that it can start its sensitisation activities on the local elections before the end of 2007.
9. Make public the findings and recommendations of the mining contracts review and maintain a moratorium on new forestry and mining concessions until a natural resources watchdog is put in place.

Regarding International Engagement

10. Reassert desire to work with the international community; present new roadmaps for governance and security sector reforms at the next meetings of the Consultative Group and the Contact Group respectively; and establish a limited-membership forum, chaired by the prime minister and including parliament and civil society representatives, to address governance and security challenges with major donors.

To the Speaker of the National Assembly, the President of the Senate and Other Parliamentarians:

11. Challenge the government to draw up comprehensive peace actions plans for the Kivus, Ituri, Maniema and Katanga and consult actively on this with MONUC.
12. Initiate a consultative process with other branches of government and international representatives so as to guarantee security for the prompt return to Kinshasa of Senator Jean-Pierre Bemba.

13. Ensure that the role of Coordinator of the opposition and the rights of opposition parties are respected, so that the legislative branch serves as an effective and responsible check on executive power.
14. Press the government to improve management of natural resources, including by cancelling illegal contracts, and consider creation of a permanent watchdog for natural resource management.

To the UN Mission in Congo (MONUC):

15. Engage the government and parliament in discussion of comprehensive peace action plans, especially for the Kivus, and condition support for operations of the national army (FARDC) on their implementation.

To the Governments of Rwanda and Uganda:

16. Support Congolese efforts to prevent another Kivus crisis both bilaterally and in the Tripartite+ mechanism.

To France, the UK, the U.S., Belgium, South Africa, the EU, China and Other Major Donors:

17. Condition aid on establishment of a new joint forum to address security and governance challenges, at which the international community should press for:
 - (a) comprehensive peace initiatives in the East, especially the Kivus;
 - (b) overcoming differences of approach on security sector reform; and
 - (c) full implementation of the law on the status of the opposition, early holding of free and fair local elections and consultation with all stakeholders to implement decentralisation effectively.
18. Support government efforts to improve management of natural resources, including by requiring their companies to comply with Congolese and national law, such as the U.S. Foreign Corrupt Practices Act, as well as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Kinshasa/Brussels, 5 July 2007

CONGO: CONSOLIDATING THE PEACE

I. INTRODUCTION

Successful completion of the electoral process, formation of a new government and adoption of a regional security pact are milestones in the restoration of stability in the Congo and the Great Lakes region as a whole. Congo now has democratically elected institutions, empowered to consolidate peace and lead it towards reconstruction of the state and recovery. While a new government has been installed, the peace process is not yet complete, however. The daunting political and security challenges include restoration of government authority throughout the country, establishment of a new system of governance and implementation of radical changes in management of natural resources, as well as security and justice sector reform.

The political transition begun in 2003 reversed dismemberment and initiated a process of slow political reconstruction, which culminated in the adoption of a new constitution by referendum and the 2006 elections. Full implementation of the constitution by building local government and holding local elections later this year or in 2008 should complete installation of this new political dispensation, as decided by the warring parties in the 1999 Lusaka ceasefire agreement and the Global and Inclusive Accord signed in Pretoria in 2003.

Rebuilding the state's administrative capacity and restoring its authority requires the active support of citizens, not mere acquiescence. Elected leaders must prove their commitment to radical change. A purely top-down approach cannot work. Not only are all administrative branches of government in shambles, but in a country where the central government has always been synonymous with oppression and plunder, even elected leaders face a formidable credibility gap that can only be bridged with a continuous commitment to consolidating democracy, improving economic governance and breaking clearly with past malpractice.

If the new government does not live up to at least some of the popular expectations and its own

promises to rebuild a different Congo, it is likely to continue being perceived more as nuisance than a legitimate authority. The risk would not be so much a return to war, which external powers would likely prevent, but further state collapse, deriving from government paralysis, increased corruption, continuation of local violence, entrenched impunity and economic stagnation. Large swathes of the country would remain cut off in effect from government authority, with multiple local and national power barons in control and empowered by their access to natural resources. Large parts of the country – Equateur, the Kasais, Orientale, Katanga, the Kivus – most of them several times the size of neighbouring Rwanda or Burundi, would be abandoned to lawlessness and misery, with massive humanitarian consequences and likely new atrocity crimes.¹

Congo has a window of only a few years during which the international community can be expected to remain committed to supporting consolidation of the peace process. By the end of 2007, the UN Mission (MONUC) will probably be under pressure to implement a significant drawdown, and donor support will likely be shifting to other post-conflict theatres. Without strong, clear signs of significant changes in governance, the window could close even more quickly. This report outlines the challenges that need to be addressed in the next two years.

¹ Crisis Group uses the term “atrocity crimes” advisedly, to refer to serious war crimes, crimes against humanity and genocide. The type of crime that mass atrocities amount to in any particular case is best left to prosecutors and judges. See Gareth Evans, “Genocide or crime? Actions speak louder than words in Darfur”, *European Voice*, 18 February 2005; also David Scheffer, “How to bring atrocity criminals to justice”, *Financial Times*, 2 February 2005.

II. OUTCOME OF THE TRANSITION

Three years after the beginning of a transition which forced him to accept power-sharing, Joseph Kabila has sidelined his political rivals and won the respect of his eastern neighbours. The support he received from Congo's regional and other international partners has been crucial in stabilising the country but it has not been used to leverage durable changes in governance and prepare for the major challenges of the post-conflict period. After a difficult campaign, Kabila was elected president but he finds himself at the head of a divided country, with a large but unreliable parliamentary majority and no proper roadmap to consolidate the peace dividends.

A. KABILA, CLEAR WINNER OF THE PEACE PROCESS

Kabila has emerged from the transition as the clear winner of the peace process. More than three years after the establishment of the transitional government, the intertwined local, regional and national dimensions of the conflict are not completely resolved but no longer endanger his rule. Through co-option, coercion and constant international support, he has undermined his military and political rivals. He continues to enjoy Angolan military and diplomatic support, and while relations with Uganda and Rwanda, the main enemies during the war, are still tenuous, these neighbours are unlikely to jeopardise their international standing by another invasion. Finally, although not resolved, conflicts in Ituri, the Kivus and Katanga have been disconnected from the national power struggle and reduced to marginal, albeit brutal, theatres of competition between local warlords. The political challenge for the new president is management of his victory.

1. Dominating the transition

Kabila's domination originated in the peace deal itself, which allowed him to keep a firm grip on key institutions. Of the four vice-presidents, one (Abdoulaye Yérodi) belonged to his party; another (Arthur Zahidi Ngoma), made no secret of his loyalty.² Gubernatorial positions were integrated in May 2004 but provincial administrations were never

fully reorganised between the peace deal's signatories. Diplomatic, immigration and revenue service posts were integrated only after two years. Twenty of 30 state companies were integrated among the signatories two years into the transition but Kabila balked at including the Central Bank, the lucrative diamond corporation, Minière de Bakwanga (MIBA), and the Générale des carrières et des mines (Gécamines), which, though bankrupt, owns some of the world's most coveted concessions. The army's officer corps was integrated but Kabila kept control of the intelligence service and a bloated Presidential Guard, as well as a parallel chain of command that controlled army finances and logistics through much of the transition.³

The president's capacity to resist full implementation of the power-sharing agreement was partly due to his rivals' miscalculations but also owed much to the almost unconditional international support he received, notably from the Kinshasa-based CIAT,⁴ most of whose members viewed him as the likely and preferred winner of the elections.

This perception was based upon Kabila's flexibility during the peace talks, which contrasted with the stubbornness of his late father.⁵ His readiness to compromise was crucial in breaking the negotiating deadlock. During the transition, he showed the same capacity to resist hardliners in his camp on sensitive legislation, including the law on nationality⁶ and the new constitution.⁷ He thus gained a reputation as a

³ The powerful *Maison militaire* – the presidential military advisory body – was key in this respect.

⁴ The International Committee in support of the Transition, known by its French acronym (CIAT) consisted of the Kinshasa ambassadors of the U.S., France, UK, Belgium, South Africa, China, Angola, Canada, Russia, the European Union (EU), and the African Union (AU). It was chaired by the UN Secretary-General's Special Representative.

⁵ Laurent Désiré Kabila led the insurgency that, with substantial help from Rwanda, deposed Joseph Mobutu in 1997 and served as president until he was assassinated in January 2001.

⁶ The law on nationality of 12 November 2004 ended the disenfranchisement and land insecurity of particularly the Kinyarwanda-speaking people of North and South Kivu. Although hardliners in the Kabila camp led by the Senate president, Mgr Marini Bodho, attempted to reverse this by including contradictory provisions in the draft constitution, the political agreement held.

⁷ The constitution adopted by referendum in December 2005 limits presidential power by establishing a prime minister responsible for designing and leading policy and accountable to parliament; reinforcing judicial independence through replacement of the old Kabila-dominated Supreme Court; and creating relatively strong local government, with governors elected by provincial

² Ngoma was controversially nominated by opposition representatives for the vice-presidency reserved for the political opposition during the South Africa peace talks in 2002, rather than the far more popular, veteran leader Etienne Tshisekedi.

reliable partner – especially compared to other political leaders, generally considered unpredictable, like the UDPS chairman, Etienne Tshisekedi, and Vice President Jean-Pierre Bemba. As the transition progressed and no other option emerged, CIAT members banked on a Kabila electoral victory.

From late 2004, CIAT members, except occasionally Belgium and the UK, were increasingly reluctant to confront Kabila. Yet, Belgium was too often handicapped by its internal politics and the rivalry between active and former ministers (Louis Michel, André Flahaut and Karel de Gucht) to develop a consistent and coherent policy. The former colonial power also never felt strong enough to lead on the most sensitive issues. The UK, long labelled an enemy by the Kabila camp for its closeness to Rwanda and the RCD during the war, preferred to act cautiously. It rarely tried to use its considerable financial aid⁸ as leverage to move other donors away from unconditional backing for Kabila, as most regularly articulated by France, the U.S., South Africa and Angola.

With the improving investment climate, CIAT members became even more cautious, as they promoted their economic interests, allegedly helping companies obtain mining contracts and lucrative state tenders directly from the presidency.⁹ The U.S., Canada, South Africa and Belgium took the lead, seeking to control strategic reserves of copper, cobalt and other minerals and restrict China's access. Nothing signified this shift better than the U.S. ambassador's public celebration of Phelps-Dodge's acquisition of the Tenke-Fungurume concessions in Katanga in August 2005 and the grandiose June 2006 ceremony in Kolwezi marking the reopening of the Kamoto mine, attended by Belgian, EU, Canadian, French, Angolan and even UN representatives.

By the end of the transition, most countries behaved as if they accepted corruption and impunity as necessary evils, the price to pay for the belligerents' compliance with the peace deal. They used Augustin Katumba Mwanke, a major figure in the presidential party, as a main conduit to influence Kabila, though

he had been identified by a UN report as a key actor in the illegal exploitation of resources during the war.¹⁰ After CIAT ambassadors witnessed the shelling of Bemba's residence by the Presidential Guard between the two rounds of the presidential elections, they took a stronger stance but it was already too late. Kabila easily resisted pressure by playing on nationalism and the international competition and accusing the CIAT of interfering in sovereign affairs.

Undermining the RCD and MLC

Kabila's dominance upset his main competitors in the transition, the Rwandan-backed Congolese Rally for Democracy (RCD) and the Movement for the Liberation of the Congo (MLC). Some RCD members were particularly reluctant to implement the peace deal on his terms and launched repeated insurgencies in the East. The crisis was exacerbated by hardliners in Kabila's camp, who thought they could still crush the RCD militarily and abort the transition.

The RCD suffered most from Kabila's domination, militarily and politically. Its senior Hutu and Tutsi figures marginalised themselves by trying to instrumentalise violence, while the majority of its non-rwandophone leaders were co-opted in the presidential majority. In September 2003, three of the highest RCD officers – all from the minority Tutsi community – refused army appointments, in effect deserting.¹¹ They created a dissident group, drawing on the reluctance of some RCD leaders to contest the elections and the resentment many Tutsis feel towards Kabila.¹² It launched an insurgency in Bukavu in May 2004; clashes followed in North Kivu in November.

The RCD leadership withdrew from the transition in August 2004 after the massacre of 160 Tutsis in the Gatumba refugee camp in Burundi. Intense pressure internationally and within the movement itself, as well as Rwanda's gradual rapprochement with Kinshasa, kept the transition on track, however. The RCD returned to government after several weeks but it split into several factions and by January 2005 was

assemblies and controlling 40 per cent of national tax revenue.

⁸ The assistance programs of the UK's Department for International Development (DFID) increased rapidly during the transition period from £17.2 million in 2003-2004 to £58.8 million in 2005-2006. See www.dfid.gov.uk/countries/Africa/congo.asp.

⁹ Crisis Group interviews, Kinshasa, October 2006, January 2007.

¹⁰ "Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo", Security Council, 17 October 2002, UN S/2002/1146, pp. 7-8; and "Persons for whom the panel recommends a travel ban and financial restrictions", Security Council, 16 October 2002, Annex II, UN S/2002/1146, p. 4.

¹¹ The officers were General Laurent Nkunda, Colonel Elie Gishondo and Colonel Eric Ruhorimbere.

¹² Officials close to Kabila have played on anti-Tutsi sentiment to galvanise popular support for the government.

a marginal player nationally. It was highly unpopular throughout the country and in the Kivus in particular due to its Rwanda links and past brutality towards the local population. In 2006 it won less than 6 per cent of the seats in the various legislatures, while its leader, Azarias Ruberwa, received less than 2 per cent of the presidential vote.¹³

The MLC was weakened by a mixture of failed confrontations, internal divisions and international pressure. In January 2005, Kabila dismissed several of its ministers for corruption. In response, Bemba withdrew to his former headquarters in Equateur, complaining the president was refusing to integrate local administration so as to skew the elections.¹⁴ Under intense CIAT pressure and promises, he returned to Kinshasa but he had lost his credibility. This setback was followed, through a combination of financial incentives and international pressure, by dismissal of several of his powerful allies. By the end of the transition, his financier, José Endundo, and other prominent MLC figures, including Secretary General Olivier Kamitatu and ministers in the transitional government, Samuel Simene, Valentin Senga, Alexis Thambwe Mwamba and Antoine Ghonda, had all joined Kabila. Bemba made a partial recovery only in the run-up to elections, when he galvanised anti-Kabila sentiment in the West.

Provoking the radical opposition's suicide

The few broad-based political parties that emerged during the country's transition to democracy in the early 1990s collapsed due to active manipulation by the belligerents as well as poor political vision and leadership. Traditionally, the political opposition has been strongest in Kinshasa, where urban poverty, unemployment and a highly politicised population have led to numerous demonstrations and riots during the past decades. Since the 1980s, this opposition has been spearheaded by Etienne Tshisekedi's Union for Democracy and Social Progress (UDPS), Antoine Gizenga's United Lumumbist Party (PALU) and an array of smaller parties, such as FONUS and PDSC. UDPS is also strong in the two Kasai provinces, Tshisekedi's home area, which have suffered from decades of neglect and underdevelopment despite their diamond mines.

UDPS's marginalisation began during the peace talks in South Africa, when opposition delegates – many of whom had been Tshisekedi's rivals in Mobutu's government – bypassed him in favour of Arthur Zahidi Ngoma, a Kabila ally.¹⁵ The party reacted by dropping out of the transitional institutions and fiercely criticising the government. When the electoral commission announced it could not hold elections by the scheduled date of 30 June 2005 – a symptom of the transition's slow progress – UDPS decided to mobilise for a renegotiation of the power-sharing arrangement. It called for mass action against an extension and a boycott of voter registration in an effort to force a breakdown of the electoral process. It was a gross miscalculation: neither demonstrations on 30 June nor the boycott garnered significant support.¹⁶

UDPS emerged from this period isolated and considerably weakened, a situation exploited by Kabila's camp with the barely veiled approval of CIAT members, despite attempts by the UK and MONUC to avoid its sidelining. When Tshisekedi realised after the constitutional referendum that his boycott strategy had failed, he tried to join the electoral process but late calls for reopening registration centres were easily rejected by the Independent Electoral Commission and CIAT, which argued lack of time and funds. Police brutally dispersed any demonstrations in support of the request.¹⁷ The interior minister, Théophile Mbemba, made sure UDPS would not be registered with its own name and symbols before candidates were nominated, thus strengthening the party's conviction that the process was irretrievably flawed. On the last day for presenting lists – 2 April 2006 – the UDPS did not put up candidates, though some members presented themselves as independents.¹⁸

The UDPS boycott and de facto exclusion were a blessing for Bemba, to whom Tshisekedi supporters who had managed to register turned to lead the opposition, even though the party had in the past called him a Ugandan-supported warlord, a Mobutist and a war criminal. But in the end, its own flaws, including a total lack of a strategic approach

¹³ The RCD has fifteen seats in the National Assembly, five in the Senate and 42 in the provincial assemblies.

¹⁴ "République démocratique du Congo: Le parti du président Kabila appelle l'ex-rebelle Jean-Pierre Bemba à la raison", Agence France-Presse, 20 January 2005.

¹⁵ See Crisis Group Africa Report N°108, *Congo's Elections: Making or Breaking the Peace*, 27 April 2006.

¹⁶ Many Congolese registered just to have an electoral card as a form of identification. Nonetheless, registration was lower in the UDPS strongholds of Kinshasa and the Kasais.

¹⁷ "Une manifestation de l'UDPS violemment dispersée à Kinshasa", Agence France-Presse, 10 March 2006.

¹⁸ For example Eva Bazaiba, a senator from Kinshasa, and Camille Ntombolo, a parliamentarian from Katanga town.

throughout the transition, were as responsible for making the UDPS irrelevant as Kabilist manoeuvres.

2. Regional détente and marginalising local conflicts

Congo's improved relations with other countries in the region, in particular Rwanda, have been crucial in preventing further conflict. Rwanda sponsored both the 1996 and 1998 wars; its influence was still evident after the peace deal, and it backed the RCD dissidents' insurgency in 2004.¹⁹ Its RCD allies were sure to lose most of their power at elections, and Kigali worried that it would no longer have a proxy to protect its interests.²⁰ Under pressure from the U.S., the UK and South Africa, which had invested politically and economically in the peace process, Rwanda changed its destabilisation policy in the Kivus and reached a settlement with Kabila.

High-level bilateral meetings began in December 2004, and the two presidents were in frequent telephone contact.²¹ By March 2005, international pressure had ended Kigali's threats to re-invade. While Rwanda wanted to ensure its security interests were safeguarded, Kabila sought guarantees that its remaining proxies would not destabilise the electoral process in his key constituencies, such as the Kivus. For the first time, President Paul Kagame began downplaying the threat posed by the Rwandan insurgents based in eastern Congo, the Forces Démocratiques de Libération du Rwanda (FDLR), indicating he did not think Kabila was supporting them.²²

Relations with other eastern neighbours also eased. Kinshasa had supported the CNDD-FDD rebels in Burundi during the war, so ties were easily improved when they came to power in 2005 elections. Uganda remained the most troublesome but stopped its active support for Bemba's MLC early in the transition. It has, however, continued to support militias in the war-torn Ituri district, including facilitating creation on its territory in July 2005 of the Congolese

Revolutionary Movement (MRC), an alliance of Ituri armed groups, and threatened to enter the Congo several times in hot pursuit against its own LRA rebels.²³ Nonetheless, regime change disappeared from Kampala's agenda.

Regular meetings of the U.S.-sponsored Tripartite+ Commission (Congo, Rwanda and Uganda, plus Burundi after 16 September 2005) and signature by the heads of state of the Pact on Security, Stability and Development in the Great Lakes region on 15 December 2006 at the International Conference on the Great Lakes are evidence of the changed atmosphere.

Zimbabwe's influence faded after the 2001 assassination of former President Laurent Désiré Kabila but Angola emerged as his son's most important regional partner. It is worried by rebel activity in the small enclave of Cabinda, west of Kinshasa, which produces 60 per cent of its oil. The Liberation Front of the State of Cabinda (FLEC) has been fighting the army since the 1970s. Its members come from the NeKongo community, which stretches into the neighbouring Democratic Republic of Congo, and it has used the Bas-Congo province as a rear base in the past. Angola has trained thousands of Congolese soldiers, Kabila's Presidential Guard, and police. Its military support is a crucial prop for Kabila, whose own troops have often proved unreliable and even mutinous.²⁴ Luanda also has scores to settle with Bemba, whom it considers the latest representative of the Mobutist generation which supported UNITA during the Angolan civil war. In return, Angola, which competes with South Africa for regional influence, has access to Congo's Atlantic off-shore oil blocks,²⁵ a share of oil distribution in Kinshasa,²⁶ and thus a vested interest in Kabila's rule and western Congo's stability.

B. KABILA, FRUSTRATED WINNER OF THE DEMOCRATIC PROCESS

Elections on 30 July and 29 October 2006 selected the president, as well as the National and Provincial Assemblies. Turn-out was relatively high – 70 per cent for the first round, 65 per cent for the second.

¹⁹ Crisis Group Africa Briefing N°18, *Pulling Back from the Brink in Congo*, 7 July 2004.

²⁰ At the beginning of the transition, some 8,000 to 10,000 Rwandan rebels from the Forces Démocratiques de Libération du Rwanda (FDLR) were based in the Kivus. Another source of concern for Rwanda was the large Tutsi community in the eastern Congo, which was resented by other ethnic groups for its involvement in the abuses of the RCD rebellion.

²¹ Crisis Group interview, diplomat, Kinshasa, October 2006; Paul Kagame interview on BBC Hardtalk, 7 December 2006.

²² Crisis Group interview, President Kagame, Akagera National Park, February 2007.

²³ Crisis Group telephone interview, foreign intelligence official, May 2006.

²⁴ Crisis Group telephone interviews, MONUC officials and diplomats, Kinshasa, March 2007.

²⁵ "Angola: trouble brewing with Congo-K", *Africa Energy Intelligence*, no. 347, 4 June 2003.

²⁶ "Sonangol moves in", *Africa Energy Intelligence*, no. 237, 7 October 1998.

These elections, which brought to power the first truly democratic government in over 40 years, were the transition's biggest success.²⁷ They were a gamble: while instilling democratic accountability, they were certain to cost many members of the transitional institutions their power. Bickering and systematic delays engineered by parliamentarians and other officials eager to prolong the transition and enjoy their perquisites for as long as possible led to a year's postponement. The cost (almost \$500 million) and the logistic challenge posed by the absence of a road system in a country as large as Western Europe also contributed to delay.

Although all observers called the polls relatively fair, the process was skewed in favour of parties and candidates with access to state finances, media and security forces. This was particularly so for Kabila and his broad coalition, the Alliance for the Presidential Majority (AMP), whose resources easily surpassed those of its competitors. In spite of these advantages the elections were much more tightly contested than expected. Instead of an easy first-round victory, Kabila had to face a second round. Disappointing results in the West forced him to conclude an alliance with former opponents, while Bemba's second-round showing ensured that, regardless of the UDPS's marginalisation, he would have to deal with an institutionalised radical opposition. Despite the landside victory of his supporters in parliament, the fragmentation of the coalition is likely to generate confusion – and perhaps instability – in relations with the government and presidency.

1. An unexpectedly difficult election

Kabila's objective had always been a first-round victory. Encouraged by many embassies, he was convinced, until the vote count was almost complete, that this was within reach. He thus viewed his poor results in the West and the need for a run-off as a major setback, despite a 44.8 per cent national total and a 25-point lead over Bemba. Conversely, Bemba considered his 20 per cent and qualification for the second round as a personal victory. Playing upon nationalist and xenophobic feelings, he rallied the western anti-Kabila opposition and galvanised public opinion during a series of appearances in Kinshasa, culminating in a charismatic speech at the Tata Raphael stadium on 27 July 2006.

With tensions high the day results were announced, a small incident between Bemba's personal guard and

Kabila's Presidential Guard escalated into fighting in the capital on the evening of 20 August. The next day, Bemba's residence was attacked and his helicopter destroyed, while the CIAT ambassadors sought to prevent escalation. Fighting engulfed the city until 22 August, resulting in at least 23 dead and 43 wounded.²⁸ The confrontation weakened the Kabila camp's democratic credentials and showed that the military reflex to conflict resolution remained dominant. Bemba portrayed himself as the victim, while Kabila's camp accused him of waging a hate campaign and keeping hundreds of troops in the central La Gombe district to prepare a coup. Joint efforts by CIAT, MONUC and the European peacekeeping force (EUFOR) helped calm matters, without, however, solving the underlying problems. Continuing tension prevented any possibility of a campaign on the ground. Even the scheduled TV debate was cancelled, as Kabila avoided a direct confrontation from which he had very little to gain.

Manoeuvres, though, never stopped. On 23 September, capitalising on anti-Kabila sentiments, Bemba formed with fifteen other parties and first-round losers the Union for the Nation (UpN) alliance.²⁹ To rally support in the West³⁰ and avoid being perceived as the president of only the East, Kabila reached agreement with Nzanga Mobutu, leader of the Union of Mobutists' democrats (UDEMO) and the former president's son, who was fourth in the first round with 4.77 per cent, and Antoine Gizenga, the 80-year old "patriarch" of the Unified Lumumbist Party (PALU), who was third with 13.06 per cent. He promised a cabinet seat to Mobutu, on whom he relied to weaken Bemba in Equateur, and the prime ministership to Gizenga. The latter concession sparked a debate among many supporters, who felt the post should go to a younger person with governing experience. However, Kabila was convinced he needed Gizenga – who had finished second in Kinshasa with 22 per cent – to prevent Bemba from dominating the capital's vote.³¹ The tactic worked: in the second round he polled 30 per cent in Kinshasa and 40 per cent in neighbouring Bandundu province, the other PALU stronghold.

²⁸ Monthly MONUC human rights report, 21 September 2006.

²⁹ These included Oscar Kashala (3.46 per cent), Lunda Bululu (1.4 per cent), Joseph Olenghankoy (0.6 per cent), Roger Lumbala (0.45 per cent), Justine Kasavubu (0.44 per cent) and Wivine Landu (0.32 per cent).

³⁰ In the first round Kabila won only 14 per cent in Kinshasa and Bas-Congo, 2.6 per cent in Bandundu, 1.85 per cent in Equateur, and 11.5 per cent in Western Kasai.

³¹ Bemba won 49 per cent of votes in Kinshasa in the first round.

²⁷ Crisis Group Report, *Congo's Elections*, op. cit.

Despite isolated fraud – too minor to account for the 2.5 million vote final difference – the second round mostly went relatively smoothly.³² Bemba first rejected the outcome and appealed to the Supreme Court, claiming extensive irregularities. On 21 November, violence erupted in Kinshasa before the Court. Clashes and a fire extended into the building, which police blocked 200-300 UpN supporters and journalists from entering. However, after clarifications from the EU and Carter Institute observation missions and CIAT pressure on Bemba, Kabila's victory, with 58 per cent of the vote, was proclaimed on 27 November 2006 without violence. The next day, Bemba, in a solemn address, conceded defeat and pledged to use his 42 per cent of the popular vote to build an alternative and lead a radical, republican opposition. On 6 December Kabila was sworn in without major incident; Bemba was elected to the Senate on 19 January 2007.

2. An unreliable parliamentary majority

Kabila's AMP won absolute majorities in both the National Assembly (338 of 500) and the Senate (55 of 108). Within it, the People's Party for Reconstruction and Democracy (PPRD) has the most seats (111). The Social Movement for Renewal (MSR), led by the deputy national security advisor, Pierre Lumbi, is second with 27 seats. The third strongest party in the coalition, with 26 seats, is the Forces of Renewal (FR), led by former rebel Mbusa Nyamwisi and one-time Bemba associate Olivier Kamitatu. In the opposition, the MLC (UpN coalition), won 64 seats followed by the Convention of Christian Democrats (CDC) (10) and the Rally of Democrat and Nationalist Congolese (RCDN) of the UpN alliance (4).

However, the extreme fragmentation – 70 parties in the National Assembly, 26 in the Senate – coupled with the absence of any clear alternative to the AMP (the UpN has only 132 seats in the National Assembly and 22 in the Senate) suggests there will be little discipline or predictability in procedures and votes. Vital Kamerhe (PPRD), the speaker, has so far skilfully managed divisions in the National Assembly,

despite some party realignments.³³ The AMP is likely to fray further, however.

The Senate situation is more complex: independents (26 seats) are the largest group, and many senators, unlike National Assembly members, are not newcomers but former ministers and other high officials from past administrations, who will not be easy to control. Symptomatic was the surprise choice for Senate president on 11 May.³⁴ Despite pressure from Kabila and the AMP chairman, André-Philippe Futa, to stay united, coalition senators split. The last-minute withdrawal of the body's transition president, Mgr Marini Bodho of (AMP), was not sufficient for the coalition candidate, Kabila's ex-chief of staff, Leonard She Okitundu, to win. Instead, after a strong campaign and, allegedly, some bribes,³⁵ the former Mobutu prime minister, Kengo Wa Dongo was elected with 55 of 108 votes. Though he ran as an independent, he is a UpN member and has always been considered by the Kabila camp as a prominent opponent.

Regional and internal conflicts were reduced during the transition, and the elections put an end to the legitimacy crisis experienced by governments well back into the Mobutu era. However, despite the adoption of a democratic constitution, the opportunity to use the transition to set the foundations of a new system of governance involving the population was missed by Congolese officials and the international community. Despite the provisions in the new constitution, the transition ended with an extensive concentration of power in the president's hands, a large but fragmented presidential majority plagued by feuds and a lingering feeling of dispossession in large sections of the polity. Nor did the transition produce a consistent post-electoral roadmap. More than six months after the Kabila inauguration, challenges are piling up with no long-range strategy for addressing them in sight.

³² The Carter Center's third post-election statement, 27 November 2006, noted: "The Carter Center has found evidence of significant abuses of electoral procedures committed in favor of both candidates, including: the abuse of supplemental voter lists through the excessive and irregular exploitation of voting by exemption; faulty implementation of the lists of omitted voters; and questionably high turnout rates in some areas. These abuses occurred primarily in certain regions of the country and, while they were important in principle, the overall number of votes resulting from them is not of a decisive scale".

³³ In March 2007, three prominent AMP members, Mbusa Nyamwisi, Olivier Kamitatu and José Edundo, created a parliamentary platform, the Centre démocrate pour le renouveau (CDR), with 70 members.

³⁴ The Senate president acts as head of state in case of the president's incapacity or death (Art. 75 of the constitution).

³⁵ Modeste Mutinga, "Election au Sénat, la vérité", *Le Potentiel*, 14 May 2007.

III. THE CHALLENGES

The 2006 national elections were only a step, albeit an important one, on a long road to restore the state's authority nationwide, consolidate the democratic system and initiate economic recovery. Congolese officials are confronted with two major challenges. They need to overcome the risk of government paralysis and initiate much needed reforms so that citizens experience the change promised during the campaign. They also need to consolidate the democratic foundations and ward off authoritarian drift, while simultaneously dealing with the persistence of insecurity, particularly in the East, and appeasing frustrations left by the presidential election, notably in the West.

A. POLITICAL

The first months of President Kabila's term have been less than impressive. The honeymoon following the inauguration was not used to create a new dynamic and promote a spirit of national reconciliation. The absence of decisive leadership had two serious consequences. First, it led to a quasi paralysis of government, growing anarchy within the parliamentary majority and serious popular disenchantment. Secondly, it produced brutal crackdowns against political opponents, which renewed concerns about the government's direction.

1. Risk of government paralysis

By mid-December 2006, Antoine Gizenga started consultation on forming the new government, which was announced on 5 February 2007. With 60 ministers and vice ministers, it is an obvious attempt to satisfy all members of the broad ruling alliance. The government mirrors the structure of that alliance, with each main component – PPRD, MSR, PALU, FR and UDEMO – getting a minister of state slot (ceremonially senior to other cabinet members). The other ministries were distributed to fifteen parties in proportion to their seats in parliament.

Despite the government's seeming inclusiveness, due to the appointment of Gizenga as prime minister and other PALU members (almost all from Bandundu province) to key positions, the western provinces are largely underrepresented at higher echelons. Almost all key positions are held by easterners and southerners. The main security positions went to close Kabila associates: Denis Kalume from Maniema retaining interior and Chikez Diemu from Katanga

receiving defence. Other important positions went to AMP eastern leaders such as Mbusa Nyamwisi (North Kivu), the former RCD-K/ML rebel leader who is foreign minister, and Pierre Lumbi Okongo (Maniema), the new infrastructure and reconstruction minister. PALU officials collected mining (Martin Kabwelulu, Katanga), justice (Georges Minsay Booka, Bandundu) and budget (Adolphe Muzito, Bandundu). The minister of state for agriculture, Nzanga Mobutu (UDEMO) from Equateur, and the minister of planning, Olivier Kamitatu Etsu (Arc/Forces du Renouveau) from Bandundu, are the two leading figures originating from the West.

The absence of cohesion, coherence and a minimum common vision is a serious concern. The governing coalition of over 30 parties, which formed behind Kabila to gain powers and share spoils, is broad and unruly. From its beginning, there have been tensions between the various elements of the cabinet. Beyond the coordination problems for such an oversized government and the inevitable competition between its key figures, the tensions reflect the absence of shared values and interests between the AMP and its PALU partner, as well as Gizenga's poor leadership capacity.

While the AMP is a very loose alliance of parties lacking a real political program, PALU is a unique movement. Active mainly in Kinshasa and Bandundu province, it combines 1960s Marxist credentials with xenophobic rhetoric and, in the rural areas, sectarian/mystic beliefs. During the first round of the presidential elections, it accused Kabila and the AMP of corruption and selling out to foreigners. Following his designation as prime minister, Gizenga reportedly opposed appointment of anyone accused of corruption, thus blocking several special Kabila advisers³⁶ as well as José Endundo,³⁷ from obtaining ministerial positions. In return, many in the PPRD and the FR, in both government and parliament,³⁸ are seeking Gizenga's early removal, citing outdated beliefs and weak leadership.

³⁶ According to a UN report, Mwanke directly participated in the illegal exploitation of natural resources. As the president's *éminence grise* and AMP treasurer, he was considered likely to become the minister to the presidency. However, Denis Kalume, whom the report accused of the same activity, retained his position as interior minister. "Final Report of the Panel of Experts", op. cit., pp. 7-8, and "Persons for whom the panel recommends", op. cit., p. 4.

³⁷ José Endundo, at the time still a Bemba supporter, was dismissed from the transitional government on 4 January 2005 on allegations of corruption.

³⁸ Endundo, Olivier Kamitatu and Mbusa Nyamwisi have been particularly active in urging Gizenga's dismissal.

The elderly Gizenga probably lacks stamina to control his oversized government and accomplish its giant task of reconstruction. Confronted by a brutal crackdown in Bas-Congo, Kinshasa's March violence and poor management of the military integration process in the East, he has been silent and apparently toothless. His authority over ministers appears weak, as evidenced by inability to settle the dispute between Interior Minister Kalume and Foreign Minister Nyamwisi over Angola's occupation of three villages in Bandundu province.³⁹ On 4 February, Luanda claimed this area, allegedly rich in diamonds, despite the fact that the Congolese had administered it for decades, and it voted in the recent elections. After initial diplomatic protests,⁴⁰ Kalume conceded to the Angolans in March, causing uproar in Kinshasa and Bandundu. Nyamwisi contradicted him, but without waiting for the conclusion of a parliamentary investigation,⁴¹ the government on 17 May agreed the territory was Angolan, a decision that did little to reassure citizens about its capacity to defend territorial integrity.⁴²

Aware of growing criticism and attempts by AMP politicians to have him censured and replaced by a younger PALU member⁴³ or an AMP technocrat, Gizenga and his party are fighting back, hinting that Kabila and the AMP are chiefly responsible for the lack of leadership, proper budget planning and the poor state of the armed forces.⁴⁴

Tension between the two heads of the executive branch is likely to rise, with the danger that government will be paralysed. Though PALU support

is not necessary to maintain the government's majority in parliament,⁴⁵ Gizenga is the only leader in the coalition with a large following in the West; his exclusion would further undermine the establishment of state authority in the provinces where Kabila scored poorly, something the president is not yet ready to risk.

Paralysis mainly serves the hardliners in the Kabila camp. With the government mostly impotent, they continue to run the country from the presidency. Despite a major reshuffle in the presidential cabinet on 17 March, with Raymond Tshibanda⁴⁶ taking over from She Okitundu as chief of staff,⁴⁷ the same group retains influence, including roving Ambassador Mwanke for finance, Samba Kaputo,⁴⁸ the main security adviser, Denis Kalume, John Numbi, former air force chief of staff and now national police chief, and Marcellin Cishambo, the principal diplomatic and political adviser. Through their control of the security apparatus and mining concessions, they can use coercion and corruption as the main tools of governance, putting the fragile foundations of the nascent Congolese democracy in peril.

2. Risk of authoritarian rule

A half-year into the post-electoral period, with the government apparently crippled and citizens unconvinced of their leaders' commitment to peace, democracy and economic reconstruction, the temptation is real in circles around the president to deal with any form of opposition by violence and corruption rather than dialogue. The gubernatorial elections of 27 January 2007 illustrated a worrying trend. Although UpN won a clear majority in three provincial assemblies, the appointment of governors by these bodies was marred by numerous representatives voting for candidates from the rival

³⁹ The villages are Shayimbuanda, Shakadiata and Shashidi in Kahemba territory.

⁴⁰ "Incursion angolaise en RDC: un diplomate angolais convoqué à Kinshasa", Agence France-Presse, 21 February 2007.

⁴¹ "RDC: Affaire Kahemba, les localités occupées sont angolaises, selon Denis Kalume", Radio Okapi, 14 March 2007.

⁴² "The Government took note of the technical conclusions from the different team of experts saying that the border has not changed, that there had been no crossing of the border by Angolan troops and that there had been no massive displacement of populations. The Government decides to establish a joint commission – government and local provincial authorities – to mark out the 9,000km borders. The government reasserts its commitment to maintain brotherhood relations with the sister Republic of Angola". "Kahemba: Kinshasa donne raison à l'Angola", *Le Potentiel*, 19 May 2007.

⁴³ Gizenga's right-hand man and minister to the prime minister, Godefroid Mayobo (Bandundu), has reportedly been approached by AMP members about his readiness to replace his boss.

⁴⁴ Crisis Group interview, Congolese journalists, Kinshasa, June 2007.

⁴⁵ With only 34 seats in the National Assembly and three in the Senate, PALU's defection from the presidential majority would not alter AMP control.

⁴⁶ Raymond Tshibanda is a Luba from Kasai Oriental province. He was environment and tourism minister in the Kengo wa Dondo cabinet at the end of Mobutu's regime. During the transition, he was considered a pro-Kabila member of the political opposition and held the position of planning vice minister.

⁴⁷ Jean-Pierre Bosunga Bofeti Lunga and Louise Mayuma Kasende were appointed as Tshibanda's deputies.

⁴⁸ Kaputo is also a parliamentarian (MSR), though the constitution (Art.108) indicates that the positions of deputy and presidential cabinet staffer are incompatible.

coalition in exchange for money.⁴⁹ Through corruption, the AMP won the governorships in Bas-Congo, Kinshasa and Kasai Occidental, despite UpN's dominance in the assemblies. Only Equateur chose a UpN governor.⁵⁰ According to various reports, the cost of a vote ranged between \$1,000 and \$10,000; many unsuccessful candidates publicly demanded their "gifts" back.⁵¹

The rigged elections were not without security consequences. On 31 January 2007, members of the Bundu dia Kongo (BDK) political-religious movement in Bas-Congo prepared demonstrations to protest the probable use of corruption in the election of an AMP governor. BDK had fielded its spiritual leader, Ne Muanda Nsemi, as a candidate for vice governor on an opposition ticket but he had been defeated despite the opposition's dominance in the provincial assembly.⁵² On the eve of the demonstrations, police killed several BDK supporters while trying to raid Nsemi's house in Matadi, the provincial capital. BDK members retaliated by killing ten police and soldiers in nearby Muanda, prompting the governor to call in the army,⁵³ which then brutally repressed demonstrations throughout the province, opening fire on unarmed crowds and indiscriminately killing civilians, including women and children. MONUC reported 134 dead⁵⁴ and Human Rights Watch 116, including 104 civilians, and more than 100 injured.⁵⁵

The authorities and internationals reacted rather complacently. Interior Minister Kalume laid the blame on BDK, claiming the army and police acted in self-defence. MONUC condemned the violence a week later but refused to denounce the disproportionate use of force by the army and police⁵⁶ Asserting that only the National Assembly should deal with the matter, it did not publish its report. On 12 April, in a statement to the commission of enquiry established by that body, Human Rights Watch called for the prosecution of BDK militants, soldiers and police involved in the killings and investigation of the responsibility of the higher echelons of command.⁵⁷

The report presented to the National Assembly on 14 June tends to apportion the blame for the killings mostly on BDK. The National Assembly adopted two sets of recommendations calling for prosecution of all individuals and authorities involved in the tragic events and a provincial roundtable to promote dialogue in the province. As yet, only three police officers have been suspended, and it remains to be seen how these recommendations will be followed up. In the absence of any public hearings, it is feared the report will serve to white wash the security forces, paving the way for renewed violence.⁵⁸

The 27 March fighting in Kinshasa is the most significant example of the new government's authoritarian tendencies. The stand-off between the Bemba and Kabila guards dated back to the peace deal, which failed to resolve how the capital should be

⁴⁹ Senior AMP officials acknowledge openly that bribes were used to win the gubernatorial elections. Crisis Group interviews, Kinshasa, April 2007.

⁵⁰ Corruption affected the Senate elections on both sides. In South Kivu, an RCD senator was elected though the party was not represented in the provincial assembly. Three of four senators elected in Bas-Congo, where UpN has a majority, are AMP members.

⁵¹ Crisis Group interviews, AMP and UpN leaders, Kinshasa, January 2007; Crisis Group interviews, Senate candidates from South Kivu and Kinshasa, Kinshasa, January 2007; "RDC: des observateurs dénoncent des pratiques de corruption aux sénatoriales", Agence France-Presse, 23 January 2007; "Le réseau d'observation électorale ROC dénonce la corruption ayant flétri le débat d'idées et le choix utile", *L'Observateur*, 25 January 2007.

⁵² Crisis Group interview, UpN officials and opposition members, Kinshasa, January 2007.

⁵³ "Statement by Human Rights Watch to the parliamentary commission investigating events in Bas-Congo", 12 April 2007.

⁵⁴ "Massacres du Bas-Congo, publication imminente du rapport d'enquête de la MONUC", *Le Phare*, 22 June 2007.

⁵⁵ Crisis Group telephone interview, MONUC officials, March 2007; "Statement by Human Rights Watch to DRC parliamentary commission investigating events in Bas-Congo", 12 April 2007.

⁵⁶ "La Mission de l'Organisation des Nations Unies en République démocratique du Congo (MONUC) condamne fermement tout recours à la violence comme moyen de règlement de conflits et demande à tous d'oeuvrer à la restauration de la paix et de s'abstenir de tout acte de nature à aggraver davantage la situation". Jean-Tobie Okala, MONUC deputy spokesperson, 7 February 2007.

⁵⁷ Human Rights Watch asked in particular for investigation into the responsibility of the FARDC Kitona base commander, Brigadier Bondjuka Botunga, as well as Captain Emmanuel Matuka Mokweke, Major Mbakulu, Brigadier Mbuayama Nsiona, the provincial chief of police, Brigadier Joseph Mukendi, the police commandant, Kota, and police officer Jean Paul Songa. The National Assembly investigation was headed by Michel Ngokoso, an AMP deputy.

⁵⁸ On 14 June 2007, the conclusions of the report were presented in the plenary session of the National Assembly but the content was not discussed. The decision was taken to publish the report but no specific date has been given. Discussion of the report is not on the agenda of the one-month extraordinary session convened on 19 June, and it is uncertain what the ordinary session that opens in September will do with it.

secured.⁵⁹ Kabila was allowed to keep a Presidential Guard of around 5,000 there, while each vice president was to have 108 bodyguards. Bemba and Ruberwa reinforced their troops to around 600 and 400 respectively. The 20-21 August 2006 fighting persuaded Bemba he could not fully trust the international community for his protection,⁶⁰ so he brought in further reinforcements.

On 13 November 2006, just before he was declared winner in the elections, Kabila issued a decree requiring the vice presidents' guards to be integrated into the army, while allowing each an escort of only twelve police. This measure had been promised by the presidency in the context of the bilateral talks facilitated by the UN which established confidence-building mechanisms after the August clashes and ahead of the run-off voting. Bemba considered the escort totally insufficient and demanded special treatment, which the presidency rejected. MONUC mediation failed. On 6 March 2007, the army chief of staff, General Kisempia, gave until 15 March to comply. Bemba refused, citing security concerns, his experience of limited international help the previous August and the agreement signed with Kabila before the second round of the presidential elections granting him "appropriate protection". MONUC and the other international actors – the CIAT had been disbanded after the presidential inauguration – tried only half-heartedly to mediate.

Hardliners on both sides were left free to operate, leading to a two-day military confrontation in the streets that produced some of the worst fighting in Kinshasa's history. Although official figures remain unavailable, at least 400 soldiers and civilians were probably killed and 250 injured,⁶¹ while thousands of children were trapped in schools, before Bemba's troops surrendered, and he took refuge in the South African embassy. The government accused the opposition of planning to destabilise the state and refused to acknowledge any responsibility of its own,⁶² though the Presidential Guard used very

violent means to quash resistance, including shelling and attacking several diplomatic premises.⁶³

Immediately after the end of fighting, the government began to intimidate and arrest opposition figures,⁶⁴ as well as Kinshasa residents from Equateur province. According to human rights organisations, at least 80 people were harassed or arrested.⁶⁵ Presidential Guards ransacked the houses of Francois Mwamba, Omer Egwake and Jose Makila, all leading opposition figures. MLC headquarters in Kinshasa was looted and occupied. Bemba's television and radio stations⁶⁶ were taken off the air shortly before the fighting began, and security forces looted them.⁶⁷ Various security services were involved in the crackdown but the special police services – whose head, Raus Chalwe, reported directly to the presidency – was responsible for most arrests, a majority of which were warrantless.⁶⁸ Military courts charged most suspects with insurrection, treason and illegal possession of firearms.⁶⁹ On 11 April, after difficult negotiations, Bemba left the South African embassy with a UN escort and flew to Portugal, officially for medical reasons. That day, the public prosecutor asked the Senate to lift his immunity so he could be charged with high treason as the "main instigator" of the clashes.⁷⁰

Together with the repression of his militants, Bemba's forced exile is the most blatant example of democratic failure in the peace process. Bemba, of course,

⁵⁹ Crisis Group Africa Report N°42, *Securing Congo's Elections: Lessons from the Kinshasa Showdown*, 2 October 2006.

⁶⁰ Even though it was clear Kabila initiated the attack on Bemba in August 2006, the CIAT chose to blame both sides.

⁶¹ Human Rights Watch's statement to the special investigation parliamentary commission on the Bas-Congo events, 12 April 2007. On 17 May, MONUC began an investigation into human rights violations during and after the events but no report has been released.

⁶² "Le Général Kisempia appelle les 'mutins' à se rendre aux FARDC", Radio Okapi, 23 March 2007, at www.radiookapi.net.

⁶³ The Presidential Guard shelled the Greek, Spanish and Nigerian embassies and the UNICEF and BIAC bank offices. It was also involved in ransacking the Italian residency and an attack on the Cuban embassy. The Nigerian ambassador, Dr Onuorah Jonikul Obodozie, was severely wounded and was evacuated by MONUC. Crisis Group telephone interviews, diplomats and MONUC officials, April 2007.

⁶⁴ Targeted opponents included José Makila, Omer Egwake, Bofassa Djema, Jeannot Bemba, Gabriel Mokia and Serge Bingoto.

⁶⁵ Crisis Group telephone interviews, March 2007; MONUC officials put the figure at over 40. The Human Rights Watch figure was 150. Crisis Group interview, Human Rights Watch, New York, June 2007. No official report has been released by MONUC, Human Rights Watch or Congolese human rights organisations.

⁶⁶ Canal Congo TV (CCTV), Canal Kin TV (CKTV) and Radio Liberté Kinshasa (Ralik).

⁶⁷ The Presidential Guard occupied the media until 21 April 2007.

⁶⁸ Crisis Group interviews, MONUC, Kinshasa, March 2007.

⁶⁹ Crisis Group telephone interviews, human rights groups and MONUC officials, March and April 2007.

⁷⁰ During the fighting, the government issued a warrant for Bemba's arrest before realising that, as a senator, he enjoys parliamentary immunity.

actively contributed to his fate and is not the only leading opposition figure but he had received 42 per cent in the presidential election, conceded defeat and pledged to lead a democratic opposition, three reasons why more efforts should have been made to prevent the showdown. Congo now must build democracy and strengthen the rule of law without a robust opposition movement.

Since April, the government has made goodwill gestures and symbolic concessions to the opposition to appease internationals who expressed concern at the authoritarian drift following the Kinshasa clashes. Vital Kamerhe, president of the National Assembly, gave the opposition parties the chairmanship of the socio-cultural commission and, more importantly, the political, administrative and legal commission.⁷¹ After the three main opposition groups⁷² suspended their participation in the National Assembly in protest against targeted attacks on 12 April, he sought to mediate, and Kabila's advisers met with the opposition to offer reassurances.⁷³

On 30 April, the Military Tribunal of Gombe district in Kinshasa released Marie-Thérèse Nlandu, a former presidential candidate and a Bemba supporter who had been arrested on 21 November 2006 by the special police services for inciting his partisans to set fire to the Supreme Court the day before. On 14 June, the National Assembly adopted nearly unanimously the organic law on the status of the political opposition, which guarantees freedom of information, meeting and expression and fair access to the media. It also creates the position of "Coordinator" of the opposition, to be selected by consensus by the parliamentary and non-parliamentary opposition, with minister rank and equivalent privileges and parliamentary immunity.

These last decisions, together with Kengo wa Dongo's election to head the Senate – as noted, not a concession but the result of AMP divisions – are positive developments which limit the risk of government abuse of power. Most internationals argue that, together with Bemba's exile and possible International Criminal Court (ICC) indictment for atrocity crimes committed by his troops in Bangui in

2002,⁷⁴ they offer an opportunity to rebuild an opposition with a new, more credibly democratic leadership.⁷⁵ This is, however, extremely optimistic and tends to ignore the real situation in the country after the crackdown against the MLC and its leader. Deprived of Bemba, the opposition is not in a position to fulfill its counter-power role and is likely to provide only a democratic veneer to the institutions. Disillusion is widespread in its ranks and confidence in the democratic system severely dented. Plagued by divisions and exposed to temptations from the government side, it is likely to fragment more and remain voiceless in the coming months, particularly if the security situation deteriorates further in the East, and critical views are perceived as unpatriotic.

B. SECURITY

The peace process ended major fighting in much of the country and made possible the return of many internally displaced people (IDPs), whose numbers decreased between November 2003 and 2006 from 3.4 to 1.1 million.⁷⁶ However, half a million people were newly displaced in 2006 by fighting in the Kivus, Katanga and Ituri, which killed hundreds of civilians and left hundreds of thousands without access to clean water and health care. The militias in the East are one source of instability but another are the abusive and inefficient security forces. Humanitarian officials in the East indicate that mortality levels may be as high as in 2004, when the International Rescue Committee reported 1,200 were

⁷¹ The political, administrative and legal commission of the National Assembly is chaired by Sessenga Hipungu (MLC); another member of the UpN, N'Singa Udjuu (FC), is spokesperson.

⁷² MLC, the Chrétiens Démocrates and the Ordre des démocrates républicains.

⁷³ The opposition ended its boycott on 26 April 2007.

⁷⁴ On 22 May 2007, the ICC Prosecutor announced the opening of an investigation into hundreds of rapes and other serious crimes perpetrated in the Central Africa Republic in 2002 and 2003. According to a background note, "[s]ome of the worst allegations relating to killing, looting and rape, occurred during intense fighting in October-November 2002 and in February-March 2003....The crimes appear to have been largely committed in and around the capital city of Bangui...." "Background: Situation in the Central African Republic", Office of the Prosecutor, 22 May 2007, at www.icc-cpi.int/library/press/pressreleases/ICC-OTP-BN-20070522-220_A_EN.pdf. At this stage, the investigation is not directed at any particular suspect but it is possible that former President Ange Felix Patassé and the rebel leader at the time, Bemba, will be prosecuted for atrocity crimes. "More suspects in its sights", *The Economist*, 24 May 2007. Enquête sur les crimes en Centrafrique: JP Bemba dans le colimateur de la CPI", *Le Potentiel*, 23 May 2007.

⁷⁵ Crisis Group interviews, diplomats, June 2007.

⁷⁶ Internal Displacement Monitoring Center, www.internal-displacement.org.

dying daily due to the conflict.⁷⁷ The causes of violence are both local and national. Some of the former – land tenure, citizenship and ethnic hatred – were unaddressed during the transition and continue to fuel recruitment and tensions. However, the weaknesses of the army and the judicial system have amplified the rifts, and national actors often aggravate ethnic tensions to further their interests.

1. The East and South

The authorities have pursued a joint strategy of co-option and coercion with remaining militias, buying off commanders with high army ranks when they cannot be disarmed by force. They have had some success in Ituri, where joint operations with MONUC in 2005 led to the demobilisation of 17,000 and the integration of local militia leaders. Long-term impunity, discipline and poverty problems must be dealt with, however, to consolidate the gains. Elsewhere, the government did not use the necessary incentives and disincentives, in particular in the Kivus. Some 14,000 to 18,000 militiamen remain outside government control in at least six separate armed eastern groups, which clash regularly with the national army and MONUC, displacing hundreds of thousands of civilians.

The Kivus

In the first half of 2007, there was a troubling resurgence in violence in North Kivu, sparked by Laurent Nkunda's offensive against the FDLR, which in turn triggered the rearming of anti-Nkunda militia, often along ethnic lines and with Kinshasa support. The emergence of Nkunda's militia is due to a crisis within the RCD, as well as Rwandan brinkmanship.⁷⁸ At the beginning of the transition, RCD hardliners encouraged Nkunda to turn down a regional command post in the Congolese army (FARDC), in effect to desert. With some Rwandan support, he attacked the government in Bukavu and Kanyabayonga in 2004. Many RCD and Rwandan leaders, however, abandoned Nkunda under international pressure and as ties improved between Kinshasa and Kigali in 2005.

Nkunda re-emerged in early 2006. Offensives in Rutshuru and Sake were linked to the run-up to

elections, during which numerous local politicians and businessmen who feared to lose power at the polls supported him. Dozens of civilians died in the fighting, and UN officials concluded that Nkunda's troops used rape as a weapon of war in Rutshuru, where they assaulted between 40 and 90 women.⁷⁹ After the fighting in Sake produced 120,000 IDPs, President Kabila asked his Rwandan counterpart to broker a deal. On 31 December, General John Numbi, then air force chief of staff, met with Nkunda in Kigali under the facilitation of General James Kabarebe, the Rwandan general staff chief.⁸⁰ They agreed to mix two Nkunda brigades locally with three national army brigades, beginning with officers. Many Congolese complained that Nkunda's more disciplined troops would quickly dominate the mixed force and that he would benefit from new equipment and salaries.⁸¹ Other misgivings included the alleged presence of Rwandan ex-fighters among Nkunda's troops and his refusal to surrender heavy weapons.

The two sides never clearly spelled out their commitments. Nkunda said he had presented a range of political grievances that had to be addressed first, including the return of 45,000 Tutsi refugees from Rwanda, the freeing of some dozen political prisoners and operations against the FDLR. His own fate and that of his officers were also not addressed: he has asked for a senior position in the national army, proposing command of the Kivus.⁸² However, the government sees integration⁸³ as purely military and has not engaged politically with Nkunda.⁸⁴ As there was never any official mediator, and the Kigali agreement was vague and verbal, the contradictions persist. By April 2007, five mixed brigades had been created and deployed in North Kivu, which allowed Nkunda to extend control over Rutshuru, Masisi and Walikale and retain his parallel chain of command. These units have attacked the FDLR, displacing

⁷⁹ Crisis Group electronic correspondence, MONUC human rights official, February 2007.

⁸⁰ Crisis Group interview, General Laurent Nkunda, Kilolirwe, February 2007; Crisis Group interview, MONUC officials, Goma, February 2007.

⁸¹ Crisis Group telephone interviews, Congolese army officers, Kinshasa, June 2007.

⁸² Crisis Group interview, General Laurent Nkunda, Kilolirwe, February 2007.

⁸³ The term being used is "mixage".

⁸⁴ All the negotiations with him have been conducted through General John Numbi, until recently the air force commander, who has not been authorised to discuss political demands.

⁷⁷ Crisis Group interview, UN Office for the Coordination of Humanitarian Affairs (OCHA) official, Goma, February 2007; "Congo: nearly 4 million dead in 6-year conflict", International Rescue Committee, December 2004.

⁷⁸ Crisis Group Africa Report N°91, *The Transition is Failing: Crisis in the Kivus*, 30 March 2005.

230,000 people, killing dozens of civilians and creating even more inter-communal tensions.⁸⁵

In response, anti-Tutsi militia have begun appearing, allegedly backed by Kinshasa, which threaten to escalate the conflict. By June 2007, the process had become such a political liability for Kabila that he changed the relevant commanders and began to prepare a new offensive against Nkunda, sending tons of weapons and ammunition to the Kivus, some of which allegedly has gone to local militias and the FDLR.⁸⁶

The mismanagement of the process in North Kivu had an immediate ripple effect in South Kivu. The Ubwari peninsula, the Ruzizi plain and the Minembwe Haut Plateau are the most frequent flashpoints. Both ex-Mayi-Mayi⁸⁷ and ex-ANC Banyamulenge dissidents⁸⁸ are now using the *mixage* example and the Nkunda threat to renege on commitments to army integration and DDR. In reality, these militias want to preserve their economic and military fiefdoms but poor treatment and ethnic discrimination in the FARDC are also among the reasons for their opposition to integration. Additionally, some commanders give Kinshasa politicians kickbacks in return for protection, undermining the army's already feeble authority. Although Nkunda claims some of these groups are under his command, the militias are for the most part local phenomena.

The Rasta in particular, a splinter group from the FDLR which absorbed a large section of the former Mudundu 40 Mayi-Mayi group, loot, rape and kidnap civilians for ransom. They carry out systematic reprisals against civilians whenever they are under military pressure from MONUC or the army. Several

villages on the southern fringes of the Kahuzi-Biega National Park in South Kivu have suffered from these attacks, which have little political significance but remain one of the most dramatic legacies of the war.⁸⁹

Ituri

The past two years have seen steady improvement in the security situation. In December 2004, MONUC switched to more robust tactics, enforcing a weapons-free zone, conducting cordon-and-search operations with the army and killing hundreds of militiamen, but also many civilians.⁹⁰ These operations led to the demobilisation of 16,000 combatants. At the same time, under international pressure, the government arrested four Ituri warlords in Kinshasa, just months after they had been named to high army posts. One, Thomas Lubanga, was transferred to The Hague to stand trial at the International Criminal Court.⁹¹

MONUC scaled down operations in Ituri during 2006 due to preparations for elections and because of the army's poor discipline and human rights abuses during joint operations.⁹² Having failed to coerce the combatants into demobilisation, the government resorted to co-opting their leaders. In July it brokered deals with the three main commanders: Mathieu Ngudjolo (MRC), Cobra Matata (FRPI) and Peter Karim (FNI), making them colonels in the army. However, they refused to leave Ituri and prevented most of their troops from going to designated assembly areas since they fear arrest and want to keep a reserve force in case the deals do not work out. Only some 1000 of the estimated 4,000 combatants have arrived at the assembly points, and these with few weapons. The government also did not keep its side of the bargain. A UN official said: "When the combatants come in, there are no provisions for them, no incentive to be demobilised. That, in turn, gives the militia commanders an excuse to stay in the bush".⁹³

Yet, with the return to Djugu and Irumu territories from Uganda and North Kivu of hundreds of thousands of Hema refugees and IDPs with their cattle who want their land back, there is again a high-

⁸⁵ Crisis Group telephone interview, human rights groups and MONUC officials, April 2007.

⁸⁶ Crisis Group telephone interviews, Congolese army officers, Kinshasa, June 2007.

⁸⁷ The Babembe Mayi Mayi group of Captain Yakutumba conditioned his integration into the FARDC on the end of the insurgency in Minembwe Haut plateau. Other Mayi Mayi groups are still roaming in the central and western parts of South Kivu.

⁸⁸ A splinter group of former supporters of General Masunzu, under the command of Major Rukunda, and former Mutebusi followers. General Masunzu is a Mnyamulenge leader from Minembwe who made an alliance with President Kabila in 2002. He commands the 112th FARDC Brigade in South Kivu. Colonel Mutebusi is a former RCD officer who, together with Nkunda, took control of Bukavu in June 2004. The Congolese government issued an international arrest warrant against Nkunda and Mutebusi, charging them with insurrection, war crimes and crimes against humanity.

⁸⁹ Rasta were reportedly behind the massacres of nineteen civilians in Kanyola, Walungu territory, on 26 May 2007.

⁹⁰ Crisis Group interviews, MONUC and Congolese officials, June 2007.

⁹¹ Crisis Group Africa Report N°114, *Escaping the Conflict Trap: Promoting Good Governance in the Congo*, 20 July 2006.

⁹² Crisis Group interview, MONUC official, Kinshasa, January 2007.

⁹³ Crisis Group interview, UpN official, Kinshasa, January 2007.

risk of inter-communal fighting. Local peacebuilding and renewed DDR efforts are required.

Katanga

The situation in central and northern Katanga was not operationally dissimilar from Ituri, except that Mayi-Mayi leaders had no direct connections with bordering countries but rather family and business ties with the Kabila government's inner circle. Until early 2006 and the deployment of MONUC's Katanga brigade, the security and humanitarian situation was precarious for civilians caught between roaming Mayi-Mayi and undisciplined, non-integrated army troops. Mayi-Mayi leaders like Tshindja Tshindja and Bakanda Bakoka left the bush with financial incentives and promises of forgiveness. Others such as Makabe kept a low profile and started farming but kept their troops and weapons. In late 2005, FARDC launched an operation aimed at undermining the major Mayi-Mayi group still operational in Central Katanga, under the command of a mystic leader, Gedeon. It broke the group's communication system but failed to catch Gedeon and caused massive civilian displacements in appalling conditions.

MONUC's deployment and mediation in Mitwaba in April-May 2006 was instrumental in prompting Gedeon to surrender and most of his followers to demobilise. This signalled other groups scattered around Upemba, Pweto and Dubie that the war was over. The peacekeepers tried to capitalise by setting up mobile bases and expediting DDR but these efforts were partly hampered by shortage of funds available to CONADER, the Congolese body charged to manage World Bank money for sensitisation and reinsertion activities for ex-combatants. MONUC tried to involve the UN Development Programme (UNDP) and NGOs in providing demobilised Mayi-Mayi with safety nets and reinsertion kits. Distribution however was slow and chaotic and no serious progress was made in the reinsertion of ex-combatants.

The current calm, troubled only by repeated violent protests of disgruntled, demobilised Mayi-Mayi groups in Kamina and Kalemie against CONADER or UN agencies, may, therefore, only be a lull. With weapons and ammunition still hidden in the bush, political divisions among the Balubakat over spoils and local government, the lack of political will at the national and provincial levels to prosecute key leaders⁹⁴ and promote dialogue and grass-roots

⁹⁴ Makabe is still at his farm of Musao, north west of Malemba Nkulu. He retains a large stock of weapons and is reportedly

reconciliation, resumed violence in the province cannot be ruled out.

Foreign armed groups

The other major armed group in the Kivus, the FDLR, steadily declined during the transition, hurt by desertions and the cutting of its supply line. It has some 6,000 soldiers – half its 2001 strength – around 4,500 of whom are fit to fight.⁹⁵ Many have married Congolese and spend some time as farmers and petty traders. The group relies on taxing mines, trade routes and markets for limited revenue, and deserters say morale is low. The FDLR has split into two major groups, one of approximately 1,000 combatants led by Colonel Musare and the main force led by General Mudacumura. While Musare has been linked to the Rally for Unity and Democracy (RUD), a Rwandan opposition party, neither wing has much political or military clout. Nonetheless, if the army undertakes a major offensive against Nkunda, it might seek local alliances with the FDLR.

Some 50 FDLR escape monthly and return to Rwanda via MONUC but tight surveillance and indoctrination keeps desertion low: fighters are convinced they will be arrested and killed in Rwanda.⁹⁶ The FDLR is scattered over a territory three to four times larger than Rwanda and concentrated in five or six parts of the Kivus. It is no longer a strategic threat to Rwanda but its presence is a stumbling block to dismantlement of Nkunda's militia, which uses it to justify recruitment and operations. Many of the 45,000 Congolese Tutsi refugees in Rwanda – an important recruitment pool for Nkunda – do not return to Congo for fear of the FDLR.

Three other foreign armed groups cause periodic disputes between Kinshasa and its neighbours: The Burundian Parti pour la Libération du Peuple Hutu – Forces Nationales de Libération (PALIPEHUTU-FNL), and the Ugandan Lord's Resistance Army (LRA) and Allied Democratic Forces (ADF). The LRA is the only one that is a real source of regional tension. Mostly confined to the Garamba National Park in the Bas-Uélé district of Orientale province,

surrounded by 3,000 Mayi-Mayi who were never demobilised. Gedeon was heard by a military court in December 2006, and his detention period pending trial has been extended to July 2007. However, no charges have been filed against him. Crisis Group telephone interview, UN officials, June 2007.

⁹⁵ Crisis Group interview, demobilised ex-combatants and MONUC officials, Goma, February 2007.

⁹⁶ Crisis Group interview, Mutobo demobilisation camp, Rwanda. Around 20 per cent of combatants there said the FDLR had killed a close comrade trying to escape.

the brutal militia is engaged in fragile peace talks with the Ugandan government in Juba but has not yet committed to disarmament and offers Kampala the opportunity periodically to threaten military intervention in Congo.⁹⁷ The ADF is in the remote areas of Mt Rwenzori, now has a majority of Congolese nationals in its ranks and is more preoccupied with artisanal gold mining than fighting Uganda. A few dozen FNL combatants still roam the Ruzizi plains and Ubwari peninsula of South Kivu but are not a major concern.

2. The West

Burgeoning disputes between government and opposition could lead to urban unrest and pockets of conflict in the West, where, as noted, Kabila has little support. Easterners and Katangans see him as a liberator from the Rwandan and Ugandan occupation and representing their interests but he never created ties to the West, where he hardly campaigned during the election. His government is generally viewed as contemptuous of westerners, a perception accentuated by the prominent role in Kinshasa of Swahiliphone easterners and the wealth they ostentatiously display.⁹⁸

Resentment runs high particularly among the urban poor. While the opposition has been marginalised in state institutions, it could seek political mileage by staging demonstrations in Kinshasa and other western hotbeds of anti-Kabila sentiment, such as Mbuji-Mayi, Tshikapa, Matadi and Mbandaka. Some 75 per cent of the capital's six million people do not earn enough to meet basic needs.⁹⁹ Unemployment is high, and water and electricity costs are excessive. Almost half the civil servants are rarely if ever paid; some 60 per cent need a second job to get by.¹⁰⁰

These conditions have already fomented unrest: state employees held over 40 strikes during the three years of transition, often bringing school, hospitals and water service to a halt. The suspension of donor budgetary aid since March 2006 could cause soldiers and civil servants to go unpaid. Much will depend on the government's performance. Should it not meet high expectations, popular discontent could fuel riots, in particular if civil society groups and the Catholic Church, which is very influential in the capital, join with the opposition. Control of the armed forces will also be a determining factor. In 1991 and 1993, unpaid Mobutu soldiers went on looting sprees in Kinshasa, killing hundreds of civilians and providing a pretext for a crackdown on press and opposition. Several thousand soldiers currently live in squalid conditions in Kinshasa camps.

The streets of Kinshasa, Matadi, Mbuji-Mayi, Tshikapa and Mbandaka are opposition centres. They may not necessarily rally systematically behind Bemba or any other leader but can be mobilised to confront the security forces and national authorities and join strikes and demonstrations. Even though these can probably be controlled by the police, they could lead to violence and the killing of innocent civilians. The January 2007 events in Matadi may have been a prelude to the type of social unrest and security response that will become common.

The anger is all the more dangerous in that it is fuelled by security service abuse of force, in particular the total impunity of the Presidential Guard, which has become the single most important source of insecurity in the capital, leading to self-defence groups which patrol some populous areas at night to counter the depredations of Kabila's mostly Swahili-speaking troops.

The capital's militarisation and the presence of an unknown number of ex-FAZ,¹⁰¹ ex-FAC¹⁰² and demobilised soldiers in the western provinces, Equateur in particular, were sources of insecurity during the transition and retain potential for friction, as illustrated by increased criminality. Of special concern is the north of Equateur (North-Ubangui, South Ubangui, Mongala districts), which the MLC largely dominated during the war. But ex-fighters with guns poach and harass the population also in the East (Tshuapa district) and along the Ubangi River in the West (Buburu-Bomongo and Buburu-Imese

⁹⁷ Crisis Group Africa Report N°124, *Northern Uganda: Seizing the Opportunity for Peace*, 26 April 2007.

⁹⁸ These include: Samba Kaputo, national security adviser (Moba, Katanga); Marcellin Cisambo, deputy chief of staff (Bukavu, South Kivu); Denis Kalume, minister of interior (Kindu, Maniema); Katumba Mwanke, financial adviser (Lubumbashi, Katanga); Jean-Louis Nkulu, minister for the presidency (Malemba-Nkulu, Katanga); Kikaya bin Karubi, personal secretary (Kindu, Maniema); General Banza, commander of the presidential guard (Lubumbashi, Katanga); and Vital Kamerhe, president of the National Assembly (Bukavu, South Kivu).

⁹⁹ "DR Congo Urban Profile", U.S. Agency for International Development (USAID), August 2002.

¹⁰⁰ Crisis Group email correspondence, World Bank official, June 2005.

¹⁰¹ Mobutu's Zaire Armed Forces.

¹⁰² The Congolese Armed Forces, the army of Laurent Désiré Kabila and Joseph Kabila before the transition.

axes¹⁰³). Demobilised soldiers in Equateur and elsewhere tried to hold the elections to ransom to draw attention to non-payment of duties and reintegration problems, issues which remain unresolved and could marginalise state authority in territories accustomed to parallel administrations that continued to function during the transition.¹⁰⁴

This situation has been coupled with a certain international disinterest in investment in the West. Donors remain focused on the East but without an infusion of money, the dangerous decay in the western provinces will continue.

Tensions could become particularly tense after September 2007 if Gizenga fails to increase the pay of the public service employees, as provided by the generous “Mbudi pay agreement”, which was signed by the government and the public sector trade unions on 12 February 2004 but never implemented.¹⁰⁵

¹⁰³ During the war, Buburu was an ex-FAC advance base supported by Zimbabwe troops against the Ugandan-backed MLC.

¹⁰⁴ Some progress was made after the March 2007 events in Equateur, however. The remnants of Bemba’s guard were mostly integrated into the FARDC, and the large quantities of weapons in Gbadolite in particular were put under FARDC control. Crisis Group interview, MONUC officials, Kinshasa, April 2007.

¹⁰⁵ The accord, which is not binding, aims to increase salaries in the public sector, implying a salary range of \$200-2,000, about ten times the current pay scale excluding non-wage allowances. The agreement was never implemented. Instead, the government granted civil servants several increases of the lump sum transport and housing allowances. The public sector trade unions have already waged several strikes to ensure the implementation of the agreement. In the keynote speech he delivered on 24 February 2007, Prime Minister Gizenga promised to implement the agreement and even go beyond it. The draft budget under discussion in parliament foresees a first wage increase in September–October for the lowest paid. “Budget 2007, un deuxième test pour Gizenga”, *Le Potentiel*, 26 May 2007.

IV. CONSOLIDATING THE PEACE

The president’s overwhelming challenge is to manage his victory and lead the country towards peacebuilding and reconstruction. This requires capitalising on the transition’s achievements and addressing the postponed reform agenda. However, Congo cannot be rebuilt and achieve sustainable stability through intimidation, repression and corruption. The massacre in January of Matadi demonstrators, the 27 March confrontation in Kinshasa and the extensive use of bribes to rig election of governors showed that the government’s preferred course is political and military domination, not the negotiation and compromise which are the trademarks of peace building and democratic governance. Heavy-handedness in parliament or the use of overwhelming military force to end Nkunda’s insurgency in North Kivu could easily backfire and jeopardise some of the achievements of the peace process, with catastrophic humanitarian consequences for civilians. If state authority is to be restored, the new government needs to entrench its reform agenda within a peacebuilding, political strategy.

A. STRENGTHENING DEMOCRACY

Strengthening the newly-born democracy is the single most important challenge. A key issue agreed upon during the negotiations was the establishment of a new political dispensation. This was not limited to elections and giving the incumbent president fresh legitimacy; it implied a genuine change of governance and actual implementation of the reforms necessary to satisfy the requirements of the new constitution.

1. Balancing power relations

Since the late 1960s, Congo has experienced concentration of all powers in the executive branch in Kinshasa. This centralisation, accentuated by a one-party state, was the trademark of Mobutu’s reign. It was motivated partly by the instability and secession attempts of the 1960s, partly by the necessity to repress dissent. The strengthening of democracy requires first and foremost balancing power relations within the country, both between branches of government and between Kinshasa and the provinces, as set out by the new constitution.

Promoting accountability and transparency is a political challenge requiring officials to work against the entrenched interests of the political elite. Attempts to improve transparency have exposed corruption but

not held officials accountable. Reforms have to be institutionalised: courts, legislatures, the press and financial watchdogs need to be strengthened and isolated from patronage networks. Parliament must be used as a primary source of conflict prevention and peacebuilding. The judiciary and the administration must be freed of constant political interference.

The judicial reforms proposed by the government, do not include important changes stipulated by the constitution: replacement of the Supreme Court by a Constitutional Court, a State Council and a High Court of Appeals so as to rationalise the court system; strengthening judicial independence by empowering the High Council of Judges to name, promote and penalise judges; and the limitation of political interference in court business through standing judicial commissions in the national and provisional assemblies to review the performance of the High Council of Judges.¹⁰⁶

Decentralisation could greatly promote conflict resolution and accountability by reducing the distance between decision-makers and citizens, promoting accountability, and strengthening the culture of dialogue and cooperation between the central government and the provinces. If not implemented properly, however, decentralisation could open the door to uncontrolled government spending, wider corruption and increased tensions over resources on both the national and local levels, eventually jeopardising the restoration of state authority all over the country.

Decentralisation has already been flawed by gross manipulation, rigging of gubernatorial elections and attempts by the interior minister to curtail provincial administrative and financial autonomy by promoting trusted individuals in key positions and minimising provincial management of national revenue.¹⁰⁷ The decentralisation process could also remain incomplete if parliament does not rapidly adopt the organic law to establish the independent national electoral

commission (CENI) and agree, together with donors, on a realistic calendar for future elections.¹⁰⁸

According to the constitution (Art. 175) the provinces are to manage 40 per cent of national tax revenue quadrupling their current budgets and allowing for substantial infrastructure investment. In less than two years, the eleven provinces will be divided into 26 new entities, each with a new government and local administration. These reforms are needed but may cause turbulence. The capacity of each new province to sustain an autonomous administration is uncertain.¹⁰⁹ Without equalisation funds, the gap will widen between the mining-rich and border provinces and the landlocked and rural ones. Without a proper system of accountability, decentralisation is also likely to create another layer of corrupt bureaucracy, transposing the central government's problems to the local level but producing no positive impact on the ground.

The delimitation of boundaries pursuant to the law on decentralisation (Art. 4) and the sharing of provincial assets between the new entities is likely to trigger inter-communal tensions in several provinces, notably Western Kasai and Katanga.¹¹⁰ It will also be contentious between the central government and the provinces, as evidenced by the meeting of the presidents of the provincial assemblies in Matadi on

¹⁰⁶ Crisis Group interview, judges' union, Kinshasa, January 2007. The current High Council of Judges is already supposed to oversee the nomination of judges in an independent manner. However, in practice, it is stacked with people close to the current establishment and does not safeguard the independence of the judiciary.

¹⁰⁷ In the draft budget submitted to parliament in June 2007, the government proposed to earmark less than 10 per cent of the national tax revenue to the provinces, not 40 per cent as provided by the constitution.

¹⁰⁸ The draft organic law on the CENI was adopted by the Council of Ministers on 12 June 2007 and is now on the National Assembly agenda. The government is apparently eager to expedite the electoral process by delimiting the various levels of the territorial administration by decree and holding all local elections simultaneously and nationwide, something that is probably logistically unachievable without financial support by donors comparable to what was provided for the 2005-2006 national elections. Instead, the international community urges holding local elections in a cascade manner, with four or five at a time in different provinces.

¹⁰⁹ According to some estimates, the present figure of 110 provincial ministers could soon increase to as many as 260.

¹¹⁰ In Western Kasai the non-Lulua groups oppose the proposed new provincial arrangement, claiming that all territories which have a majority of non-Lulus should be in one province and the Lulus in the other. In Katanga, the expected creation of four new entities is likely to reopen the debate over the sharing of resources between the mining-rich Haut Katanga district and other current districts. The future of the mining-rich Kolwezi area, until now run like an autonomous district, is also at issue. Its integration within the future Lualaba province is challenged by an AMP national deputy, Vano Kiboko, who fears the natives of Kolwezi, the Basanga people, could be soon outnumbered by the populations of Lualaba district, the Lunda people, and deprived of their wealth. Kiboko, who is also president of the Basanga socio-cultural association, has made the debate public, and tension is mounting over this issue in the city.

20 May 2007 at which the provinces reasserted their financial and administrative autonomy and threatened to refer the issue to the Supreme Court should the central government persist in resisting the immediate transfer of 40 per cent of national tax revenue.

To counter this trend, the minister of interior and the provinces set up a joint commission to examine the modalities for transfer of the money before 1 September. It will present preliminary conclusions to the parliament in August for approval before 1 September. In the meantime, the National Assembly is expected to pass the laws on decentralisation and creation of the equalisation funds. The former is already on its agenda. It defines the roles and powers of the decentralised entities and provides (Art. 155) for division of the national tax revenue between the central government, the provinces and the decentralised territorial entities according to the constitutional principles but does not specify the calculation of the tax base.

The only indication for this is provided by the constitution, which says that taxes are to be deducted at source (Art. 175). Under the current system, goods are taxed only in a limited number of provinces, mostly Bas-Congo and Katanga (at the main border posts of Matadi and Kasumbalesa, respectively) and Kinshasa city (treated as if it were a province) for items such as diamonds, oil and timber. Unless there are adjustments, therefore, Kinshasa city would get 38 per cent of the 40 per cent of national tax revenue to be transferred to the provinces; Bas-Congo would receive 33 per cent and Katanga 19 per cent, leaving only 10 per cent for the remaining eight provinces. The situation could become even more unsustainable and uneven in two years time when the eleven provinces are expanded to 26. The taxation at source system will have to be introduced carefully, with the advice and help of national and international experts.

The central government and the provinces will also have to agree on the equalisation fund envisaged in Article 181 of the constitution. It is to be financed by an annual contribution from the state budget of up to 10 per cent of national tax income but is only to support the capital expenses of provinces, not current expenditures.¹¹¹ The debate is expected to be difficult and require several months before the National Assembly, the Senate and the joint commission can agree on a definitive text. Even so, these consultations between the central government, the parliament and the provinces are a very positive development which

donors need to encourage.¹¹² Congo's capacity to escape another major crisis depends on the outcome, which should prepare the ground for economic recovery.

2. Democratising resource management

Congo is a devastated country but its natural resources, if properly managed, could become the engine for a rapid economic recovery. Unlike the 1990s, international demand for raw materials is dynamic, and investors are eager to return to access its huge reserves. Unfortunately, Congo's capacity to benefit from this renewed interest is rather limited. Before and during the transition, the authorities signed, with total lack of transparency, mining and timber contracts that will deprive the state of billions of dollars in revenue. Numerous reports, national and international, have documented the flaws in these contracts, especially in the mining sector.¹¹³

At first, the government did not seem particularly keen to discuss these concessions. Some advisers to Prime Minister Gizenga feared debate would

¹¹² The World Bank is providing \$50 million for technical support to the decentralisation process. On 26-28 June, UNDP, government, provincial and civil society representatives met to discuss the details of the taxation at source system and other technical issues related to the decentralisation process.

¹¹³ "International appeal for a revision of the DRC's mining contracts", 13 March 2007, at www.11.be/index.php?option=content&task=view&id=101925, signed by a group of non-governmental organisations (NGOs) including 11.11.11 (a coalition of NGOs, including unions and solidarity groups, in Belgium), ASADHO/Katanga (Association Africaine de Défense des Droits de l'Homme, in Kinshasa), the Bank Information Center in Washington DC, Broederlijk Delen (a solidarity group in Belgium), CEPAS (Centre d'Etudes Pour l'Action Sociale, in Kinshasa), Fatal Transactions (an international campaign for an effective system of monitoring the raw materials trade from conflict areas), NiZA (Netherlands institute for South Africa, in Amsterdam), RODHECIC (Réseau d'Organisations des Droits Humains et d'Education Civique d'Inspiration Chrétienne, a network of human rights and civic education NGOs in Kinshasa), RAID (Rights and Accountability in Development, an NGO in Oxford, UK); "The State vs. the people: Governance, mining and the transitional regime in the Democratic Republic of Congo", NiZA, March 2006, available at www.ipisresearch.be/publications_report.php (website of the International Peace Information Service, in Antwerp, Belgium); "Rush and Ruin, The Devastating Mineral Trade in Southern Katanga, DRC", Global Witness, September 2004; "Digging in corruption", Global Witness, July 2006; Lutundula National Assembly Commission, report on mining and other business contracts signed between 1996 and 2003, June 2005.

¹¹¹ Crisis Group telephone interview, Congolese budget experts, June 2007.

discourage investors. Others feared the political consequences, knowing that President Kabila's top advisers had been involved in most of the deals and that he had been backed by many foreign investors¹¹⁴ because, among other things, he was seen as the contracts' guarantor.¹¹⁵

The situation has changed, however, and more and more officials and parliamentarians, including within the ruling coalition, are looking critically at these contracts. In April 2007, the government took two important decisions. On 3 April, Minister of Environment Didace Pembe (PDC) cancelled 21 forestry development projects, some of which had been granted in violation of the 2005 decree banning new timber concessions. Though the major logging companies, such as Safbois, Sodefor, Siforco and Soform, were not affected, three million hectares returned to the state.

On 10 April, Minister of Mines Kabwelulu (PALU) announced a special commission tasked with reviewing the 63 mining contracts approved from 1996 to 2003.¹¹⁶ Set up on 15 May and with access to Congolese experts as well as the Open Society initiative for Southern Africa (OSISA), the Carter Center and the Rothschild Cabinet, it is expected to report by mid-August. According to the minister, the objective is to renegotiate the contracts to secure a better deal for the state and its main mining company, Gécamines. In some cases, nevertheless, the government may have no option but to ask the parliament to cancel the contracts.¹¹⁷ However, the commission has only three months to review in detail all these contracts, and there is a risk that it will come up with only superficial recommendations.

Donors such as the U.S., Belgium, South Africa, Canada, China and France, which were sometimes instrumental in securing these contracts, should support the process, which would make their calls for

accountability, transparency and good governance more credible and improve the business environment. In the medium term more efforts are needed to bring order to these strategic sectors. Contracts granting mining concessions and payments between private companies and the government should be decided pursuant to the Extractive Industries Transparency Initiative (EITI).¹¹⁸ Home governments of multinational companies should make publication of payments, in both mining and forestry sectors, a condition for stock exchange listing, export credits and loans from international financial institutions. Oversight mechanisms must be strengthened to ensure fair terms in new contracts and compliance with environmental, financial and social obligations in existing ones.

Donors should fund experts to help parliament monitor resource sectors. The government should also hire international NGOs with expertise to do independent monitoring.¹¹⁹ Consideration should be given to the proposal by the deputy president of the National Assembly, Christophe Lutundula,¹²⁰ to establish a permanent national resources watchdog with full authority to monitor, review and regulate.

B. IMPROVING SECURITY

The persistence of insecurity and lawlessness in parts of the country demands swift action from the new authorities. However, it is essential that the government adopt a global approach and resist the temptation to undertake spectacular military initiatives that could easily backfire. Despite FARDC's weakness, military options have been given

¹¹⁴ The partial list includes Georges Forrest Group, Anvil Mining Company, Kamoto Oliveira Virgule, Meteorex, Phelps Dodge, Somika, Chemaf, First Quantum, Société East China, Marc Rich RSA. See "Digging in corruption", Global Witness, op. cit., p. 43; "The State vs. the people: Governance, mining and the transitional regime in the Democratic Republic of Congo", NiZA, op. cit.; "Rush and Ruin", Global Witness, op. cit.; "Final Report of the Panel of Experts", op. cit.; Crisis Group telephone interviews, Congolese officials, June 2007.

¹¹⁵ Crisis Group telephone interview, Congolese officials, June 2007.

¹¹⁶ "Congo-Kinshasa: Dollars and mines", *Africa Confidential*, vol. 48 no. 11, 25 May 2007.

¹¹⁷ Crisis Group telephone interviews, OSISA, June 2007.

¹¹⁸ Congo has committed to this initiative, which does not require publication of all contracts. The EITI was launched by UK Prime Minister Tony Blair at the World Summit on Sustainable Development in Johannesburg, September 2002. Its aim is to increase transparency of payments by extractive industry companies to governments and to government-linked entities, as well as transparency in the use of those revenues by host-country governments.

¹¹⁹ There was such an arrangement in Cambodia between the government and Global Witness. The World Bank funded the NGO to monitor government bodies that managed activities in the forestry sector.

¹²⁰ During the transition period, Lutundula chaired a special National Assembly Commission, which reviewed the mining and other business contracts that rebels and government authorities had signed between 1996 and 2003. Its report, released in June 2005, concluded that dozens of contracts were either illegal or of limited value for the country's development and should be terminated or renegotiated. Parliament never discussed the report.

priority for ending local conflicts at the expense of any serious political and diplomatic initiatives. While proceeding with security sector reform, it is vital to launch local peace initiatives based on a comprehensive set of diplomatic, financial, security and political measures and involve provincial institutions in their implementation. Rallying local support and addressing impunity and reconciliation should be key components of the action plans.

1. New security forces

The security forces lack resources, equipment and training. With the exception of a few select units, their operational capacity is extremely low,¹²¹ and they have increasingly become a threat to the local population they are supposed to protect. This is partly due to inadequate funding and the absence of proper leadership¹²² but severe structural and institutional problems have also rendered them inefficient, corrupt and abusive. Patronage networks and parallel chains of command permeate them and undermine effectiveness. Any attempt at reform must be political as well as technical.

Recent nominations to lead FARDC are part of the efforts to address these problems, though they were also probably a response to mounting security threats in the East.¹²³ But in depth change will require more than replacing corrupt officers with experienced and

honest ones. Structural reforms are also urgently needed, while internal as well as civilian oversight mechanisms must be created or reinforced.

Parliamentary debate should be a first step to the reform of both police and FARDC. A White Paper on police reform was released in May. The several censuses of army strength conducted by the EU and South Africa and the audit prepared by Belgium could serve as a basis for deeper analysis of the future of the national security forces. The process should include examination of internal and external security challenges, assessment of the structural changes required in the chain of command and timetables for the completion of the integration and demobilisation processes in the army and police downsizing.¹²⁴

The role of the Presidential Guard should also be re-examined in light of its behaviour during the 22-24 March Kinshasa fighting and its frequent involvement in acts of violence against the civilian population, notably in Kisangani.¹²⁵ Consideration should be given to a significant drawdown of its forces and integration of the remaining personnel into the regular armed forces. The idea of transferring them to the police should be discouraged as it might lead to a militarisation of that force and undermine the current efforts to strengthen its respect for human rights and democratic values. Instead, former Presidential Guards, could be used to increase the operational capacity of FARDC.

Brainstorming could be initiated internally but should be followed by intense consultations with parliamentarians and civil society to galvanise local ownership for radical changes. At the end of the process, the government should present White Papers to foreign partners for further discussion and assistance.

Simultaneously, the government should ask parliament for laws to rationalise the army's structure and isolate it from politics.¹²⁶ The parliament's defence and security commissions should receive more equipment and technical staff to perform annual audits. The inspector general, who heads the army's internal oversight, should have sufficient funding and

¹²¹ Crisis Group telephone interview, MONUC, June 2007.

¹²² "As election nears, abuses go unpunished in Katanga, Congolese army and Mai Mai commanders should be charged with war crimes", Human Rights Watch, 21 July 2006; "DR Congo: Stop Army Clashes in North Kivu, Civilians Killed and Injured in Battles Between Rival Army Factions", Human Rights Watch, 14 August 2006; "DR Congo: Army Abducts Civilians for Forced Labor", Human Rights Watch, 16 October 2006.

¹²³ On 13 June 2007, President Kabila made important changes at the head of the security services. Brigadier Dieudonné Kayembe was appointed chief of staff to replace Brigadier Kisempia, who has been accused of corruption. The former air force commander, Brigadier Numbi – who was under fierce criticism for poor management of the *mixage* process in the Kivus – was replaced by Brigadier Rigobert Massamba but then appointed to head the National Police. Brigadier Amisi remains army chief of staff, while Didier Etumba Longila assumes that position for the navy. Kabila also named Jean Pierre Darwezi to lead the internal intelligence service (ANR), replacing Mira Njoku, Brigadier Kitenge Tundwa to lead the military intelligence services (ex-DMIAP) and Brigadier Damas Kabulo as the new defence secretary general. The former head of the special police services, Colonel Raüs Chalwe, who was directly involved in the killing and torture of Bemba supporters following the March 2007 crackdown in Kinshasa, was sent to Bas-Congo province as the new head of provincial police.

¹²⁴ Experts suggest the army's targeted strength should be 90,000, including the Presidential Guard, compared to the current official figure of 170,000.

¹²⁵ Crisis Group interview, MONUC officials, Kinshasa, June 2007.

¹²⁶ This includes the organic law on the organisation of national police, laws on military status, financial management of the army, the Presidential Guard and organisation of the High Defence Council.

independence to tackle the embezzlement rackets. The defence minister should appoint an ombudsman to register complaints of human rights abuses and pressure military tribunals to perform better.

Abuse has become part of the police and army cultures, largely due to the lack of accountability. Despite rampant human rights violations, there are few prosecutions and then almost never above the rank of captain, as more senior officers are protected by the high commands, which are often complicit in embezzlement rackets. Given the prevalence of abuse during the war, often implicating officers now in positions of authority, thorough investigations could destabilise the country. A balance, therefore, has to be struck between expediency and justice that will, nevertheless, deter further violations. A vetting program should be launched for the police and army so as to exclude a limited number of officers with well-documented track records of abuse.¹²⁷

Unfortunately, prospects for such reform in the army are poor: over the last three months, President Kabila, Defense Minister Chikez and Interior Minister Numbi have expressed opposition to any multilateral approach and cooperation in support of army reform. Arguing national sovereignty takes precedence, they advocate a return to traditional, bilateral military cooperation and a piecemeal approach. This, they argue, would allow Congo to get better help from each partner and possibly produce a lifting of the Security Council and EU arms embargoes.¹²⁸ In practice however, it more likely would serve to postpone reforms again and consolidate the position of hardliners. Symptomatic is the appointment as army inspector general of General Olenga, whose reputation has been tarnished by involvement in many arms deals for both President Kabila and his father.

¹²⁷ Vetting is a non-legal process of screening security services for past crimes and abuses. Those found responsible are excluded from the service. The standard of proof is much lower than in a trial. Those found responsible lose their job but do not necessarily face prosecution. Vetting has been conducted by UN missions in Bosnia, Kosovo, Haiti and East Timor with varying success. The process must be impartial, searching out personal history of abuse and applying to members of all former belligerent groups. It should also be flexible, taking into consideration the circumstances in which the abuses occurred as well as the individual's possibly positive actions in the peace process. Excluded individuals must also be able to appeal the decision in a transparent fashion

¹²⁸ On 13 June 2005, the European Union adopted Council Common Position 2005/440/CFSP on the DRC integrating the measures imposed by Common Position 2002/829/CFSP with those contained in UN Security Council Resolution 1596 (2005).

2. Ending local conflicts, dealing with foreign armed groups

Despite the Security Council request that the government develop a peace plan for the East,¹²⁹ there has been no serious progress. Instead, since May, the government has taken a set of confused initiatives, alternating threats against Nkunda, major changes at the head of the security forces and reinforcement of the eighth and tenth military regions with an unsuccessful attempt to hold a round table in Kinshasa on inter-community relations in the Kivus and renewed pledges to deal with the FDLR as a priority.

To end local conflicts, the government needs to develop comprehensive *political* strategies in each affected province (North and South Kivu, Oriental, Katanga). In view of recent developments, priority should be given to the Kivus. This political approach should not be limited to integration or disarmament of armed groups but should concentrate on addressing the root causes of the conflicts and deal notably with regional relations, land allocation, exploitation of natural resources and reconciliation between communities. The authorities should acknowledge there is no military solution in the Kivus and halt preparation for a hazardous armed confrontation with Nkunda.

A promising initiative to defuse tension in the two provinces should include a politico-military plan drafted with MONUC, a high-level mission to obtain Rwanda's support, an intense outreach campaign to inform the population about the peace initiative, a new timetable for integrating brigades, the opening of a round table with the major stakeholders and revival of efforts to expedite the return of FDLR fighters to Rwanda. The economic dimensions of the conflict and wounds of war also have to be addressed through an appropriate review of war-time contracts and implementation of a transitional justice initiative.¹³⁰

Nkunda's personal future should not be a stumbling block to stabilisation and should be dealt with non-

¹²⁹ "Urgently request the Government to develop in close coordination with MONUC, as a matter of priority as part of its effort to extend its authority throughout the Democratic Republic of the Congo, a plan to ensure security in the Eastern part of the country, particularly by carrying out the disarmament, demobilisation, repatriation or resettlement, as appropriate, and reintegration of foreign and Congolese combatants, and by promoting national reconciliation, recovery and development in the region", Security Council Resolution 1756, para. 11, 15 May 2007.

¹³⁰ Crisis Group will outline in a subsequent report the details of a comprehensive political settlement in North Kivu.

politically. The government could, for instance, refer the situation in the Kivus to the ICC, or the Prosecutor could initiate his own investigation. In either case, if the government has evidence that Nkunda or others have committed atrocity crimes – such as the use of rape as a tool of war – it should promptly provide it to the ICC. The Prosecutor could then conduct an impartial investigation of all abuses committed in the Kivus in recent years and bring charges against those most responsible. An ICC investigation would neutralise Nkunda politically and make him an international pariah like LRA leaders in Uganda, while guaranteeing a fair trial for him and his men. It would also put pressure on MONUC, Rwanda and South Africa to support the international investigation and any arrests.

Similarly, the government should pursue the neutralisation of foreign armed groups on its territory through active bilateral engagement with Rwanda, Uganda and Burundi and making maximum use of the frameworks of cooperation that have been created with international support. The Tripartite+ mechanism, created and supported by the U.S., has been notably useful for improving relations with Rwanda. It has ended the war of words and forced cooperation to address mutual security concerns. Such efforts should be sustained and deepened, with the re-opening of embassies, the establishment of joint operational mechanisms for border patrols and the sharing of intelligence on FDLR movements. A similar mechanism should be created between Congo, Uganda and Sudan, with U.S. and UK support and in coordination with MONUC and the UN Mission in Sudan (UNMIS), to deal with the LRA on the diplomatic, joint planning and coordinated operations levels.

There is growing international pessimism about Congo but to a large extent the international community is just confronted with the consequences of its own lack of consistency during the transition. An appropriate framework for dealing with post-electoral challenges was not negotiated. It is now urgent to establish a new and ambitious partnership that can facilitate peace consolidation.

C. A DIFFERENT INTERNATIONAL ENGAGEMENT

During the transition, the international community gave the electoral process crucial support but failed on two fronts: first, to create the space for a political alternative to the belligerents, Kabila and Bemba; secondly, to negotiate a change in the governance

system. It was argued that these tasks would be advanced after the election, not through pressure but by negotiation and persuasion and with Kabila's direct support.¹³¹ Some Europeans and the UN peacekeeping secretariat (DPKO) tried vainly to create a post-election coordination mechanism to replace CIAT and maintain a forum for international political consultation to address outstanding peace process issues.

Despite recommendations from various groups of experts¹³² to assist post-conflict countries during the first years following the end of the transition not only with peacekeeping forces but also with strong political monitoring mechanisms, the international community chose to limit its Congo engagement to a reconfigured MONUC – focusing mostly on security matters and with a minimum of leverage on political and human rights issues – and a loose Country Assistance Framework (CAF). Elaborated in 2006 by a group of donors, including the UN, World Bank, EU, Belgium, UK, U.S., Germany and France, the CAF identified objectives in five “pillars”: good governance, pro-poor growth, improved access to social services, HIV/AIDS and promotion of community dynamics, with benchmarks to track progress and inform donor strategies. Governance reforms were addressed in the first pillar and a more detailed “Governance Compact” covering such challenges as management of natural resources, public administration, security sector reform, transparency and accountability.

In the first months of Kabila's term and despite initial remarks mocking the allegedly patronizing tone of CIAT and its European ambassadors, the general pattern seemed to hold. MONUC's mandate was extended with the same troop ceiling.¹³³ On 22 February 2007, Prime Minister Gizenga submitted his

¹³¹ Attempts to create a joint commission on good governance on the model of the joint commissions on elections, security sector reform and essential legislation anchored in Security Council resolutions failed due to the resistance of several Council members traditionally reluctant to deal with corruption issues. The proposal was diluted to a recommendation to MONUC in Resolution 1621 (2005) to “provide advice and assistance as well as the necessary support to the setting up by the Transitional Government, international financial institutions and donors, of an arrangement to strengthen support for good governance and transparent economic management”. This arrangement never materialised.

¹³² Including the 2004 UN High-Level Panel on Threats, Challenges and Change and the International Commission on Intervention and State Sovereignty, Canadian Government, 2001.

¹³³ Security Council Resolution 1742, 15 February 2007.

own “Governance Contract” to parliament along with his proposed program. Based on the Poverty Reduction and Growth Strategy Paper (PRSP) approved by the government in July 2006, it reproduced verbatim most of the reforms recommended in the donor document and appeared a significant step forward. However, with the paralysis in the government, Kabila’s lack of cooperation, the violence in Kinshasa and the new rise of tension in the Kivus, illusions were rapidly shattered.

The lack of cooperation from Kabila in sustaining a dialogue on political issues and finalisation of political reforms was predictable. His insistence on having donors focus on development assistance rather than political issues¹³⁴ is one widely shared in the region. It reflects a desire for independence and anti-Western sentiments which run deep, and is also important for enabling him to assert authority over the hardliners around him and to establish credibility with the population. Obsession with foreign interference and ambivalent relations with the West have been recurrent in the country since the assassination of Patrice Lumumba shortly after independence. Countries like South Africa, Angola and China support this stance as a welcome attempt to reassert Congo’s sovereignty.

France¹³⁵ and the U.S.,¹³⁶ while advocating governance reforms, have kept a low profile in the hope of safeguarding special relations with the president. The EU and some of its member states like Belgium, the UK, Germany and Spain have been the only ones to voice concerns openly, especially after the violence in Kinshasa,¹³⁷ but their remarks were

met with contempt by Kabila¹³⁸ and had no serious impact.¹³⁹

On 15 May, in the midst of growing concern following the March crisis and the absence of progress in most sectors, the Security Council extended MONUC’s mandate to 31 December 2007 and reconfigured it so that MONUC would contribute, in cooperation with the Congolese authorities, to “support the strengthening of democratic institutions and the rule of law” (point 3).¹⁴⁰ It also made a series of requests to the government, including to respect the space and role of the opposition (point 5); improve transparency in management of revenues from natural resources (point 7); adopt with international support a national security strategy and carry out security sector reform (point 8); develop in close coordination with MONUC a plan to ensure security in the East (point 11); and bring to justice perpetrators of grave human rights violations (point 12).

In an attempt to overcome initial U.S., UK and South African reluctance for a CIAT substitute, the Security Council also encouraged Congo’s principle partners to establish an “effective arrangement for regular consultations promoting a political dialogue aimed at enhancing understanding by key partners of the goals and initiatives of the government, continuation of international involvement and concerted efforts by the country’s international partners to prevent or respond to crises”.¹⁴¹ The Kinshasa ambassadors of Security Council permanent members plus Belgium, Angola

¹³⁴ Crisis Group interview, Kabila advisers, Kinshasa, January 2007.

¹³⁵ On 25 March 2007, the French cooperation minister, Brigitte Girardin, signed a €235 million contract with the Congolese government. With major fighting having just ended in Kinshasa, she welcomed the restoration of law and order by the Presidential Guard, and barely mentioned the fate of Bemba and his supporters, who were being hunted by the special security services. During a press conference, she declared that “her presence in Kinshasa was a token of France’s trust to the legitimately elected institutions”. “La France accorde 235 millions d’euros en faveur du développement de la RDC”, *Le Potentiel*, 26 March 2007.

¹³⁶ On 27 March 2007, the deputy spokesperson of the U.S. State Department accused Bemba of having “inspired” the violence. “Washington impute à Jean-Pierre Bemba les violences de la semaine en RDC”, Associated Press, 28 March 2007.

¹³⁷ On 27 March 2007, EU ambassadors at a press conference expressed concern for the fighting in Kinshasa but made no distinction between the violence committed by Kabila and Bemba supporters. The EU asked the authorities to show more

respect for human rights, free expression, the rights of the opposition and diplomatic premises. “L’UE est indignée par le recours à la force à Kinshasa”, 27 March 2007, monuc.org.

¹³⁸ Relations between Congo and many of its European partners are in a low phase. Belgium’s foreign minister, Karel de Gucht, was almost denied access to Kabila during his 10 April visit, following remarks on the need for opposition in a democratic country and calls to provide security to Bemba. “Karel de Gucht: ‘Une démocratie ne peut pas exister sans opposition’”, Agence France-Presse, 11 April 2007.

¹³⁹ On 3 April 2007, the President of the Security Council issued a statement deploring the violence in Kinshasa from 22 to 25 March, calling on the government to respect the space and role conferred on the opposition by the constitution and asking for investigation into the events. More than two month later, however, no progress has been made, mostly because MONUC investigators have been systematically blocked by the Congolese authorities.

¹⁴⁰ “Decides that MONUC will also have the mandate, in close cooperation with the Congolese authorities, the United Nations country team and donors, to support the strengthening of democratic institutions and the rule of law in the Democratic Republic of the Congo”, Resolution 1756, 15 May 2007, point 3.

¹⁴¹ Resolution 1756, 15 May 2007, point 6.

and South Africa had already held meetings in April and one with Kabila on 10 May. However, this late attempt to set up a new monitoring mechanism for consolidating peace is not likely to reverse the presidency's general attitude, particularly with regard to security sector reform, planning for military operations in the East or even the preparation of local elections.

In early June, Kinshasa sent clear signals that the security sector reform contact group round table to be held in September in Kinshasa¹⁴² should be the occasion to terminate comprehensive programs such as the EU's security missions (EUSEC and possibly EUPOL)¹⁴³ and return to bilateral cooperation, with probably no more progress on strengthening parliamentary control, reform of the Presidential Guard or establishment of a vetting system.¹⁴⁴ The government also postponed the annual meeting of the Consultative Group, scheduled for July in Paris.¹⁴⁵

During a meeting with the visiting Security Council delegation on 20 June, President Kabila and Defense Minister Diemu underscored that Congo was no longer interested in comprehensive programs.¹⁴⁶ It wanted to retake the lead in security sector reform and negotiate with donors only on a bilateral basis for specific needs. Interior Minister Kalume said local elections would be postponed until mid-2008. It also seems that no compromise was reached with the delegation over the need for a political rather than a purely military solution to the looming Kivus crisis.

A new formula has to be found. Congo's sovereignty should be respected; the international community cannot relate to elected institutions the same way it did with mere belligerent signatories of a peace agreement. But the peace process is not over and its

gains could easily be jeopardised by authoritarianism, military adventurism and high-level corruption. The government wants MONUC's help to control the East. Donors should not have to pay \$1 billion a year for peacekeepers to clean up the debris from irresponsible policies. The government must accept the political framework for a new partnership, addressing in particular the strengthening of democracy and security issues (reform, ending local conflicts and dealing with foreign armed groups), if it wants MONUC to continue as a major security provider in the Kivus and otherwise benefit from international support. Otherwise, there is no reason for international support to be sustained. Sovereignty comes with major responsibilities towards citizens, neighbours and the international community at large that the government is not yet able to fulfil.

¹⁴² The decision to hold a round table on comprehensive security sector reform was taken on 9 March 2007 in Pretoria during the last meeting of the Contact Group for that subject.

¹⁴³ On 12 June 2007, the EU Council adopted two joint actions, one of which confirmed a commitment to provide through the EUSEC mission advice and assistance for the integration, restructuring and rebuilding of the Congolese army, the other of which confirmed a commitment to help through the EUPOL mission in reforming and restructuring the police.

¹⁴⁴ Crisis Group interviews, Congolese security officials, Kinshasa, June 2007.

¹⁴⁵ The Consultative Group is chaired by the World Bank and focuses on fund-raising and aid coordination. Western diplomats believe the meeting was cancelled because the government was reluctant to present the dismal progress in most sectors since it came to office, Crisis Group interview, European diplomats, June 2007.

¹⁴⁶ Crisis Group interviews, diplomats, Kinshasa, June 2007.

V. CONCLUSION

More than six months after President Kabila's inauguration, the Congo's situation is far from reassuring. Kabila emerged dominant from the transition but deprived of his expected landslide. Burdened with an oversized and fragmented majority, he has not advanced major reforms or made progress in national reconciliation. Instead, the last months have seen the rapid paralysis of state machinery and a distressing lack of communication between the central government, provincial officials and the general population. The democratic features of the nascent institutions have been seriously undermined by the crackdown against Kabila's main rival at the presidential elections, Jean-Pierre Bemba, who fled into exile. In spite of recent reassuring concessions, particularly with regard to opposition rights, the problem posed by his return has not been solved.

Little progress has also been made to improve security. Large parts of the national territory remain lawless. In the absence of peace plans and comprehensive reforms in the security forces, no early progress is in sight. In the Kivus, the consequences are already obvious: the ill-conceived military integration initiative and a total lack of communication with local officials and the population have produced terrible confusion and renewed the risk of open conflict. In other western provinces, the disproportionate use of violence, as in Bas-Congo against the BDK, is likely to fuel resentment among citizens already not particularly supportive of their current leaders.

It is urgent to stop the preparations for war in the East, consolidate the role and space of the opposition and parliament, and rapidly acknowledge the shortcomings of the last months so as to make a fresh start. Kabila and Gizenga can still do this, provided they agree on the necessity to provide visionary leadership that strengthens democratic management and to associate the population with implementation of most reforms. In view of the monumental efforts still needed to consolidate peace, they should also adopt a new attitude towards the international community. They should recognise that improving security and anchoring democracy in a country where the administration has collapsed requires more than piecemeal, bilateral cooperation. In return and in view of the stakes, the international community should overcome its divisions and agree on a new partnership that includes a comprehensive roadmap and provisions for ongoing consultation and accountability mechanisms.

Kinshasa/Brussels, 5 July 2007

APPENDIX A

MAP OF THE DEMOCRATIC REPUBLIC OF CONGO



APPENDIX B

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 printed copy to officials in foreign ministries and international organisations 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 co-chaired by the former European Commissioner for External Relations Christopher Patten and former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

Crisis Group's international headquarters are in Brussels, with advocacy offices in Washington DC (where it is based as a legal entity), New York, London and Moscow. The organisation currently operates twelve regional offices (in Amman, Bishkek, Bogotá, Cairo, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina, Seoul and Tbilisi) and has local field representation in sixteen additional locations (Abuja, Baku, Beirut, Belgrade, Colombo, Damascus, Dili, Dushanbe, Jerusalem, Kabul, Kampala, Kathmandu, Kinshasa, Port-au-Prince, Pretoria and Yerevan). Crisis Group currently covers nearly 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia,

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