

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, ETHIOPIA P.O. Box 3243 Tel. 513822 Fax.: 51 93 21 Email: oau-ews@telecom.net.et

PEACE AND SECURITY COUNCIL

Fifth Session

13 April 2004

Addis Ababa, Ethiopia

PSC/PR/4 (V)

**REPORT OF THE CHAIRPERSON OF THE COMMISSION ON THE SITUATION
IN THE DEMOCRATIC REPUBLIC OF CONGO (DRC)**

**REPORT OF THE CHAIRPERSON OF THE COMMISSION ON THE SITUATION
IN THE DEMOCRATIC REPUBLIC OF CONGO (DRC)**

I. Introduction

1. At its Fourth Ordinary Session held in Addis Ababa on 15 and 16 March 2004, I briefed the Executive Council on the evolving situation in the Democratic Republic of Congo (DRC). I reported particularly on the establishment of the transitional institutions provided for by the Comprehensive and All Inclusive Agreement adopted in Pretoria, South Africa, on 17 December 2002, and endorsed by the Parties to the Inter-Congolese Dialogue in Sun City, South Africa, on 2 April 2003; the pacification of the Ituri Region by the UN Forces; the thaw in the relations between the Parties to the peace process; preparations for the electoral process; and the security and humanitarian situation in the country.

2. The present Report provides an update of the situation in the DRC since my last Report.

II. Political Situation

3. It should be recalled that the establishment of the institutions of the Republic gathered momentum after the formation of the Transitional Government on 30 June 2003. On 22 August 2003, the Parliament and the Senate were inaugurated in Kinshasa. By 28 August 2003, the Independent Electoral Commission (IEC), the National Human Rights Observatory, the High Media Authority, the Truth and Reconciliation Commission and the Ethics and Anti-Corruption Commission had all been established.

4. The establishment of the Transitional Institutions and the cordial atmosphere in which the stakeholders of each of these structures worked created a new context conducive to the peace process in general and the electoral process in particular. The International Community had, for its part, done its utmost to backstop those efforts, particularly with regard to the restoration of peace and security, and support to the electoral process.

5. However, over the past months, the political situation had somehow deteriorated, marked as it is by a difficult co-habitation between the Congolese political actors at the highest level of the State. That situation, which affects the transitional process, has seen a number of incidents.

6. Thus, on 8 January 2004, at a session of the Council of Ministers, there was a strong exchange of words between the Head of State, Joseph Kabila, and the Minister

of Environment and Tourism, a member of the former faction of *"Mouvement de Libération du Congo"* (MLC) of Jean Pierre Bemba, who is standing in for the post of the Vice-President of the Republic in charge of Economy and Finance. In reaction to that incident, President Kabila walked out of the Council chamber. The matter culminated in the expulsion of the Minister from the Government.

7. In February 2004, the magazine *"Grands Lacs Magazine"*, published in London, carried an interview that was attributed to the Minister of Transport, a member of the Political Opposition. The interview was deemed, by the MLC, to be defamatory and disrespectful of J.P. Bemba. The MLC then decided to suspend the participation of its members in the Transitional institutions until the "exclusion" of the Minister of Transport from the Government. The political opposition, which the Minister represents in the Government, refused to withdraw him. After months of protracted mediation and pressure from the International Community, President Kabila, in "a gesture of appeasement", suspended the Minister concerned from the Council of Ministers for one month.

8. In the night of 23 - 24 February 2004, the town of Bukavu, in South Kivu, was the theatre of bloody confrontation between the guards of the Commander of the 10th Military Region, member of the former "Government" and the soldiers led by his Deputy (of the former component of the *"Rassemblement Congolais pour la Démocratie/Goma"* (RCD/G). The fighting followed the search and "seizure of substantial quantities of undeclared arms", among others, from the residence of Major Kasongo, who was condemned to death in absentia, during the trial relating to the assassination of President Laurent Désiré Kabila. Major Kasongo was arrested by the Commander of the Military Region and subsequently transferred to Kinshasa.

9. That transfer caused mutiny among the troops, composed almost exclusively of the elements of the former army of the RCD/G, and the mobilization of all the structures of that Movement. In Kinshasa, the Chairman of the Party, Azarias Ruberwa, Vice President of the Republic in charge of Defence and Security, "demanded the immediate and unconditional release of the Major and his return to Bukavu, ... failing which, the Party and its allies would suspend their participation in all the Transitional institutions, ... and would reserve the right to use all the means at their disposal for the release of the Major General". The speedy intervention of the UN Secretary General's Special Representative and the International Support Committee to the Transition (CIAT) made it possible to secure the release of the Major and his return to Bukavu.

10. On 8 March 2004, the Chairman of the RCD/G was requested by the Government to chair the Women's Day celebration. He was welcomed in the Hall where the ceremony was taking place by thousands of women. The Vice-President was booed by the crowd demanding "justice for the thousands of women raped and killed in the East of the DRC". The Vice-President, who could not take the floor to deliver the message of

the Government, was escorted out of the Hall through a back door. The RCD/G protested and talked of a plot and attempt to assassinate its Chairman.

11. Furthermore, following a request from the President of the Republic, the Supreme Court gave an advisory opinion in favour of the Head of State on the issue of the appointment of top officials at the level of territorial administration, diplomacy, public enterprises, intelligence service and the judiciary. That opinion provoked debate and protests from all the Parties to the transitional process. The Head of State, in particular, was accused of wanting to impose his personal power.

12. Several other incidents among the Vice-Presidents themselves, and between them and the Ministers from other former factions and entities, other than theirs, added to the long list of the incidents mentioned above. As a matter of fact, relations between the players in the peace process were negatively affected.

13. Considering the threats that the situation posed to the peace process, the CIAT met the President of the Republic on 1 March 2004 to express the concern of the International Community. The discussions concentrated on the difficult co-habitation of the political actors at the highest level of State; the extension of State authority over the entire Congolese territory; the appointment of governors and their deputies; the speeding up of the process of preparation, adoption and promulgation of laws, particularly those related to elections; the implementation of the Demobilization, Disarmament and Reintegration process (DDR); the restructuring and integration of the army and the security services; and, finally, the establishment of confidence building measures between the DRC and its neighbours.

14. After a frank and thorough discussion on all the above issues, the two parties agreed on the urgent need to address them in order to speed up the peace process and make up for the many delays encountered in the transition. In that connection, the President promised to get personally. He informed the CIAT that the Council of Ministers would adopt a Code of Conduct for members of the Government.

III. Events of the night of 27 - 28 March 2004, in Kinshasa

15. It was against the above background that a group of assailants with heavy weaponry, and almost simultaneously, attacked the military camps of Kikolo, Tshatshi and Ndolo, in the night of 27 - 28 March 2004, in Kinshasa. During the day of 28 March 2004, twenty people were presented to the press, described by the spokesperson of the Government as "prisoners who had attempted a coup d'état". The attempt was quickly foiled by the Defence and Security Forces.

16. While suspicion and fingers pointed at the elements of the former Presidential Guard of Mobutu Sese Seko, an individual purporting to be the spokesperson of the so-

called "Celestial Army", hitherto unknown, claimed the attack from Brazzaville, adding that his movement was clandestine and had no links with Congolese officials. On its part, the Congolese Government denied that the attackers had come from Brazzaville, and reiterated that the Congolese territory would not be used to destabilize a neighbouring country.

17. The events were perceived differently by the DRC political class. Some, including important actors in the transition, talked of "masquerade", "crude stage-managed event" carried out by radical elements in the entourage of the President of the Republic and designed to "distract the national and international public opinion". The Government "insistently and unequivocally condemned" the attack and decided to set up a Commission of Inquiry comprising representatives of all the former factions and entities. The Parliament and the Senate were also seized with the matter and each of them, in turn, set up a Commission of Inquiry. Three Commissions of Inquiry were thus set up to establish the truth on the same events.

18. Members of the International Community regarded those events as an attempt to destabilize the transitional institutions and condemned them as such. For my part, I issued a Press Release in which I expressed serious concern at the situation and satisfaction at the foiling of that attempt to destabilize the transitional institutions. I called upon all the Congolese Parties to the peace and national Reconciliation Process and the Congolese people as a whole, to remain united so as to bring the transition to a successful conclusion.

IV. Electoral Process

19. The IEC is the national institution charged by the Comprehensive and All Inclusive Agreement and the Transition Constitution to conduct the electoral process. A Technical Committee has been established by the International Community to assist the IEC and to coordinate international assistance for the electoral process.

20. The Technical Committee meets once a week with the IEC to review the process, identify bottlenecks and map out the strategies to overcome them. In spite of repeated calls by the CIAT and the Congolese civil society to the different parties to the Transitional process, the organic law for the organization of elections has still not been adopted. An initial text, prepared and submitted by Parliament in February 2004, was rejected quasi-unanimously by the Congolese parties and strongly criticized by the CIAT. A revised text taking into account the observations made is still being awaited.

21. Like the organic law, other similarly important texts are yet to be finalized. They are, among others, the laws on nationality, decentralization, amnesty, identification of voters and on National Defence and the Armed Forces. To speed up the process and, by so doing, comply with the timeframes, it was proposed that the preparation of some

of the draft laws be entrusted to other institutions of the Transition rather than the Parliament. Only the law on political parties has so far been promulgated by the President of the Republic.

22. Generally, it would appear that, nine months after the establishment of the institutions of the Transition, and in spite of the concerted efforts of the International Community, delays persist in the implementation of the Comprehensive and All Inclusive Agreement, a situation detrimental to the pursuit of the peace process. Indeed, the country remains disunited; the army and the security services are yet to be integrated; State authority has not been restored over the entire national territory, owing particularly to the differences which had for long persisted between the former factions and entities over the distribution of the posts of Governors and Vice-Governors of the provinces.

23. These serious drawbacks in the implementation of vital aspects of the Comprehensive and All Inclusive Agreement affects the entire process and could undermine the Transition's road map. Many observers view the situation as characterized by what they refer to as "the fear on the part of numerous actors in the peace process to soon face up to the reality of elections." For that reason, they tend to create obstacles to maintain the status quo, that being the only way at their disposal to safeguard their interests and acquired status.

V. Military and Security Situations

24. The observance of the ceasefire by the main belligerents made it possible to achieve substantial progress in the peace process. Although still modest, the formation of embryos of united and integrated brigades continues, thanks to the support of the external partners to the peace process. By 18 March 2004, 900 soldiers of the armies of the former belligerents had completed their training in Kisangani. They are to be deployed in Ituri to support the efforts of MONUC in the area. However, whereas the war, *per se*, has virtually ended, security is far from being restored over the entirety of the DRC.

25. In the Ituri region, traditional clashes between the armed militia had given way to frequent attacks by armed groups against MONUC soldiers, currently deployed in several villages in the Region. Those attacks are intended to obtain the integration of those elements into the Transitional institutions, through pressure.

26. In the Kivus and Kinshasa, there are increased discoveries of arms and ammunition caches, thereby heightening the feeling of insecurity among the people and their skepticism *vis-à-vis* the ongoing process. Furthermore, the dissident militia of the Mai-Mai groups which had been integrated into the Transitional institutions reportedly

carries out abuses and violent acts against the people in several villages in the two Kivus.

27. In North Kalanga, “uncontrolled” forces kill and loot the people with impunity. Given the gravity of the situation, the Government considers fielding a joint mission, comprising representatives of the Ministries of Interior, Decentralization, Defence and Security, Demobilization and former combatants to establish the facts and take the necessary measures to restore public order and the security of persons and goods.

28. The arms embargo imposed by virtue of the UN Security Council Resolution 1493 of 28 July 2003 is regularly violated. To put an end to the violations detrimental to the preservation of peace in Congo and the Region at large, as well as to the implementation of the Comprehensive and All Inclusive Agreement, the Security Council adopted, on 12 March 2004, Resolution 1533 on the DRC, on the measures to be taken to ensure observance of the embargo. In that connection, the Council decided to set up a Security Council Committee, composed of all its members, to ensure scrupulous compliance with the embargo.

VI. Role of the African Union

29. As member of the International Transition Support Committee and of the Technical Committee established by the International Community to backstop the electoral process, the African Union actively supports the transition process, alongside the United Nations, the European Union, representatives of the Permanent Members of the Security Council based in Kinshasa and other African and foreign partners of the peace process. Through my Special Representative in the DRC, Martin Bongo, the AU participated in all the CIAT and Technical Committee meetings.

30. The AU also participates in many missions within the country, carried out by those two international transition support organs. For instance, the AU Office was part of a Joint Mission, comprising representatives of the UN, the Transitional Government, the Embassies of France, Belgium and Spain, the UNDP and the European Union, which visited Bunia, Ituri, at the end of February 2004. During the visit, the delegation had a working session with the leaders of the armed groups, who pledged to resume dialogue with the Government to find a solution to the instability in the Region. The delegation inaugurated the town’s new Prison, Court and Police Station.

31. In general and thanks to its Liaison Office, the African Union maintains regular contacts both with the Congolese players in the peace process and the country’s external partners in the process.

32. For my part, I had planned to undertake a working mission to the DRC from 19 to 21 December 2003, to support the ongoing process. But due to the busy work schedule of President Kabila, the mission had to be postponed to a later date.

33. Upon the signing of the Lusaka Ceasefire Agreement in July 1999, the OAU, in concert with the Parties, established the Joint Military Committee (JMC) to ensure compliance with the Ceasefire. The JMC played a decisive role in that regard, prior to the deployment of MONUC. Now that its mission has been fully accomplished and MONUC has taken over, it would be appropriate to convene a meeting of the Political Committee to decide on the formal dissolution of the JMC.

VII. Observations and Recommendations

34. Since the adoption of the Comprehensive and All Inclusive Agreement, significant progress has been made, particularly with regard to the establishment of the institutions of the Transition. However, 15 months to the end of the Transition in the DRC, the peace process continues to face serious difficulties. The International Community, which has invested efforts to promote peace and stability in the DRC, should intensify its efforts to ensure the success of the efforts deployed for more than five years now, especially as there have been delays in the implementation of the Comprehensive and All Inclusive Agreement.

35. In that regard, the Peace and Security Council may wish to:

- i) express serious concern at the tension subsisting at the highest level of the State, which erodes confidence and trust among the players and impacts negatively on the transition process;
- ii) express regret at the delay in the implementation of the Transition programmes;
- iii) call upon the Parties, each one in its area of competence, to speed up the preparation of the organic laws, reunification of the country and restoration of State authority throughout the country, integration of the army and the security services, and the implementation of the DDR programme;
- iv) call upon Congo's neighbouring countries to continue to back MONUC's efforts aimed at ensuring compliance with the arms embargo imposed by the UN Security Council.