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DR CONGO: THE NORTH KIVU CRISIS

**With ADDENDUM:
The Arrest of Laurent Nkunda
and the Rwandan Military Incursion in the DRC**

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commissioned by United Nations High Commissioner for Refugees,
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Acronyms

AFDL	Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre
AMP	Alliance de la Majorité Présidentielle
CMC-FOCA CNDP	Commandement Militaire pour le Changement- FOCA, Conseil National pour la Défense du Peuple
EU	European Union
Ex-FAR	Ex-Forces Armées Rwandaises
FAPC	Forces armées populaires du Congo
FARDC	Forces Armées de la République Démocratique du Congo
FDLR	Forces Démocratiques pour la Libération du Rwanda
FDLR-FOCA	FDLR-Forces Combattantes Abacugunzi
FLEC	Front de Libération de l'Est du Congo
FPJC	Front Populaire pour la Justice au Congo
FRF	Forces Républicaines Fédéralistes
ICC	International Criminal Court
IMF	International Monetary Fund
LRA	Lord's Resistance Army
MLC	Mouvement de Libération du Congo
MONUC	Mission de l'Organisation des Nations Unies au Congo
PARECO	Patriotes Résistants Congolais
RCD	Rassemblement Congolais pour la Démocratie
RCD-ML	Rassemblement Congolais pour la Démocratie-Mouvement de Libération
RDF	Rwandan Defence Force
RUD-Urunana	Rassemblement pour l'Unité et la Démocratie – Urunana
SADC	Southern African Development Community
UJPS	Union des Jeunes Patriotes Sacrifiés
UN	United Nations
UPDF	Ugandan People's Defence Force

Executive Summary

Since the end of August there has been an escalation in the fighting between DRC government troops (FARDC) and the CNDP (Conseil National pour la Défense du Peuple) rebels, which ended in late October with the total defeat of the Congolese army and a major humanitarian crisis.

Since early November there has been talk of an EU military intervention to protect civilians and humanitarian workers. But to no avail, since EU heads of states and governments could not agree on such a mission at the European summit of 11 and 12 December. In November, the UN Security Council voted in favour of a sizeable reinforcement of MONUC. But expectations are that they will not be effective before the end of February at the earliest. The scenario of an intervention by troops from SADC (Southern African Development Community) on the side of the Congolese army is no longer under discussion.

The combination of all these factors, including the economic recession, which reduces the DRC government's ability to finance another war, has contributed to strengthen the position of those in Kinshasa (such as the National Assembly) who are in favour of negotiations. Recently, two rounds of direct talks, as demanded by the CNDP, took place in Nairobi, yet without producing a ceasefire agreement. Further talks were tentatively scheduled for late January, but due to a splintering of the CNDP, it is uncertain whether they will take place.

A significant step forward has been the agreement between Kigali and Kinshasa to move ahead jointly towards the solution of the problem of the FDLR (Forces Démocratiques de Libération du Rwanda), by launching jointly prepared operations with MONUC. However, the FDLR are a significant force, with connections that have been developed over their 14 years in the DRC; they control entire territories and their resources. In other words, even in the event of successful collaboration between the Congolese government, the CNDP, the UN and Rwanda, the eradication of the FDLR will be a long process. Moreover, this process will only be meaningful if another one, much more general, is carried out simultaneously: the reconstruction of the Congolese state and of its army. This could take a very long time.

There is no doubt about the seriousness of the crisis in North Kivu, but the concentration of world attention on this crisis has had the effect of diverting attention from other deteriorating and dangerous situations in the region. One is the ongoing conflict in the Eastern Province and Ituri, which is to some extent also spilling over into Sudan and Uganda. In addition UN and Congolese troops are experiencing serious problems in the face of intensification of LRA (Lord's Resistance Army) activity. The North Kivu crisis has also diverted attention from the collapse of activity in the mining sector in Katanga and Eastern Kasai, which has a strong potential to create social and perhaps political unrest.

There is undoubtedly a possibility of improvement in the Kivus and elsewhere, provided that the DRC government and the CNDP do not play games according to sometimes secret agendas, as they have done in the past. It remains to be seen whether or not the unilateral ceasefire, declared on 16 January by the break-away CNDP faction led by the dissident General Bosco Ntaganda, will represent a real step forward in the settlement of the Kivu crisis. But simultaneous action must be taken in the other endangered areas as well.

1 Introduction

This paper will examine the dire situation which is now prevailing in Kivu and bring out the many dimensions of the conflict, whose origins trace as far back as independence times and the Mobutu period, but have been aggravated by the consequences of the 1994 genocide in Rwanda and the two recent wars in the DRC (1996-1997 and 1998-2003). In addition to reviewing the main episodes, it will also describe the actors, both internal and external. Finally, it will explore the possible scenarios that may derive from the sequence of events.

The resumption of fighting in North Kivu province at the end of August 2008 between the rebels of the Congrès National pour la Défense du Peuple (CNDP) and the Congolese Army, the FARDC (Forces Armées de la République Démocratique du Congo), has caused a major humanitarian crisis, adding 250,000 new internally displaced persons. The crisis has been further aggravated by a cholera epidemic – over 10,000 cases and 202 deaths have been registered since the beginning of the year in North Kivu province.¹

On 29 October, the CNDP rebels inflicted a severe defeat on the FARDC troops in the province, which were described in confidential UN reports as “disintegrated”. As a result of this defeat and with reinforcements to MONUC delayed, the government eventually agreed to participate in peace talks with the rebels in Nairobi under UN auspices. However, after two rounds of negotiations during December and more scheduled for January, the main body of the rebels have failed to agree to a ceasefire deal. Moreover, even if they eventually do so, stabilization of the province would be a difficult challenge, given the total collapse of the FARDC, the likely resistance by the FDLR to any demobilization and possibly the difficulty of integrating the Mai Mai and other fighters in the already oversized FARDC. Political positions on both sides are also likely to be hard to shift: President Joseph Kabila is said by observers in Goma and in Kinshasa to be eager for revenge, and Laurent Nkunda’s CNDP rebels are keen to take advantage of their military victory.

2 Background

Historically, the North Kivu province has been greatly influenced by the situation in neighbouring Rwanda, from where a number of Tutsis migrated after the massacres of 1959 and settled in the Masisi, Walikale and Kalonge areas. This migration exacerbated rivalry between the Banyarwanda (Rwandan-speakers), including those who had lived on the Congolese side of the border since colonial times, and the Congolese Hunde. In October 1965 systematic massacres took place against the Banyarwanda of North and South Kivu, both Hutu and Tutsi. Attempts to integrate the Banyarwanda, through legislation passed in 1971 and 1972, which gave them Congolese citizenship if they had been settled in the Congo since before independence, were cancelled by new legislation adopted in 1981. Ten years later, in 1991, during a national census, the authorities’ refusal to include Banyarwanda from both North and South Kivu (including the Banyamulenge from the Minembwe highlands of South Kivu) triggered new incidents. In 1992, Banyarwanda delegates from both provinces were banned from participating in the National Sovereign Conference in Kinshasa. One of the problems was that while they represent a sizeable share of the population of North Kivu their

¹ World Health Organization, Rapport journalier de situation: Action sanitaire en situation de crise en RD Congo, 16 December 2008, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/VDUX-7METFB?OpenDocument&rc=1&cc=cod> [accessed January 2009]

share of posts in the administration at that time was only 10 per cent.² The situation deteriorated in 1993 into a conflict between Hutu militias and militias from the Hunde, Tembo and Nyanga tribes in North Kivu, causing some 10,000 deaths and 180,000 displacements. Traditional chiefs managed, however, to restore peace after a “barza communautaire”, a meeting of representatives of all groups.

This fragile equilibrium was overturned in 1994 by the influx of 1.5 to 2 million Rwandan Hutus, led by the perpetrators of the genocide, their political leadership in exile, the ex-Rwandan Armed Forces commanders, and the dreaded Interahamwe and Impuzumugambi militias, who joined with Congolese Hutu militias to increase the pressure on the Tutsi population. The government’s failure to stop this eventually persuaded Congolese Tutsis to support Laurent Kabila’s rebel Alliance des Forces Démocratiques pour la Libération du Congo (AFDL), backed by Rwanda and Uganda, until 1998 when Kabila, now President, broke with his former backers and decided to expel all foreign troops from Congo. This triggered a new war, which acquired several dimensions. On the one hand, there were violent attacks on ethnic groups, including Tutsi pogroms incited by hate-filled speeches by high ranking officials in the areas held by the Kinshasa government, but also the massacre of hundreds of civilians at Makobola in South Kivu by the Rassemblement Congolais pour la Démocratie (RCD) rebels under General Laurent Nkunda. On the other hand the conflict not only again pulled in neighbouring countries in support of either the Kinshasa government (e.g. Zimbabwe) or the RCD (Rwanda and Uganda), but these countries participated actively, with the complicity of Congolese elite networks, in the illegal exploitation of the natural resources of the country, which in turn prolonged the war. In fact the control of the mines and of the trade in minerals – gold, cassiterite, wolframite and columbo-tantalite (coltan) – remains one of the main issues at stake in North Kivu, since almost all armed groups are involved.

The initial transitional government that followed the formal end to the civil war in 2003 included not only representatives of President Joseph Kabila’s government, but also of the rebel groups including the RCD, of the non-armed opposition and of civil society. However, already the following year General Laurent Nkunda supported a mutiny of Tutsi Congolese soldiers in Bukavu (South Kivu) and continued to act contrary to the interests of the government. In September 2005 he was finally stripped of his military grade by the Ministry of Defence.

Following approval of a new constitution by national referendum and legislative and presidential elections Joseph Kabila was confirmed as President in 2007, supported by the Alliance de la Majorité Présidentielle (AMP) coalition. But unrest continued in the country and in particular in the East, where Laurent Nkunda’s troops took control of the Congolese army’s Mushoki barracks and seized vast quantities of military equipment. In spite of agreement early in 2008 on a peace process between the government and Nkunda’s CNDP and other smaller armed groups in North and South Kivu, including a ban on exploitation and trade in minerals, armed clashes, violence against the civilian population, and the mineral trade have continued and accelerated during 2008.

At its heart the crisis is a crisis of coexistence that affects all the communities of Kivu. There are problems of access to land and recognition of the Banyarwandas’ and more specifically of the Tutsis’ rights to Congolese citizenship. Added to this is the lack of law and order, the

² Cros, M.-F. and Misser, F., *Géopolitique du Congo*, Brussels, Editions Complexe, 2006

general absence of the institutions of a functioning state, aggravated by the bias of the national army, the FARDC, against the Congolese Tutsi community. The corruption and inefficiency of the army prevent it from carrying out its duty to defend the local communities against foreign aggressors or local rebels. This factor contributed greatly to the creation of the Mai Mai militias more than a decade ago, in the last years of the Mobutu regime, and of the Tutsi-led armed groups such as the Forces Républicaines Fédéralistes (FRF) of South Kivu or the CNDP at a later stage.

In addition, President Kabila himself has long shown a clear bias against the Tutsis, which has a twofold explanation. Some observers believe that he remains convinced that the Congolese Tutsi military of the RCD were behind the assassination in 2003 of his father, President Laurent Kabila, although the Court of Military Order passed death sentences on 30 individuals found guilty of involvement in the crime, including the late President's aide de camp. Joseph Kabila also feels that he must demonstrate a tough stance against the Tutsis to counteract accusations by his political enemies that he is not a genuine Congolese but a Rwandan who even, for a few months in 1996, served in Paul Kagame's Rwandan Patriotic Army, and who does not speak Western Congo's Lingala lingua franca. Such insidious allegations were used during the presidential campaign of 2006.

Another dimension of the conflict is that Laurent Nkunda expresses the frustrations of some business circles, in both North and South Kivu, who consider that these provinces have been abandoned by the central administration and argue for federalism and even separatism. One such grouping is the Front de Libération de l'Est du Congo (FLEC), which backed Nkunda's involvement with the mutiny of Colonel Jules Mutebusi in May-June 2004. FLEC's supporters regard the current antagonism between the DRC and its neighbours Rwanda, Burundi and Uganda as detrimental to their interests, since most of the trade of both Kivus with the rest of the world takes the eastern route to the ports of Mombasa and Dar-es-Salaam through these countries. There is a potential danger that such frustrations could continue to grow among the elites of North Kivu who support Nkunda, if the decentralization reform scheduled for 2009 is derailed. It is ominous that while the DRC constitution adopted by referendum in 2005 provides for 40% of taxes and customs duties generated in the provinces to go to the provincial budget, there were still, at the end of 2008, disagreements between the provinces and the central administration over the revenue-sharing system.

3 Forces at Play

3.1 DRC Government

The Kinshasa government team in charge of the eastern Congo crisis was much affected by a government reshuffle at the end of October and by the defeat inflicted on the FARDC by the CNDP offensive around that time. Defence Minister Tshikez Diemu and the Army chief of staff, General Dieudonné Kayembe, lost their jobs, and were replaced by Charles Mwando Nsimba and Lieutenant General Didier Etumba Longoma respectively. At the same time the Foreign Minister, Antipas Mbusa Nyamwisi, who belongs to the Nande ethnic group from North Kivu, was replaced by Alexis Thambwe Mwambe, a man from the Maniema province and a former participant, with Laurent Nkunda, in the ex-RCD rebellion. The task for this new team is to implement two major policy changes. On the one hand, it must restructure the Congolese army and on the other hand, under the guidance of the Minister for International Cooperation, Raymond Tshibanda, it is supposed to carry the peace talks initiated in Nairobi on 8 December 2008 to a successful conclusion.

The core issue is whether the negotiation line advocated by the National Assembly and the Senate, and by the Provincial Assembly of North Kivu, will eventually prevail or not. It is an open secret that the presidential side embarked on this negotiation process reluctantly and essentially because the defeat of the FARDC did not leave it much choice. But some people in the presidential entourage and the military hierarchy have a vested interest in a protracted war. Some of them, with a South Kivu background, have an agenda which consists primarily in weakening the Congolese Tutsis in both Kivus in order to promote the interests of the elites of rival ethnic groups.

3.2 The Congolese Army

The Congolese national army remains a major cause of destabilization, as evidenced for instance by the lootings in Goma on 29-30 October by FARDC deserters fleeing the CNDP offensive, and the repeat of this scenario on 10-11 November in Kanyabayonga. Such disorder occurs even without any rebel presence, as shows the flight into the bush of the entire population of the villages of Mukwa-Lufumba and Isomena in Western Kasai at the end of September.³

But in terms of its fighting capacity the Congolese army is very inefficient. Indeed, the troops of five entire FARDC brigades deployed in North Kivu were completely routed and dispersed after the late October offensive launched by the CNDP. Four of these brigades had been through the hands of Angolan, Belgian and South African military trainers, but without generating better performance. As a result, the security challenges for MONUC are immense. It is estimated that by mid-December about half of the 30,000 FARDC troops in North Kivu were dispersed without command in the province, joining a similar number of other irregular troops, including CNDP, FDLR and Mai Mai fighters.⁴

There are several reasons for the FARDC's lack of discipline. On the one hand, there is a long tradition of mutiny with impunity inherited from the Mobutu period. But there has also been a perpetuation and even a deterioration of the soldiers' problematic situation, owing to the attitude of their commanders. In November, Prime Minister Adolphe Muzito complained to high ranking army officers about the fact that military food ration packs were being resold in the Kisangani market.⁵ Soldiers are irregularly paid and the amount they receive is reduced by the presence on the payroll of a large number of "ghost" soldiers whose wages are being cashed by their superiors. As a result, soldiers' protests are frequent and they often turn to looting. The Congolese army is in no way a conventional army. The wives and children of the soldiers live inside the barracks or the camps even at the frontline and obviously, when there is a rebel attack, the first concern of the soldiers is for the safety of their families. This situation has come about because the soldiers have no bank accounts or any means of transferring funds to their families. The latter therefore follow them in the hope of benefiting from the product of their looting. This situation is partly responsible for the fact that 86 per

³ Agence Congolaise de Presse, 30 September 2008, quoted in Misser, F., *RDCongo: Un pays contre lui-même, Afrique-Asie*, January 2009

⁴ Misser, *RDCongo: Un pays contre lui-même*

⁵ Congo-Kinshasa: Armée – Muzito va frapper les pillards, *La Prospérité* [Kinshasa], 13 November 2008, <http://fr.allafrica.com/stories/200811130223.html> [accessed January 2009]

cent of serious human rights violations in the DRC are perpetrated by the armed forces and the police.⁶

There have been attempts to address the issue, but these have not been successful. The European Union, in 2005, began a programme of support for reform of the Congolese army, with a budget of up to €16 million. A specific aim of this programme was to set up a system separating the chain of payment from the chain of command, in order to avert the siphoning off of the soldiers' pay by their officers. However, a report from the Institut Français de Recherche Internationale (IFRI) in September 2008 revealed that the reform was not well received by the Congolese military hierarchy.⁷ The IFRI report also stresses the FARDC's "lack of professionalism", which has been further confirmed by European military sources, who stated that shortly before the defeat of October, the DRC's army chief of staff was unable to tell them with accuracy what was the position of his own troops in the field.⁸ The IFRI report also criticizes the Congolese Ministry of Defence's proposal to create a rapid intervention force of 12 battalions, without taking into consideration the total absence of a functioning military administration.⁹

But the main problem is more the lack of political will than the lack of means to address the situation. In other words, the Kinshasa authorities are suspected of being resistant to reform of the situation. There are even suspicions in diplomatic circles in Kinshasa that, to some extent, the perpetuation of a security crisis in the Kivus and elsewhere in the DRC is convenient for the presidential entourage and high ranking military officers, in that the war provides a pretext for withholding from outsiders such as the International Monetary Fund (IMF) information on public expenditures allocated to the defence sector. Suspicions of serious irregularities and profiteering in public procurement, not least in the armed forces, are at least partly confirmed by the most recent audit report by the Congolese Court of Auditors, which is scathing in its criticism.¹⁰ There have been some attempts to oppose the mismanagement of the defence budget but with uncertain outcome. Former Prime Minister Antoine Gizenga's adviser, François Malutshi, as head of an interministerial commission to regulate the army, was planning to get rid of "ghost" soldiers and police whose pay ends up in the pockets of senior officers, but he was arrested in October 2008.¹¹ In early December the National Assembly was considering appointing a special committee of enquiry and speeding up reform of the army.¹² Should such attempts fail, the Congolese army risks remaining a major destabilization factor.

⁶ United Nations, Human Rights Council, Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy: Addendum: Mission to the Democratic Republic of the Congo, A/HRC/8/4/Add.2, 11 April 2008

⁷ Melmot, S., *Candide au Congo: l'échec annoncé de la réforme du secteur de sécurité (RSS)*, Paris, IFRI, September 2008, http://www.ifri.org/files/Securite_defense/Focus_Candide_Congo.pdf

⁸ European military sources. Personal interviews, November 2008

⁹ Melmot

¹⁰ Democratic Republic of the Congo, Cour des Comptes, *Audit des dépenses publiques du 1er décembre 2006 au 28 février 2007*, Kinshasa, February 2008

¹¹ African Press Agency, Arrestation du chargé du contrôle des effectifs au sein des FARDC, 24 October 2008

¹² Christophe Lutundula, National Assembly Vice-President. Personal interview, 8 December 2008

3.3 Conseil National pour la Défense du Peuple (CNDP)

According to its own website, the CNDP is an offshoot of a civil society organization created in Bukavu (South Kivu) in 2003, which claims to defend the “peaceful cohabitation” between Congolese of varying ethnic backgrounds. The CNDP claims to be a “centrist revolutionary party” whose doctrine is the struggle for the restoration of “fair justice”. It claims to be the mouthpiece of the oppressed, of the discriminated and of the poor.¹³ What is clear is that the CNDP is a political-military group, which according to UN sources has between 3,000 and 6,000 fighters. They are not paid but its leader claims that they receive supplies of maize and beans on a regular basis. According to UN investigators, the CNDP benefits from Rwandan support, both official and private, although most of the weapons it currently has come from the armaments captured in December 2007 at the Mushoki FARDC camp and in October 2008 at the Rumangabo FARDC camp.¹⁴

The CNDP’s leader, 41 year-old General-Major Laurent Nkunda, is a former schoolteacher born in Lueshe (North Kivu), whose father worked on the Katale coffee plantation. He is a former officer of the then rebel Rassemblement Congolais pour la Démocratie (RCD), which was backed by Rwanda during the 1998-2003 civil war. Nkunda has personal reasons to fight the Kinshasa authorities after their decision to deprive him of his military grade. However, Nkunda, as a Tutsi, is primarily seen as the defender of the interests of this ethnic group, which have been threatened on several occasions since independence. As early as 1965 there were mass killings of the Banyarwanda in the Green Lake (Lac Vert) area between Goma and Sake, and as late as 1996 hundreds of Tutsi displaced persons were killed at the Monastery of Mokoto in North Kivu by a group of 300 Hutu militias. This background and the tense situation in Bukavu, where allegedly Tutsis were persecuted at the time by soldiers from the Tenth Brigade of the FARDC, help explain the support provided by Nkunda and his troops for the mutiny led by another Tutsi officer, Colonel Jules Mutebusi.¹⁵

However, in a recent interview Nkunda insists that the CNDP has support from other ethnic groups, and that in fact 10 of the 13 members of the CNDP leadership Commission belong to other ethnic groups. Independent sources in Goma mention the participation of Hutu and Shi supporters. Moreover, although he confesses that he is favour of a federal system for the DRC, Nkunda denies any plans to create a Tutsi “Republic of the Volcanoes” in Eastern Congo, as some of his critics accuse him of. Nkunda claims that he is not only interested in local politics but also in national politics. He likes to compare himself with France’s General de Gaulle in his fight to free the Congo from what he calls Joseph Kabila’s “democratorship”. The CNDP claims that it is fighting for the national interests of the DRC and for good governance, and is for instance calling for the cancellation of “unfair” mining and infrastructure contracts with China.¹⁶

¹³ CNDP website at <http://www.cndp-congo.org/> [accessed January 2009]

¹⁴ United Nations Security Council, Letter Dated 10 December 2008 from the Chairman of the Security Council Committee Established Pursuant to Resolution 1533 (2004) Concerning the Democratic Republic of the Congo Addressed to the President of the Security Council, Final Report of the Group of Experts on the Democratic Republic of the Congo, S/2008/773, 12 December 2008 [hereafter cited as 2008 Final Report of the Group of Experts on the Democratic Republic of the Congo]

¹⁵ Mungongo, D., Généalogie des violences génocidaires contre les Tutsis en RDC, *La Nuit Rwandaise*, 15 June 2004, <http://nuit.rwandaise.free.fr/presse/ari-150604.htm> [accessed January 2009]

¹⁶ Laurent Nkunda: ‘Ik bin de Charles de Gaulle van Kongo’, *De Morgen op Zaterdag*, 25 November 2008

In early January 2009 there was a split within the CNDP, with a dissident faction, led by Chief of Staff Bosco Ntaganda, denouncing Laurent Kabila and claiming that they will join the FARDC in fighting the Rwandan Hutu FDLR.¹⁷

The Ntaganda faction declared a unilateral ceasefire on 16 January in Goma, announcing that it was ready to integrate its troops within the FARDC. Yet, the proposed deal raises many questions. How can Ntaganda's troops be integrated into an army whose soldiers are badly trained and paid? How will the CNDP overcome the crisis created by a split between Ntaganda's faction, which includes many senior officers, and Nkunda's faction which controls the political direction of the movement? Who will ensure that Ntaganda will respect the ceasefire? Unlike the three rounds of peace talks which took place in Nairobi (with a fourth projected for 25 January), the Goma announcement does not include provision for any independent monitoring agency, such as the UN. Observers say that there has been a secret deal between Ntaganda and the Kinshasa government, ensuring that he will not be arrested, although he faces prosecution by the International Criminal Court for crimes allegedly perpetrated in Ituri in 2002 and 2003. But such impunity could set a dangerous precedent, with impunity already seen as one of the causes of the protraction of the conflicts in Eastern Congo.

3.4 Forces Démocratiques pour la Libération du Rwanda (FDLR)

According to MONUC's most recent estimates FDLR and other Rwandan Hutu rebels represent a force of about some 8,000 (some 6,000 in North Kivu and the rest in South Kivu), which is now split into various groups. The FDLR as such appeared in the DRC in 2001 as the successors of the Armée de Libération du Rwanda (ALIR), an organization created in 1996 by officers of the late President Juvénal Habyarimana's ex-Rwandan Armed Forces (ex-FAR). It also included Interahamwe and Impuzumugambi militias involved in the Tutsi genocide of 1994 and young recruits, whom they trained and indoctrinated in the refugee camps. The FDLR's civilian leader, Ignace Murwanashyaka, based in Germany, tends to claim that their armed presence in both Kivus is temporary, pending their return to Rwanda, either by force or as a result of an "inter-Rwandan dialogue" and a power-sharing deal with the Kigali authorities.¹⁸

UN Security Council Resolution 1804, of March 2008, requires the FDLR, like the other Rwandan armed groups that operate in eastern DRC, to participate in the DDRRR (disarmament, demobilization, repatriation, resettlement and reintegration) programme.¹⁹ The Congolese government has on more than one occasion committed itself to demobilize, disarm and repatriate them, but their return to Rwanda has only been piecemeal and overall in small numbers. Moreover, the UN Group of Experts maintain that the Kinshasa authorities have been using the FDLR to fight Rwanda, the former RCD rebels and the CNDP.²⁰

FDLR is split into factions, of which the most important is the FDLR-Forces Combattantes Abacugunzi (FDLR-FOCA) under General Sylvestre Mudacumura. A rival but smaller

¹⁷ United Nations, Integrated Regional Information Networks, DRC: Tables Turn as Rebel Faction Declares Support for Army, Kinshasa, 14 January 2008, <http://www.irinnews.org/Report.aspx?ReportId=82361> [accessed January 2008]

¹⁸ *Dico Rebelle 2004: Acteurs, Lieux, Mouvements*, Paris: Michalon, 2003

¹⁹ United Nations, Security Council, Resolution 1804 (2008), S/RES/1804 (2008), 13 March 2008

²⁰ 2008 Final Report of the Group of Experts on the Democratic Republic of the Congo

faction, of about 300 fighters, called the Rassemblement pour l'Unité et la Démocratie (RUD-Urunana), was set up in 2004 by Jean-Marie Vianney. Its military commander is Colonel Jean-Damascène Ndibabaje, nicknamed Musare. There is a third faction, known as CMC-FOCA (Commandement Militaire pour le Changement), which was created in June 2005 and which is currently led by Christophe Hakizabera. All three are operational in North Kivu.²¹ There is also, regarded as linked with the FDLR-FOCA, a group called the Rasta, which consists of FDLR deserters, Mai Mai militias and some pro-Kigali militias, and which is notorious for its massacres, rapes and other human rights violations and looting in South Kivu.²²

Indeed, according to the UN experts' report and to an earlier report from the Goma-based Pole Institute, the FDLR and its splinter groups are controlling and administrating large areas of territory in both North and South Kivu. The Pole Institute quoted a local administration official in Walikale saying that the FDLR held 60 per cent of this territory, in excess of 24,000 sq km, either under their exclusive control or in alliance with local Mai Mai groups. Even the Congolese police and the army cannot move without the FDLR's authorization in some areas of North Kivu. The FDLR exploit minerals and "makala" (charcoal) from trees cut in the Virunga national park; they also impose a tax on the motobike taxis of Rutshuru and on trade operations. According to the Pole Institute the FDLR are collaborating in the traffic of minerals with the 85th Brigade of the FARDC, an assessment accepted by the UN Group of Experts.²³

The prospect of removing the FDLR from the Congo scene entirely is very remote. Thousands of FDLR fighters have been integrated within the FARDC. Local alliances were created through marriages with Congolese women. The Group of Experts claims "strong evidence" of FARDC collaboration with FDLR, including through the provision of military equipment and in joint operations against CNDP, during the December 2007 clashes in Masisi and Rutshuru territories and during the fighting that began in August 2008.²⁴ A report to the US Congress claims that the FDLR also receive assistance and guidance from Rwandans in Europe and the United States, and mentions the decision of the German government to release the FDLR's Secretary-General, Callixte Mbarurshimana, after he was arrested in July 2008, a decision that led the US State Department to issue a protest.²⁵

3.5 The Mai Mai

The traditional Mai Mai warriors appeared during the so called Simba rebellion of the early 1960s, launched by Gaston Soumialot and Laurent Kabila. After the defeat of the rebels in the Kivus and in Maniema in 1967, the movement went through a decline but re-emerged at

²¹ African Rights, *A Welcome Expression of Intent: The Nairobi Communique and the Ex-FAR/Interahamwe*, Kigali, December 2007, <http://jkanya.free.fr/nairobi1207.pdf> [accessed January 2009]

²² On the Rasta, see, e.g., United Nations, Integrated Regional Information Networks, DRC: Behind the Violence in South Kivu, Bukavu, 3 August 2007, <http://www.irinnews.org/Report.aspx?ReportId=73567> [accessed January 2009]

²³ 2008 Final Report of the Group of Experts on the Democratic Republic of the Congo; Pole Institute, *La Conférence de Goma et la question des FDLR au Nord et au Sud Kivu: Rapport de la journée portes ouvertes, du 11 mars 2008*, Goma, June 2008, http://www.pole-institute.org/documents/rapport_fdlr_final.pdf [accessed January 2009]

²⁴ 2008 Final Report of the Group of Experts on the Democratic Republic of the Congo

²⁵ United States, Congressional Research Service, *Report for Congress: The Democratic Republic of Congo: Background and Current Developments*, Washington, 3 December 2008

the beginning of the 1990s in both Kivus. The Wangilima of the Nande territory, located in the Beni and Butembo area, in the northern part of North Kivu, are a similar organization. Most groups are organized along ethnic lines, and could be described as the armed wing of a community. All groups claim to be “nationalist” and to defend the land of their “ancestors” against the invaders who threaten their communities. These “invaders” include Mobutu’s systematically looting soldiers at the beginning of the 1990s, as well as Rwandan soldiers present in the Kivus in 1996 in support of Kabila’s Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre (AFDL), and from August 1998 in support of the RCD rebels. For the same reasons, some of these groups fought against the Ugandan army, the UPDF (Ugandan People’s Defence Force) during the 1998-2003 war, but in Ituri many of the groups were also manipulated by the UPDF.

Eight Mai Mai groups from North Kivu and twelve from South Kivu signed the Goma peace agreement in January 2008 with the CNDP, the government and the Southern Kivu Tutsi-led Forces Républicaines Fédéralistes (FRF). The Mai Mai groups of North Kivu are the Kasindiens, the Kifuafua, the Virondo, the Mongols, the Ruwenzori, the Simbas and the Union des Jeunes Patriotes Sacrifiés (UJPS), and the Patriotes Résistants Congolais (Pareco), who are divided into three branches, a Nande, a Hunde and a Hutu one.²⁶ On 17 January 2009, the Hutu wing of the Pareco, led by Museveni Sendungu and Colonel Mugabo Baguma signed a ceasefire with the FARDC, but the Hunde and Nande wings, led respectively by Colonel Janvier and General Sikuli Lafontaine, did not sign the deal. The representativity of these groups varies. The Pareco are present on the ground and as the UN Group of Experts points out, there is evidence that they have struck alliances against the CNDP both with the FARDC and with the FDLR, which have provided them with weapons.²⁷ But in the case of others, there are suspicions that some of these movements were created, ad hoc and with the consent of the government, with no other objective than to obtain the daily allowances distributed to the Goma Conference participants and also to try to reduce the impact of the presence of the CNDP.

At other times, these mainly tribal militias are demanding integration in the Congolese army or administration. They claim to fight against the social exclusion of their communities. But sometimes they are involved in banditry, though they can also be seen as the tribal security of communities which fear aggression from the outside world.

3.6 LRA

The Ugandan rebels of Joseph Kony’s Lord’s Resistance Army (LRA) have been extremely active in the DRC’s Eastern Province over the past six months. They have launched a number of attacks in the Dungu area, abducted hundreds of pupils from their schools, destroyed dozens of villages and caused the exodus of over 4,000 people to Southern Sudan. They were responsible for the displacement of a much larger number of people inside the DRC. By mid-December, the UPDF launched simultaneous raids against six LRA camps but apparently failed to kill or capture the organization leader, Joseph Kony. It remains to be seen whether

²⁶ Global Policy Forum, *Protection of Civilians in Eastern Congo’s Peace Process*, New York, 29 July 2008, <http://www.globalpolicy.org/security/issues/congo/2008/0729advocacy.htm> [accessed January 2009]

²⁷ 2008 Final Report of the Group of Experts on the Democratic Republic of the Congo

the strike will ultimately be seen as effective or if it will only split the rebels into small groups, which will be more difficult to target by a conventional army.²⁸

3.7 Ituri Militias

While fighting was raging in North Kivu and in the Eastern Province, smaller rebel groups were intensifying their attacks in the district of Ituri. In October, the then Defence Minister, Tshikez Diemu, announced that armed bandits had attacked and burnt villages near Tchei, south of the district capital Bunia. A new militia, called the Front Populaire pour la Justice au Congo (FPJC), declared that it had occupied the village of Kombokabo, about 20 km south-west of Bunia. The matter was taken seriously enough by the new Prime Minister, Adolphe Muzito, for him to say that he was ready to listen to the demands of the FPJC during a visit he made to Bunia in mid-November.²⁹ There are also indications that some groups are busy preparing a comeback on the battlefield, taking advantage of the fact that both MONUC and the FARDC are overwhelmed by the challenges posed by the CNDP and the LRA. Indeed, on 20 October, the Aru territory's chief of administration, Mawa Ezongozi, declared that officers from an ex-rebel group called Forces Armées Populaires du Congo (FAPC) were holding meetings in the border district of Koboko, inside Ugandan territory and were suspected of recruiting demobilized fighters there.³⁰

3.8 MONUC

The UN Mission in the Congo (MONUC) totals some 17,500 troops (from November 2008 planned to be increased to just under 20,000) in the whole of the DRC, of whom 4,000 to 6,000 are in North Kivu. Most of the troops deployed in North Kivu are Indian, the rest are Uruguayan. Between 30 and 40 per cent of the troops stationed in North-Kivu cannot be deployed in the field because they perform logistics tasks.³¹

The challenges MONUC has to face are considerable. According to the Head of MONUC's regional office in Goma, Hiroute Guebre Sellassie, among the 35,000 or so armed men in North Kivu who are responsible for the disorder, are members of the government troops and others, who have no chain of command and no ideological aim. MONUC finds itself in a situation where it cannot cope with tasks that are not commensurate with its current strength. Some Congolese and humanitarian sources have accused the UN troops of failing to protect civilians, particularly during the Kiwanja massacre in November. But Sellassie retorts that the task was extremely difficult since there were only 120 MONUC soldiers between Kiwanja and Rutshuru to defend 120,000 people.³²

All the warring parties regularly accuse the UN of siding with their enemies. The CNDP and Rwanda claim that the UN is not active enough in searching for Hutu Rwandan rebels. At the same time, the DRC authorities did on more than one occasion, between August and the end

²⁸ See, e.g. Security Council Report, *Democratic Republic of the Congo: Historical Chronology*, New York, 22 December 2008, <http://www.securitycouncilreport.org/site/c.gIKWLeMTIsG/b.2880409/> [accessed January 2009]

²⁹ Bunia: Adolphe Muzito prêt pour le dialogue avec le FPJC, *Radio Okapi*, Ituri, 17 November 2008, <http://www.radiookapi.net/index.php?i=53&a=21075> [accessed January 2009]

³⁰ Aru: une nouvelle milice se constitue à la porte de l'Ituri, *Radio Okapi*, Ituri, 18 October 2008, <http://www.radiookapi.net/index.php?i=53&a=20725> [accessed January 2009]

³¹ Alan Doss, Head of MONUC. Personal interview, 25 October 2008

³² Hiroute Guebre Sellassie, Head of MONUC's Goma office. Personal interview, 2 December 2008

of October, incite local populations to attack MONUC premises because they were resentful of the fact that MONUC did not support FARDC offensives. There is no doubt that such incidents and tensions increase the risk for all humanitarian workers under the UN flag.

At the end of the EU summit of 11 and 12 December 2008, French President Nicolas Sarkozy deplored that not enough MONUC troops were deployed on the ground in North Kivu. However, the EU had rejected a plea by UN Secretary-General Ban Ki-moon for a bridging force, pending the deployment of 3,085 temporary additional MONUC troops and police promised by the UN Security Council in November, but not likely to be available for a further four months.³³ Instead the UN Security Council decided on 22 December to make the additions announced in late November permanent, and to extend MONUC's mandate until the end of December 2009. Moreover, the mandate of MONUC for direct action was strengthened, with priorities listed as the protection of civilians and humanitarian staff, the disarmament and demobilization of foreign and Congolese armed groups, training of the FARDC in support of security sector reform, liberation of child soldiers recruited by armed groups and curbing of the traffic in minerals that fuels the war efforts of the armed groups.³⁴

Whether MONUC will in fact be able to use its strong Chapter VII mandate, which under certain circumstances permits the use of force to secure peace, is uncertain. In some cases, the memoranda of understanding with the countries that contribute troops to MONUC are seen as being too restrictive.³⁵ The efficiency of MONUC may be hampered also by improved armaments held by their adversaries. The CNDP is believed to have captured several rocket launchers and various other heavy weapons including artillery guns, at the Rumangabo camp in October, which could be used against MONUC's assault helicopters. And the FDLR do have a few ground-to-air missiles.³⁶

4 The Regional Dynamics

4.1 Rwanda

Rwanda has been an important player on the DRC's political and military scene since 1996. It initially supported Laurent Kabila's Alliance des Forces pour la Libération du Congo-Zaïre (AFDL), but the relationship soured during Kabila's presidency from May 1997. By August 1998 Rwanda had transferred its support to a new rebel group called the Rassemblement Congolais pour la Démocratie (RCD), whose purpose was to overthrow the Kabila government. As a result, Rwanda occupied large portions of the DRC's territory and was accused by a UN Panel of Experts in 2002 of being involved in the illegal exploitation of the country's natural resources. The Rwandan Defence Force (RDF) was also accused of human rights abuses during its occupation of Congolese soil, particularly its forcible repatriation of refugees.³⁷

³³ McVeigh, T., EU Accused of Leaving Beleaguered Congo in the Lurch, *The Observer* [London], 14 December 2008, <http://www.guardian.co.uk/world/2008/dec/14/congo-United-nations-european-union> [accessed January 2009]

³⁴ United Nations Security Council, Resolution 1856 (2008), S/RES/1856 (2008), 22 December 2008

³⁵ Le mode de fonctionnement de la MONUC est mis en cause, *La Libre Belgique*, 6-7 December 2008

³⁶ Defence specialists. Personal interviews, October 2008

³⁷ United Nations Security Council, Letter dated 15 October 2002 from the Secretary-General addressed to the President of the Security Council, S/2002/1146, 16 October 2002 [covering] 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

In 2003 the RDF pulled out from the DRC but continued support for the CNDP rebels was observed. The UN Group of Experts stated in 2008 that “Rwandan authorities have been complicit in the recruitment of soldiers, including children, have facilitated the supply of military equipment, and have sent officers and units from the Rwandan Defence Force (RDF) to the Democratic Republic of the Congo in support of CNDP”. Moreover, the CNDP was said to be operating recruitment networks in Rwanda, sometimes with the alleged knowledge and complicity of Rwandan officials.³⁸ These allegations have been rejected by the Rwandan authorities, who stress that “67 CNDP recruits have so far been arrested and are currently detained in Rwanda’s prisons”. They deny that Rwanda has been helping CNDP to recruit child soldiers and claim that “some minors destined as recruits for CNDP have been among those intercepted and sent to rehabilitation centres by Rwandan authorities”. They also note that the Group of Experts has not been able to corroborate the allegation that the CNDP receives shipments of ammunition through neighbouring countries including Uganda and Rwanda.³⁹

The UN report itself accepts that Rwandan security officers seized uniforms purchased by the CNDP at Kanombe’s national airport, in October 2008, and even arrested a man connected with the traffic. But the report also notes that bank accounts that CNDP uses for financing are located in Rwanda. At the same time, the report notes that support also comes to the CNDP from other sources. It believes indeed “that CNDP captures most of its weapons and ammunition during offensives against FARDC”. It also notes that one of the principal sources of revenue for CNDP has been its control of the Bunagana customs on the DRC/Uganda border and that the rebels benefit from funding from “a sophisticated financial network of Congolese and Rwandans” in the diaspora”, including the Congolese businessman and Belgian national Raphael Soriano, a.k.a. “Katebe Katoto” and a Rwandan businessman called Tribert Rujugiro Ayabatwa, who is a presidential adviser and the founder of the Rwandan Investment Group, a Government-backed private sector conglomerate.⁴⁰ However, the Rwandan government states that it is not aware of bank accounts owned by the CNDP in Rwanda; bank accounts owned by private individuals with possible links to the CNDP could only be acted against if it was a question of a person under UN sanctions.⁴¹

More broadly, the failure to implement the November 2007 DRC-Rwanda agreement on DDRR of the FDLR, and the scant progress in economic co-operation between the two countries within the framework of the Great Lakes States Economic Community (Communauté économique des Pays des Grands Lacs) has not improved bilateral relations. However, the EU Development Commissioner, Louis Michel, recently stated that the Rwandan President Paul Kagame played a positive role in persuading Laurent Nkunda to drop some claims for political changes at the national level in the DRC.⁴²

³⁸ 2008 Final Report of the Group of Experts on the Democratic Republic of the Congo

³⁹ United Nations Security Council, Letter dated 15 December 2008 from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council, S/2008/791, 16 December 2008, [covering] Response of the Government of Rwanda to the Accusations of the United Nations Group of Experts on the Democratic Republic of the Congo [hereafter cited as Response of the Government of Rwanda]

⁴⁰ 2008 Final Report of the Group of Experts on the Democratic Republic of the Congo

⁴¹ Response of the Government of Rwanda

⁴² Greste, P., EU Pulls Diplomacy Lever on Congo, *BBC News*, 12 December 2008, <http://news.bbc.co.uk/2/hi/africa/7779668.stm> [accessed January 2009]

Additionally, a new agreement to undertake joint operations with MONUC against the FDLR, signed in early December 2008 in Goma by the foreign ministers of both countries, may improve the climate. At a further meeting held on 29 December in Goma, with his Congolese counterpart, the Rwandan Defence Minister, Marcel Gatsinzi, promised that Rwanda would help the DRC to restore peace in the eastern part of its territory.⁴³ The problem is that in an earlier five year period (1998-2003) the Rwandan army, which is one of the best performing of the region and which had deployed thousands of troops in Congo, did not manage to achieve a total victory over the FDLR. And this time, it is not envisaged to deploy many Rwandan troops in the DRC, just a few intelligence officers.

4.2 Uganda

For more than a decade, Uganda has been involved in the DRC conflicts. It supported the AFDL rebellion, led by the late Laurent Kabila, in 1996-1997, and between 1998 and 2003 it supported the RCD, the RCD-Mouvement de Libération, the RCD-National and Jean-Pierre Bemba's Mouvement de Libération du Congo (MLC) and several armed groups in the Ituri region. In 2005, the International Court of Justice ruled that the DRC was right to claim compensation from Uganda for the violation of its national territory and violations of human rights in the areas under Ugandan control and because of Ugandan involvement in the illegal exploitation of its natural resources.⁴⁴

This time, Uganda is probably the country that has been most seriously hit by the deterioration of the situation in North Kivu. Since August 2008, some 27,000 Congolese refugees have crossed the Ugandan border, raising concern from the Minister of Security, Amama Mbabazi and MPs who visited the camps about the danger of epidemics.⁴⁵ Ugandan MPs also expressed their concern that the humanitarian crisis in North Kivu could divert attention from the deteriorating situation in the Eastern Province of the DRC. By early December 2008, it was estimated that over 70,000 people had fled their villages there, owing to unrest caused by attacks from the Ugandan rebels of the Lord Resistance Army (LRA).⁴⁶ The issue is also sensitive from an economic perspective. It is an open secret that the Kampala authorities fear a potential disruption by rebel activity in North-Eastern DRC of the oil exploitation on and around Lake Albert, which is scheduled to start by early 2009.

Uganda's involvement in the DRC is likely to grow, as illustrated by the mid-December raid by the Ugandan People's Defence Force (UPDF) in coordination with the FARDC and Southern Sudanese troops on LRA camps in the Eastern Province of the DRC, which,

⁴³ Congo-Kinshasa: Rwanda, DR Congo Defense Ministers Discuss Joint Plan to Eliminate Negative Forces, *The New Times* [Kigali], 30 December 2008, <http://allafrica.com/stories/200812300007.html> [accessed January 2009]

⁴⁴ DRC War May Cost Uganda Billions, *BBC News*, 19 December 2005, <http://news.bbc.co.uk/2/hi/africa/4541126.stm> [accessed January 2009]

⁴⁵ Mbabazi Inspects DRC Refugee Camp in Ishasha, *The New Vision*, 30 November 2008, <http://newvision.co.ug/D/8/13/662070> [accessed January 2009]

⁴⁶ See, e.g. UN News Centre, UN Food Agency Extends Relief Efforts in DR Congo amid Spreading Violence, 3 December 2008, <http://www.un.org/apps/news/story.asp?NewsID=29172&Cr=Democratic&Cr1=Congo> [accessed January 2009]

however, fell short of killing the rebel leader Joseph Kony.⁴⁷ Recently Uganda has formally asked for the DRC's permission to continue their pursuit of the LRA on Congolese soil.⁴⁸

4.3 Angola

Angola's attitude was decisive in finally persuading the Kinshasa authorities to start negotiations with the CNDP last December.

Initially President Joseph Kabila had requested armed intervention by Angola on the side of the FARDC to preserve the territorial integrity of the DRC. This was negotiated by the Congolese Minister of International Cooperation, Raymond Tshibanda, in Luanda at the end of October.⁴⁹ A few days later, one of the pro-CNDP websites reported that 550 Angolan military were already in North Kivu and accused President Kabila of stoking the fires in the region.⁵⁰ The CNDP's aggressive tone suggested that they really feared that the Angolan government had been persuaded by French President Nicolas Sarkozy to send troops to Eastern Congo. The possibility of an Angolan reinforcement was strengthened further after the heads of states and governments of the South African Development Community (SADC) adopted a resolution on 8 November to send reinforcements to the FARDC, and the Angolan Vice-Minister of Foreign Affairs, Georges Chicoty, a few days later, after a meeting in Brussels with EU foreign ministers, told Radio Nacional de Angola that Luanda would send troops to North-Eastern Congo.⁵¹

However, eventually this all appears to have come to nothing. The CNDP itself admitted it was not sure about the claim that an Angolan presence had been spotted in North Kivu. The prospect of SADC reinforcements became increasingly remote, following a fact-finding mission by SADC officials in November. There is still the possibility that Angola and other SADC countries might contribute to a reinforcement of MONUC, but this is not likely to happen in the immediate future. It therefore seems likely that the failure of the expectation that Angola would intervene to support the FARDC played a decisive role in convincing President Kabila that he had no option other than to talk with the rebels.

4.4 Sudan

Sudan is not directly affected by the North Kivu crisis. However, the magnitude of the challenges for both MONUC and the FARDC in this province has left the population of North-Eastern Congo more vulnerable to attacks by LRA rebels. As a result, several thousand Congolese have fled to south Sudan, in addition to the displacements within the DRC.⁵²

⁴⁷ Reuters, Nations Launch Offensive against Uganda LRA Rebels, 14 December 2008, <http://uk.reuters.com/article/idUKTRE4BD1MZ20081214> [accessed January 2009]

⁴⁸ Associated Press, Uganda To Ask DR Congo for More Time To Hunt Rebels, Kampala, 17 January 2009, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/RMOI-7NDLF4?OpenDocument&rc=1&cc=cod> [accessed January 2009]

⁴⁹ Inforpress, RDCongo: Joseph Kabila pede intervenção do Presidente angolano, Luanda, 29 October 2008, http://www.inforpress.publ.cv/index2.php?option=com_content&do_pdf=1&id=9124 [accessed January 2009]

⁵⁰ 550 militaires angolais à Goma: Kabila veut brûler le Kivu, *Kivu Peace*, 4 November 2008, http://www.kivupeace.org/militaires_angolais.html [accessed January 2009]

⁵¹ Associated Press, L'Angola annonce l'envoi de troupes au Congo-Kinshasa, 12 November 2008, http://www.africatime.com/rdc/popup.asp?no_nouvelle=435286 [accessed January 2009]

⁵² United Nations, Integrated Regional Information Networks, Sudan: LRA Rebels Put Congo Civilians to Flight, 22 October 2008, <http://www.irinnews.org/Report.aspx?ReportId=81040> [accessed January 2009]

According to Southern Sudan officials, the latest violence has put a heavy burden on the southern state of Western Equatoria, which is already struggling to reintegrate its own people, who are returning after being displaced in Sudan's civil war.

In order to cope with the threat, the DRC government allowed an operation carried out on 14 December by the UPDF and South Sudanese forces against LRA camps in Congo's Eastern Province, including the largest in the Garamba National Park. After an air and ground assault, Uganda officials said that 70 per cent of LRA camps had been destroyed. But peace activists in northern Uganda criticised the assault, warning that the operation could derail the peace process that had brought some normality to northern Uganda.⁵³ This fear has been amply justified by several large scale LRA attacks in Southern Sudan and in Eastern DRC since the December operation.⁵⁴ An additional consequence of the operation is that the Southern Sudanese cannot anymore position themselves as mediators in the LRA-Uganda conflict.

5 Conclusion

A second round of talks between the government and the CNDP in Nairobi, 17-21 December 2008, ended with the CNDP refusing continue the unilateral ceasefire it declared on 6 December. The DRC authorities, however, renewed their commitment to respect the truce which they declared on 18 November. The rebels justified their stance by claiming that the government troops had reoccupied the areas they had withdrawn from, an allegation which was denied by the mediators. The CNDP also expressed reservations about the composition of the government delegation. In fact, both sides may right. Diplomatic sources told the author of this report that after the retreat from some their positions by the CNDP, those had been occupied by Pareco Mai Mai fighters and by FDLR. At any rate, the CNDP remained unhappy because, allegedly, MONUC was unable to enforce respect for the separation zones.

Nevertheless, the mediator announced that the dialogue between both parties would continue at a later stage. Talks between the CNDP and the government resumed on 7 January, but were suspended on 15 January, owing to disagreements over the details of an independent verification mechanism, which the UN Special Envoy, Olusegun Obasanjo asked the UN Security Council to set up "as soon as possible".

Talks between the CNDP's Nkunda wing and the Kinshasa government are scheduled to resume on the 25 January, but the split in the CNDP as well as intransigence on the part of the government has now put the whole process in doubt.⁵⁵ The splinter group under Bosco Ntaganda, who was Nkunda's chief of staff, has declared a unilateral ceasefire and a

⁵³ United Nations, Integrated Regional Information Networks, DRC-Uganda: Anti-LRA Offensive Could Backfire – Activists, Kmpala, 15 December 2008, <http://www.irinnews.org/Report.aspx?ReportId=81960> [accessed January 2009]

⁵⁴ United Nations, Integrated Regional Information Networks, DRC-Sudan: Fifty Feared Dead in Rebel Attack, Juba, 7 January 2009, <http://www.irinnews.org/Report.aspx?ReportId=82242> [accessed January 2009]; United Nations, Integrated Regional Information Networks, DRC: Thousands Displaced by Latest LRA Attack, Bunia, 9 January 2009, <http://www.irinnews.org/Report.aspx?ReportId=82285> [accessed January 2009]

⁵⁵ United Nations Security Council, Special Envoy Tells Security Council Nairobi Peace Talks Aimed at Durable Solution to Unrest in Eastern Democratic Republic of Congo Briefly Suspended, SC/9573, 15 January 2009 (press statement)

willingness to join forces with the FARDC, while the remainder, still loyal to Laurent Nkunda, has denounced Ntaganda and his faction as no longer representing the CNDP.⁵⁶

Against this extremely changeable background we will nevertheless attempt to draw out a range of possible scenarios for the further development of the North Kivu crisis.

5.1 Assuming a Ceasefire between the FARDC and the CNDP

It is still possible that a ceasefire may be signed between the CNDP – whether reunited or in two factions – and the FARDC. However, such a scenario does not guarantee the return of peace to North Kivu, not least because MONUC’s ability to monitor and guarantee a ceasefire is questionable. In addition there are doubts about the FARDC’s ability to meet the CNDP’s demand that they carry out the demobilization and disarmament of the FDLR. This was agreed in the 4 December deal between the foreign ministers of Rwanda and the DRC, but even with the collaboration of MONUC and with some RDF intelligence officers deployed on the ground, the task is unlikely to be immediately achievable. The FDLR have strong connections in the field, have alliances with Mai Mai groups, have been well equipped by the Kinshasa government and hold vast territories. To say the least, this process will be a long one.

The FARDC also need root and branch organizational reform and so far even the process of eliminating the “ghost soldiers” and ensuring that each soldier gets his salary is far from finished, although the first biometric IDs are beginning to be distributed. Moreover, although reform of the chain of payment in the Congolese army is said to be a priority, the implementing organization, the European Union’s security services programme (EUSEC – RD Congo), is apparently being downsized.⁵⁷

It will also be difficult to accommodate another of the demands of the CNDP, which is the integration of its troops into the FARDC. The sheer number of fighters needing integration within the FARDC is the problem. Some EU and UN military advisers are advocating the model of a professional army of around 50,000, instead of the current 120,000, but this vision is not shared by others, such as the chairman of the Amani peace programme, Father Apollinaire Malu Malu. At demobilization meetings in his home region of Beni and Butembo, more than 400 so-called fighters from the local Mai Mai group, Wangilima, were registered as candidates for integration into the army. However, they only surrendered 17 weapons, hence a number of questions about the efficacy of this process.

The agreement entered into on 17 January in Goma by the Patriotes Résistants Congolais (Pareco) Mai Mai group for another unilateral ceasefire with the FARDC should in principle bode well for the future, except that the signatories belong only to the Hutu wing of the Pareco. Neither the Nande nor the Hunde wings signed the agreement.

⁵⁶ Agence France Presse, Dissident Rebels Declare End of Conflict in DR Congo, Goma, 16 January 2009, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/YSAR-7NCSAJ?OpenDocument&rc=1&cc=cod> [accessed January 2009]

⁵⁷ European diplomatic sources. Personal interviews, Brussels, December 2009

5.2 The Possibility of Re-activation of the Conflict

A more pessimistic scenario cannot be ruled out. As mentioned above, the CNDP is unhappy about the composition of the government delegation to the Nairobi peace talks. It is jointly led by the Minister of International Cooperation, Raymond Tshibanda, a political lightweight, and Father Apollinaire Malu Malu, responsible for the Amani peace plan which has been rejected by the rebels. In the rebels' view, Malu Malu cannot be a honest broker, since he sits in Nairobi with the government delegation, and he is also a protagonist in the conflict since he belongs to the rival Nande ethnic group of North Kivu, like the governor of the province who is also part of the government delegation. The rebels stress that the delegation does not include anybody who can commit the Congolese army or the President.

Distrust continues to prevail between the two sides and beyond. Some people in North Kivu and some diplomats in Kinshasa are of the opinion that President Kabila has a double agenda. There are unconfirmed rumours of a US\$ 50 million purchase of weapons (AK 47 rifles, rocket launchers and ammunitions) over the last weeks and even alleged recruitment of Zimbabwean mercenaries. "Kabila is buying time", in the hope that either MONUC or a European Union force will come to his rescue, say these sources. This is probably why peace brokers such as Olusegun Obansajo and the EU Development Commissioner, Louis Michel, who have met Laurent Nkunda, are recommending some caution about the idea of sending EU troops. There are suggestions in rebel circles that Nkunda might be goaded to attack Goma in order to capture the airport and make the possible landing of European troops much more difficult.

Although the declaration of a unilateral ceasefire with the FARDC on 16 January by the Ntaganda faction of the CNDP on the face of it removes the threat of a re-activation of the conflict, there are nevertheless a number of outstanding issues that could revive frustrations and spark renewed open conflict. The demands of the political direction of the CNDP, still represented by Nkunda, reflect the aspirations of many Tutsis and members of other ethnic groups in the Kivus. These aspirations include the return of displaced persons and refugees, the liberation of political prisoners and the neutralization of "negative forces" such as the FLDR. In addition there are land disputes, both the delineation of land between Hutu or Tutsi on the one hand and members of other ethnic groups on the other, and ultimately the reluctance of Banyarwanda, both Hutu and Tutsi, to pay "royalties" to "autochthonous" traditional chiefs, who see themselves as owners of the land in some districts.

5.3 The Possibility of Extension of the Conflict

There are also more remote scenarios involving other sources of conflict in the region and beyond. In addition to the divide between the Congolese Tutsis and the other ethnic groups, there is another which opposes what is called in Kivu, the *Grand Nord*, in other words the Nande area from Kanyabayonga to Beni, and the *Grand Sud*, the rest of the province. The appointment of a Nande governor, Julien Paluku, surrounded mostly by people of his own tribe, has exacerbated these feelings. One illustration of this has been the split between the Nande, Hunde and Hutu wings of the Pareco Mai Mai group. Elements of such rivalry were already implicit in the documents provided by some groups at the January 2008 Goma peace talks between the government and the armed groups.⁵⁸

⁵⁸ See e.g., Contribution des Mai Mai Mongols aux travaux de la conférence sur la paix, la sécurité et le développement des provinces du Nord-Kivu et du Sud-Kivu, Goma, 11 January 2008, <http://www.pole-institute.org/brouillons/Conf% E9 rence de paix/MONGOLS% 5B1% 5D.pdf> [accessed January 2009]

And then there are the possible consequences of the economic recession, which has badly affected the Katanga and Kasai mining provinces. According to the Belgian economist Jan Gorus, at least 60 companies have closed in Katanga alone. Some 200,000 wildcat diggers are now unable to sell their production, while major companies have started to dismiss employees.⁵⁹ The crisis also affects Ituri, North and South Kivu and Eastern Kasai, where an estimated one million people are active in the artisanal mining sector. Hubert Tshiswaka, a Katanga-based human rights activist, says he fears a rise of social tensions and of criminality in the province. Many demobilized soldiers had found work in the informal mining sector and there is now a risk that they will return to their former activity, banditry. There is also fear of a new wave of pogroms against workers from other provinces, as happened in 1992 against the Kasaians. Indeed, the mining boom in Katanga has attracted many people from both Kasais, the Kivus and the Maniema province.⁶⁰ The economic crisis in Katanga is so worrying that MONUC's Civilian Affairs and Political and Electoral Affairs sections found it necessary to discuss the issue and the repercussion of new job losses with representatives of the Fédération Congolaise des Entreprises (FEC) on 10 December 2008 in Lubumbashi.

5.4 Signs of Possible Improvement

It appears that the Rwandan President, Paul Kagame, is now willing to use his influence to moderate Laurent Nkunda's sometimes excessive demands. The split within the CNDP could also generate a more realistic stance on the part of Nkunda. The attitude of the Congolese National Assembly and of the Provincial Assembly of North Kivu, which have both argued for dialogue and direct talks, certainly represent steps in the right direction and show both political courage and a sense of reality. Progress has been made in at least identifying one of the root causes of the problems, which is the bad governance that makes the Congolese army a major destabilizing factor. However, there is a need for more political courage in order to administer the cure in the face of resistance from the Congolese military establishment. Much can also be done to defuse tension, if Congolese politicians would agree to abstain from hate speech targetting other ethnic groups, and instead assure each of these groups that they have a future in the DR Congo.

Yet, attempts to solve the conflict in the Kivus are sometimes formulated with counterproductive clumsiness. A case in point is perhaps the recent proposal by the French President Nicolas Sarkozy to organize joint exploitation of the Kivu riches by both Rwanda and the DRC, as a means of diffusing tensions and improving the protection of ethnic minorities. But the reaction of the Kinshasa press was hostile, some even accusing the foreign statesmen of opening "a Pandora's box".

Likewise the arrival on 19 January of 2,000 Rwandan Defence Force troops, intended to help the FARDC track, capture and disarm the FDLR, also has an uncertain outcome. One the one hand it could be seen as a positive move, showing that both governments are keen to implement their agreements. But on the other hand, it should be remembered that even when they deployed a much larger number of troops in the Kivus between 1998 and 2003, the Rwandan army itself, which is probably the best equipped and trained in the region, did not manage to clear the Kivus of the presence of Hutu Rwandan rebels.

⁵⁹ Gorus, J., Nature and Structure of the Informal Mine Sector in Katanga: A Reorganization Proposal, paper presented at a conference on The Quest for Natural Resources in Central Africa: The Case of the Mining Sector in DRC, Royal Museum for Central Africa, Tervuren, 8 December 2008

⁶⁰ Hubert Tshiswaka, Executive Director of Action Contre l'Impunité pour les Droits Humains, DRC Programme Manager for the Open Society Initiative for Southern Africa. Personal Interview, 9 December 2008

6 ADDENDUM

The Arrest of Laurent Nkunda and the RDF Incursion into the DRC

The arrest of Laurent Nkunda is the consequence of the agreement between Rwanda and the DRC, in December, to collaborate to disarm the FDLR (Forces Démocratiques pour la Libération du Rwanda). It seems indeed that this was a reciprocal deal, since the FDLR were allied with the FARDC (Forces Armées de la République Démocratique du Congo), the DRC Army, and Rwanda has not only decided to cease its opposition to the FARDC, but also to abandon its own ally, Laurent Nkunda. The suspension of part of the Dutch and Swedish aid to Rwanda may have played a part in Kigali's decision.

According to Rwandan and Congolese official sources, Nkunda was captured at the border between the two countries, at Bunagana, on 22 January. According to CNDP (Conseil National pour la Défense du Peuple) sources, the general was arrested on his way to a meeting in Gisenyi, to which he had been invited by Rwandan officials, possibly as a trap. His arrest was welcomed by the European Commission, the UK and the US, as demonstrating that Rwanda no longer supports him and that relations between Rwanda and the DRC are improving.

But NGOs are worried about the joint offensive against the FDLR, because they fear it could generate further forced displacements. The UN are also critical, and there is a sense that the international organization was bypassed in the conclusion of the Congolese-Rwandan bilateral peace deal and military initiatives. As a result, relations with Kinshasa have deteriorated. In an interview with Belgian radio on 23 January, the DRC's minister of information, Lambert Mendé, accused the UN of "putting banana skins under" the joint operation and of exaggerating the number of Rwandan soldiers who crossed the Congolese border in order to spread fear among the local population.⁶¹

In Goma, the recent events have caused mixed feelings. On the one hand, the population is happy because the 16 January unilateral ceasefire declared by the break-away wing of the CNDP, led by Nkunda's Chief of Staff, Bosco Ntaganda, is seen a step toward ending the war. Equally the reconciliation between Rwanda and Congo is seen as a sign that there will not be another war between the two countries. At the same time people are bewildered: all of a sudden, Laurent Nkunda, who was regarded as an acceptable party to be included in political negotiations by the DRC government and by the UN, becomes an outlaw again and is under arrest. On the other hand Bosco Ntaganda remains free, although he is wanted by the International Criminal Court for alleged atrocities committed in 2002 and 2003 in Ituri.

As already signalled in the main body of this paper, numerous serious problems remain. One of these is the question of how to integrate the soldiers of the Ntaganda wing of the CNDP, or of the Hutu wing of the Pareco Mai Mai group, into the Congolese army. This is an army that is corrupt and lacks discipline, and whose soldiers are poorly, and irregularly, paid, and therefore very open to the temptation to loot and pillage. If the members of the militias do not find work within or outside the army, there is a risk that they will revert to their militia activities because part of their *raison d'être* is that the local people needed protection against the army.

⁶¹ Lambert Mendé: 'la Monuc sème la peur chez les Congolais', *Info RTBF*, 23 January 2009, <http://www.rtb.be/info/monde/rdc/lambert-mende-la-monuc-seme-la-peur-dans-lesprit-des-congolais-73912> [accessed January 2009]

Other causes of the conflict in Kivu, not addressed by the rapprochement between Kinshasa and Kigali, include ethnic hatred, mutual fear and land disputes. This is a serious challenge for Joseph Kabila, who has been criticized in Kinshasa for having invited the Rwandan army to the Congo to solve the FDLR problem. Public opinion has not been prepared for this 180 degree turnaround, against a recent background of consistent accusations by the Kinshasa authorities against Rwanda and the Rwandan army's record of human rights violations and illegal exploitation of the DRC's natural resources. However, the news of the arrest of Laurent Nkunda has done something to modify public opinion.

A further complication is that tackling the FDLR would be a big challenge. With about 8,000 fighters in the two Kivus they are a larger force than the Rwandan troops sent to disarm them. Many are tough and seasoned fighters, who know that they are being sought for their participation in the 1994 genocide in Rwanda, and who are not ready to surrender easily. They have established solid links in Congo and struck local alliances including marriages. The fear of humanitarian workers is that the initial clash could be very serious, or alternatively that the FDLR could flee deep into the DRC, pulling the RDF (Rwandan Defence Force) after them, in what would look like a remake of the two previous wars. However, at the same time it is important to recognise that the operation can be seen an attempt to address one of the root causes of the long conflict.

Local sources report that the CNDP-Nkunda wing has been destabilized by the general's arrest and by the reconquest of its territory by the Congolese army, who are moving in behind RDF troops. This situation could make it more difficult to secure the full participation by the CNDP in the anti-FDLR offensive at a time where all forces are needed to meet this objective. A revolt within the CNDP cannot be excluded, and there could be clashes with FARDC troops if these remain inside CNDP territory rather than, as Kinshasa promised, just crossing it. There is also the problem that the FARDC do not have much in the way of food reserves, and there is a risk that they will start looting within the next few days. It remains to be seen whether the CNDP troops or the Mai Mai, who see themselves as protectors of their respective ethnic groups, will tolerate that.

According to the joint Rwandan-Congolese chief of staff, there was fighting on 23 January in the territory of Lubero, at the northern end of North Kivu province. The report claims that nine FDLR fighters died in the incident, but the FDLR deny having fought and suffered losses. On the contrary, its chairman declares that there have been nine deaths in the FARDC ranks during fighting between the Rwandan-Congolese coalition and Mai Mai rebels, in that same territory. The conflicting stories about these clashes nevertheless agree that fighting took place at the very limit of North Kivu, indicating that the FDLR might again be seeking refuge further into the DRC, as they did during the previous wars, when – ultimately unsuccessfully – pursued by the Rwandan army.

Finally, it should be expected that a similar RDF-FARDC operation will sooner or later also take place in South Kivu, where, according MONUC, there are still at least 2,000 Rwandan Hutu rebels. Such a development has been anticipated by the Burundi Defence Force, which began to deploy troops at its border on 23 January. A South Kivu campaign would be complicated by the fact that anti-Tutsi feeling is much higher there than in North Kivu. Until now many local politicians have preferred to ally themselves with the Rwandan Hutu FDLR rather than with the Congolese Tutsis (including the Banyamulenge of South Kivu) and of course rather than with the Rwandan army, the RDF.

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