AFRICAN UNION
الاتحاد الأفريقي

UNION AFRICAINE
UNIÃO AFRICANA

Addis Ababa, ETHIOPIA P. O. Box 3243 Telephone 517 700 Fax: 517844

PEACE AND SECURITY COUNCIL
12th Session
4 July 2004
Addis Ababa, ETHIOPIA

PSC/MIN/3 (XII)
Original: French

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. This report reviews the situation in the DRC since the meeting of the Peace and Security Council on 4 June 2004. It gives an account of the most recent developments that have taken place in this country and their impact on the transition process as well as relations between the DRC and Rwanda. It also covers the efforts deployed by the international community, including the African Union, to maintain the crisis and facilitate the successful completion of the on-going process in the DRC.

II. EVENTS IN SOUTHERN KIVU

2. The events that took place in Southern Kivu are, without a doubt, the most serious crisis faced by the transition process initiated after the parties to the Inter-Congolese Dialogue endorsed the Comprehensive and All Inclusive Agreement in April 2003. They fall within the framework of the overall development of the transition process.

3. In this regard, it will be recalled that on the eve of the events in Bukavu on 26 May 2004, an unhealthy political atmosphere filled with uncertainty prevailed in Kinshasa. This situation resulted from the quasi-statement of the transition process. The different parties to the peace process, particularly the stakeholders of the Transitional Institutions were laying the responsibility for this situation at each other's door.

4. Concerned about this situation, the International Support Committee to the Transition (CIAT) within which the AU is represented by Mr. Martin Bongo, my Special Representative in the DRC, had met the Government. It was agreed that the problems that arose should be resolved as soon as possible whether they concerned territorial administration, the administrative and financial reunification of the country or the integration of the army and security services.

5. Generally speaking, the situation of the members of the Transitional Government formed on 30 June 2003 was one of cohabitation rather than that of a team working in harmony to bring the transition to completion. The same situation prevailed in the other Transitional Institutions where the views and actions of the various players were more determined by their adherence to the former factions and entities they represent than by the national responsibilities vested in them. The tension and mistrust generated by this situation contributed to the delay in the establishment of territorial administration which is a major factor in extending the authority of the State throughout the country; they also gave rise to the formation of parallel security structures within the

Government and did not promote the "mixing" and integration of military units from the former factions and entities.

6. This overall situation had been a source of serious concern to the organizations of the civil society and the top hierarchy of the churches in the country who had expressed the weariness of the Congolese with seeing those who are responsible for leading the Transition showing greater concern for their future and the management of everyday life rather than carrying out the activities expected of them to lead the country to elections thereby paving the way for the establishment of a new political order. They have also denounced the management of the State characterized by "an alarming lack of coordination:

7. Political groups did not waste time to cash in on the weariness which had begun to spread calling for a revision of the Constitution of the Transition and claiming that after such revision the governmental structure would be "reviewed, streamlined and made functional". These groups felt that the governmental formula of "1 + 4" and its extension to all the administrative structures of the country were at the root of the impasse in the peace process and the red tape observed in the functioning of the State.

8. It is against this background that the President of the Republic, Joseph Kabila, initiated consultations with the Parties to the Inter-Congolese Dialogue in order to "form an opinion" on the matter. Some political parties, like the DRC/G voiced their opposition and warned against any calling into question of the consensus approved by the Comprehensive and All Inclusive Agreement and the Constitution of the Transition.

9. The foreseeable consequences of this situation led CIAT to meet with the Bureau of the National Assembly. During these meetings, CIAT was of the view that such a more would imply a revision of the Comprehensive and All Inclusive Agreement on which the Constitution is based. This would result in the postponement of elections and a prolongation of the sufferings of the populations and might dampen the determination of the international community to support the transition process. CIAT equally recalled that the major task of Parliament during the transition was to provide the country with the legislation necessary for the holding of elections within the timeframes agreed on and to draft a new Constitution that would govern the Third Republic.

10. Meanwhile, the expectations of the population were changing rapidly to impatience and discontent. It is against this background that, in the night of 10 to 11 June 2004, a young officer, member of the Presidential Guard and leader of a group of about twenty men took over the State radio, declared the failure of the Transitional Government and announced the suspension of the

Transitional Institutions. Although the attempt was immediately foiled, it nonetheless helped to further weaken the ongoing process in the country.

11. Mistrust, suspicion and tensions between the leaders of the Transition in the capital spread very rapidly to the Provinces of the country. This situation worsened considerably in Southern Kivu and Bakavu within the "integrated" military command, political structures and grassroot communities. A smear campaign of certain political leaders was mounted by extremist elements who asked their communities to "resist" or "refuse to obey the provincial executive". Hateful remarks including rumours about the preparation of "genocide" against the Banyamulengé community rapidly spread throughout the Eastern part of the country. This situation created a real psychosis within this community and was exacerbated by increased acts of violence by the ex-Far and Interahamwe.

12. It is in this tense atmosphere that fighting broke out on 26 May 2004 in Bukavu between dissidents of the military and soldiers of the 10th military region of the Armed Forces of the DRC Uniformed soldiers from the circle of Colonel Jules Mutebusi, a member of the Banyamulengé community, an officer of the former DRC/G forces who was suspended from the army, were turned back at the border with Rwanda by servicemen of the 10th military region as they attempted to cross the border. Colonel Mutebusi denounced a plot mounted against the Banyamulengé community which he described as a provocation aimed at neutralizing him. He reacted to this "provocation" by using force.

13. Alerted in Goma, in Northern Kivu, General Laurent Nkunda, companion-in-arms of Colonel Mutebusi within DRC/G, commander of a column of about one thousand men, came to Mutebusi's "rescue" on 2 June 2004. They took the town declaring that they were still part of the Republic. They further stated that they recognized the authority of the Transitional Government while underscoring the fact that their demands were solely related to identity.

14. The soldiers of the 10th military region who were in control of the town of Bukavu for the Transitional Government withdrew to the surrounding mountains while the town was the scene of violence and pillage. The President of the Republic immediately decreed general mobilization promising "to use all human, financial and material resources to defend the nation ……. and save the Transition Process!!

15. Following negotiations conducted by MONUC and strong pressures from the international community, General Kunda and his men withdrew from the town. MONUC also succeeded in getting Colonel Mutebusi to accept the principle of cantonment of his men in Saio camp from where they departed on 26 May 2004

16. On 9 June 2004, the forces of the 10th military region regained control of the town of Bukavu. Colonel Mutebusi, commanding 400 men seized the locality of Kamanyola on 11 June 2004. Subsequently, the Government dispatched 10,000 men to Kamanyola to support the units of the 10th military region. After about ten days of fighting, Mutebusi abandoned the town on 21 June 2004 to take refugee with nearly 300 men in Cyangungu in Rwanda.

17. General Kunda, for his part, is reportedly in Minova, a locality in Southern Kivu, situated at about fifty kilometres to the North of Bukavu. Rumours about the strengthening of his forces have led to considerable movement by the populations towards the forests of the region. Some observers believe that he was preparing to attack Goma, capital of the Province of Southern Kivu where he reportedly has some support.

18. The fighting which took place in Bukavu and Kamanyola resulted in systematic pillage in these two towns and numerous human rights violations and acts of violence against civilians. This situation has, in turn, led to massive population movements both within the DRC and to neighbouring countries. Tens of thousands of persons have crossed the border to take refuge in Rwanda and Burundi. It is believed that there are namely 3,000 refugees in the town of Cyangungu. The Burundian authorities, for their part, have announced the presence of over 30,000 Congolese refugees in Cibitoke. The two countries have appealed to the international community to assist them in coping with this influx of refugees.

IV. IMPACT OF THE EVENTS OF SOUTHERN KIVU ON RELATIONS BETWEEN THE DRC AND RWANDA

19. The events that took place at Bukavu and Kamanyola contributed to a very large extent to the deterioration of already tense relations between the DRC and Rwanda. In his address to the nation on 2 June 2004 following the capture of the town of Bukavu, President Kabila accused Rwanda of being involved in the fighting.

20. On 3 June 2004, the Government of Rwanda issued a press release in which it expressed, iter alia, its concern about the statement made by President Kabila. After reiterating that there were no Rwandan troops in Bukavu or elsewhere in the DRC, the Rwandan Government took note of the open threats made by the Congolese President against Rwanda.

21. The tension worsened after the Congolese authorities increased the strength of their army in the region to 10,000 men to recapture Kamanyola, a locality situated at less than one kilometre from the Rwandan border. On 21 June 2004, the Secretary General of the Rwandan Ministry of the Interior declared that "the reinforcements of troops sent by Congo to the Eastern part of

the country to put down the rebellion of a few hundred men are in fact merely advanced preparations for an attack against Rwanda".

22. In his reaction to this statement, the Minister of Defence of the DRC declared that Congo was not threatening the integrity of its neighbours, pointing out that the 2 or 3 brigades sent as reinforcement to the East of the country were "only an accelerated mixing of troops from various factions prior to the establishment of an integrated army". To calm the situation, President Kabila made several gestures of goodwill by pledging, on 23 June 2004, to use the troops assembled in the East of the DRC "to disarm and send back the ex-FAR and Interahamwé to their country".

IV. AFRICAN UNION MISSION TO THE DRC AND RWANDA AND OTHER EFFORTS TO DIFFUSE THE TENSION BETWEEN THE TWO COUNTRIES

23. Owing to the tension that had been created between the two countries, I fielded a mission to the DRC and Rwanda. This mission was led by the Permanent Representative of Senegal to the AU and Ambassador in Ethiopia, in his capacity as Chairperson of the Peace and Security Council for the month of June 2004. The delegation of the Africa Union which also comprised the Permanent Representative of Zambia, Chairperson of the Commission of Refugees, Returnees and Displaced Persons and an official of the Commission visited the DRC from 9 to 13 June 2004 and Rwanda from 13 to 16 June 2004.

24. In the DRC, the delegation held talks with a number of Congolese personalities including the Ministers of Foreign Affairs, National Defence, Demobilisation and Former Combatants. It had working sessions with the Special Representative of the Secretary General of the United Nations, the International Support Committee to the Transition and African Ambassadors accredited to the DRC. It was received in audience by the two Vice-Presidents in charge of the Social and Political Affairs Communities and the Defence and Security Committee respectively. The delegation then proceeded to Kindu, Bukavu and Goma, as well as to the Kivus where they held discussions with the local officials of MONUC and with the civil and military authorities appointed by the Transitional Government as part of the process for the unification and integration of the armies and the extension of State authority throughout the country.

25. In Rwanda, the delegation had a meeting with the Minister of Foreign Affairs and Cooperation; it also visited Congolese refugees living at Cyangungu and it was received at the end of its visit by President Paul Kagamé.

26. The delegation expressed the AU's concern to the authorities of both countries about the situation in Southern Kivu, as well as the threat posed by this state of affairs with regard to the peace process in the DRC. It called on all

parties to continue to support the on-going processes in the region and to work towards the return of peace and stability in the DRC. I would like to highlight the fact that the DRC and Rwanda authorities, as well as MONUC representatives highly appreciated the sending of a mission by the African Union as soon as the crisis broke out.

27. From the meetings it had on the spot, the AU delegation made a series of observations which can be summarised as follows:

- the Congolese people are yearning for peace and security, and are determined to go to elections so as to put an end to the repeated crises that the DRC has been experiencing;

- there is, in the DRC, a profound lack of confidence among the different transition stakeholders, which explains, among other things, the near paralysis of the Government, as well as the delay in taking decisions and drawing up organic laws;

- all the parties and international partners are aware of the fact that the on-going process, in spite of its inadequacies and weaknesses (Formula 1 + 4, decision-making process based on unanimity, etc.), is the only way possible to steer the country out of the crisis;

- the imminence of elections (June 2005) is not unrelated to the repetitive crises witnessed in the country since the beginning of the year. There are a number of stakeholders who seem to be fearing the polls verdict, which could make them lose their seats in the current institutional set-up;

- the "genocide against the Banyamulengé community", alleged by dissident officers to trigger off fighting in Bukavu, has not been proven. Furthermore, refugees in Cyangungu declared that the civilian population of Bukavu was not involved in the deliberate acts of violence they say they had been subjected to;

- the "refusal" of the DRC/G authorities to let the town of Goma, which they controlled during the war, be run by a governor and a military region commander from other factions and entities does not facilitate the extension of the State's authority and the completion of the integration of the armies;

- the direct involvement of Rwanda in the Bukavu events siding with dissident officers has not been proven. However, the means used on the grounds and the determination shown by the rebels, in spite of the pressure endured, require particular attention on the part of the African Union and the international community;

- the lack of confidence between Rwanda and the DRC is real and could negatively affect the organisation of the International Conference on the Great lakes Regions. Rwanda deplored the fact that the verification mechanisms provided for under the Lusaka and Pretoria Agreements (30 July 2002) had been rendered ineffectual, far their functioning would have made it possible to establish the facts;

- the events in Bukavu and the vacillation on the part of MONUC attests to the urgency to review its mandate and its role in the DRC. In this regard, increasing the strength and the resources of MONUC should be accompanied by an adjustment of its mandate.

28. Generally speaking, the international community condemned the events which took place in Bukavu and Kamanyola. In this respect, I would like to recall the firm condemnations of the United Nations Security Council and the European Union, as well as the deep concerns expressed by many foreign Governments. Furthermore, in the declaration of its Chairperson on 22 June 2004, the United Nations Security Council invited the United Nations Secretary General "to determine clearly the need for a possible rapid intervention capacity for MONUC".

29. Furthermore, mini-Summit held in Abuja, in the Federal Republic of Nigeria on 24 June 2004, brought Presidents Kabila and Kagamé together. Under the auspices of President Olusegun Obasanjo, the two Presidents undertook to honour the terms of the Pretoria Agreement of 30 July 2002 and to establish a joint control mechanism, which was agreed on in Pretoria in November 2003, with involvement of the African Union and the logistical support of MONUC. This mechanism will make it possible to ensure the disarmament of the ex-FAR and Interahamwé still present in the DRC and the removal of Rwandan troops from the Congolese soil.

VI. OBSERVATIONS

30. The events that took place recently in Southern Kivu, are clear proof of the extremely fragile nature of the on-going process in the DRC. Hence the imperative need for the international community, which has invested a lot of effort in the search for a lasting solution to the conflict in the DRC, to remain steadfast so as to bring the peace process to its logical conclusion.

31. We should not, however, lose sight of the fact that the primary responsibility lies first and foremost with the Congolese parties. It behoves them to demonstrate the political will and determination required to honour the commitments made, especially as the institutional mechanism put in place in

accordance with the comprehensive and all-inclusive Pretoria Agreement is complex.

32. Admittedly, the tension that exists in the relation between the DRC and Rwanda constitutes a threat to the peace process and regional stability. Hence the need to intensify efforts to normalise relations between the two countries and promote trust between them.

33. The Commission will contact the Congolese and Rwandan Governments to determine the AU's contribution to the control mechanism which Presidents Kabila and Kagamé agreed to revive during their Abuja meeting.

34. The events of the past weeks have, once again, brought to the fore the seriousness of the nationality problem in the East of the DRC, as in many other countries of the region, and the risks of destabilisation that would result therefrom. Consequently, it would be expedient to include the issue of nationality among the themes of the International Conference on the Great Lakes Region being jointly prepared by the African Union and the United Nations.