

**DRC: briefing to the Security Council by ASG Mulet**

Mr. President, Distinguished members of the Council,

I am very grateful that you have found the time at very short notice, for me to brief me to brief you on what we believe is a very important and urgent matter. I know that you would prefer shorter briefings, but as you will see there was no way that we could compress matters that relate to fundamental questions regarding literally life and death in the DRC.

We also hope that the briefing today will inform you on the forthcoming deliberations on the mandate renewal for MONUC.

Mr. President,

As Council Members are aware, we have over the past few weeks received reports from Human rights organizations and NGOs concerning alleged or confirmed massacres and gross human rights violations committed by elements of the FARDC against civilian populations. These reports have linked these violations to the Kimia II operation against the FDLR and the logistical support that MONUC provides to the FARDC.

As a result of these egregious violations, human rights organizations and some components of the United Nations system have called for an immediate end to Kimia II and the withdrawal of MONUC support for the FARDC. They have expressed the view that MONUC's support to Kimia II cannot be reconciled with the Mission's mandate to protect civilians. There has also been a suggestion that MONUC's support to the FARDC may expose the Mission to charges of complicity in serious violations of international humanitarian law committed by elements of the FARDC. We therefore felt that it was important to provide a candid update on Kimia II, focusing on where we have come from, where we are now and where we believe we should go.

Mr. President,

We must state, first, and unequivocally, that human rights abuses that have been committed by FARDC elements are unacceptable. We take this matter very seriously. That is why, on 1 November, during his trip to the DRC, USG Le Roy, along with SRSG Doss, announced the suspension of MONUC's support to a unit of the 213<sup>th</sup> Brigade of FARDC, following a joint MONUC/OHCHR investigation which implicated this unit in targeted killings. MONUC and FARC are now launching a joint investigation into that incident. This measure sends a clear message that, consistent with its mandate, and in keeping with the Secretary-General's policy decision, MONUC will not support operations by the FARDC if the FARDC units involved in those operations commit violations of international humanitarian law, human rights or refugee law. We are concerned, not only about FARDC units that have committed such serious violations of human rights, but also about the attacks by the FDLR against the civilian population, which are equally grave but do not seem to be receiving as much attention from human rights organizations.

United Nations



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Cabinet du Secrétaire général

DRC

To: Mr. Nambiar,

Please find attached for your and the Secretary-General's information, the briefing given to the Security Council this morning by ASG Mulet on the DRC. The briefing elucidates the dilemma facing MONUC with respect to Kimia II and explains the UN's strategy for the way forward.

Nicholas Haysom  
19 November 2009

Cc: KWS

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Mr. President,

From the outset, I wish to remind Council Members of the seminal role of the Interahamwe in orchestrating the genocide in Rwanda in 1994, and their movement from their theatre of carnage in Rwanda to the refugee camps and the villages of eastern DRC, where they formed the *Forces Démocratiques de Libération du Rwanda*, or FDLR, this group has been at the centre of the series of conflicts in eastern DRC for the last fifteen years. There have been numerous attempts to disarm, demobilize, and repatriate these Rwandan combatants, but the problem has persisted and has contributed to the instability in the DRC even after the conclusion of free and fair elections in 2006.

In November 2007, a full 13 years after the arrival of these armed combatants in the DRC, the DRC and Rwanda agreed on a common approach, set out in the Nairobi Communiqué, to end the threat posed by this and other armed groups. MONUC and the FARDC, within the framework of the Nairobi Communiqué, prepared a joint plan to launch operation Kimia I. Under a Joint MONUC FARDC Operational Directive signed in March 2008, MONUC started training 12 FARDC battalions earmarked to participate in the joint military operation which was scheduled to begin in mid 2008. As you all know, that operation never took off. It was aborted as the CNDP launched a military offensive in August and subsequently attempted to capture Goma. The MONUC-trained FARDC battalions were diverted to operations against the CNDP and most of them simply disintegrated.

As MONUC concentrated on addressing the immediate military threat from the CNDP throughout last year, the Mission came under pressure from a number of NGOs, and was strongly encouraged by Council Members, to launch military operations against the FDLR, whose continued presence in eastern DRC was identified as the source of continuing instability.

The end of the CNDP rebellion following the rapprochement between the DRC and Rwanda, made it possible to focus, once again, on the FDLR, and the DRC and Rwanda launched a joint operation, Umoja Wetu, against the group last January.

As Council Members are aware, MONUC, based on its mandate under paragraphs 3 (f) and (g), was requested to support FARDC in taking forward the military operation against the FDLR when the Rwandan forces withdrew before Operation Umoja Wetu had accomplished its declared goal of defeating the FDLR. The decision to allow a peacekeeping force to replace the very capable Rwandese armed forces, and to partner with an imperfect FARDC to carry forward an anti-insurgency operation, was not an easy one for us. The fundamental reason why we had to do it, Mr. President, was not just because MONUC's mandate obliged us, but because of our recognition of the fact that lasting peace cannot be established in the eastern DRC unless the presence of the FDLR there is addressed.

I, however, wish to stress that we fully recognize that military action alone cannot resolve the FDLR issue. A multi-dimensional approach is required. The Governments of the DRC and Rwanda must work clearly define the end-state for resolving the FDLR problem, including enhanced efforts to promote the return of non-genocidaire FDLR to Rwanda. Regional governments and those overseas also must play a key role in finding a solution to this issue. As Council Members may be aware, in its latest report, the Group of Experts on the

DRC has documented the existence of an elaborate network financed of the FDLR diaspora and confirmed that FDLR diaspora leaders play a key role in raising funds for military operations, laundering money and setting the military strategy of FDLR combatants in eastern DRC.

Mr. President,

Operation Kimia II has been running for eight months. Its objective is to rid the DRC of the threat posed by the FDLR by dislodging it from its strongholds; pushing it away from population centres and main axes; denying it access to the economic activities that have financed its war machinery, in particular mining areas and main routes where it collects tolls; and compelling its combatants to surrender and join the DDRRR programme.

MONUC's role in Kimia II is limited to assisting the FARDC with planning the operations; providing logistical support, including tactical helicopter lift, medical evacuation, fuel, food rations, and training. MONUC has also provided fire support to FARDC operations, when deemed essential by MONUC commanders. In this regard, MONUC's support has been critical in preventing the FDLR from reoccupying some of the areas vacated as a result of the joint FARDC-RDF operations. Out of the approximately 60,000 FARDC troops deployed in the Kivus, only 16,000 troops earmarked for the joint operations (8,000 each in North and South Kivu) benefit from MONUC support. **The slides coming up on the screen show the deployments of FARDC in North and South Kivu before and after Kimia II.**

Throughout the summer, Kimia II achieved significant advances. The FDLR was dislodged: from strongholds in Lubero; from its military and political headquarters in Katoyi in Masisi; from markets in Nyabiondo; from areas of illegal taxation on the Bukavu-Walikale road in South Kivu; from road blocks around Mwenga; and from the gold mining center of Kamituga. **The series of slides coming up on the screen now depict the positions of FDLR before and after Kimia II.**

In North Kivu, the FDLR-FOCA leadership is now holed up in remote areas north and west of Masisi center, in Walikale territory, while the FDLR-RUD faction has been driven into the unpopulated forest areas to the west of Lubero, and pushed into the northern part of Walikale. Today, the leadership and the hard-line fighters are concentrated west of Masisi and in Walikale, in the remotes areas that straddle the boundaries between North and South Kivu. Smaller groups remain active throughout the two provinces and some have fled into Maniema and Orientale provinces; spill-over into Katanga has however been prevented by FARDC forces stationed in the north of the province for that purpose.

While the FARDC is in control of all territorial capitals and all major population centres in the Kivus, the FDLR continue to use their hideouts in the national parks (Virunga, Maiko, Kahuzi Biega, Ninja) and continues to resort to banditry, kidnapping and hit-and-run attacks, often looking for food and medicine. Patterns suggest that the FDLR have retaliated more brutally in areas where they have lost local business partners or where their protection rackets have come to an end.

In keeping the FDLR on the move, the operations have created additional opportunities for individuals to break away from the group. The operations have also prompted the



repatriation to Rwanda of one quarter to one-third of the FDLR, or approximately 1,400 FDLR combatants, between January and November. In addition, two *génocidaires* have been handed over to the ICTR, while 400 FDLR have been killed. The recent arrest in Germany of Murwanashyaka and his deputy Straton Musoni, is a major step forward in severing links with the leadership of the group. According to the Group of Experts, both Ignace Murwanashyaka, the President of the FDLR's political wing, as well as Calixte Mbarushimana, who currently lives in France and is Vice-President of the FDLR's Military Command, set the FDLR military strategy, specifically instructing FDLR combatants in eastern DRC to target large population centres, Congolese civilians, and humanitarian organisations, with the aim of pitting the Congolese population against the Government and pressuring the international community into calling on Rwanda to organise an inter-Rwandan dialogue.

The developments I have just outlined show that the military pressure against the FDLR is working and yielding concrete results on the ground, particularly when combined with the non-military efforts by MONUC aimed at DDRRR. In responding to some of your questions following his briefing earlier this month, Special Envoy Obasanjo gave you his own assessment of the impact of Kimia II, of the FDLR military capacity and the positive reactions of the population in South Kivu. More action is, however, required by Member States to bring to justice FDLR leaders in the diaspora.

On the political front, we firmly believe that Kimia II remains critical to both the improvement in bilateral relations between the DRC and Rwanda, a main prerequisite for long-term stability in the Great Lakes region, and the continued commitment of the CNDP to the Goma political process. We are, however, aware that there are other views, for instance, in particular those of the Group of Experts **which**, in its latest report, is sceptical about the rapprochement between the DRC and Rwanda, and cautions against viewing it as, necessarily, a fundamental shift in regional relations. This only underscores the complexity of the geopolitics of the Great Lakes region.

Mr. President,

Notwithstanding the advances I have outlined, Kimia II operations have encountered major problems. The operation has resulted in significant new population displacements from FDLR reprisal attacks. As of the end of October, OCHA reported about 1.25 million civilians internally displaced and re-displaced in the Kivus (675,000 in North Kivu, and 580,000) in South Kivu). Meanwhile, a relative improvement on the security situation in some areas freed from the FDLR, mostly the North Kivu Territories of Masisi and Rutshuru, contributed to the spontaneous return of some 530,000 internally displaced people (490,000 in North Kivu, and 40,600 in South Kivu).

There also continue to be major challenges to FARDC integration, not only of the ex-CNDP, who have in a number of areas maintained a parallel chain of military and political command, but also of all newly integrated groups within the FARDC. This is not least because of the failure by the Government to make progress on implementation of the political aspects of the 23 March agreement and the issues connected to rank and status within the FARDC, but also due to the lack of progress in reform of the security sector, including training and vetting, and the inconsistent payroll and salary arrears to the FARDC, and difficulties to supply and communicate with units deployed in the hinterland. Unless these issues are resolved, lack of

accountability and weak command and control within the FARDC will continue to pose serious challenges. It is therefore important that, on an urgent basis, all bilateral partners involved in SSR, and MONUC engage the Government and make a concerted effort to address these issues. We will put forward some suggestions in this regard during the mandate renewal discussions.

Mr. President,

Kimia II is taking place in an environment where the FARDC remains an amalgamation of over 50 armed groups, many of whom lack training and discipline, a fact acknowledged by the leadership with the FARDC, and on which the Government has engaged many bilateral partners and MONUC, in trying to address.

In this context there are three categories of predators within the national army. In the first category are the undisciplined, rogue elements that loot and commit sexual violence. The second are both units and individuals who resort to living off the population through looting and extortion because of non payment of salaries, the non-existence of barracks and food rations. The third category, which often commits the most serious crimes, are units that are pursuing certain private agendas and settling old scores.

Reports from most human rights organizations have attributed the crimes committed by these categories of FARDC elements to Operation Kimia II. Kimia II is not the cause of these crimes. With or without Kimia II, there will be rogue elements in the FARDC; there will be crimes committed by soldiers who are not paid, and there will be attempts to settle old scores as long as the FARDC remains an amalgam of former militias, and as long as the longstanding ethnic feuds remain unaddressed. Urgent solutions are required for these fundamental problems, both in the context of SSR and reconciliation processes at the local community level.

It should be recognized that by providing rations and logistical support to the troops involved in Kimia II, MONUC is helping to prevent 16,000 troops from living off the population. MONUC is also investigating allegations that Kimia II military operations are being used to settle ethnic scores. MONUC is also investigating allegations that Kimia II military operations are being used to settle ethnic scores. These trends are complicated by the lack of proper "command and control" and emerging factionalism within the national army. Advancing the fight against impunity within the FARDC, and mitigating the impact of military operations are the main priorities identified by MONUC and humanitarian partners to enhance the protection of civilians.

The Mission has consistently pressed the Government to take concrete action against impunity within the FARDC. As a result of MONUC's advocacy, in July President Kabila declared a zero tolerance policy on abuses and violations by the FARDC. The FARDC Chief of Defence Staff, General Etumba, subsequently toured the Kivus to sensitize commanders of this policy. MONUC has also provided support to the DRC's Military Prosecutor in investigating crimes committed by FARDC personnel. The Prosecutor has shown serious commitment to fight impunity but lacks the essential resources.

Since January, MONUC has also put in place innovative measures to enhance the protection of civilians, including the deployment of Joint Protection Units; bringing MONUC

force deployments closer to vulnerable populations by deploying Company Operating Bases and Temporary Operating Bases; establishing Early Warning Cells and Surveillance Centres, coupled with the deployment of Quick Reaction Units; and launching of market and farm patrols. On the basis of MONUC military support to FARDC integrated brigades, more than 2000 children were released from armed groups during the integration process with FARDC. These measures have been particularly effective in North Kivu.

Joint MONUC/OHCHR teams continuously monitor the activities of FARDC, FDLR and other armed groups, and work closely with humanitarian and human rights organizations in carrying out this important task.

Mr. President,

Three sets of views have emerged from the debate over Kimia II. First, there are those that are vigorously campaigning for an immediate and complete end to both Kimia II and MONUC support for FARDC. Second, some human rights organizations and research institutes are calling for a suspension of the military operation in order to reconsider the current strategy and the nature of MONUC's support to FARDC, with a view to arriving at a new approach. Third, others, including the Governments of the DRC and Rwanda, are of the view that Kimia II is making progress on the military front and that we should stay the course and continue the current operations with MONUC support, until the threat posed by the FDLR is neutralized.

We in the Secretariat, and MONUC, have taken these views seriously and carefully considered the implications and likely consequences of each. As I have indicated earlier, leaving the task half done would have serious consequences and might/would force us, some years down the road, to come back again to face a stronger FDLR at an even higher cost. That approach would also have serious political costs. It would be damaging to the rapprochement between the DRC and Rwanda and could lead to an unravelling of the integration of the CNDP and the return of Laurent Nkunda to unilaterally pursue the FDLR.

A pause of the military operation would similarly carry a heavy cost as demonstrated by the suspension of the operation in October. In our discussion with the MONUC Force Commander two days ago, he recalled that when, on 19 October, Kimia II was suspended to allow EUSEC to conduct a census of the newly integrated combatants and to address the command and control challenges arising from rifts within the CNDP, the FDLR swiftly took advantage, attacking FARDC positions and attempting to regain lost territory.

Above all, ending Kimia II or suspending the operation would result in serious undermining any progress made so far and would be perceived as a victory by the FDLR. Statements from the FDLR propaganda machinery echoing the criticism concerning the humanitarian cost of Kimia II clearly show that the group is beginning to question MONUC's staying power and hoping that the ongoing campaign would force the military operation to a halt.

Mr. President,

The situation is extremely complex and delicate, and presents a serious dilemma. We recognize that Kimia II cannot continue in its current form and at the same scale. Carrying the

operation forward in its current form would have a high humanitarian cost and would seriously damage MONUC's credibility. At the same time, abandoning or suspending the operation would reverse the gains made and would similarly damage MONUC's credibility and strain its relations with both the DRC and Rwanda. The critical question today, therefore, is what then is the way forward?

In our view, it is essential to maintain political and military pressure on the FDLR. At the same time, the current major military operations must be concluded within a very short time frame so that efforts can now shift to a new phase which MONUC and FARDC have been planning for over the past two months.

The planning process by MONUC and FARDC conducted over the past two months, for the next phase of Kimia II, has yielded an updated Joint Operations Directive which is scheduled to be signed by the MONUC Force Commander and the FARDC Chief of Defence Staff tomorrow. Under the new Directive, Kimia II will shift to limited, jointly planned operations, to be conducted in December, which will focus on clearing identified areas of FDLR elements that are attempting to regroup; holding the cleared key areas; and assisting the Congolese authorities to establish civil administration, as well as sustainable rule of law and security institutions in these areas, building the necessary institutional capacities and infrastructure under the United Nations Security Stabilisation and Support Strategy, and eventually demilitarizing the control of mining areas. In this phase, defining high priority objectives and identifying "Must Protect" areas in conjunction with FARDC will ensure improved protection of the local population and the consolidation of the important territorial gains.

As part of this "clear, hold and build" strategy, the FARDC and MONUC will also step up pressure on the FDLR leadership in Masisi, Walikale, Kalehe, while consolidating gains made in the periphery, protecting the population from the hit-and-run tactics of the smaller groups and keeping the FDLR away from mines and population centres where they could re-supply. A more focused approach on the centres of gravity of the FDLR - their leadership - will allow for a better use of the available manpower and means.

Mr. President,

MONUC has developed and finalized in coordination with the United Nations Office of Legal Affairs a Policy Paper setting out the conditions under which MONUC can provide support to FARDC units. MONUC will now share it officially with the Government and the FARDC command. Among its key elements, the Conditionality Policy Paper specifies that (i) MONUC will not participate in any form of joint operations with FARDC units, or support an operation by those units, if there are substantial grounds for believing there to be a real risk of these units violating international humanitarian law, human rights or refugee law in the course of the operation; (ii) MONUC will only participate in operations which fully comply with the international humanitarian, human rights and refugee law; and (iii) MONUC will only support/participate in operations that are jointly planned and conducted in accordance with international humanitarian law, human rights or refugee law.

MONUC will also motivate and encourage elements that respect the zero-tolerance policy; we will notify the FARDC command in the event that elements of a unit receiving



support from MONUC commits grave violations of human rights, in a weekly meeting aimed at discussing serious human rights violations and status of previous abuses committed; and we will suspend support to such a unit in the event that, following such notification, and after a three-week period, the FARDC does not take any action against those responsible for those violations or if elements of the same unit nevertheless continue to commit human rights violations. Both MONUC's military and human rights components will closely monitor FARDC conduct and the application of the conditionality policy. The Secretary-General has also decided to send an inter-agency mission to the DRC, led by DPKO, to assess the implementation of MONUC's Conditionality Policy and related issues.

Mr. President,

In conclusion, let me highlight the non-military actions on which, in the next phase the United Nations will work with the Governments of the DRC and Rwanda and other partners. These include: a) assisting the DRC and Rwanda to define an end-state for resolving the FDLR issue; b) encouraging Member States in the region and overseas to take the necessary legal actions against the group's leadership residing in their countries including through effective implementation of the DRC sanctions regime and prosecution of sanction violations; c) enhancing DDRRR efforts, including through an information campaign, which should involve the DRC, Rwanda, and MONUC; d) exploring ways by which Rwanda can further attract the voluntary return and promote the durable socio-economic integration of non-génocidaire FDLR rank and file; e) and supporting the extension of State authority and a sustained security presence in areas from which FDLR elements are dislodged, f) and concerted efforts to transform the FARDC from a predator into a protector.

The international community and governments of the region have a compelling obligation to assist in ensuring that the Government of the DRC can finally exit this decade and a half of crisis, so that the peace dividend which the citizens of the Congo assumed would be rightfully theirs following the historic elections of 2006, can finally be experienced and enjoyed.

Thank you.