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## From Resource War to 'Violent Peace'

Transition in the Democratic Republic of the Congo (DRC)

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Transition in the Democratic Republic of Congo (DRC)

*by Björn Aust and Willem Jaspers*



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Bonn International Center for Conversion  
Director: Peter J. Croll  
An der Elisabethkirche 25  
D-53113 Bonn  
Germany  
Phone: +49-228-911960  
Fax: +49-228-241215  
E-mail: [bicc@bicc.de](mailto:bicc@bicc.de)  
Internet: [www.bicc.de](http://www.bicc.de)

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## **Summary**

The war in the Democratic Republic of the Congo (DRC) that raged from 1998 until 2002 has been decisively influenced by its war economy. Based on the exploitation of the abundant natural resources of the country, the war economy provided huge spoils to war elites and also resulted in a deep restructuring of Congolese society. Ever since the formal end of the war in December 2002, the situation in the DRC remains fragile: political transition is threatened by endemic violence in the eastern provinces and instability across the country, economic recovery is hampered by large-scale corruption, and the living conditions of the Congolese people are disastrous in vast parts of the country. Although war economies have attracted significant attention in the last decade, their impact on complex and fragile post-conflict situations is still not sufficiently researched. This also applies to the DRC. Accordingly, questions and controversies over the 'right remedies' for promoting political, economic and social recovery in the DRC persist among political practitioners and experts.

The first section of the paper provides an assessment of the current state of the 'peace' process: Political and security-related developments of the past years are analyzed with a special focus on continuities and changes of politico-economic structures and networks of its former war economy. This analysis provides the framework for two case studies that focus on the developments in two cities and their surroundings in North and South Kivu, Goma and Bukavu. The case studies give a more in-depth-analysis of the political and economic structures in these regions during and after the war and evaluate the role of important military, political and economic actors—both Congolese and foreign—in the transition process. In this section, the study combines findings from desk-based research and findings the authors gathered on a field trip to the DRC in June 2005.

The outcome of the study underlines the fragility of the peace process. Despite some changes of the economic and political structures former war elites—military, political and economic—still remain influential. They defend their positions and benefits of the war era and try to 'transfer' them to the changed situation. In addition, various actors still possess a spoiling potential. It is important to note that many of the structural problems widely associated with the war and its war economy, that is the (violent) exploitation of the country's riches, even predated the wars of the 1990s. But these structural factors underwent substantial changes

and have been exacerbated when (informal) power- and trading networks adapted to the war. Even if a return to full-scale war seems unlikely at the moment, they constitute a considerable obstacle on the way to a sustainable peace. Since 2002, the 'international community' has shown its potential as a vital external supporter of peace and development in the DRC, even though its actions were regularly insufficient, often inconsistent and sometimes even counter-productive. The paper concludes with a set of policy recommendations.

### List of Acronyms

AAA	Agro Action Allemande
ADF	Allied Democratic Forces
AFDL	Alliance des Forces Démocratiques pour la Libération du Congo-Zaïre
AMF	American Mineral Fields
ANC	Armée Nationale Congolaise
AU	African Union
CEI	Commission Electorale Indépendante
CENADEP	Centre National d'Appui et à la Participation Populaire
CIAT	Comité International d'Accompagnement de la Transition
Comiex	Compagnie Mixte d'Import-Export
CONADER	Commission Nationale de Démobilisation et de Réinsertation
DDR	Disarmament, Demobilization, and Reintegration
DRC	Democratic Republic of Congo
ECHO	European Community Humanitarian Organization
EU	European Union
FAA	Fuerzas Armadas Angolanas
FAC	Forces Armées du Congo
(ex-)FAR	(ex-)Forces Armées Rwandaises
FARDC	Forces Armées de la République Démocratique du Congo
FAZ	Forces Armées Zairoises
FDLR	Forces Démocratiques pour la Libération du Ruanda
FEC	Fédération des Entreprises Congolaises
FNI	Front National des Intégrationnistes
Gécamines	Générale des Carrières et des Mines
GSSP	Groupe Spécial de la Sécurité Présidentielle
ICD	Intercongolese Dialogue
ICG	International Crisis Group
ICJ	International Court of Justice
IDI	International Diamond Industry
IDP	Internally Displaced Persons
IEMF	Interim Emergency Multinational Force
IFI	International Financial Institution
IIA	Ituri Interim Administration
IMF	International Monetary Fund
IPIS	International Peace Information Service

IRIN	Integrated Regional Information Network
KCC	Kamoto Copper Company Ltd.
LDF	Local Defense Forces
MIBA	Société Minière de Bakwanga
MLC	Mouvement pour la Libération du Congo
MONUC	Mission d'Organisation des Nations Unies au Congo
MSF	Médecins Sans Frontières
NALU	National Army for the Liberation of Uganda
NGO	Non-Governmental Organization
NIZA	Netherlands Institute for Southern Africa
OCHA	Office for the Coordination of Humanitarian Assistance
OECD	Organization for Economic Cooperation and Development
OFIDA	Office de Douanes et Accises
OKIMO	Office des Mines et d'Or de Kilo-Moto
ONR	Oryx Natural Resources
PPRD	Parti du Président de la République
RCD	Rassemblement Congolais pour la Démocratie (RCD-Goma)
RCD-ML	Rassemblement Congolais pour la Démocratie - Mouvement de Libération
RCD-N	Rassemblement Congolais pour la Démocratie - National
RPA	Rwandan Patriotic Army
RPF	Rwandan Patriotic Front
SMI	Structure Militaire d'Intégration
SOMIGL	Société Minière des Grands Lacs
SOMINKI	Société Minière et Industrielle du Kivu
SSR	Security Sector Reform
TNG	Transitional National Government
UDPS	Union Démocratique du Progrès Social
UMHK	Union Minière du Haut-Katanga
UNAFEC	Union des Nationalistes et Fédéralistes du Congo
UNDP	United Nations Development Program
UNSC	United Nations Security Council
UPC	Union des Patriotes Congolaises
UPDF	Ugandan Peoples' Defense Force
TPD	Tous pour la Paix et le Développement
TSS	Transitional Support Strategy
WTO	World Trade Organization
Z(N)DF	Zimbabwe (National) Defense Force

## **Introduction**

The DRC currently attracts considerable interest of international media as the country prepares for the first free elections since independence from Belgium 46 years ago: After repeated delays presidential and parliamentary elections are set for the end of July. The elections have become an international and especially European political issue, too, as the UN Security Council authorized the deployment of an EU force of 1.500 soldiers to support a successful vote on 25 April.<sup>1</sup> Above all, the elections are thought to be a benchmark for Congolese politics since they formally end a transitional period that started after the signing of the 'All Inclusive Peace Agreement' ('Accord Global et Inclusif') in December 2002 in Pretoria. This accord 'officially' ended a war that had raged on since August 1998 and involved a variety of armed groups and regular armies from the DRC and neighboring states. In addition, the war has become one of the best-known examples for the pervasive impact of war economies on the dynamics of wars in weak-state settings: Based on the exploitation of Congo's abundant natural resources, the war economy not only provided huge spoils for war elites but decisively influenced the political and military power balance between the warring parties. Although the peace accord of Pretoria paved the way for the inauguration of a transitional national government (TNG) in April 2003, the past years have been characterized by political instability and continued violence despite international efforts to safeguard the peace process through repeated reinforcements of the peacekeeping force of the United Nations Mission in the Democratic Republic of Congo (MONUC). Likewise, although bi- and multilateral donors provided considerable sums in aid and loans—for African standards—to support the transitional government, the transition process has remained fragile until today. Thus, national elections had to be postponed several times for security reasons and due to the fact that political and institutional preparations lagged far behind schedule. The importance the 'international community' ascribes to meeting the envisaged date for the polls in July has to be placed against this background.

To make sure that the elections will proceed in a peaceful and organized manner, the United Nations Development Program (UNDP) and MONUC alone provided electoral assistance totaling

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<sup>1</sup> *UNSC-Resolution, 1671*

to US \$422.9 million<sup>2</sup>. This figure neither includes assistance from other donors, nor the costs of the foreseen deployment of the EU force to the DRC. The multinational mission under the lead of Germany aims at assisting MONUC in preventing violent confrontations and riots during and after the elections. According to German Foreign Minister, Frank Walter Steinmeier, the mission also addresses a clear political message to Congolese citizens and political elites, including potential spoilers: With its military presence the EU seeks to stress its firm support for the transition towards liberal democracy<sup>3</sup>.

Although the mission's goals may sound laudable, the envisioned EU force's practical contribution will be limited, given the short duration of its mandate, the small number of 400–500 troops 'on the ground' in the DRC and the geographical confinement of the majority of its forces to Congo's capital Kinshasa<sup>4</sup>. Most importantly, while securing free and fair elections in the DRC is an important task, the focus of both the EU mission and the current political debate on the electoral process is far too narrow and runs the risk of diverting political attention and strategic planning of the 'donor community' away from important structural challenges to post-conflict rebuilding, economic and political reform in the country. This reflects a tendency that characterized political debates, strategies and political action of the 'international community' in the recent past. The involvement of UN bodies, international organizations and international financial institutions (IFIs) and donor governments by and large tended to overlook a fundamental and pressing obstacle to sustainable peace—and eventual democratic transition—in the DRC: the remnants of its former war economy and its lasting economic and political impact on the post-war order.

The role of war economies during contemporary 'internal' wars has become a subject of intensified research, and theoretical findings increasingly guide political action (Ballentine and Nitschke, 2005). Unfortunately, the role of war economies in post-conflict settings still remains a question still in need of further research. Accordingly, the discourse over the 'right remedies' to overcome war economies displays a considerable lack of confirmed knowledge, and different policy strategies often reflect

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<sup>2</sup> *Reliefweb*, 10 March 2006

<sup>3</sup> *Deutsche Welle*, 2006

<sup>4</sup> *IRIN*, 28 April 2006

controversies that are primarily of a political nature. This general statement holds true for the case of the DRC as well: In stark contrast to the large body of literature covering various dimensions of its war economy, there are comparatively few analyses of its 'post-war economy'. This paper aims at providing an analysis of the political economy of the current transition, and thereby at contributing to a 'young' debate of academic and political interest. Our analysis rests on the assumption that core features of the former war economy have not simply 'disappeared' after the peace agreement. Up to the present, many of its politico-economic structures and elite networks remain influential (albeit more concealed). They have repeatedly threatened economic and political reform and contributed to a situation Mark Duffield (2001) once characterized as 'violent peace'. Elections alone will not suffice to curb these exploitative and latently violent structures and the rent-seeking actions of its networks.

#### War and war economy in the DRC (1998–2002)

To assess the impact of the post-war economy it is necessary to briefly recall some core aspects of the (second) Congolese war of the 1990s<sup>5</sup>. The war displayed characteristic features of a general development in the modes of warfare in conflict settings in weak states: Against the background of accelerated institutional and functional state decay and growing pressure of economic and political globalization processes current 'internal' wars are characterized by a complex 'overlap' of different socio-political and -economic conflict dimensions. Their dynamics feature irregular clashes between belligerents that are weak in military terms and lack political legitimacy. Plagued by factionalism, today's warring parties are often incapable of exerting full territorial control, let alone of governing conquered regions. The instrumentalization of identities—in most cases: ethnicity—results in high rates of civilian casualties. A central aspect of these so-called 'new wars' (Kaldor, 1999; Duffield, 2001; critical: Chojnacki, 2004) is the profound reconfiguration of their political economies: In contexts of weak or failed states rebel organizations and weak governments alike frequently compete over valuable primary

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<sup>5</sup> The war of 1998–2002 was preceded by the war of 1996/97 that brought Laurent Désiré Kabila to power and ended the rule of Mobutu Sese Seko. Since the early 1990s the eastern parts of the country had repeatedly suffered from endemic violent conflicts.

commodities, preferably resources like alluvial diamonds, drugs or valuable ores that are easy to exploit and yield high revenues on global markets. Empirical evidence from war economies—Afghanistan, Angola, Colombia, Liberia, Sierra Leone, and the DRC are only the most obvious examples—has shown their profound impact on conflict dynamics. Since the mid-1990s, academic research has devoted substantial attention to the analysis of various forms of war economies, their political and economic 'functions' as well as their consequences for patterns of economic accumulation and power politics under crisis conditions (Ballentine and Sherman, 2003 pp. 3–6; Pugh and Cooper, 2004 pp. 18–24)<sup>6</sup>.

The war in the DRC escalated in August 1998 with a Rwandan-backed rebellion against the politically weak and corrupt government of Laurent Désiré Kabila. It was a textbook example of both the changed patterns of warfare and the decisive importance of war economies. For its complex causes and overlapping internal, regional and international dimensions the war was termed 'Africa's First World War'. Its dynamics were influenced by the direct military involvement of nearly all neighboring countries and many armed non-state actors from the Congo as well as from other 'internal' wars of the region. Especially Zimbabwe and Angola secured the regime's survival, whereas Uganda and Rwanda were the primary backers of the rebellion (ICG, 2000; Jacquemart, 2001; see Appendix 1). The war bore destructive effects on the DRC's weak political structure, de facto dividing the country in territories controlled by the government and its allies (western and southern parts) and large territories in the north and east occupied by various rebel organizations, militias and intervening armies. Infighting and power struggles within the respective territories, especially in the rebel-held parts, resulted in a humanitarian catastrophe: Estimates from humanitarian agencies amount to up to 4 million deaths. Almost 90 percent of the victims are civilians, mostly victims of starvation, disease and arbitrary violence (IRC, 2005).

Although the political and security-related interest of the warring parties must not be reduced to 'motives of greed' and individual

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<sup>6</sup> See, among others: Ballentine and Sherman, 2003; Berdal and Malone, 2000; Stewart and Fitzgerald et al., 2001; Jean and Rufin, 1996; Ruf, 2003.

enrichment (cf. the analyses in Clark, 2002), the conflict has been decisively influenced by emerging structures and elite networks of a resource-based war economy. Studies from various observers have revealed that achieving and securing access to Congo's rich natural resources, especially its easily exploitable assets as diamonds, gold, valuable minerals and ores (see Appendix 2), played an increasingly prominent role on the strategic agendas of all warring parties.<sup>7</sup> While based on the violent extraction of local resources, trading networks consisting of both Congolese and foreign political, military and economic actors did not only stretch beyond the porous national borders of the region but also linked the sites of resource exploitation within the DRC to illegal markets worldwide and to customers of the formal economies in the OECD-world and, increasingly, in Asia. The continuation of the war secured economic gains and access to political power for many elite groups that lacked political legitimacy and enjoyed only limited popular support. Thus, the war economy created a context in which it was economically lucrative and politically rational for the parties to continue the war despite the fact that a military 'solution' was unlikely from an early stage of the conflict.

#### Post-war economy and transition in the DRC

After several failed rounds of negotiations the Congolese government and rebel organizations eventually signed the All Inclusive Peace Agreement in December 2002 in Pretoria. The agreement provided for the creation of a transitional government (TNG) that also included representatives from the unarmed opposition and civil society by following a carefully negotiated distribution of political posts (Rogier, 2004 p. 35ff). The TNG was to initiate political and economic reforms, the demobilization of combatants and the creation of an integrated army and police. Last but not least, its task was to prepare national elections that, initially set for June 2005, were to end the transitional period. As mentioned above, the transition was fragile from the start and—despite international support—remained threatened by important political obstacles and unresolved security issues: Low-level violence continued in virtually all parts of the DRC, the Kivu

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<sup>7</sup> See: Braeckman, 2003 pp. 179–210; Cuvelier and Raeymeakers, 2002; Dietrich, 2002 p. 35ff; Global Witness, 2002 and 2004a; Jackson, 2002; Montague, 2002; Oxfam, 2002; Riehl, 2003; and the reports of a UN Expert Panel: UNSC, 2001a, 2001b, 2002 and UNSC, 2003.

provinces were the locale of frequent military clashes between the former adversaries, and the first year of the transition period was even paralleled by the re-escalation of the local war in Ituri. Concerning political and economic reform, the TNG was often more part of the problem than of the solution as the former war elites tried to secure their power position and economic privileges they had accumulated during the war and, consequently, blocked reform initiatives that might have endangered their interests (see Chapter 1).

Unresolved security issues, unreconciled political aspirations between war elites and even the relapse to open violence (or the threat thereof) as witnessed in the DRC are not unusual in post-conflict settings. Peace processes after internal war are not irreversible and indeed face a high danger of re-escalation (Collier et al., 2003 p. 79ff; Walter, 2004 p. 372ff). Many scholars in peace and conflict research have studied the challenges to post-conflict rebuilding in settings of weak or failed states. Recent theoretical research and empirical findings have shown the strong interrelations between political, security-related and economic factors. Problems or setbacks in one of these sectors very likely affect progress in the other two sectors and pose a threat to sustainable peace and the economic recovery of the country in question (Matthies and Ferdowsi, 2003 p. 27ff and contributions to Debiel, 2002; Stedman et al., 2002).

These findings are well in line with arguments put forward by the research on war economies: Recent theoretical approaches point to the 'dual embeddedness' of war economies in their local political and social contexts as well as in transnational political and economic networks. Accordingly, war economies not only influence (or even alter) strategic considerations and actions of the war elites but also affect informal coping and survival strategies of 'ordinary' traders and the population. Thus, war economies are not just a specific mode of economic accumulation but need to be seen as catalysts for far-reaching transformation processes of economic, political and social reproduction in societies at war (Duffield, 2001 p. 187ff; Pugh and Cooper, 2004 p. 6-9; 24-35)<sup>8</sup>. Even after formal peace agreements and the cessation of large-scale violence, structures and actor-constellations of war economies remain at least partly intact and

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<sup>8</sup> For the particular case of the DRC see Vlassenroot and Raeymaekers, 2004.

bear lasting consequences for post-conflict societies. On the elite level, individuals seek to defend their power positions and to 'transfer' their assets into the peace economy that is by using their political leverage to create laws that legalize their businesses. Evidence from numerous cases such as Afghanistan (opium, heroin), Angola (diamonds, oil), Sierra Leone (diamonds), etc. has shown that structures of resource exploitation and political elite-networks of the war economies remained influential in the post-war order (cf. Le Billon, 2003 p. 420ff; Schlichte, 2002 p. 22ff)<sup>9</sup>. A high degree of continuity of war economies was also observed in post-conflict settings without valuable natural resources: For example, in Bosnia (Andreas, 2004) and Kosovo (Pugh, 2003 p. 52ff) war elites maintained control over the security and law enforcement apparatus of the state *and* the criminal networks of cross-border trade in cigarettes, drug trafficking and prostitution. These general findings also apply to the DRC: Elite groups from intervening countries, members of Joseph Kabila's wartime government, leading figures from rebel groups and local warlords have tried to extend their economic power and political influence to the transition process right from its start<sup>10</sup> (UNSC, 2002 p. 5ff.). In many areas the militarized exploitation of natural resources by armed groups continues until today. The accumulation of military might, political power and economic assets follows similar 'rules' as during the war (e.g. Global Witness, 2004a).

#### Aim and structure of the paper

The arguments taken from the literature on war economies and post-conflict situations and the anecdotal evidence presented above bear important implications for the evaluation of the transition process in the DRC: Systematic attention needs to be devoted to the 'remnants' as well as to changes and continuities of its war economy. Our analysis seeks to answer the following questions: How do persisting structures and networks of the (post-)

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<sup>9</sup> Engaging in 'criminal' activities of a war economy is a coping strategy for large parts of the population, and here, too, significant continuities remain after the formal end of the war. In most post-conflict settings basic infrastructure (like roads) is destroyed, security problems (like low-level violence) and political obstacles (like corruption) remain and influence all aspects of everyday-life. Thus, as they lack alternatives people continue to work and live within the (at times) highly exploitative informal and illegal structures of the former war economy.

<sup>10</sup> Africa Confidential, 25 October 2002

war economy still influence (and possibly impede) the process of political and economic transformation? Which actors have to fear a loss of power and influence? How do they try to maintain their power positions—by evasion, through 'capture' of the TNG, or by resorting to violence?

The paper is structured in two large chapters. Chapter 1 provides a preliminary assessment of the transitional period. After briefly summarizing core aspects of the war, its economy, and identifying important developments that pushed the warring factions into signing the peace agreement (Chapter 1.1), the subsequent section (Chapter 1.2) analyzes major 'structural' obstacles to sustainable peace and political and economic recovery. While acknowledging the difficult starting position of the TNG, the analysis critically assesses the overall poor record of the TNG regarding its ability and willingness to initiate viable reforms. In this context the analysis highlights the continuities and changes of economic and political power structures and (informal) power networks as well as elite-practices of accumulating power and wealth in the post-war order. In line with the findings of theoretical and empirical research on post-conflict situations that have shown the strong interrelations between political, security-related and economic factors, the following subchapter (Chapter 1.3) analyzes the current security situation in the DRC. A last section (Chapter 1.4) critically evaluates the implementation of the TNG's policies for security sector reform.

The general findings are explored in more depth in the second part of the paper. By including two case studies from Goma in North Kivu (Chapter 2.2) and Bukavu in South Kivu in (Chapter 2.3), we pay particular attention to the situation in the eastern parts of the DRC which had been under 'rebel-control' during the war. The case studies analyze changes and continuities of the political and economic structures in these regions during and after the war. They also seek to evaluate the role of important military, political and economic actors—both Congolese and foreign—in the transition process. Any analysis of the post-war DRC has to account for the important role of the 'international community' since it has provided considerable financial and political assistance and has directly intervened by deploying MONUC. Thus, the role, influence and performance of international actors in the transition process is explicitly addressed in each chapter.

## 1. The Congolese peace process

After four years of fighting and a series of failed mediation attempts, the All Inclusive Peace Agreement—also referred to as Pretoria II—was signed on 17 December 2002 by the wartime government of Joseph Kabila and all Congolese rebel groups in Pretoria. All parties as well as representatives from the unarmed opposition and civil society—at least rhetorically—underlined their commitment to peace and cooperation in a transitional government (cf. Rogier, 2004 p. 33ff). The agreement was welcomed by the UN, by diplomats and international observers as the first important step towards a peaceful recovery of the war-ridden Congo. More critical observers spoke instead of a fragile ‘warlord-peace’ with a high risk of re-escalation due to unreconciled interests and ambitions of the signatories<sup>11</sup>.

This pessimist view on Pretoria II was not far-fetched. Indeed, peace process and political transition were fragile from the start and threatened by political setbacks and serious security-problems: The security situation in most parts of the DRC has remained highly volatile ever since 2002. Especially in the Kivu provinces and the north-eastern Ituri district the DRC has repeatedly been ‘pulling back and forth from the brink’ to a renewed full-fledged war (cf. ICG, 2004a; ICG, 2004b). Until late 2004, the efforts of the ‘international community’ to safeguard the peace processes only showed limited success although MONUC’s mandate was broadened after Pretoria II, and its forces were repeatedly reinforced (Boshoff, 2004a p. 135ff; ICG, 2005a p. 23). MONUC’s adoption of a more forceful and pro-active approach in early 2005 helped to improve the security situation in the eastern provinces. Nevertheless, ‘peace’ in the DRC remains fragile until today, and is frequently threatened by local flare-ups of violence.

If the formation of the transitional national government (TNG) as foreseen in the peace agreement proceeded fairly well, political transition during the following years proceeded at a soberingly slow speed: conflicting interests and claims to political (and economic) power put forward by the former warring factions had just temporarily been ‘frozen’ by the complicated power-sharing formula of Pretoria II. They resurfaced quickly after the TNG resumed its work (Tull, 2005 p. 12). Notwithstanding modest improvements, the transition process has been characterized by ‘foot-dragging’ of the former war elites—the former government

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<sup>11</sup> die tageszeitung, 18 December 2002

as well as the rebel factions—on virtually all far-reaching political, economic and security-related reforms. In addition, while paying lip-service to the peace process, elites tried to bypass the formal institutions of the state by maintaining parallel networks in order to secure their interests—and to defend the (economic) assets they had acquired during the war.

*1.1 Power shifts and developments leading to the peace agreement*

Prologue: Africa's 'First World War' and its war economy

In August 1998, only 14 months after a successful rebellion of the former career rebel Laurent Désiré Kabila that toppled the longtime autocrat Mobutu Sese Seko, the former Zaire plunged into its second large-scale war within one decade. Kabila had toppled the corrupt Mobutu-regime and proclaimed himself President of the renamed Democratic Republic of Congo (DRC) in May 1997. But Kabila did not turn out to be a 'New African Leader' capable of bringing the country to peace and initiating political and economic reforms as hoped for by international (Western) actors and the Congolese population. Instead, his rule showed strong similarities to Mobutu's strategies of regime survival, characterized by systemic corruption, economic rent-seeking and the instrumentalization of socio-economic and political conflicts. His break-away from his main patron Rwanda, in particular, finally resulted in the (re-)escalation of the Congolese war<sup>12</sup>. Heavily backed by Rwanda, the rebel organization 'Rassemblement Congolais pour la Démocratie' (RCD) launched its insurgency in the east of the DRC in August 1998.

As noted in the introduction, the war has been termed 'Africa's First World War' (or 'Africa's Great War'; cf. Shearer, 1999). Although this term is somewhat dramatic, important factors justify its adoption: From its start, the Congolese war did not fit in the analytical category of a 'classic' internal anti-regime war. Instead,

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<sup>12</sup> The failure of Mobutu's regime and the virtual 'implosion' of Zaire has been well covered by research. See, for example, McNulty, 1999; Reno, 1999; Wrong, 2000. For details on the history of Laurent Kabila's grip to power as (Rwandan-backed) leader of the rebel organization 'Alliance des Forces Démocratiques pour la Libération du Congo' (AFDL), its military campaign, and on Kabila's policies as Congo's new leader see Dunn, 2002; McCalpin, 2002; Reed, 1998.

it was characterized by the complex interaction of regional, national and local conflict dimensions (cf. ICG, 2000 p. 2f.; Jacquemart, 2001 p. 822f.). On the regional level the war's dynamics were influenced by the direct military intervention of up to eight foreign armies and resulted in considerable spill-over effects into neighboring countries. On the national level, several Congolese rebel organizations fought against the governments of Laurent and Joseph Kabila. Whereas the 'official' goal of all rebel groups was to overthrow the Kabila regimes, the last years of the war in particular were characterized by fierce competition *among* the rebels over the control of strategic points (important cities, trade routes, etc.) and resource-rich territories. As a consequence, the 'national war' set off or fuelled political and socio-economic conflicts on the local level. Especially in the Kivu Provinces and in Ituri, the war led to the confrontation between numerous local militias. These groups engaged in usually short-lived and shifting alliances with the various 'national' rebel organizations, the government and foreign intervening forces (see Appendix 1).<sup>13</sup>

For many reasons—its destabilizing spill-over effects into the region, its high rate of (civilian) casualties, etc.—the war alerted the International Community and led to various international mediation efforts and the deployment of the UN-mission MONUC, a first result of which led to the Lusaka Ceasefire Agreement in July 1999. Obviously, it never materialized. Despite continued negotiations, the warring parties repeatedly undermined the implementation of the Lusaka Protocols and subsequent peace talks until 2002. All parties justified their actions by pointing at unresolved security issues (especially Rwanda) or by mutually accusing the other side of lacking commitment to the negotiations, or of violating the agreed modalities (cf. Rogier, 2004; Tull and Kayser, 2003).

Against the background of its complexity and intractability, the notion to explain the Congolese war by its resource-driven war economy has gained currency among various analysts. The Congo's rich deposits of natural resources—diamonds, gold, valuable ores and timber (see Appendix 2)—quickly became the prime target of the warring parties; especially after it became

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<sup>13</sup> For analyses of the war see the reports of the International Crisis Group (ICG) and MONUC. Analyses are provided by the edited volume by John F. Clark, 2002, the *Review of African Political Economy* (special issue No. 93/94, 2002) and *Politique Africaine*, 2001, No. 84. An informative overview of the armed groups is presented by Jacquemart, 2001.

apparent that a quick military victory of either party would be very unlikely. Consequently, resource-rich areas (and/or major trading routes) were fiercely contested, whereas in other areas, military confrontations between combatants were (comparatively) rare. Many observers, including experts from NGOs, scientists and journalists as well as a UN expert panel, focusing on the illegal exploitation of natural resources in both Congolese wars, have explained these phenomena by pointing at the 'economic agendas' of the political and military elite groups in all warring parties<sup>14</sup>. In its first report of April 2001 the UN experts concluded:

The war in the DRC has become mainly about access, control and trade of key mineral resources (...) Because of its lucrative nature, [the war] has created a win-win situation for all belligerents. Adversaries and enemies are at times partners in business, enemies get weapons from the same dealers and use the same intermediaries. Business has superseded security concerns. The only loser in this huge business venture is the Congolese people (UNSC, 2001a §§213; 218).

This cited paragraph also characterizes the general line of argument of the subsequent reports of the Expert Panel that were published in the following years. Given its broad international reception (see Box 1) the reasoning of the panel has, arguably, "become generally accepted as the standard explanation for the link between resource exploitation and conflict in the DRC." (Johnson and Kayser, 2005 p. 146) In fact, the panel's reports met with both appraisal and criticism: The UN panel contributed without doubt to an increased public and political awareness of the economic driving forces behind the Congolese war. It provided empirical evidence for the violence-based exploitation of the country's natural resources by all warring parties, the emergence of elite networks of war profiteers from the DRC as well as from abroad, in particular from the intervening countries. Its findings were, in principal, in line with those from many other observers (cf. Braeckman, 2003 p. 7f.; 179ff; Global Witness, 2004a

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<sup>14</sup> See, among others, Braeckmann, 2003; Cuvelier and Raeymaekers, 2002 (IPIS); Dietrich, 2002 (Partnership Africa Canada); Global Witness, 2002; 2004a; 2004b; 2005; Human Rights Watch (HRW), 2002; 2005; Jackson, 2001; Montague, 2002; Riehl, 2003.

p. 5; HRW, 2005 p. 12ff). Especially in its report that was published in October 2002 the panel highlighted the involvement of (not only) Western companies in the DRC's war economy (UNSC, 2002) (see Box 1).

It is important to note that the structures of the war economy have provided strong economic *and* political incentives for elite groups of all warring parties—high ranking officers of the intervening forces of neighboring countries, officers and politicians of the Congolese army and government, elite groups within the 'national' rebel organizations and the numerous local warlords and 'ethnic' militias: The exploitation of the country's rich resource base enabled elite groups to amass considerable personal gains, since wages in mines and other extraction sites are minimal and working conditions catastrophic. In the case of extracting alluvial diamonds in virtually all parts of the country—on 'rebel territory' and on territory controlled by the government alike—armed groups and political elites associated with them reap profits at different stages of the 'production chain': They sell mining licenses to artisanal miners, collect fees for 'protection', tax the revenues of miners and traders (Global Witness, 2004a p. 28ff).

In addition, under the conditions of war, political and military elites 'captured' the remaining institutions of the Congolese state. Rebels and government elites alike used their *de facto* control over the state's institutions within the territories they had under military control to raise taxes and collect fees. But the control of the state apparatus remained limited to extraction: Only administrative structures that generate revenues—taxes, concession fees and the like—were maintained whereas the provision of social services via the state institutions was abandoned, and even the most basic task of the state—to provide security for its citizens—was turned into a commercial commodity (UNSC, 2002 p. 7ff; see also Chapter 2 of this study). Both practices, the direct plundering of the country's resources by armed groups and the asset-stripping in the government-held parts of the DRC through corruption, embezzlement and the 'legal' plundering of Congolese parastatals by high ranking state officials and their partners in the military forces and their foreign allies—notably from Zimbabwe<sup>15</sup>—require a certain degree of political instability and violence: These conditions make it possible for the

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<sup>15</sup> For the involvement of Zimbabwean elite groups in the Congolese war economy see Aust, 2003 p. 152ff; Global Witness, 2002 p. 4ff; UNSC, 2002a pp. 7–13.

profiteers of the war economy to disguise their actions as 'military necessity' (to obtain the resources needed for the war effort). The weakness of state institutions, maintained and furthered by means of corruption and intimidation of officials, is a precondition to avoid legal prosecution on the part of the profiteers.

*Box 1: The Expert Panel on the Illegal Exploitation of Natural Resources and other Forms of Wealth in the Democratic Republic of the Congo*

Following a Presidential Statement of the UN Security Council (UNSC), UN Secretary-General Kofi Annan set up the panel in June 2000 as a fact-finding body authorized to collect information on all forms of illegal resource exploitation and profiteering from the war in the DRC. Its mandate was initially limited to six months but eventually extended to three full years during which the panel produced five reports. The work of the Expert Panel received broad international attention from different actors, and raised—to a certain degree even shaped—public and political awareness on the Congolese war economy (Johnson and Kayser, 2005 p. 146).

The UN Security Council had originally installed the panel in response to pressure from the French government that had hoped to exert political pressure on Rwanda and Uganda by uncovering the illegal and exploitative character of business in the rebel-held territories (Grignon, 2004 p. 46f.). While the first report (UNSC, 2001a) primarily denounced Rwanda's and Uganda's involvement but devoted only a comparatively short section on militarized exploitation in the government-held parts of the country (UNSC, 2001a §§148–172), the panel quickly developed a life of its own: The following four reports systematically analyzed

- the exploitative practices and the elite networks of war-profiteers from all parties and
- the involvement of foreign business actors (not only from OECD-countries) in the war economy.

The final (although not the last) report, published in October 2002 (UNSC, 2002) in particular received considerable attention as it publicized the names of foreign companies and individuals, criticized their involvement in the war economy and accused them of violating the guidelines for corporate conduct as put forward by the WTO and in the OECD-guidelines (cf. UNSC, 2002 p. 28; 32 for reference to these guidelines; and Annexes I, II and III for

the lists of persons and companies). The political impact of the Expert Panel was mixed: On the one hand, its findings gave a boost to many awareness-raising and naming and shaming campaigns that had been launched by several NGOs (cf. Cuvelier and Raeymaekers, 2002 p. 3 for a list of NGOs), and some companies named in the report as, for example, Umicore, Cabot and H.C. Starck, stopped their activities after being exposed to a critical public in the OECD-countries. In several Western governments the panels' reports led to parliamentary hearings and, as in Great Britain, to further investigations on the subject (cf. APPG, 2002)<sup>1</sup>. Apart from raising political and public awareness, the panel reports had a positive effect on the negotiations of the Intercongolese Dialogue (ICD), according to Grignon (2004 p. 48).

On the other hand, the policy recommendations of the panel to ensure transparent corporate conduct and its proposals to place sanctions on governments and (not only) Western companies involved in the DRC's war economy (cf. UNSC, 2002 p. 31ff) were largely ignored: In similar vein, the panel's requests for taking active measures against corporations accused of violating OECD-guidelines did not bring about viable results. In most cases, simply no action was taken by 'home governments' and national OECD contact offices. In the case of Belgium, a Senate Committee—installed to verify the panel's charges—produced an all-out acquittal for most Belgian companies and individuals. Some companies threatened to file law suits against the UN (Grignon, 2004 p. 48). Thus, the panel did not succeed in reversing the criminalization of economics in the DRC since the international community did not provide the necessary political backing. The half-hearted response of the UNSC and the UN member states even resulted in damaging effects on the ground, thus practically contradicting the Panel's intentions: While many Western corporations withdrew from the DRC other companies took over—in many cases 'rogue companies' (mostly not from the West) and even criminal cartels (Vlassenroot/Raeymaekers, 2004a p. 28). Recent effects: In December 2005 the UN International Court of Justice (ICJ) announced its final ruling on a law suit the Congolese government had filed against Uganda in 1999, accusing Uganda of "armed aggression in violation of international law", of "committing war crimes and plundering the Congo's natural resources". The ICJ followed the argumentation and empirical evidence of the UN Expert Panel reports. In its ruling the ICJ judged the DRC's demand for reparations (amounting up to US \$10 billion) as appropriate but at the same time urged the parties to

negotiate a compromise bilaterally (New Vision, 22 December 2005)<sup>1</sup>.

Even though the personal gains by certain individuals from all parties, Congolese and foreign political and military elites, were significant, it would be short-sighted to reduce the war's dynamics to purely economic motives of greed (cf. Collier, 2000). Even more important is the fact that war economies are, above all, *political* economies: Maintaining the structures of current war economies (not only in the Congolese case) also serves significant political functions of accessing and securing positions of political power (Ballentine/Sherman, 2003 p. 7ff; Keen, 1998 p. 25ff). For example, granting mining concessions to Congolese regional 'strongmen' in the government-held territories by the government of Laurent Désiré Kabila ensured their loyalty to a national leader whose political authority had been contested from the first day of his rule (cf. Braeckman, 2003). Likewise, the intervention of the foreign armies—the ZDF, the Angolan army, Fuerzas Armadas Angolanas (FAA) and, to a lesser degree, the Namibian army siding the government, the Rwandan Patriotic Army (RPA) and the Ugandan People's Defense Force (UPDF) backing the Congolese rebels—cannot be traced back exclusively to purely economic motives. Instead, their decision to intervene was also motivated by political and strategic interests. The 'military commercialism' of the intervening forces (cf. Aust, 2003; Dietrich, 2002 p. 35ff) also served the important function to stabilize *internal* clientelist relations and to reduce tensions within elite groups in their own countries. On the whole, the economic benefits of the violent exploitation of valuable resources, and the riches generated by the continuous plundering of the state's assets were also politically 're-invested' in forging and greasing networks of military alliances and political patronage (for overviews: UNSC, 2002 p. 4ff; Global Witness, 2004a p. 10f.). Empirical findings from the DRC, again, provide proof for the general argument: To maintain informal political and economic alliances, and secure the capabilities to exert violence according to one's political needs is of crucial importance for

elites of most warring parties since their political credibility and popular support is very limited (cf. Chabal/Daloz, 1999 p. 77ff; Herbst, 2000p. 282ff; Reno, 2005).

#### Power shifts and the spoils of (formal) peace

When the Congolese parties (on the national level) and the regional powers resumed negotiations in late 2001 and early 2002, the military situation in the DRC still had to be characterized as a stalemate. When, on the national level, the Intercongolese Dialogue (ICD)<sup>16</sup> was revitalized, a military solution to the conflict involving the military defeat of the rebel organizations, or vice versa: To topple the Kabila government was still unrealistic. Politically, though, important changes had been taking place since the assassination of Laurent Kabila in January 2001: As cynical as it may sound, the killing of Laurent Kabila who had strictly rejected negotiations with “the rebellion” on an equal footing, had opened a window of opportunity for new talks between the adversaries. His son Joseph Kabila adopted a more conciliatory strategy after taking office: At least rhetorically, he displayed an interest in ending the war and re-entering negotiations with his Congolese and regional opponents. At first, Joseph Kabila’s internal power position was highly unstable since power-struggles within the elite circles continued for months, and the military situation of the government was precarious after failed FAC-offensives and the counter-offensive of Rwanda and the RCD in late 2000 (see Appendix 1). Nevertheless, Kabila jr. was quickly accepted as legitimate head of state by most countries, including, most importantly, Western donor countries, and by international organizations and IFIs (cf. Dunn, 2002 p. 68; Turner, 2002 p. 87ff and ICG, 2001a). From early 2002 the Congolese balance of power slowly shifted towards President Joseph Kabila. To a large degree this was the result of his policy of ‘seducing’ the West (ICG, 2001a p. 12): Right after his inauguration he had started to travel several western capitals to convince the heads of the most important donor countries of his willingness to end the war (*Sueddeutsche Zeitung*, 7 April 2001). In contrast to his father, Kabila jr. aptly adopted the adequate diplomatic rhetoric by promising

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<sup>16</sup> The ICD consisted of representatives of all Congolese belligerents as well as representatives from the unarmed opposition. The forum had been installed after the Lusaka Agreement (1999) but negotiations had come to a standstill until late 2001 (cf. Rogier, 2004).

democratic reforms and structural reforms of market liberalization and the privatization of remaining parastatals. He also promised renegotiations of contracts with foreign investors—including negotiations with firms in the mining sector like American Mineral Fields (AMF), Ashanti Goldfields Company Ltd., Banro and De Beers whose contracts had been annulled by Laurent Kabila's government in 1998 (Global Witness, 2004a p. 18; 21). Both the liberalization of the diamond sector and currency controls in early 2001 were warmly greeted by donor governments and IFIs. The new Kabila government also reopened consultations with the IMF and the World Bank Group that had *de facto* been frozen since the early 1990s (Braeckman, 2003 p. 207ff; ICG, 2001a p. 12ff; Englebert, 2003 p. 24).

This strategy of the Kabila government—subscribing to a rhetoric of (neoliberal) political reform, economic liberalization and showing the willingness to end the war—was a crucial factor that secured growing international diplomatic and political support to Kabila by Western donor states and international institutions. It is important to stress that diplomatic recognition by important players of the international system is by no means only 'cheap talk'. To the contrary, experts (among others: Bayart, 2000; Reno, 2001) have highlighted the persistent importance of sovereignty (not only) for weak-state rulers, even in the context of (neoliberal) globalization and the overall changing concepts and empirical forms and functions of the nation state. According to Reno (2001 p. 203ff), 'sovereignty still matters' as it provides incumbent rulers with political and economic resources—for example access to bi- and multilateral credits and assistance—that are not accessible by non-state actors like rebel groups or warlords. In contrast to the past, sovereignty and diplomatic recognition are no longer granted unconditionally to a (weak state) ruler. Conversely, 'playing by the rules' of an international community of donor states, international organizations and IFIs and increasingly NGOs and (global) civil society by accepting international rules and norms regarding economics, politics, human rights, etc. has become an important precondition for mobilizing these external political and economic resources. Kabila's policies are a textbook example of this ruling strategy that Bayart (2000 p. 218ff) termed 'extraversion'. Whereas Laurent Kabila had quickly lost his initial symbolic capital as a New African Leader (cf. Dunn, 2002), Joseph Kabila proved to be more successful in convincing the international community of being the

most promising figure within the Congolese power game. This allowed him to tap significant resources at a time when the turnout of the war economy was diminishing.

The political signal of international recognition was backed with considerable material and financial resources from important players and thus decisively affected the political economy of the Congolese power struggle: In response to Kabila's promises of reform, the EU resumed its economic cooperation with the DRC as early as February 2002 and granted a first Euro 250 million of financial aid to projects in various sectors from poverty alleviation to institution-building (Kobia, 2002 p. 434ff). After the peace talks in Sun City, both IMF and World Bank released aid packages and low-interest loans worth more than US \$1.2 billion in total for a three-year period. The World Bank also granted US \$45 million budgetary aid to the government. The Club of Paris—the informal round of the largest debtors—agreed on a debt remission of US \$4.6 billion and promised a rescheduling of another US \$4.4 billion debts under the precondition of the DRC's commitment to structural adjustment programs (Braeckman, 2003 p. 210; Englebort, 2003 p. 25; IMF, 2002; Paris Club, 2002). Taken together, these initiatives considerably strengthened Kabila's internal position. In the context of a war-ridden failed state, even seemingly small donations like the World Bank's US \$45 million grant are substantial. For comparison the DRC's official—thus taxable—diamond exports during the war totaled only US \$240 million in 2000 (Global Witness, 2004a p. 31) and US \$642 million in 2002, generating only US \$27 million in export taxes (Dietrich, 2004 p. 2f.)<sup>17</sup>.

At the same time, the governments' strongest military counterpart, the RCD (or RCD-Goma), increasingly got under direct and indirect political pressure. Already during the long negotiation rounds of the Intercongolese Dialogue in Sun City in Spring 2002 the growing isolation of the RCD in the 'opposition camp', vis à vis the other rebel groups and the majority of the participants of the unarmed opposition and civil society became apparent (for a detailed analysis, see ICG, 2002 p. 7ff). In addition, indirect political pressure was placed on the RCD via Western donors' hardened stance on its patron Rwanda: After Laurent

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<sup>17</sup> Diamonds are the single most important export commodity of the DRC. Until today, diamond exports amount to approximately 75 percent of all (official) exports in natural resources. In addition to export taxes the state also collects various fees for concessions and other taxes.

Kabila's assassination international criticism from Western governments on Rwanda's role in the Congolese War—the ongoing military presence of the RPA, human rights violations by its soldiers, its support for the RCD (and various militias in Ituri) and, last but not least, Rwanda's involvement in the plundering of Congo's natural resources after the publication of the UN Expert Panel's reports (see Box 1)—became more pronounced. After Sun City the United States even threatened to block an IMF loan to Rwanda unless it pulled out of the DRC (Rogier, 2003 p. 34). Even South Africa whose government had maintained good relations to Rwanda pressed for a resumption of sincere negotiations with Kabila. In an unprecedented move (cf. Rogier, 2004 p. 33f.), Paul Kagame's government reacted to the international criticism and signed a first agreement in July 2002 in Pretoria that provided for a gradual pull-out of Rwandan troops from the Eastern DRC. In exchange, the government in Kinshasa promised to take 'active measures' to dismantle the FDLR in the Kivu provinces, a rebel force consisting of Rwandan Hutu whose leadership had been actively involved in the Rwandan Genocide of 1994 (cf. des Forges, 2002; see Chapter 2.1). The Congolese government thus acknowledged Rwanda's legitimate security interests (*Africa Confidential*, 27 September 2002 p. 3f.).

The international pressure on Rwanda and its eventually quick ('official') pull-out of approximately 23.400 Rwandan soldiers from the DRC within two months after the agreement considerably weakened the RCD although the RPA handed over a significant amount of war material to its ally. (According to some observers, even a significant number of RPA soldiers covertly remained in the Congo, cf. ICG, 2003b; Rogier, 2003 p. 36). In addition, the resource-based war economy of the RCD and its Rwandan ally increasingly suffered from low market prices for its commodities. Especially prices for coltan, the rebel's (and Rwanda's) prime source of income, had plunged in 2001 to less than one-third of its value at the height of the 'coltan-boom' in late 2000 (see Chapter 2). Of equally significant importance were growing tensions between the rebel groups' leadership and Rwanda's military and political elites. The latter had become increasingly frustrated with the RCD's lack of military efficiency, its political incompetence. Internal power struggles and political rent seeking. From early 2002, substantial shares of Rwandan support were withdrawn from the rebel organization and provided to powerful and—from a Rwandan perspective—more 'trustworthy' strong-

men like, in particular, Eugène Serufuli in North Kivu (Tull, 2003 p. 443; see Chapter 2.2). With its political support and military assistance diminishing, the RCD had no choice other than to rejoin the negotiations that would eventually lead to Pretoria II. Despite these setbacks, the RCD still remained a major player in the Congolese poker for power.

In similar vain Uganda and the Congolese government arrived at an agreement that foresaw the gradual withdrawal of the Ugandan army from its strongholds in the Congo. Uganda, too, had increasingly been criticized internationally as its official explanation for its intervention into the DRC—the threat from several Ugandan insurgencies on Congolese territories—was questioned by observers (Clark, 2002 p. 158) and the UN (cf. Rogier, 2003 p. 34), especially since the UN Panel of Experts on the Illegal Exploitation of Natural Resources had highlighted the involvement of high-ranking Ugandan officers in the systematic plundering of Congo's natural resources (UNSC, 2001a §§25ff; UNSC, 2002 p. 19ff). Under the terms of the Luanda Agreement of 6 September between Uganda and the DRC government, Uganda agreed to a gradual withdrawal of the UPDF. Only UPDF contingents in the Ituri District, where fighting between militias and the two smaller national rebel groups of the RCD-ML and the RCD-N<sup>18</sup> erupted in Summer 2002, were allowed to stay until local authority structures would be re-established.

Thus, the peace agreement with its complicated power-sharing modalities was the maximum each party could realistically achieve: For Kabila, it secured his claim to the presidency for the duration of a transition period. For the armed groups and—to a lesser degree—for the representatives of the unarmed political opposition and civil society it guaranteed the participation in the state's administration and thus, access to ruling networks and business opportunities (Mehler/Tull, 2005 p. 379; Rogier, 2004 p. 36f.).

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<sup>18</sup> RCD-ML = 'Rassemblement Congolais pour la Démocratie-Mouvement de Libération'; RCD-N = 'Rassemblement Congolais pour la Démocratie-National'.

*1.2 Political transition: Structural challenges and spoiler problems*

Post-conflict settings face the danger of a return to war, especially after internationally brokered peace agreements when former war elite groups of the signatories act as 'spoilers' and reject the compromises of negotiated power-sharing provisions (cf. Stedman, 1997; Mehler/Tull, 2005 p. 386f.). The Congolese example is a case in point. While the power-sharing modalities of Pretoria II and the eventual (re-)distribution of political power in the TNG were indeed results of protracted negotiations (under international, especially South African supervision), a central feature of both Pretoria II and the TNG was their inclusionary character: The power-sharing agreement foresaw the inclusion of all relevant military and political forces into a carefully negotiated new power balance that was aimed at appeasing the former adversaries and at minimizing this danger of 'spoiler problems'. Its '4+1 formula' secured Joseph Kabila's position as head of state but granted two of the four vice-presidencies to representatives of the strongest rebel groups. The former Kabila-government was granted the presidency (Joseph Kabila) and one vice-presidency (Abdoulaye Yerodia). The major rebel groups—MLC and RCD-Goma—were given two vice-presidencies, which were taken on by their leaders, Jean-Pierre Bemba and Azarias Ruberwa. Zahidi N'Goma, formal representative of the political opposition, holds the fourth vice-presidency. The distribution of posts in the TNG, the parliament—consisting of 500 seats—and the senate with 120 senators followed a similar logic: The former government and the former rebel organizations MLC and RCD received the largest number of posts and seats. Smaller shares went to delegates from the Mai Mai, RCD-ML, RCD-N, to representatives of the political opposition and civil society (for an overview cf. [www.kinshasa.de/tng](http://www.kinshasa.de/tng), ICG, 2005c Appendix B; Rogier, 2004 pp. 35–38)<sup>19</sup>. In comparison to many other failed power-sharing agreements Pretoria II, the subsequent inauguration of the

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<sup>19</sup> It is important to note that the largest and oldest Congolese party, Etienne Tshisekedi's 'Union Démocratique du Progrès Social' (UDPS) is neither represented in the TNG nor in parliament. The UDPS left the negotiations of the ICD in early 2003 after controversies within the political opposition. The UDPS has also rallied for a boycott of the referendum on the constitution, and also announced to boycott the upcoming national elections. The UDPS accuses the TNG of manipulating the legal and political preparations for the elections.

transitional national government (TNG) in July 2003 and the *formal* adherence of all parties of the TNG to the peace process until today certainly mark a modest success. But critical observers are still skeptical when judging the ability of the TNG to deal with the enormous challenges of the transition.

In fact, more than three years after Pretoria II, economic and social recovery from the damages of the war is not yet in sight. Even though the DRC receives considerable international aid, recent reports warn of humanitarian disasters in several parts of the country (CAP, 2005 pp. 2–7; UNSC, 2005a p. 10f.). Apart from this, the political developments since Pretoria II, and in particular the achievements of the TNG, are modest at best. According to the peace agreement, a new constitution should be drafted, and legislative reforms and technical preparations had to be put on track in order to hold parliamentary and presidential elections. These were set for June 2005 (Malan/Porto, 2004; Rogier, 2004 p. 35ff). So far, after several delays each, only the new constitution has been adopted by the parliament and approved by a referendum held on 18 December 2005 (see below). Parliamentary and presidential elections had to be postponed, and will probably be held in late July 2006. Likewise, important political and economic reforms are not enforced or have not even been tackled yet. As mentioned above, the inclusionary character of the TNG should guarantee the highest degree of its legitimacy, and more importantly, should ensure the TNG's acceptance by the former warring parties. This has not led to greater efficiency: Quite to the contrary, among the Congolese people a reinterpretation of the power-sharing formula of Pretoria II has become proverbial: '4+1 = 0'.<sup>20</sup>

#### Humanitarian Situation and International Assistance

Economic transition and economic recovery in the DRC faces enormous challenges as 'Africa's First World War' resulted in the almost complete destruction of the Congo's weak political system, the state's institutions and administrative capacities, its infrastructure and economy. While being a lucrative 'business venture' for a small war elite, Congo's war economy bore disastrous results for the majority of the population and the performance of the formal economy: For example, (formal)

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<sup>20</sup> Interviews with civil society representatives in Bukavu and Goma, June 2005.

exports from government-held territories went down to a total value of US \$10 million in 2002—compared with US \$132 million in 1991, the year often referred to as the year of the final collapse of Zaire's (formal) economy (cf. UNSC, 2002 p. 5ff; Global Witness, 2004a p. 43). Due to fighting and neglect even the most basic infrastructure like deteriorated roads lead to a severe isolation of rural areas (cf. Vlassenroot/Rayemaekers, 2004c p. 133 and Chapter 5.1). According to a World Bank estimate, it will take about 56 years before the economic output of the DRC will again reach the level of 1960 (Global Witness, 2004b p. 24).

Last but not least, the war resulted in a humanitarian disaster. 3.8 million people are estimated to have died since 1998. Most of the victims have not been killed in military confrontations but died from war-induced malnutrition and infectious diseases in overcrowded refugee camps, in the 'swollen' cities or in remote areas of the country where civilians sought refuge from fighting and arbitrary violence by armed groups. Due to the remaining instability and insecurity as well as the dire shape of infrastructure, a large number of vulnerable Congolese are still not accessible by humanitarian agencies and lack food and basic medical treatment. A recent study of the International Rescue Committee (ICR, 2005) observed some positive trends since 2002, as less people fall victim to political violence. But the overall mortality rate has not dropped significantly, with an estimated 31,000 people dying every month from direct (violence) or indirect (diseases, malnutrition) consequences of the war. The approximately 3.2 million internally displaced people (IDPs) are particularly vulnerable (ICR, 2005 p. 3f.; 10ff) and their resettlement progresses only slowly (UNSC, 2005a p. 11)<sup>21</sup>.

The DRC was partly spared from the fate of other post-conflict situations where international attention and involvement had been high during the war, but was redrawn after a peace agreement was signed. In 2003, international assistance provided by IFIs (IMF, World Bank), aid agencies, multilateral donors like the EU and the most important bilateral donors to the DRC (among others: Belgium, United States, the United Kingdom, and France)

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<sup>21</sup> Congolese IDPs and estimated 388,000–440,000 cross-border refugees also pose significant strains on their host communities. Large refugee and IDP-communities, mostly concentrated in the vicinities of bigger cities, destabilize fragile local social equilibria as they compete with 'indigeneous' populations over scarce resources.

amounted to approximately US \$656 million. This figure does not include transfers via the UN (authors' calculation; for a partial overview, see Global Witness, 2004b p. 24ff). In addition to MONUC's increased efforts, an international committee, the 'Comité International d'Accompagnement de la Transition' (CIAT)<sup>22</sup> was installed to monitor the transition process. But recent analyses point to a beginning 'donor fatigue': Transfers from important donors like ECHO (European Community Humanitarian Organization) were significantly lower in 2004 (Global Witness, 2004b p. 25), and especially UN-programs increasingly suffer from lacking donor commitment (CAP, 2005 p. 1; 17ff).

- **Aid to the government and reform projects:** Since 2002, multilateral and bilateral donors have provided substantial amounts of money in grants and loans to bolster reforms in politics and the juridical system, to support institution-building and economic reforms. For the period between 2003 and 2006 donors foresee to transfer an amount of US \$2.5 billion to the DRC (Global Witness, 2004a p. 16; Tull, 2005 p. 11). 'Donor fatigue' in this field is partly due to the TNG's incapability (unwillingness) to live up to its promises of economic and political reform. Even while declining, transfers are still substantial. Indeed, more than 53 percent of the Congolese state budget are provided by international donors, and despite the TNG's foot-dragging on reforms the IMF freed another low-interest loan—with a 0,5 percent interest rate—of US \$40 million in early 2005 (*Africa Confidential*, 4 March 2005).
- **Aid for the elections:** In Summer 2004 international donors, in particular the EU, approved significant contributions to a US \$285 million budget to support the electoral process. Until May 2005 only US \$88 million were made available. At the same time, the TNG also failed to deliver. Instead of the committed US \$20 million, Kinshasa provided only US \$2 million (UNSC, 2005b p. 3). In 2005, though, the EU in particular has again stepped up its support for the elections.
- **Humanitarian Aid:** Humanitarian agencies like UN's Office for the Coordination of Humanitarian Assistance (OCHA), ECHO, and numerous NGOs provide significant amounts of financial (and technical) support to alleviate the humanitarian situation

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<sup>22</sup> The CIAT cooperates and coordinates its actions with MONUC. CIAT is composed of the permanent members of the UN Security Council, the African Union (AU), the European Union and Angola, Belgium, Canada, Gabon, Mozambique, Nigeria, South Africa, Zambia.

under a special action plan (Communal Humanitarian Action Plan). Whereas in 2004 about US \$188 million in humanitarian aid were transferred to the DRC (ICG, 2005a p. 1) only US \$92 million of the 193 million approved for the year 2005 had been freed until September (UNSC, 2005b p. 10).

This overview shows that the DRC has become a major recipient of bi- and multilateral aid during the last years. In addition, the costs of MONUC, currently more than one billion US-Dollar per year, need to be considered. The transfers to the DRC and the fact that donors coordinate their policies and seek to control the transition through bodies like the CIAT reflect a general trend in international post-conflict assistance: Assistance is increasingly targeted at establishing forms of government and administrative structures that follow a distinct model of neoliberal statehood. Failed (also: former 'rogue') regimes and weak (and/or authoritarian) state structures are to be replaced by distinct forms of government (representative liberal democracy) and with neoliberal, capitalist economic structures. Placed against a changed perception of security widely shared in the OECD-world that identifies state failure and 'internal' conflict even in peripheral regions as a threat to international security<sup>23</sup>, the International Community is prepared to invest considerable sums and efforts in post-conflict assistance and state-building policies. These evolving "forms of international governance may be described as neotrusteeship, or more provocatively, postmodern imperialism [since] these efforts [by donors and IFIs] involve a remarkable degree of control over domestic political authority and basic economic functions" of the recipient state (Fearon and Laitin, 2004 p. 7; similarly, but more critical: Duffield, 2001 p. 7ff; Pugh and Cooper, 2004 p. 196ff).

Both the amount of assistance and the degree of (international) control largely depend on the target countries' strategic importance for the donors (for example: Kosovo for the EU) or on coincidences of high political interests of key actors of the international system (as for example in East Timor). The DRC, though, is not of high priority. Although the DRC certainly benefits

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<sup>23</sup> While this perception—termed as the "merging of development and security" by Duffield (2001 p. 22ff)—became apparent in the 1990s, it gained even more salience within the (Western) International Community after the terrorist attacks of 9/11, since state failure is increasingly set into a strong relation with the threat of transnational terrorism (Schneckener, 2005 p. 26ff).

from this policy shift towards 'neotrusteeship', international transfers provided to the TNG are, firstly, dwarfed by those that have been spent on assistance and state-building in other cases like Afghanistan, the Balkans or even in Sierra Leone. The poor results of internationally-sponsored state-(re-)building initiatives and political reform in the DRC are partly attributable to a lack of (international) control and major conceptual flaws of donor policies and lacking sensitivity to political developments 'on the ground' (cf. Tull, 2005 p. 7f.; 11f., 17f.). But even if international aid is not sufficient to meet the needs of building a sustainable post-conflict order, lacking donor commitment only partly explains the ongoing humanitarian disaster and the slow progress of recovery in the DRC. Internal factors like stalled political reform and remaining threats to security are far greater obstacles to sustainable peace, political reform and economic recovery.

#### 'Spoiler problems' and political stalemate in the TNG

The ongoing humanitarian, social and economic crisis in the DRC is indeed largely attributable to policy failures of the TNG: Even if the government suffers from a lack of resources, different observers have criticized their distribution: Of the estimated US \$675 million of the Congolese state budget, only a negligible fraction is spent on the provision of social services (ICG, 2005b p. 4), and after decades of corruption and two wars, public education and public health services provided by the state are virtually nonexistent (Tull, 2005 p. 24). These issues are only part of the underlying difficulties of the DRC's economic and social recovery. Most importantly, they reflect the extremely slow speed and fragility of political transition: While the TNG achieved some moderate successes during the last years, it has also displayed its inability to initiate important economic, juridical, political and security-related reforms. According to critical observers, the TNG is more part of the problem than of the solution (among others Global Witness, 2005 p. 32; ICG, 2005a p.15ff). The former adversaries who now share power in the TNG, the chambers of parliament, at the top-level of state administration and the security apparatus frequently block political reform initiatives that might endanger their own power position or weaken their allies. In contrast to modest successes regarding legislative and practical preparations for the elections, this becomes clearly apparent in the fields of economics and administrative reform where political stakes are high. This also applies with regard to security sector reform that will be addressed separately (Chapter 1.4).

The working schedule of the TNG, adopted by the delegates to the ICD's final session in Spring 2003, foresaw the drafting of a new constitution, the implementation of legislative and electoral reforms, and the preparation for a referendum on the constitution, for presidential and national elections. These should end the transition process after 24 months in June 2005. The schedule allowed two extensions of the transition of six months each. Although the dates as foreseen in the TNG's schedule were obviously not met, observers concede progresses regarding electoral reforms. After some delay—and growing criticism of MONUC and donors—the installation of an electoral commission consisting of delegates from the different factions ('Commission Electorale Indépendante'; CEI) was approved by the parliament in June 2004. In 2005, the legislative process gained momentum: The parliament finally adopted the draft of the constitution in May, and the referendum on the constitution was held in December (also originally set for June) despite an overall volatile security situation. It marked another important success of the TNG since voter turn-out reached a significant level of 63 percent, and the constitution was accepted by 83 percent of the voters (*IRIN*, 21 December 2005; *Reuters*, 26 December 2005). In 2005, the CEI also accelerated administrative and technical preparations for the elections such as voter registration despite lacking funds, huge logistical problems and remaining instability in many parts of the country. International (financial) assistance and technical support of MONUC to the CEI has been of major importance (*IRIN*, 2 November 2005; UNSC, 2005b p. 2ff). Although the date for national elections was postponed again to late July 2006 it remains highly doubtful whether the TNG will meet important legal provisions and set on track remaining laws for the election.

Major obstacles on the way to sustainable peace and a politically (and economically) stable post-war order remain: Building a base for economic recovery is the most obvious challenge for the TNG but the task is enormous.<sup>24</sup> Admittedly, the TNG has to face some structural difficulties that are typical for

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<sup>24</sup> Interviews with Congolese civil society activists in June 2005. Our interview partners stressed that for the ordinary people economic recovery was of primary importance. Thus, economic reforms were seen as an equally pressing task of the TNG as ensuring security. Accordingly, the bad economic record of the TNG is a major source of of public frustration. Remaining security problems, in contrast, were partly blamed on MONUC's (perceived) idleness.

post-conflict-societies (especially in weak states). But these structural problems—a deteriorated infrastructure, remaining insecurity, weakness of legal system and state administration—are substantially aggravated by internal political factors: Most importantly, politics and economics in the post-war DRC are substantially influenced by political and economic rent-seeking and systemic corruption by elite-networks that display a high degree of continuity to the war:

- **Infrastructure:** The dire shape of infrastructure—the plundered industrial infrastructure of the Congolese parastatals as well as the worn-down transportation network—poses a major obstacle to a revival of the (formal) economy (cf. Global Witness, 2004a p. 40). Most parastatals had already ceased industrial production between the late 1980s and early 1990s as their infrastructure (stemming mostly from colonial times) was worn down by neglect, embezzlement, asset stripping and theft. As early as in the early 1990s experts estimated that a resumption of industrial mining of the parastatal Gécamines would have required enormous investments of up to US\$2 billion in its infrastructure (cf. Wrong, 2000 pp. 106–114). Gécamines is by no means a single case, and, during the wars, this situation deteriorated even more as many companies were systematically plundered by the various armed groups: Remaining assets like, for example, stocks of minerals or ores were stolen, infrastructure was destroyed or sometimes deconstructed and sold (UNSC, 2001a §§ 32–45).
- **Insecurity:** While many (transnational) companies of the mining sector are in principle willing to make these huge investments in advance since the rich mineral deposits promise large profits in the long-run, many potential investors were (and still are) literally scared off by numerous risk factors. These render the costs and benefits of a long-term engagement almost unpredictable (cf. Global Witness, 2004b p. 8): Persisting local insecurity, the presence and *de facto* power of local warlords and their militias particularly in mining regions, and the incapability of the state to disarm warlords and to ensure stability is a major risk factor (see Chapter 1.3). Local insecurity puts (foreign) investors in difficult and dangerous positions: On the one hand striking deals with local warlords—paying protection money or ‘taxes’—may prove politically disastrous, since the company needs to turn a blind eye on massive human rights abuses and atrocities committed by these warlords: The gold mining company Anglo Gold Ashanti

Ltd. in Ituri, for example, allegedly paid 'taxes' and fees for 'security services' to a local militia (HRW, 2005 p. 54ff). Refusing to deal with local armed groups, on the other hand increases the risk of attacks on production sites by these forces<sup>25</sup>.

- **'Legal pluralism'**: The country is still plagued by 'legal pluralism' (Cuvelier, 2004) i.e. the parallel existence of different, often competing or contradictory, legal systems in different parts of the country. Notably, legislation differs between the former government territories and the regions that had been under rebel control, as both sides decreed their own laws during the war. Until now, this has created and still does enormous legal uncertainties (and controversies), especially with regard to (foreign) investments since 'central' (government) and 'local' (former rebel) legislation that regulate claims to mining concessions, business and trading licenses, etc. are often contradictory (Cuvelier, 2004 p. 199ff; cf. Global Witness, 2004a p. 19ff for examples in the mining sector). To resolve (future) problems of legislation and to provide solid legal parameters for licensing, exploration, production, processing, sale and export of mineral products, the World Bank has sponsored and assisted in the development of a 'mining code' (see below). This code was adopted in July 2002 (Law 007/2002) by the Kabila government and later by the TNG. A survey conducted by the NGO Global Witness (in cooperation with local activists) in Katanga in 2004, though, revealed large discrepancies between the provisions of the mining code and mining practice: In fact, Global Witness found that none of the companies—Congolese and international—active in mining in Katanga abided by its laws. Conversely, the TNG proved to be incapable and unwilling to supervise and enforce its

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<sup>25</sup> In northern Katanga, the Australian silver mining company Anvil Mining NL was attacked by local Mai Mai-forces when it refused to pay protection money. In South Kivu, the gold mining company Banro refused to pay local militias. Banro engaged in long negotiations with (traditional) local authorities for years before they could start exploration activities on two of their four concessions. Until Summer 2005 the other two concessions were still inaccessible for (in-)security reasons. Only the vastness of the deposits on Banro's concessions—presumably the largest gold fields in Africa—has induced the company to continue its engagement that has, until now, not yielded any profits. Interview with Banro official in Bukavu, June 2005.

implementation (Global Witness, 2004b pp. 15–17; Johnson/Tegera, 2005 p. 83ff).<sup>26</sup>

- **Weakness of state institutions and administrative capacities:** The failure of the TNG to enforce the mining code points at two primarily political and interrelated problems: As mentioned earlier, after decades of mismanagement and asset-stripping by the cronies of Mobutu, both Kabila governments and the rebel authorities, institutional capacities of the Congolese state are extremely weak and cannot provide the infrastructure, institutional and legal framework for economic recovery, let alone enforce its own laws. The most apparent reason is the lack of resources of the state that can neither adequately pay its employees nor invest in capacity-building to strengthen its institutions. Conversely, low state revenues are partly attributable to the institutional weakness of tax revenue institutions and customs offices like, for example, the Congolese Revenue Service and the Office de Douanes et Accises (OFIDA): In contrast to many other state services that had been closed (or ceased to function) during the war, the different customs agents all continued to function—in the government territories as well as in the different rebel administrations. Despite this institutional continuity, customs and taxing institutions lost their status and effectiveness during the war since they were bypassed by different (informal) commercial and political elite networks (Vlassenroot/Raeymaekers, 2004d p. 220f.). Since the formal end of the war, state revenues have increased, but a significant share of exports still leaves the country via illegal channels—and thus generates no revenues for the state: For example, formal (and thus taxable) diamond exports rose considerably from US\$392 million in 2002 to US\$642 million in 2003. But formal exports are still dwarfed by the estimated total output of the Congolese diamond sector (industrial and artisanal) that might generate values up to US\$1.1 billion

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<sup>26</sup> In the east of the DRC, too, application of the mining code is non-existent. For gold mining in Ituri see HRW, 2005. For the Kivu Provinces see Chapter 2. It is important to note, though, that the mining code applies only to new contracts and leaves older contracts (signed prior or during the war) valid. The mining code can be accessed via the website of the Technical Office for Coordination and Planification of Mining in the DRC (placed under the authority of the Ministry of Mines): [www.miningcongo.cd/code\\_minier.htm](http://www.miningcongo.cd/code_minier.htm) (October 2005).

(Dietrich, 2004 p. 2f.; cf. Global Witness, 2004a p. 30). The diamond sector is no exception. In a study of production and trade patterns of different commodities Global Witness found similar patterns in the trade with copper and cobalt ores from Katanga in 2003: While OFIDA reported the (formal) export of 14.000 tons of (largely unprocessed) ores per month from to Zambia, experts estimate total exports to amount to up to 60.000 tons per month. If these estimates are correct, it would mean that even after the end of the war up to 75 percent of the production of copper and cobalt ores were smuggled (Global Witness, 2004b p. 11f.). A comparison of the figures of recorded exports and the (estimated) figures of 'real' production in the different economic sectors—mining, forestry, agriculture—reveal huge discrepancies between potential and actual state revenues from formal exports. Several reasons explain the inefficiency of OFIDA: Firstly, it is understaffed, and its employees receive low and irregularly paid salaries. Thus, OFIDA neither possesses sufficient personnel nor the technical equipment to monitor the trade. While these obstacles are important and characteristic for virtually all state agencies, they are only part of the problem.

- **Systemic Corruption:** In addition to these structural problems of weak institutional capacities, corruption is a major obstacle to recovery. Again, OFIDA serves as a telling example: Politically 'well-connected' businesspeople continue to bypass the customs agency, and OFIDA's employees have repeatedly been intimidated and hindered in collecting fees by different armed groups—including units from the new Congolese army, the presidential guard and secret services. Low and irregular payments to OFIDA employees also contribute to small-scale corruption of its personnel (Global Witness, 2004b p. 11f.). A recent survey of the Congolese Court for Public Accounts (Cour des Comptes) has revealed that the customs agency suffers from entrenched high-level corruption, too: In 2004, OFIDA reported revenues of US \$169 million, but almost US \$12 million just 'got lost' (*Business Day*, 7 November 2005). OFIDA is by no means a singular case but rather the proverbial tip of the iceberg: Similar accounts of corruption in various sectors of Congolese economics, within the parastatals and administration were observed by the Court for Public Accounts

and several NGOs (see below).<sup>27</sup> According to the Global Corruption Report of Transparency International the DRC ranked 133rd out of 146 listed countries in 2004 (Mukwayanzo Mpundu/Tona Lutete, 2005 p. 137).

#### Systemic Corruption and its Impact on Transition

The empirical (although primarily anecdotal) evidence presented in the preceding paragraphs leads to the conclusion that corruption in the post-war DRC remained “systemic” (cf. Lock, 1999): Corruption is widespread and an accepted practice on all social levels. At a ‘low’ level, practices of petty corruption by subordinate and underpaid state employees (like collecting ‘extra’ fees, etc.) and different strategies to bypass customs and taxes through informal (and illegal) business activities by the ordinary people form an important part of economic reproduction and survival. At the elite-level, high-ranking politicians, militaries, state officials and businesspeople engage in large-scale corruption. In fact, corruptive practices by private—‘well-connected’—businesspeople, embezzlement and asset-stripping in the parastatals etc. are intrinsically linked to the accumulation of economic *and* political influence and power.

To assess the full impact of corruption, it is important to recall that corruption (not only) in the DRC is not just a problem of economic mismanagement, rent-seeking and personal enrichment by certain Congolese and foreign businesspeople and

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<sup>27</sup> The Court for Public Accounts found similar incidences when investigating other state agencies: The Congolese Revenue Service (collecting ‘internal’ taxes) reported to have collected US \$127.3 million in 2004, but US \$29 million went missing. According to the Court up to 41 percent of all public expenditure had not been declared properly or were spent without the authorization of the proper authorities (*Business Day*, 7 November 2005). The survey of Global Witness (2004b p. 16) displayed a high degree of corruption in state administrations that promise the most lucrative revenues like, for example, the Ministry of Mines: Businesspeople from the mining sector complained about selective taxing: While some—presumably with good (informal/ personal) relations to high-ranking officials of the ministry—engage in production and trade virtually ‘tax-free’, other companies were obliged to pay specific fees (taxes and licenses) several times. Global Witness (2004b p. 16) cites the example of Groupe Banzano, that claimed it had been forced to pay the same 1 percent tax on trade and export of unprocessed ores to so many different departments and ministries, that it ended up paying a tax rate of 40 percent. Similar accounts have been cited by other sources (cf. Liberti, 2005 p. 6).

a number of corrupt state officials. Instead, the problem runs deeper: (Not only) in Sub-Saharan Africa does economic corruption (or market corruption) frequently form an integral part of the political/ (dis-)order, involving both corruption on the elite-level and petty corruption on the level of the population. The distinctly political nature of corruption already became apparent in the post-colonial African state where access to political power and economic wealth were closely interlinked by informal neo-patrimonial networks. The crises of (African) neo-patrimonial states that clearly surfaced in the 1990s led to different degrees of state decay, frequently accompanied with (low-level) political violence or, as in the case of Zaïre/Congo, by full-fledged war. This development has contributed to significant changes of the forms of corruption and has also resulted in an increase of its scope (cf. Bayart, Ellis, Hibou, 1999; Chabal and Daloz, 1999; de Sardan, 1999; Reno, 1999). The Zaïrean/Congolese case provides a textbook example of the evolution from an integrative and fairly stable system of patronage ('monopolistic corruption') in the 1960's into an extraordinary competitive, militarized and inherently instable form of 'crisis corruption' in the 1990's (LeBillon, 2003 p. 215ff., see Box 3). From this perspective, the Congolese war economy, with its reliance on militarized resource exploitation the revenues of which were channeled through and used to maintain the informal elite networks of the warring parties, can be characterized as a radicalized form of crisis corruption.<sup>28</sup>

The relation between 'systemic' corruption, political (dis-)order and violence is complex. Some scholars see corruption as a "necessary evil" to "buy peace" (cf. LeBillon, 2003 and Bolongaita, 2005 for critical discussions). In the case of the DRC this viewpoint is—not surprisingly—shared by many Congolese

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<sup>28</sup> Against the background of neoliberal globalization and state decay, the the control of (informal/criminal) "commercial alliances" (Reno, 1999) has become an important source of political power in the 1990s. This shift is closely connected with the emergence of more competitive/disintegrative forms of corruption, since the shrinking resource base of the (failing) state does not allow to maintain integrative patronage networks. This does not mean that 'integrative' forms of corruption that characterized neo-patrimonial states were free from conflict, nor were they 'egalitarian' political orders. The term 'integrative' refers to the fact that within this form of corruption, more people (even the ordinary people) receive benefits from patronage networks. In turn, these systems enjoy a fairly high degree of popular legitimacy.

government officials (*East African*, 19 December 2005). In contrast, several recent reports have stressed that the systemic character of corruption is not only a major obstacle to economic recovery, but also has detrimental effects on *political reform* (Global Witness, 2005 p. 32; Mukwayanzo Mpundu/Tona Lutete, 2005; UNSC, 2005a p. 4f.; 17). Some have even underlined the negative impact of corruption on the security situation (ICG, 2005a p. 17; ICG, 2005 p. 4ff; see Chapter 1.3). The question of whether corruptive practices—especially at the elite-level—will result in continued political instability or even a violent (re-)escalation of political conflicts, depends on the political, economic and social context of a given society—and it also depends on the type of corruption (LeBillon, 2003 p. 417ff). The following section systematically analyzes the forms and the impact of corruption in the post-war Congo.

*Box 2: A short history of corruption in Congo/Zaire*

From the outset of his rule in 1965, Mobutu Sese Seko had established a distinct form of neo-patrimonial rule characterized by a combination of brutal suppression of any political opposition and the integration (co-optation) of political allies into informal and personalized networks of power (cf. McNulty, 1999 and Wrong, 2000 for details). To grease neo-patrimonial power networks Mobutu and his cronies plundered the state's assets by channeling state revenues—taxes, customs, etc.—into private coffers. These practices gradually destroyed the formal political institutions of Zaire, and asset-stripping of once lucrative parastatals crippled the backbone of the formal economy (Reno, 1999 p. 153ff). From the mid-to-late 1980s the formal economic sector and the state's institutions virtually ceased to exist—practices like artisanal mining, informal production and trade (and smuggling), etc. formed the "real economy of Zaire" (MacGaffey, 1991). The informalization of economics (and politics) had become 'systemic'; involving large-scale rent-seeking on the elite-level but also the adoption of all kinds of small-scale corruption, tax evasion, informal trading, etc. as survival strategies by the ordinary population (Jackson, 2002 p. 521f.).

After the end of the Cold War the 'ideological rent' for the self-proclaimed anti-Communist Mobutu dried out, and deprived of this external source of revenues, Mobutu found himself unable to finance his neo-patrimonial networks. During the last years of his reign he relied on a radicalized ruling strategy which has been characterized as "instrumentalization of disorder" (Chabal/Daloz, 1999). Incapable of financing his political alliances, Mobutu

resorted to fuelling socio-political and -economic conflicts—usually by instrumentalizing ethnic conflict dimensions—to playing local strongmen against each other. Corruption had reached the stage of 'crisis corruption'.

When Laurent Kabila's AFDL-rebellion toppled Mobutu in 1997, this did not change the patterns of political rule: Kabila's reign showed strong similarities to Mobutu's strategies of regime survival. Right from the start his reign displayed many features of "warlord politics" (Reno, 1999): A severe lack of political legitimacy, the circumvention of formal institutions through informal personalized networks, economic rent-seeking and predation of the 'ruins' of the Congolese state, and the instrumentalization of political and socio-economic conflicts (Dunn, 2002 p. 60ff).

- **Informal power networks and practices of co-optation:**  
These continuities can be described as the other side of the coin of power-sharing, since to a significant degree they are attributable to the negotiated (re-)distribution of political power according to the provisions of Pretoria II and the Intercongolese Dialogue. Inasmuch as the power-sharing provisions only superficially "froze" (Tull, 2005) conflicting interests of the rivaling parties it just transformed the military stalemate: The TNG itself has become the locale of entrenched competition over political influence within the government, parliament, and state administration, since the control/possession of formal positions in the political, legal and administrative institutions of the state promises a direct 'grip' on public revenues—especially positions in its tax and customs agencies. Other positions like, for example, administrative positions in the mining sector or leading positions in the governing bodies of the provinces or the boards of the parastatals are equally attractive. They enable officials to tap internal and external resources (e.g. from investors or aid agencies), and also serve as a door opener to influential informal networks in business and politics. In turn, the control of formal positions within the state's institutions is important to protect one's own (formal as well as informal) business ventures (and those of business partners), and to 'keep the state out' by securing these networks from any interference of the state's institutions (that may be under the control of rivaling strongmen).

The Kabila faction especially was quite successful in extending its power base far beyond its share as provided by Pretoria II: By coercing or co-opting representatives of the armed and unarmed opposition into its power networks, the presidential faction gained *de facto* control over influential power positions and political sectors: Reportedly, Kabila (and his presidential party, PPRD)<sup>29</sup> has successfully co-opted the Vice-President Zahidi N’Goma from the political opposition, several leading figures from the Mai Mai and, until early 2006, the chairman of the National Assembly, Olivier Kamitatu, former ‘No. 2’ of the rebel organization MLC (see below). In addition, many figures close to the president such as General John Numbi, currently Chief of the Air Force, or Ambassador Katumba Mwanke had already been influential members of Kabila’s wartime-networks.<sup>30</sup> This continuity of informal war-time networks is even greater on the operating levels of the state’s administrative bodies. The power-sharing formulas of Pretoria II and the ICD only foresaw the (re-)distribution of governor’s and vice-governor’s positions, and the TNG only redistributed a small number of leading positions in local administrative bodies (and the security apparatus, see Chapter 1.3) whereas the largest portion of the personnel stayed in office. Consequently, the former parties of the war still exert great influence on local administrative structures in ‘their’ respective territories through both formal and informal channels (ICG, 2005a p. 17).

**Control over Congo’s parastatals during the war—and after.**

Another highly contested issue is the political control over the state-run companies (or parastatals) that remain, despite the dire shape of their infrastructure, a major source of (potential) revenues—and political influence. The attempt to exert control over the Congolese parastatals, especially those in the (potentially) lucrative mining sector like Gécamines (copper, cobalt), MIBA (diamonds), OKIMO (gold), SOMINKI (cassiterite,

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<sup>29</sup> Kabila is not a formal member of the PPRD.

<sup>30</sup> Interview with political analyst in Nairobi, June 2005; also see ICG 2005c: Appendix B and *South Scan*, 1 November 2005a. The continuity of the old power networks may also work against changed interests of the post-war elites. Joseph Kabila has repeatedly tried to remove some figures from the war-networks (like Victor Mpyo, Mwenze Kongolo, Katumba Mwanke) after international pressure. Many of them were given other positions for compensation, and none of them faced legal charges. According to observers, Kabila is not strong enough to replace them completely.

coltan, gold) has been one of the central continuities in the Zairian/Congolese power struggles. Milking the parastatals of their revenues for personal gain and to greasing informal neo-patrimonial networks has been important instruments of regime-survival for all rulers. For Mobutu Sese Seko, both Kabila governments before and during the war as well as for the rebel administrations (Global Witness, 2004a p. 7ff; see Chapter 2.1). Several observers, including the experts of the UN Panel of experts, (UNSC, 2001b; UNSC, 2002 pp. 7–14) have analyzed different strategies of systematic and organized asset-stripping from the Congolese parastatals during the war and have highlighted the *de facto* privatization of state assets to the benefit of specific elite-networks.<sup>31</sup> While entrenched corruption characterized economics in all parts of the country, the systematic asset-stripping through elites was more common in the government-held territories, and, aside from 'well-connected' Congolese business persons and elite figures from the government's foreign allies, often involved private foreign companies (see, among others, Aust, 2003 p. 145f., 153ff; Dietrich, 2002 p. 35ff). The fact that the Kabila wartime governments could claim the status of being the 'legitimate' (internationally recognized) government of the DRC provided a thin veil of formal legality to the deals of the Kabila entourage (cf. Englebert, 2003). One example for such a deal is the case of Sengamines, a joint-venture between the mining company Oryx Natural Resources (ONR) and MIBA. Observers, including the UN Panel of Experts (in their report of 2002), accused ONR of maintaining close ties to Zimbabwean strongmen and the ZDF-owned company OSLEG. While ONR refuted these charges, Sengamines' ownership structure remained nebulous. While after a restructuring of Sengamines no direct links to Zimbabwean elite figures or companies could be drawn, a proportion of 33.8

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<sup>31</sup> Although most of the parastatals ceased industrial production in the 1990s they remain(ed) a lucrative asset: Until the end of the war, engaging into joint-ventures with (foreign) investors and the selling/ceding of exploitation permits provided the government with desperately-needed cash for the continuation of the war—and it promised substantial kick-backs for elite figures within the (wartime) government and on the boards of the state-run companies. Parastatals also granted mining permits to artisanal miners and local strongmen and collected fees from trading offices (comptoirs). These were minimal when compared with the *potential* outputs of the companies (cf. Global Witness, 2004b p. 10)

percent of Sengamines' shares was held by the Congolese company Comiex (Compagnie Mixte d'Import-Export) owned by then-president Laurent Kabila (49 percent were held by ONR, the rest by MIBA) (Solo/Gizenga Ngolo, 2005 p. 8). Sengamines continued operations well into the transition period and has been termed 'MIBA's parasite' by observers (Johnson/Tegera, 2005 p. 99) since the joint-venture's conditions were highly unfavorable to the parastatal. Sengamines had to cease business in March 2005 but, by October 2005, it had not declared bankruptcy (Solo/Gizenga Ngolo, 2005 p. 8; *die tageszeitung*, 3 September 2005).

While this selling out of the state's assets filled the coffers of war-elites and ensured their loyalty to Kabila during the war, international and Congolese observers (like experts from the civil society association CENADEP) stress that the former adversaries and especially the Kabila faction in the TNG still apply this sort of 'big time corruption' and continues to strip the parastatals (and thus the Congolese state) from their potential wealth:<sup>32</sup>

**"Changing the rules but not reality" (Johnson/Tegera, 2005 p. 83):**

**Undermining reforms of the mining sector—from 2001 to the present:** As argued above (Chapter 1.1), Joseph Kabila succeeded in tapping external resources including aid and loans from IFIs in exchange for his willingness to initiate programs of structural adjustment and governance reforms. This included a close cooperation with the World Bank in the mining sector as laid out in the World Bank's Transitional Support Strategy (TSS) that was developed in 2001 and up-dated in 2004 (cf. NIZA/IPIS, 2006 p, 29f.). The TSS, broadly spoken, rested/rests on two pillars: 1) Initiate economic growth by private sector activities and, consequently, the privatization of the DRC's parastatals. 2) Improve governance capacities and capabilities and support a transparent and sustainable management of natural resources. To sponsor and assist the creation of the new Mining Code was a cornerstone of this second pillar: In addition to setting out a legal framework for mining activities for (particularly foreign) investors and for artisanal miners, it identified clear administrative responsibilities, and contained a set of rules concerning working conditions, the protection of workers' rights and environmental rules. The mining code also ruled out the engagement of members of the government, the armed forces, police and security services

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<sup>32</sup> Interview with civil society activist in Bukavu, June 2005.

in mining businesses (Global Witness, 2004b p. 15f. For a detailed analysis see Johnson/Tegera, 2005 pp. 87–91).

World Bank policies in general, and the Mining Code in particular are currently challenged for several reasons: On a practical level, observers object that World Bank policies, particularly the Mining Code, reveal a striking neglect of the institution to account for the situation on the ground (NIZA/IPIS, 2006 p. 29f.). While the instrument of the Mining Code, in theory, could have greatly improved transparency in Congolese mining politics, helped to curb corruption and improved corporate governance, the instrument, in practice, proved to be inappropriate and—as shown above—has not been implemented. The Code shows major conceptual flaws since its applicability is based on institutional preconditions, such as functional administrative structures, well-trained (and well-paid) employees and systematic inter-institutional cooperation between different government and administrative offices that are non-existent in the Congolese case. More importantly, in their recent report NIZA and IPIS cited observers stressing that the flaws in the Mining Code are not accidental. Instead, they reflect World Bank policies on the DRC in general that narrowly focus on macro-economic growth and advise neoliberal 'blueprint-policies' that ignore reality on the ground and downplay the role natural resources (and its political control) played in the past conflict. Political practice falls back far behind the findings and guidelines of its own Conflict Prevention and Reconstruction Unit. Above all, observers have accused the World Bank of turning a blind eye to bad governance and entrenched corruption within the TNG (NIZA/IPIS, 2006 p. 30):

The interaction between the World Bank and the Congolese government has resulted in an anarchistic and opaque privatization process that has stripped Gécamines of all its assets. The parastatal is now bound by countless contracts with, often dubious, private partners that contribute little or nothing to Gécamines or the national treasury (NIZA/IPIS, 2006 p. 9).<sup>33</sup>

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<sup>33</sup> This corresponds with a calculation by the IMF: The IMF found that all private mining companies active in the DRC—most of them in joint-ventures with Gécamines—only paid US \$400,000 in taxes to the Congolese government. Thus, revenues from the mining sector

The World Bank was not the only donor institution to downplay this issue; other important bilateral donors and IFIs, and to a certain degree even MONUC, remained silent on this issue. When the UN Secretary General in 2005 urged the donor community to take a harder stance on corruption in the DRC (cf. UNSC, 2005a p. 17), this initiative was even blocked by several members of the UN Security Council, in particular by the People's Republic of China, Russia and Tanzania (cf. ICG, 2005c p. 4ff). Against this background, it is safe to say that by inaction and ignorance the International Community helped to create a permissive environment that allowed the former belligerents to 'transfer' assets and (informal) networks of the war economy well into the transition period.

The questions of political control over the parastatals and the mining sector as the backbone of the (formal) economy of the DRC provides telling examples. These issues were subjects of negotiations within the ICD from Sun City until the inauguration of the TNG. The parties agreed to implement measures to guarantee greater transparency regarding the modes of operation of the parastatals, regarding their policies of engaging in joint-ventures with investors or granting mining permits, etc. Last but not least, during the negotiation rounds the warring parties agreed on solving the problem of competing jurisdictions and competing claims to concessions, (trading) licenses and other property rights in the formerly rebel-held territories (cf. Cuvelier, 2004; Tegera/Johnson, 2005 p. 83ff). But until now, reform initiatives have met stalling strategies from all former belligerents. The Kabila camp has tried to place different restrictions on businesses in the former rebel territories that it deems illegal, since they derived their licenses from the rebel authorities. This led to repeated political controversies and confrontations in the TNG, like for example, in early 2005 between Kabila and Vice-President Jean-Pierre Bemba who also heads the Commission for Finance and Economics. Bemba even threatened to leave the TNG, but this crisis could be de-escalated (ICG, 2005a p. 17; see also Chapter 2.1).

In addition, the Kabila faction (the former government) has not ceded its *de facto* control over the parastatals in the former government-controlled territories. The network tries to secure its position there as well as to extend its grip to the former rebel-held territories by sidelining the proper authorities through parallel elite-

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equalled only 0.18 percent of the national income—a ridiculously low figure if compared, for example, to the 22 percent the state of Botswana receives from its mining sector (Vandaele, 2006).

networks, and by co-opting officials from the other parties. In the mining sector, the Kabila faction effectively capitalized on its political status as 'legitimate' (wartime) government before the TNG was inaugurated. While negotiations of the ICD were still on their way, a number of contracts with foreign investors (mining concessions and joint-ventures) were approved by the then-Minister of Mines, Jean-Louis Nkulu. Allegedly, many of these deals were highly unfavorable to the parastatals and the Congolese treasury but benefited Kabila's cronies and 'allied' private business. In addition, the wartime government managed to influence the ongoing negotiations. When the TNG was sworn in in Summer 2003, the Ministry of Mines was given to Eugène Diomi Ndongala from the unarmed political opposition. But important competencies of the Ministry of Mines were transferred to new entities that remained under control of the Kabila networks like, for example, the Mining Cadaster. During the following year, Ndongala was frequently sidelined by the Kabila faction and also by cronies of MLC-leader and Vice-President Jean-Pierre Bemba. Consequently, Ndongala failed to implement reforms against export fraud, failed in his calls for the renegotiations of (wartime) mining contracts and his fight against corruption due to the stalling strategies of his powerful rivals (Johnson/Tegera, 2005 p. 92ff; see Box 3).<sup>34</sup>

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<sup>34</sup> Ndongala was suspended by President Kabila in November 2004 for charges of corruption but allegations against him were never precised and no juridicial proceedings ever started.

*Box 3: Contracts between private businesses and Congolese parastatals: Kickstarting private sector activities or 'squandering DRC's crown jewels'?*

**The case of the MIBA–Emaxon deal:**

In April 2003, outgoing Minister of Mines Jean-Louis Nkulu approved an exclusive marketing agreement between the DRC's most important diamond company, MIBA, and the Canadian company Emaxon Finance International. The agreement conceded to Emaxon the right to purchase and export 88 percent of MIBA's diamonds from August 2003 until 2007. MIBA was allowed to sell the remaining 12 percent of the diamonds on its own behalf to verify international prices for diamonds. The original agreement foresaw a five percent discount on Emaxon's purchases from MIBA. The marketing agreement was tied to a lending agreement with Emaxon, in turn, granting two loans of US \$10 and 5 million respectively to MIBA to provide the technically bankrupt parastatal with vital working capital. After the inauguration of the TNG in July 2003, the new Minister of Mines, Eugène Diomi Ndongala, strongly opposed this deal and called for its re-negotiation. Ndongala accused the Kabila faction of corruption, including Nkulu who had become Vice Minister of Mines. Research of the Antwerp-based NGO IPIS revealed that Emaxon is run by Dan Gertler. Gertler runs a comptoir in the DRC (IDI-Diamonds) and had been granted the diamond exporting monopoly from September 2000–April 2001 by the government of Laurent Kabila. While IPIS could not clearly verify Ndongala's charges of corruption, it underlined its concerns about the 'bizarre paper trail' that accompanied the deal as well as Gertler's attempts to disguise the property rights of Emaxon (Dietrich, 2004 p. 4f).

A more recent report (Johnson/Tegera, 2005 p. 97) cites a source that supports Ndongala's accusations: the MIBA-Emaxon deal is highly unfavorable to the Congolese company seen as Emaxon pays only a low 'package price' of US \$13.40 per carat for MIBA's diamonds. According to the cited IPIS-study, the average carat value reached US \$14.90 in 2003 (Dietrich, 2004 p. 4). The report of the 'Lutundula Commission' (quoted as Commission Spéciale; see below) highlighted irregularities of the MIBA-Emaxon deal: The Commission verified the 'package deal' of US \$14.00 per carat between MIBA and Emaxon for *all* sorts of diamonds—including those of gem and near-gem quality. While the commission did not directly confirm the allegations of underpriced purchases it remained highly doubtful if this rate correctly

reflected MIBA's average output. The report stressed that the 12 percent share of MIBA's diamonds that can be sold directly by MIBA is an insufficient quantity to verify both MIBA's average output and the overall worth of exports on the world market (Commission Spéciale, 2005 p. 54). The commission also criticized the discount on Emaxon purchases. Although the 'original' rate was later reduced to 3 percent, MIBA very likely 'overcompensated' this reduction since the company, in turn, now has to cover the export charges that were originally to be paid by Emaxon (Commission Spéciale, 2005 p. 53). The report also criticized substantial delays regarding the delivery of production technology and machinery from Emaxon to MIBA that had been part of the lending agreements (Commission Spéciale, 2005 p. 53f). Concerning Emaxon's loan of the US \$15 million to MIBA, the report calculated that the annual credit rate was 3 percent higher than credit rates from any regular bank. Accordingly, the commission characterized the lending agreement as "usury" (Commission Spéciale, 2005 p. 55f).

**The case of the Gécamines-Forrest joint-venture (Kamoto Project):**

In February 2004, the TNG approved a joint-venture in the mining sector between the parastatal Gécamines and a subsidiary of Kinross Forrest Ltd. (based in the tax haven Virgin Islands) over mining concessions, operation and exporting permits for several copper and cobalt mining sites (Kamoto (Kolwezi), Dikuluwe, Mashamba East and Mashamba West) as well as the smeltery in Luilu for a period of 20 years. According to information from a Congolese weekly (*L'Etendard*) and international NGOs the contract foresaw the creation of the Congo-based KCC SARL<sup>35</sup> (Kamoto Copper Company Ltd.), and granted KCC all property rights over infrastructure and all minerals from these sites. KCC was also authorized to decide on subcontracts and trading partners. Gécamines holds 25 percent of the shares of KCC while 75 percent belong to Kinross Forrest Ltd., owned by Belgian businessman George Forrest. Thus, Forrest controls KCC and the new-founded KOL (Kamoto Operating Ltd.) that was subcontracted to run mining operations and trade. In the words of *L'Etendard*, Gécamines "is out of the game", excluded from all relevant economic decisions. The amount of compensation to the state remains opaque (*L'Etendard*, 11 March 2005, p. 12f.).

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<sup>35</sup> SARL = Société par Action à Responsabilité Limitée / Limited liability Company.

George Forrest is a well-known figure in the DRC's mining scene, and has frequently been accused of dubious business practices during the war: From November 1999 until August 2001 Forrest, who maintained good personal relations with Congolese elite figures, was appointed Chairman of Gécamines by Laurent Kabila's government. Investigations led by the UN Panel of Experts (UNSC, 2002 p. 8; 10f) charged that Forrest used his position to negotiate contracts between Gécamines and his own companies, Kinross Forrest and several subsidiaries, as well as to engage in businesses with other 'well-connected' businessmen. The UN Expert Panel concluded in its report of 2002 (UNSC, 2002 p. 11) that many contracts were highly unfavorable to Gécamines, but established Forrest as an important player in the DRC. The Forrest Group (Forrest George International) refuted these charges. In the final report by the UN Expert Panel (2003, Annex I) the case was categorized as 'resolved' and transferred to the national contact point of the OECD in Belgium that did not press charges against the Forrest Group.

According to *L'Etendard* the conditions of the current contract between Forrest and Gécamines closely resemble those war-time contracts (cf. *L'Etendard*, 11 March 2005, p. 14). Research by an NGO-coalition, and an assessment of the contract by the Canadian law firm Fasken Martineau DuMoulin (Pty) Ltd. also pointed at irregularities of the joint-venture agreement: The law firm objected that no independent audit and evaluation of Gécamines' assets had been carried out prior to the signing of the agreement. It also criticized that the agreement did not contain any "assurance that the country will be appropriately remunerated for the privilege granted to a private concern". Fasken Martineau DuMoulin (Pty) Ltd. pointed out that many parts of the joint-venture agreement—compensations to Gécamines for renting equipment and installations to the company, and provisions of the agreement concerning Gécamines' share in KCC's dividends, for instance—were unfavorable to the parastatal. In a press release, Forrest denied any irregularities. It is true that the agreement had not been explicitly criticized by the Lutundula Commission, however, the Kamoto mine and other assets of the joint-venture agreement were among those contracts the Commission recommended to renegotiate

(NIZA/IPIS, 2006 p. 56f; Vandaele, 2006 and Commission Spéciale, 2005 p. 175f).<sup>36</sup>

When looking at the history of the joint-venture agreement, many questions remain: A preliminary accord on the joint-venture between Gécamines and Group Forrest had already been adopted on 25 June by the outgoing Minister of Mines, Jean-Louis Nkulu. While Nkulu obviously acted with the consent of two board members of Gécamines, the proper person in charge of managing such contracts, Director Kitolo Bwanga (Directeur de Division de Gestion des Contrats), had simply been bypassed. Bwanga had called for a revision of the contract. The preliminary accord was also fiercely criticized by the British consultancy firm IMC (International Mining Consultancy) in a report on November 2003 which had advised Gécamines to enter a joint-venture with the South African steel company ISCOR (NIZA/IPIS 2006 pp. 52–55).

The past two years have seen several corruption scandals. In September 2004, an audit of the parastatals that had been requested by the parliament revealed staggering levels of corruption (ICG, 2005a p. 17). Kabila, now under closer scrutiny from Congolese and international NGOs, but also from donor countries and the UN, announced to undertake decisive anti-corruption initiatives (Mukwayanzo Mpundu/Tona Lutete, 2005 p. 137). The result of these initiatives was meager: Although Kabila dismissed six ministers (including Diomina Ndongala, see above) and his cabinet director and several company officials, for fraud, embezzlement and similar charges, this was only the tip of the iceberg. Even more importantly, until today “no criminal charges have been brought against any of the accused, civilian or military, despite abundant evidence.” (ICG, 2005a p. 17) But despite the fact that international/donor criticism addressed to the TNG for not taking decisive action to curb the power of parallel networks and to abolish corruption (cf. UNSC 2005a p. 17) has sharpened in rhetoric little has changed.

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<sup>36</sup> The Lutundula Commission (Commission Spéciale, 2005 p. 175f) urged the renegotiation of several contracts between Gecamines and private investors. The list of objects contains many sites and installations that were part of the Gecamines-Forrest joint-venture: The mines of Kamoto (including installations), Mashaba East and West, and the smeltery in Luilu.

**The Lutundula Commission:** The fate of the Lutundula Commission is a case in point: In accordance to the final act of the ICD the parties had agreed to set up a commission of inquiry to investigate the validity of all contracts 'of economic and financial nature' signed during both wars (1996/97 and 1998–2002) and the post-war period until 30 June 2003 between the Congolese wartime governments, the respective rebel administrations and parastatals on the one side and private corporations on the other. Initially, the commission was only to include parliamentarians from the unarmed political opposition and civil society. This met the unanimous resistance of all armed groups; as a consequence, the body later consisted of members from all parties of the TNG. Due to further stalling strategies by all armed groups, and notably by the PPRD, the commission resumed its work with considerable delay in May 2004. The ensuing work of the commission—named Lutundula Commission after its chairman Christophe Lutundula (from the unarmed opposition)—was hampered by slow disbursements of government funds and lack of cooperation from the former warring parties and their respective (former) administrative authorities. While all armed groups and all wartime administrations (with the exception of the RCD-ML) frequently obstructed the commission's work the investigators singled out the former government (FAC/PPRD), the MLC and RCD-N as most obstructive (NIZA/IPIS, 2006 p. 24f).

The commission handed in its final report to the chairman of the national assembly, Olivier Kamitatu (MLC) as early as May 2005. Kamitatu, assisted by high-ranking politicians (mostly, but not exclusively from the Kabila faction) could effectively block the discussion of the report in the TNG and its publication. The elites feared the disclosure of their involvement in corruptive practices during and after the war—especially since national elections are underway (Vandaele, 2006). Until February, the office of the presidency successfully co-opted the members of parliament into silence, for example by granting them a US \$9,000 cash advance on their end-of-term bonus in September. This is publicly known as the "jeep's controversy" since many of the MPs used this extra payment to purchase Japanese 4 x 4 vehicles—publicly nicknamed 'Merci Kabila' (*South Scan*, 1 November 2005a). In late February 2006, the report of the Lutundula Commission was handed to parliament and, at the same time, was 'leaked' and

made accessible on the Available via (Vandaele, 2006; HRW Press Release, 21 February 2006).<sup>37</sup>

Until now it remains unclear when its findings will be discussed in parliament. It can be expected that the elite groups named in the report will also try to inhibit a public debate on the commission's findings before the elections. The Commission's chairman, Christophe Lutundula, though, is already at the center of a heated and politicized debate as the leaking of the Commission's report coincided with a political move of Olivier Kamitatu. Kamitatu, former 'right hand' of Jean-Pierre Bemba, had been suspected of pursuing his own agenda for long.<sup>38</sup> In early 2006 he was formally evicted from the MLC and founded his own party, the Alliance de Renouveau du Congo (ARC). One of the most well-known politicians on his party's member list is Christophe Lutundula. While observers assume that Kamitatu sought to capitalize politically on the report's findings, his move will very likely damage not only Lutundula's personal reputation but may as well weaken the political impact of the Commission's findings if the established parties close to the former armed groups will succeed in denouncing the investigations as politically biased and incredible (NIZA/IPIS, 2006 p. 26f).

Against the background of the preceding analysis it is safe to conclude that, more than three years after the formal end of the war, the structures of political rent-seeking and economic accumulation through informal (illegal) networks have by no means disappeared. The current elite-networks reveal significant continuities if compared with those of the war economy, although some individuals have been (forcibly, in some instances) replaced. The maintenance of parallel, informal networks remains an important instrument to, firstly, secure assets and power positions acquired during the war. Secondly, high-ranking members of the TNG, including, above all, president Joseph Kabila as well as the vice-president and former rebel leader Jean-Pierre Bemba (MLC), use their parallel networks to circumvent and undermine political and economic reforms as well as to extend their influence beyond

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<sup>37</sup> The final report of the Lutundula Commission can be accessed via: <http://www.freewebs.com/congo-kinshasa/> (March 2006). For a shortened English translation see: [http://www.raid-uk.org/docs/Lutundula/Unofficial\\_Translation.pdf](http://www.raid-uk.org/docs/Lutundula/Unofficial_Translation.pdf).

<sup>38</sup> As stated above, the ICG (2005a) had suspected Kamitatu to side with the Kabila faction.

their formal positions.<sup>39</sup> The analyzed cases of policies in the mining sector and the resistance of key players against anti-corruption initiatives has illustrated the persisting power of these networks. If one applies LeBillon's (2003) typology of corruption (see above) on the current situation in the DRC, it still qualifies as "crisis corruption": The control over (parts of) the narrow resource base of the Congolese state and its weak economy is fiercely contested among powerful elites. The plunder of the state's assets continues but in a more concealed manner than during the war, and without the application of direct military violence. While the risk of a renewed recourse to large-scale/open violence has diminished, it has not completely dissolved since parallel networks also remain in the field of security (ICG 2005a p. 16).

### *1.3 'Violent peace' and security-related liabilities to transition*

In post-conflict settings, difficulties of political transition, social reconciliation and economic recovery are closely interlinked with a wide spectrum of security-related challenges such as deterring spoiler elements, integrating the different armed factions into a professional security apparatus, and demobilizing remaining combatants. This interrelation contributes substantially to the fragility of post-war orders since set-backs in one sector are very likely to affect the other: Unresolved security-related challenges—for example the distribution of military positions in an integrated army—are politically sensitive since they touch the fragile power-balance of the post-war order. Likewise, political challenges like power struggles between former war elites within transitional government structures easily spread to the sector of security. In a post-war context the formal institutions of the state (that mediate political conflicts in a stable political order) are often too weak to settle remaining and newly arising political conflicts. At the same time, former belligerents defend their interests through parallel networks, thereby perpetuating a climate of mutual distrust. Against this background, the implementation of core elements of security sector reform such as demobilization or the placement of fighting capacities under joint command faces serious challenges. There is a high probability that parties try to obstruct or circumvent reforms. Maintaining a parallel (in a sense: 'privatized') fighting

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<sup>39</sup> Azarias Ruberwa and the RCD equally seek to secure their informal power networks against increasing pressure from the Kabila faction. The RCD, though, has by and large failed to capture the transitional processes. See Chapter 2 for an in-depth analysis.

force provides (post-)war elites with a deterrence capacity: A credible threat to return to war serves as a *political* tool to stave off any actual or perceived erosion of their power base (cf. Stedman ed., 2002). These situations have been termed the "conflict trap" by Collier et al.; (2003) as they bear the danger of setting free a self-enforcing dynamic of stalled reform and political rent-seeking, mutual distrust and failed demobilization (or actual re-armament) and run the risk of a re-escalation to war.

Taking into account the severe shortcomings of political and economic reform as analyzed in the previous chapter, and looking at the various remaining security challenges it becomes apparent that the DRC has not yet escaped this conflict trap. In fact, the transition process has been threatened from the start BY different security-related challenges, and until today the state's monopoly over legitimate violence remains contested in many parts of the country (see below). Even more importantly: By and large, the security situation mirrors the political situation of the TNG. Similar to economic and political reform, security-related issues frequently touch(ed) sensitive political interests and at times threaten the fragile power balance of the TNG. Core issues of SSR such as the restructuring of the military regional command of the FARDC have become objects of intense power-struggles, particularly between the main war adversaries, the former Kabila government and the RCD (Goma). The following section analyzes the evolution of the security situation in the DRC since Pretoria II and identifies its challenges to the peace process. The chapter highlights the interrelations between military- and security-related developments and the fragility of the political transition. The chapter starts out with a brief account of MONUC's contributions (and deficits) to promoting and safe-guarding the peace process. In a second section, we present short analyses of security-related developments in different parts of the country since Pretoria II.

#### MONUC and its contribution to peace in the DRC

For a number of reasons MONUC did not succeed in bringing peace to the DRC until 2002 (and even the eventual signing of Pretoria II was primarily attributable to other explanatory factors). This 'failure of MONUC', of course, reflected the limited political commitment of the International Community to peace in the DRC, since MONUC was restrained by unclear mandates and limited (military) capacities. This situation was to change *after* the signing of the All Inclusive Peace Agreement: In fact, the months following

Pretoria II marked a substantial shift of the military operations of MONUC and their political embeddedness. Whereas MONUC, prior to Pretoria II had been a classic peacekeeping mission according to Chapter VI of the UN-Charter, the UN considerably stepped-up its efforts to safeguard the peace process following UN-resolution 1493 on 27 July 2003. MONUC's forces were significantly strengthened to 10,900 soldiers and military observers. This number was again stepped up in 2004; and finally reached a level of 16,700 deployed soldiers and observers in October 2004 (Boshoff, 2004a p. 136f; ICG, 2005a p. 23). More importantly, with resolution 1493 MONUC was provided with a Chapter VII mandate, and its concept of operations was considerably widened. The Security Council explicitly ordered MONUC to take active measures (in cooperation with other UN-organs and donor institutions) to support security sector reform, the re-establishment of the rule of law and preparations for elections (UNSC Resolution 1493, § 5).

The same UN-resolution placed a comprehensive arms embargo on the provinces of North and South Kivu and on Ituri district. The embargo also applied to all armed groups that were not parties to the All Inclusive Peace Agreement. Consequently, MONUC was in charge of monitoring the embargo. Whereas the proactive role of the peacekeeping force was unanimously greeted by observers, the assessment of MONUC's contribution remains controversial (cf. Boshoff, 2004a p. 144 for a positive and Tull, 2005 p. 11ff for a critical viewpoint). In fact, during the first two years of transition (early 2003 until early 2005), for different reasons MONUC was incapable of contributing significantly to an improvement of the security environment in the DRC. MONUC's forces were still stretched too thin to effectively monitor the arms embargo (cf. amnesty international, 2005) and to provide security to the Congolese people. In addition, DDR progressed only very slowly. Above all, at several occasions—for example during the 'Bukavu crisis' in 2004—it became apparent that MONUC had only little leverage over local warlords, and displayed a substantial lack of initiative. Thus, until early 2005, when MONUC adopted a forceful mode of operation, its 'positive contribution' to the peace process is hard to assess. Arguably, even though MONUC initially failed to live up to its revised mandate to *avert* political and military crises, its presence may well have contributed to the fact

that none of the military confrontations eventually escalated to a stage of open war and a reversal of the formal peace process.<sup>40</sup>

Pursuing a firmer mode of operations yielded significant improvements of the security situation in the eastern provinces of the DRC (see below for details): After militia attacks on MONUC troops in Ituri that killed nine peacekeepers in Spring 2005, the organization started to retaliate subsequent militia attacks on MONUC and civilians. In the following months MONUC troops carried out 'cordon and search' operations to disarm Congolese (mostly Ituri) militias and foreign rebel groups (the Rwandan FDLR and Ugandan ADF and NALU): The vast majority of the militias in Ituri finally turned in their arms (Wolters, 2005 p. 6ff). During Summer and Fall, MONUC also stepped up its efforts to disarm remaining FDLR units in the Kivus in joint operations with units of the new Congolese army, FARDC. Although the FARDC contributed the bulk of the fighting force, MONUC's assistance was crucial as it provided intelligence, logistical support, and troops with armored vehicles and attack helicopters.<sup>41</sup> Notwithstanding these positive developments, a crucial—structural—problem remains: With its troop size of approximately 16,700 peacekeepers (including MONUC police officers), the mission's capabilities are insufficient to effectively enforce and guarantee peace in the vast country: In all regions—Ituri, the Kivus, and increasingly in Katanga—local violence by remaining militias remains an important obstacle to peace and social and economic recovery. Although many experts and the Secretary General of the UN have requested another significant increase of MONUC's capabilities (ICG, 2005a, ii; cf. UNSC, 2005a p. 7, 16f), the UN Security Council only authorized a modest increase of 300 troops when it extended MONUC's mandate in late October 2005 (*UN News Service*, 28 October 2005). If, in the future, MONUC's presence remains stretched thin, with an merely symbolic presence in many 'hot spots' of the country (like currently Northern Katanga, see below), the recent progresses in the security situation in the DRC and, likewise, political transition will remain shaky.

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<sup>40</sup> Interview with military analyst in Nairobi, June 2005 and interviews with political and military officers of MONUC in Bukavu, June 2005.

<sup>41</sup> For details on the operations cited above see IRIN, 11 July 2005; IRIN, 1 November 2005; *Reuters*, 26 December 2005; *South Scan* 1 November 2005b.

Security-related developments in different parts of the DRC since 2002

Notwithstanding major improvements during 2005, the security situation remains highly volatile, albeit with important variations in the different parts of the country: In 2002, the formally established peace was paralleled by local war (Ituri) and a shaky military and political stalemate (in the Kivus). Three years after Pretoria II the overall situation is characterized by rather low-level and localized fighting. At least for the moment, a re-escalation into large-scale war seems unlikely. But the following analysis of the last years' developments shows that temporary improvements were always threatened by—and sometimes suffered from—severe setbacks. Thus, the current overall improvements are by no means irreversible.

**Ituri from 2003 until present:** The first post-war reconceptualization of MONUC's mandate and military operations in mid-2003 was a reaction to developments on the ground, particularly the dramatic deterioration of the situation in Ituri. The resumption of peace negotiations on the regional and national level in 2002 was paralleled by more intense fighting in Ituri.<sup>42</sup> By the time Pretoria II was signed, the rebel groups of the RCD-ML and RCD-N—nominally in control over the district—had lost their power to local militias, and the retreat of the Ugandan army, UPDF, from the region had created a power vacuum. Due to the interference of the Kabila government and the RCD (Goma) that both backed different militias' fighting—and targeted violence against civilians—intensified at the turn of the year 2002/2003 (ICG 2003b pp. 8–14).

As MONUC was incapable of stabilizing the situation in Ituri, in May 2003 the Security Council approved the deployment of a French-led Interim Emergency Military Force (IEMF; Operation Artémis) with Resolution 1484. The EU-force had a strength of 1,600 troops and was provided with a Chapter VII mandate in order to restore 'peace' in Bunia until a reinforced MONUC-force could be deployed. Given its limited mandate on Bunia and vicinity, the IEMF, apart from several raids on militias, did not have a greater impact. While Bunia became safe, violence escalated in several other parts of Ituri (ICG, 2003b p. 14ff; Sow, 2004 pp. 209–213). At first, the reinforcement of MONUC's Ituri-Brigade to 4,500 soldiers

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<sup>42</sup> For analyses on the war in Ituri see ICG, 2003b and Vlassenroot/Raeymaekers, 2004b.

and the 'up-grading' of its mandate (see above) did not change the local situation. In early 2004, the TNG announced the recapture of government control over the region, and appointed politicians and administrative posts. In addition to this, rather symbolic, gesture the TNG struck an agreement with 20 militia leaders in May 2004 and appointed several militia leaders to high-ranking posts in the FARDC, despite harsh criticism by international and Congolese observers and human rights groups (Boshoff/Vircoulon, 2004 p. 65ff; Wolters, 2005 p. 5f).

By that time fighting between militias had become less intense as most groups had carved out their 'territorial claims'—regularly around gold mines, trade routes and border crossings. Several militia leaders made 'triangular deals' with international mining companies that enabled them to collect protection money. The companies had been granted concessions by the TNG and, in some cases, high-ranking politicians of the TNG 'facilitated' contacts with local warlords. The best-known example was the deal between Ituri militias of the FNI and the world's leading gold production company Anglo Gold Ashanti Ltd., that possesses significant exploration rights in Ituri (HRW, 2005 pp. 54–72).<sup>43</sup>

At the same time, violence against civilians and the exploitation of forced labor continued. MONUC's DDR-program for Ituri yielded hardly any results. This changed in March 2005 when MONUC adopted a more coercive strategy of operation (see above). This approach proved partly successful: Within several months, up to 16,000 militia members surrendered their weapons to MONUC. Another political message was sent by the TNG that arrested several high ranking Ituri warlords after the attacks (IRIN, 23 August 2005; Wolters, 2005 p. 7).<sup>44</sup> Yet some 1,000 'hard-line militias' continue to fight, primarily attacking MONUC, aid agencies and

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<sup>43</sup> Anglo Gold Ashanti's concessions in Ituri (purchased in 1996) had been reaffirmed by the TNG. When the company wanted to resume explorations in Mwongbalu in late 2003, Vice President Jean-Pierre Bemba urged the company to enter into negotiations with the FNI-militia that controlled this area (HRW, 2005 p. 59f). According to Human Rights Watch, Anglo Gold Ashanti transferred several payments to the FNI-leadership and paid 'taxes' and fees for the use of airstrips controlled by the FNI until Fall 2004 (HRW, 2005 p. 67ff).

<sup>44</sup> One of these warlords, the military leader of the UPC, Thomas Lubanga, now faces a trial at the International Criminal Court (ICC) (HRW press release, 17 March 2006).

civilians with many more remote parts of the district remaining insecure until today (MSF, 2005; UNSC, 2005a p. 4f). In addition to joint operations against Congolese/Ituri militias, MONUC and FARDC fight some 2,000 Ugandan rebels from the ADF and NALU that destabilize Ituri and parts of North Kivu (*the Monitor*, 2 January 2006; *Reuters*, 26 December 2005). While 'peace' in Ituri is still limited to urban areas, and remaining Iturian and Ugandan militias continue their raids, the local situation is, by and large, 'just' a security-problem with comparatively limited impact on the *national* transition process. In contrast, the situation in Ituri poses a significant obstacle to a normalization of Ugandan-Congolese relations. Recently, Uganda even threatened to re-deploy its army to the northeast of the DRC to track down remaining ADF/NALU fighters.

**Situation in the Kivu provinces:** Transition in the Kivus since October 2002 has been highly volatile, although not characterized by continuous open warfare. According to observers, instability in the Kivus still bears more risks to the transition process, since political stakes were and are much higher. Analytically, one can distinguish three main sources of insecurity that pose(d) different dangers to transition:<sup>45</sup>

- Instability and frequent local(ized) fighting between smaller units of different armed groups, like smaller RCD-units or Mai Mai-units whose commanders felt alienated by their superiors (and the transition process). Unauthorized road blocks, forced labor at mining sites and plunder by smaller gangs of combatants from the former rebel groups as well as from unpaid soldiers of the new FARDC also belong to this category of local(ized) instability that plagues the region up to the present day (ICG, 2005a p. 2f; Wolters, 2004 p. 6ff; and *Reuters*, 26 December 2005).
- In contrast to Ituri, the major actors currently competing over political, military and economic influence in the region—RCD, Mai Mai and the Kabila faction of the TNG—are signatories to the peace agreement and hold positions in the TNG. Thus, even local skirmishes pose the risks of escalation since interference of key players in the TNG is stronger. Conversely, political decisions taken in Kinshasa directly affect the local

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<sup>45</sup> With the exception of the 'FDLR problem' the situation in the Kivus is only briefly sketched out. A more detailed analysis will follow in Chapter 2.

power balance and security situation. This resulted in several severe clashes until the end of 2004 (see Chapter 2).

- The presence of the Rwandan (Hutu-)insurgents from the FDLR remains an important source of instability.

**The FDLR in the Kivus (2003–2005):** Since the mid-1990s local conflict constellations in the Kivu provinces were decisively shaped by the influx of Rwandan Hutu refugees, civilians as well as armed Interahamwe militias and 'rests' of the Rwandan army (FAR) responsible for the genocide of 1994. The presence of Interahamwe and ex-FAR soldiers in the east of the DRC had a major regional impact, since it was reason and pretext for the Rwandan interventions in 1996/97 and 1998 (cf. Longman, 2002; ICG, 2003c). Ex-FAR and Interahamwe merged and formed the FDLR in 2000 and entered a formal alliance with the Congolese wartime governments of Laurent and Joseph Kabila. Despite declining military capabilities, the FDLR continues to be a major obstacle to regional peace and stability and a major liability to a normalization of Rwandan-Congolese relations even after the (first) Pretoria Agreement between the two countries in July 2002. The Kabila government (later the TNG) was both incapable of taking, and reluctant to take, firm measures to disarm and repatriate their wartime allies as foreseen by the accord. Conversely, the continued Rwandan interference in the Kivus, including its support of RCD-strongmen hostile to the TNG (like Eugène Serufuli; see Chapter 2.2), presented a significant obstacle to the Congolese peace process. The FDLR was formally outlawed and deprived of military backing by Kabila in October 2002. At the same time, the FAC dispersed a contingent of the FDLR of some 1,900 troops near Kamina (Katanga). But until late 2004 no decisive actions followed, and influential individuals of Kabila's entourage, like General Numbi, maintained close ties to the FDLR-leadership (ICG, 2005b p. 2f; 5).<sup>46</sup>

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<sup>46</sup> According to Pretoria I, the Kabila government was to cease assistance to the FDLR immediately (July 2002). But hardliners, including Numbi and elite figures of the 'Zimbabwe connection', continued arms shipments to different groups. Only when Kabila, under international pressure, sacked or replaced some of the key figures, did weapon deliveries to the FDLR (and Mai Mai) stop (*Africa Confidential*, 25 October 2002; ICG, 2003a p. 8). According to a recent UNSC-report, support to the FDLR continued until late 2003 (UNSC, 2004 p. 26).

Growing international pressure on the TNG, particularly by the UN (cf. UNSC Resolution 1565), and the African Union (AU), as well as repeated threats by the Rwandan government to intervene militarily in the DRC throughout 2004, finally resulted in a firmer stance of the TNG (particularly Joseph Kabila) on the FDLR. After failed negotiations in February 2005 in Rome, the TNG undertook a decisive policy-shift. Starting in June 2005, FARDC and MONUC launched joint and individual 'cordon and search' operations and large-scale military offensives against FDLR- and Mai Mai-strongholds like the Kahuzi-Biega National Park near Bukavu (in July) or Virunga National Park (in October) where they captured (mostly Mai Mai-) fighters and destroyed hide-outs. Since then, MONUC and FARDC have patrolled the former FDLR-controlled territories (*IRIN*, 11 July 2005, *IRIN*, 1 November 2005; *South Scan*, 1 November 2005b).

The stepped-up pressure of FARDC and MONUC considerably weakened the FDLR. But its military strength had already declined during the last years from an estimated 40,000–50,000 in 1998 to 8,000–12,000 fighters in early 2005. The FDLR had never fully recovered from a severe military defeat by the Rwandan army in 2001 (ICG, 2005b p. 9; ICG, 2003c pp. 6–8). In addition, the fading out of military support from the Kabila government increasingly showed its effects, leading to massive shortages in ammunition (cf. Bilali, 2005 p. 14f). Although the FDLR continued its infiltration into Rwanda until 2004, these attacks on infrastructure and civilians had no military effects (ICG, 2005a p. 19).

In addition, the FDLR suffered from growing internal divisions and an erosion of morale. At the rank and file level, strict disciplinary codes and brutal punishment for defection attempts secured the integrity of most FDLR-units until recently (and thus led to the failure of MONUC initiatives of voluntary disarmament and repatriation). Most FDLR-fighters, though, are war-weary. Within the command, severe leadership struggles increasingly weakened the insurgency. From hindsight, the struggle between the 'moderate' General Paul Rwarakabije, and hard-liners like the 'Génocidaire' Sylvestre Mudacumura, and the following defection of Rwarakabije (and many of his fighters) to Rwanda marked the beginning of a (slow) unraveling of the rebel group (ICG, 2005b p. 3). In late 2004 factionalism became clearly apparent when several units broke away and joined local 'rogue' Mai Mai units. Others, like the so-called 'Rastas' in the area of Walungu (near

Bukavu), 'degenerated' into gangs of bandits.<sup>47</sup> Today, the FDLR has *de facto* fallen apart into three groups: A small group loyal to General Amani claims to be willing to disarm immediately. The other groups are led by Ignace Murwanashyaka, the leader of FDLR's political wing and former European representative, and the hard-liner Mudacumura respectively (*South Scan*, 1 November 2005b).

Politically, the "FDLR problem" (ICG, 2005b) has lost much of its explosiveness for the Congolese transition and the strained Rwandan-Congolese relations. Despite being politically isolated and standing 'back against the wall' in military terms, remaining FDLR fighters—including break-away groups like the 'Rastas'—continue to threaten local security, political and economic recovery.

**Low-level violence and instability:** Earlier on in this paper, the situation in most parts of the DRC has been characterized as "violent peace" (cf. Duffield, 2001). Although most regions of the DRC have been spared from large-scale military confrontations since late 2002, insecurity remains an important obstacle to a return to normal life. The state is largely absent, that is, formal administrative institutions that provide social services or regulate public life, jurisdiction and the security apparatus are defunct, or, in some instances have been taken over by local strongmen. In addition, the state is incapable of enforcing its monopoly of violence. Low-level violence, including harassment and intimidation of politicians from the opposition, civil society activists and journalists characterize politics. Human rights abuses are a 'normal' feature of everyday life as various armed groups roam the countryside and frequently harass, 'tax' or plunder civilians. These groups include units of the former warring parties that have not been demobilized, local militias and armed gangs that have been recruited as guards for local politicians and strongmen. Against this background of overall insecurity even 'established' parties of the unarmed opposition like the UDPS in Kasai start to

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<sup>47</sup> In South Kivu several FDLR units merged with Mai Mai militias under the command of Jackson Muhura Mboto who opposes the TNG. This merger is referred to as 'the Jacksons'. The group of the 'Rastas' does not even pursue an 'alibi agenda'—devoid of a political strategy it engages in pillaging, and fights MONUC, FARDC and FDLR indiscriminately. (*South Scan*, 1 November 2005; Interviews with Congolese and international experts in Bukavu, June 2005).

build up armed 'self-defense units'.<sup>48</sup> In some cases, even the FARDC adds more to the climate of insecurity. Many officers engage in militarized mining and other informal business activities (cf. Wolters, 2004 p. 7), and (unpaid) rank and file soldiers plunder and violate civilians. As a military expert put it, the ill-disciplined and underpaid FARDC is the single largest security threat to the civilian population.<sup>49</sup>

According to Duffield (2001) "violent peace" is characterized by frequent flare-ups of violence—like riots—and incidents of more intense fighting between organized armed groups. These escalations of violence usually accompany power struggles within or between elites and 'extra-ordinary' occasions like elections. In the DRC, several of these flare-ups could be observed. Riots (at times staged) between supporters of different political factions have repeatedly taken place in Kinshasa and other cities. In 2005, international observers feared severe clashes throughout the country on independence day (30 June), since many opposition groups had announced demonstrations against the delay in the elections. Similarly, violent clashes were expected to accompany the referendum on the constitution on 18 December. In both cases, the stepped up presence of MONUC troops and Congolese police at hot spots ensured a comparatively calm climate despite several protest marches; especially in June (cf. *IRIN*, 30 June 2005; Kibasomba, 2005; *UN News Service*, 21 December 2005). In spite of cautious optimism by some observers, experts display growing concern about recent developments in Katanga

**The 'forgotten' crisis in Katanga:** The resource-rich province has suffered from humanitarian crises, local instability and repeated incidents of small-scale fighting, and several observers have pointed at the persisting structures of 'militarized' resource exploitation (cf. Global Witness, 2004b). During the last year the situation deteriorated even further (*East African*, 19 December 2005; UNSC, 2005a p. 6f). Broadly spoken, the Katanga security situation is characterized by two different challenges:

- **Countering threats to local stability stemming from different Maï Maï units in the northern parts of the province:**  
The security situation in northern Katanga became critical in Fall 2005 when the TNG started the forcible disarmament of

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<sup>48</sup> The UDPS is said to have secretly built up paramilitary forces during the war. These troops received military training in Rwanda. Interview with political analyst in Nairobi, June 2005.

<sup>49</sup> Interview with military analyst in Nairobi, June 2005.

several Mai Mai groups operating in the triangle between the cities Manono, Mitwaba and Pweto. During the war these areas had been under (relative) control of the RCD (Goma) and the RPA who both pulled out their forces after Pretoria II. The ensuing power vacuum was filled by different local Mai Mai groups. Even though the Mai Mai had been armed by the Kabila governments during the war, this alliance eroded after Pretoria II. In contrast to the Mai Mai from the Kivus the Katangan groups were excluded from the Intercongolese Dialogue and the TNG. Instead, the Kabila faction—consisting to a significant part of Katangans—sought to exert political control over the region through informal networks and family ties with local authorities. Being sidelined by Kabila, approximately 19 different Mai Mai groups, totaling up to 5,000–8,000 fighters had refused to disarm and, ever since Pretoria II, have destabilized the area by raiding civilians and by infighting—mainly to gain control over cassiterite and coltan mining sites around Manono (ICG, 2006a p. 2f). The conflict escalated in Fall 2005 when the TNG sought to (re-)establish government control and launched a military campaign that involved 5,000 to 6,000 FARDC-troops of the 6th military region. As Northern Katanga remains largely inaccessible there is contradicting information regarding the success of the offensive: While the FARDC reports that the operation proceeds as planned, independent observers reporting to MONUC and OCHA claim that the army has largely failed to capture Mai Mai warlords, and even further destabilized the region, leading to an estimated 150,000 displaced people since the start of the campaign. The failure of the FARDC comes as no surprise since the deployed troops are ill-trained and have not received their pay, lack intelligence facilities, vehicles and even most basic military equipment like weapons and ammunition. Local sources reported incidents of soldiers plundering and harassing the local population (ICG, 2006a p. 4; *IRIN*, 3 January 2006; *IRIN*, 16 March 2006).

- **Increasingly severe confrontations between politicians from the north and the south** that have aggravated since high-ranking politicians of the TNG, including Joseph Kabila who originates from northern Katanga, got involved and have taken sides in conflict:

If this campaign has primarily revealed the FARDC's persistent military inefficiency<sup>50</sup>, aggravated controversies between competing political elites (and their constituencies) in North and South Katanga bear far greater dangers for the transition process. The political tensions are, at first glance, attributable to a 'historical' regional rivalry and ethnic cleavage lines between groups from the North and South. Another dividing line runs between 'indigenous' Katangans and settlers from Kasai who migrated to Katanga until the 1980's and still are viewed as 'outsiders' ('non-originaires') by many Katangans. These alignments are the result of political instrumentalization of ethnicity in the past.<sup>51</sup>

At present, and with national elections in the near future, identity is again used as a political resource by major political 'players' in Katanga. The role of the presidential party ('Parti du Président de la République'; PPRD) is ambivalent. Although its candidate Joseph Kabila is a Luba from the north of Katanga the party—at least publicly—presents itself as interethnic. The UDPS rallies for and enjoys the support from the Kasaian minority. While the UDPS does not explicitly employ an ethnic rhetoric in its campaign, the most 'visible' party in the north, the Union of Congolese Nationalists and Federalists ('Union des Nationalistes et Fédéralistes du Congo'; UNAFEC) pursues an extremely xenophobic agenda (directed against Kasaians) and seeks to ensure the political dominance of Katangans from the north in the provinces' administration. UNAFEC is both 'well-connected' to the provincial administration and the TNG—UNAFEC's national party leader is the Minister of Justice, Kisimba Ngoy, and representatives of the militant wing maintains informal ties to influential hard-liners like, for example, John Numbi the wartime regional military commander of Katanga (see below). The party is well-organized and commands several paramilitary groups that repeatedly intimidated political opponents. In 2005, UNAFEC's leadership aimed its hateful rhetoric against the 'southern' NGO 'Solidarité Katangaise', which is active in development, education and the promotion of civil rights and

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<sup>50</sup> There are also indicators of corruption. While the FARDC leadership promised to transfer extra funds (US \$250,000 in cash) to the fighting units, this money never arrived in Katanga.

<sup>51</sup> (Politically exploited) tensions between Katangans and Kasaians culminated in campaigns of ethnic cleansing in 1992 and 1993 in which some 5,000 Kasaians were killed by extremists who enjoyed the tacit approval of Katanga's provincial government (cf. ICG, 2006a p. 4ff; Jaquemart, 2001 p. 852ff for background information).

calls for a reconciliation between North and South as well as for an integration of the Kasaian minority. Although 'Solidarité Katangaise' has so far denied any ambitions of participating in the upcoming elections, its growing popularity in both parts of Katanga is perceived as a political threat by UNAFEC's leadership. Observers fear rising tensions and violent clashes since provincial authorities seem to quietly approve UNAFEC's hate rhetoric and attacks on 'Southerners' and Kasaians (ICG, 2006a p. 6ff; *South Scan*, 1 November 2005c).

Local instability in the richest province of the DRC also has implications on the national level. But so far, the TNG has proven to be a bad crisis manager. In fact, partial interference of the Kabila faction in favor of Luba-/ 'northern' hard-liners has even added another dimension to the conflict. This has become most apparent in the wake of the government's crack-down on two staged secession attempts in Spring 2005: In late April 2005 and early May FARDC forces uncovered arms caches in several mining towns in South Katanga and rounded up other FARDC officers and members of the military police and the presidential guard, GSSP. Several officers, the commander of the military police, and several civilian politicians were accused of preparing a military campaign aiming at the secession of South Katanga. Kabila and General John Numbi, current chief of the Air Force, immediately traveled to Katanga to take charge of the affair. Numbi swiftly announced an army-led investigation under his command (cf. *IRIN*, 9 May 2005). While this is the 'official version', information from independent sources tell another story: According to the ICG "No evidence [for a secession attempt] has ever been produced but the alleged plot allowed authorities to arrest or intimidate many southerners who could be seen as rivals in the 2006 elections' (ICG, 2006a p. 11). In fact, many civilian politicians and civil society activists critical of Kabila and the UNAFEC, including Jean-Claude Mayambo (leader of Solidarité Katangaise), were threatened and harassed by officials, and all arrested FARDC officers had been critical of Numbi and Kabila.<sup>52</sup> Seen from this perspective, Kabila's

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<sup>52</sup> A closer look at the investigation team provides more telling details: Numbi, as national commander of the Air Force had, in legal terms, no authority to lead the investigations. But through his informal ties Numbi quickly sidelined the regional military command and the national command of the Ground Forces. The investigation team was composed of hand-picked cronies. Interview with political analyst in Nairobi, June 2005.

and Numbi's rapid appearance on the scene more likely served as a smokescreen to the (international) public. By naming Numbi investigator the Kabila camp sought to conceal the staged character of the secession attempt as well as to settle political scores by 'purging' local FARDC-forces from potential rivals.

#### *1.4 Fragility of security sector reform*

Political reform and social and economic recovery in post-conflict settings depend on stability. As trivial as this statement may sound, to guarantee stability/security amounts to a major challenge for post-conflict societies, since during (internal) war, the state's security apparatus obviously has become politicized and presented a threat to at least those parts of the population that formed (or were perceived to be) the constituency of a rebel organization. Security sector reform (SSR), that is, the (re-)establishment of a reliable security apparatus that credibly promises security to *all* citizens/groups of a post-conflict state and integrates former combatants of the different factions under a joint military command and political authority, is, consequently, a central feature of post-conflict peacebuilding. Since SSR processes involve political compromise, mutual trust and willingness of the former adversaries to cooperate in politically sensitive issues, they are in most cases characterized by a high degree of political controversy and fragility—even if observed and assisted by mediating actors from the International Community. The case of the DRC is no exception to this rule although the parties to the war had—formally—agreed to basic SSR-related provisions as put forward in Section IV of the All Inclusive Peace Agreement of December 2002. The following section analyzes the limited progress of security sector reform initiatives, in particular on the (non-)integration process of the FARDC. In fact, here the highly politicized character of security in the DRC becomes clearly apparent and directly reflects controversies in the TNG.<sup>53</sup>

The record of SSR—similar to the record of political reform—is mixed: Certain progresses could be achieved, especially with respect to the distribution of positions within the military command structure and creating a legal framework for the organizational structure of the FARDC as outlined in the National Defense Law of 2004 (see below). At the same time, and despite monitoring and

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<sup>53</sup> Another aspect of SSR is the reform of the police. In this paper, we do not touch this issue. A detailed analysis of police reform is provided by Kibasomba (2005) and ICG (2006b pp. 4–11).

assistance by MONUC, international institutions and individual countries, the practical implementation of defense law and SSR-related policies lags far behind schedule: While lacking resources, operational and logistical difficulties are one important factor, entrenched political controversies between leading military officials and politicians as well as economic rent-seeking have aggravated (and in some cases caused) the structural problems of SSR. In similar vein, the closely related problem of disarmament, demobilization and reintegration (DDR) of Congolese combatants from all former armed factions, has not yet gained momentum.

*Institutional achievements and provisions of SSR*

The agreement of Pretoria II (Part IV of the Pretoria Agreement) addressed core issues of SSR and the (national) DDR-process. These were confirmed and set on track in the Final Act of the Intercongolese Dialogue (ICD) of 2 April in 2003. In accordance to Pretoria II and a first SSR/DDR plan (of March 2003) several institutional bodies were created to guide and carry out the integration process of the new army, FARDC, as well as the disarmament, demobilization and reintegration (DDR) of (Congolese) combatants. To supervise and carry out the restructuring of the security apparatus and demobilization on an operational level, the parties of the ICD agreed to install the Military Integration Structure (SMI, 'Structure Militaire d'Intégration') like the office in charge of the FARDC and the 'Commission Nationale de Démobilisation et Réinsertation' (CONADER) which was authorized to carry out DDR. These offices were to cooperate and coordinate their policies with MONUC and the UNDP respectively. To monitor these processes the international representatives also formed a coordination committee in February 2004 to assist the TNG in military and organizational planning, developing reform strategies and establishing transparent and efficient structures. Following the adoption of the defense law that formally established the FARDC in late 2004 (see below), the Supreme Defense Council was created. This body is composed of the President, the four Vice-Presidents, the Ministers of Defense, Interior and Foreign Affairs as well as the Chiefs of Staff of the armed forces and was authorized to guide the restructuring processes of the armed forces as well as disarmament. The Supreme Defense Council was also authorized to draft a new defense policy for the DRC and to cooperate and discuss its strategic planning and policy recommendations with the DDR-task force of MONUC and representatives of the donor committee

CIAT (Boshoff, 2004b; Kibasomba 2005).<sup>54</sup> These institutional 'innovations' proved to be a mixed blessing as many competencies of Supreme Defense Council and the various Congolese ministries were ill-defined because of political disagreements within the TNG. 'Institutional overlap' and resulting problems of coordination, unclear competencies and responsibilities also create problems for various donor countries and institutions in harmonizing their contributions to SSR (cf. chart in IC,G 2006b p. 27).

During the final negotiation round of the ICD in 2002, the parties agreed on the military strength of their respective armed forces. The resulting overall number of armed troops in the DRC, based on the declarations of the different factions, initially added up to 220,000 soldiers. Although these numbers were already overdrawn, the different factions repeatedly 'corrected' their declarations during the first years of transition by adding more soldiers (often 'ghost soldiers') to the lists of their ranks to increase their political weight. According to the numbers provided by the different factions, overall troop-size peaked at 340,000 soldiers in late 2003. This number was revised down to 240,000 soldiers by the Commission of Defense and the Supreme Defense Council in February 2004. Since the Defense Law of 2004 set the troop ceiling of the armed forces at 120,000–130,000 soldiers, the huge number of (declared) combatants poses a huge challenge to demobilization efforts (ICG, 2006b p. 15f; see below).

The structure of the joint command and the distribution of leading military positions in the chief of staff as well as the newly created 10 military regions were outlined as early as in 2003. In Fall 2003, the military regional commanders and their staff officers were appointed and deployed. While both actions in some cases provoked severe political controversies and—as in the case of the 10th military region, South Kivu—even resulted in military confrontations, this measure marked a first important step towards

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<sup>54</sup> The members of this coordination committee are representatives from Angola, South Africa, Belgium, France, the UK, the United States, EU and MONUC. The committee also serves as a forum for its members where they coordinate their contributions to different SSR-projects. Whereas MONUC has become the 'lead agency' in monitoring and assisting SSR, France and the UK (and South Africa to a certain degree) primarily support professional training programs for the police forces. Belgium, South Africa and Angola provide military training to officers of the FARDC.

the integrated army (Chapter 2.3).<sup>55</sup> Similarly, the rank and file soldiers of the various armed groups were to be integrated on the brigade-level according to predefined quota, separated from their former officers and, after having received formal military training, were to be deployed to military regions other than their origin with the intention of curbing parallel command structures and loyalties (Boshoff, 2004b; ICG, 2005a p. 4f, 16f; Kibasomba, 2005).

For political reasons as well as due to practical problems the timetable for the integration of the FARDC was stretched several times, and the final strategic plan for army integration was completed only in May 2005 (cf. Boshoff, 2004b p. 62; ICG, 2005c p. 5). Further delays occurred in the case of the new defense law for the FARDC. While the first draft was presented to the Council of Ministers as early as January 2004 it received its final approval as late as November 2004. The defense law legally established the FARDC and focused on its organization and structure, identified the positions of its command and precisely outlined the functions and responsibilities attached to these posts (Boshoff, 2004b p. 62f). While international observers acknowledged the promulgation of the defense law as important legal/judicial step, they also sharply criticized the law for not addressing core aspects: The law failed to outline a 'grand strategy'—it remained vague on the military doctrine, functions and future operations of the FARDC. The law also failed to set a definite ceiling of the troop size, and, last but not least, completely omitted to address the problem of the presidential guard, GSSP (see below). In sum, the defense law is characteristic for the SSR-process: The long duration of the process from first draft to final version was characterized by severe political controversies. By leaving out contested issues the document is a minimal consensus that just postpones political conflict (ICG, 2005a p. 1, 15; ICG, 2005c p. 5f; Kibasomba, 2005).

The implementation of both the provisions of the defense law and the defense and demobilization plan into political practice, similar to political and economic reforms, faces enormous problems. Practical problems stemming from lack of resources and institutional incapacity and, more importantly, commitment problems of central players due to ongoing power struggles:

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<sup>55</sup> The (re-)distribution of the military regions and appointed military commanders is documented by ICG, 2005a p. 4 and Kibasomba, 2005.

*Practical problems in the implementation of DDR and SSR*

While concrete planning of SSR and DDR programs only began after considerable delays (see above), the practical implementation of measures to integrate, train and (re-)deploy FARDC-forces lags behind schedule even further. DDR processes supervised by the Congolese CONADER, too, proceed at painstakingly slow speed. The most obvious challenges are structural problems of a post-conflict society. The deteriorated infrastructure, for example, has considerably slowed down the quartering of dispersed combatants. Weak institutional capacities of the state also contributed to the meager results of SSR and DDR. A number of preconditions for successful DDR concerning infrastructure have not yet been met. At the end of Summer 2005 only 12 of the foreseen 25 orientation centers where combatants were to be disarmed and registered were functional, despite the fact that the leading Congolese agency for DDR, CONADER, receives financial support from the Multi-Country Demobilization and Reintegration Program hosted by the World Bank. CONADER cooperates with the UNDP and also receives technical assistance from MONUC (Boshoff, 2004b p. 64; ICG, 2006a p. 4; Kibasomba, 2005). While the real costs of the DDR program may eventually well exceed the donations of US \$200 million since November 2004 (see Box 4), this does not explain delays and organizational failures. Instead, CONADER's inefficiency has become proverbial among international experts.<sup>56</sup>

*Box 4: DDR and SSR according to the demobilization and integration plan*

The processes of creating an integrated army and the demobilization of combatants from the various armed groups is closely interwoven. According to the revised plan (of March 2005) these processes proceed in two distinct stages:

**Stage 1: Registration, disarmament, orientation.** During this phase, all (ex-)combatants turn in their weapons and register in

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<sup>56</sup> See ICG, 2006a p. 3f. and Kibasomba, 2005. Accounts of CONADER's failure are even more telling if one considers the fact that the number of soldiers willing to demobilize are far lower than expected/planned for in the national demobilization plan. Interviews conducted with MONUC officers and personnel from international aid agencies in Bukavu, Goma and Kamanyola in June 2005 confirmed that this viewpoint on CONADER was widely shared.

the 25 quartering/orientation centers throughout the country. Ex-combatants are informed about preconditions for re-entering the armed forces (FARDC) and about the process of reintegration into civilian life. The orientation centers are operated by CONADER in cooperation with UNDP. MONUC also provides mostly technical and logistic assistance.

**Stage 2a: Reintegration of ex-combatants into civilian life.**

Candidates choosing a return to civilian life receive vocational training (provided by local CONADER-offices). CONADER organizes their return to their home regions. When leaving the orientation sites ex-combatants receive US \$110 in cash and are eligible for a monthly allowance of US \$25 for a year and further counseling by CONADER.

**Stage 2b: Integration of soldiers into the FARDC.** Disarmed and registered candidates for military service in the FARDC are sent to 'centres de brassage'. There, they are regrouped into mixed units of the FARDC. They go through a formal military training program of 45 days. After completion, they are re-armed, and the integrated FARDC units are deployed to various regions of the DRC.

The plan foresaw the integration, training and deployment of 18 brigades (approx. 63,000 soldiers) in three phases. The last phase ought to be completed in December 2005 (an earlier plan had even foreseen the integration of 120,000 soldiers by October 2005). Observations on both processes—DDR and integration of FARDC—have revealed the rather 'fictitious' character of the plan.

**Sources:** Boshoff, 2004b; ICG, 2005c; ICG, 2006b; Kibasomba, 2005.

A look at the SSR process, especially concerning the FARDC, is equally sobering. In Summer 2005 only 6 of 10 integration centers ('centres de brassage') were functional. The sites in operation lack qualified staff, resources and equipment (ICG, 2005c p. 5f; Kibasomba, 2005; ICG, 2006b p. 25f), in some cases even the most basic infrastructure such as housing or access to water is nonexistent.<sup>57</sup> It is obvious that the DRC lacks financial resources.

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<sup>57</sup> This was the case in the integration center in Luberizi near Kamanyola, South Kivu, we visited in June 2005 (see Chapter 2.3). The situation in Luberezi is no exception. Similar accounts exist for integration centers in Katanga (cf. ICG, 2006a p. 12f) and North Kivu (Interviews with MONUC military officers in Bukavu, Kamanyola, Goma, June 2005).

According to expert estimates the costs to create the FARDC—to integrate the troops and to provide them with military training and equipment—will add up to approximately US \$546 million (Boshoff, 2004b p. 64), thus amounting to about 80 percent of the current annual budget of the state. In contrast to DDR, there is little international funding available for the military aspects of SSR. Only US \$14 million have been granted by the EU and the Netherlands. Thus, military training programs for FARDC units are the most important contribution of the International Community. In accordance to bilateral military agreements, Belgium trained a first integrated brigade (comprised of 4,200 troops) in 2004, Angola and a joint South African/Belgian operation also trained a brigade each during the first half of 2005. (These bilateral military agreements were coordinated within the bodies of CIAT and the coordination committee on SSR.) In the Summer 2005, the FARDC—assisted by MONUC—trained three more brigades in North and South Kivu. With only roughly 21,500 soldiers trained and integrated by Fall 2005 it remains questionable if the FARDC will reach the envisaged troop size of 18 integrated brigades before the elections in 2006 (ICG, 2005c p. 5f; Kibasomba, 2005).

Power struggles between institutions and parallel command structures

The political stalemate in the TNG is a major obstacle to an outline and implementation of military reforms. Maintaining influence and/or gaining control over the new army is a hotly contested political asset; especially between the main adversaries—the former Kabila government on the one side and the RCD on the other. This rivalry is mirrored by the distribution of important positions within the formal structure of the TNG and the armed forces as agreed upon in the agreement of Pretoria II and the Final Act of the ICD of 2003. While the presidency, with Joseph Kabila being the supreme commander of the armed forces, maintained control over the powerful Presidential Military Office ('Maison Militaire'), Vice-President Azarias Ruberwa from the RCD chairs the Defense and Security Commission, and Adolphe Onusumba was granted the position of Minister of Defense. Both sides also received positions in the Chief of Staff and regional military commanders (cf. Boshoff, 2004b p. 61f; ICG, 2005a p. 16).<sup>58</sup>

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<sup>58</sup> The MLC, as the third 'big' party to the conflict equally received influential positions in the formal military and political hierarchy. Although there have been frequent collisions of interest between

Competition and power struggles between Kabila and Ruberwa and/or the President's office as well as the Defense and Security Commission and the Ministry of Defense have prolonged, and sometimes stalled SSR initiatives in the TNG and the Supreme Defense Council (Kibasomba, 2005). Although observers concede that SSR has gained some momentum since early 2005 they expect that political rent-seeking and tactical maneuvers will continue at least until the end of the transition period after national and presidential elections in 2006 (cf. *East African* 19 December 2005; ICG, 2005c p. 5f; Kibasomba, 2005).

Inter-institutional competition has surfaced repeatedly at different occasions, and has also revealed the persistence of informal political power networks and command structures in the armed forces. One example of this is the 'crisis management' of the Kabila faction after the staged secession attempts in Katanga in May 2005 (see above). This incidence clearly revealed the persistence of personalized parallel command structures along the lines of the former FAC, in some cases including members of the GSSP that, for its greatest part, equally has remained loyal to Kabila. In contrast, the parallel chains of command of the RCD (along the line of its former 'army', ANC) have gradually eroded during the years of transition and, according to some observers, collapsed totally after the 'Bukavu crisis' in May and clashes in North Kivu in late 2004. Despite the fact that 11,000–22,000 (!) former ANC-combatants have yet to be integrated into the FARDC, the armed wing of the RCD is no longer a coherent force (ICG, 2006b p. 13f).

Parallel command structures have also facilitated large-scale corruption. The overblown declarations of their respective troop sizes allowed military elites from the former warring parties to skim off salaries for 'ghost soldiers'—in early 2004, the FARDC had 340,000 soldiers on their payroll. While these salaries severely strained the defense budget, many rank and file soldiers were paid irregularly, if at all. Several high-ranking officers (from all factions) skimmed off substantial amounts. The revision of the 'official' troop size to 240,000 by the Commission of Defense and

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high-ranking former MLC-commanders and the former FAC-establishment, the main line of conflict runs between the Kabila faction and the RCD. One example of a noticeable controversy between Kabila/former FAC and MLC has surfaced in the wake of the staged secession attempt in Katanga where the military commander of Katanga, Brigadier General Alenghia Nzambe, was completely sidelined by General Numbi.

the Supreme Defense Council in February 2004 was aimed at cutting the huge costs on personnel, but corruptive practices continued (ICG, 2006b p. 15f; Kibasomba, 2005). To curb corruption within the armed forces, the Ministry of Defense has requested foreign assistance. A EU-sponsored 'chain of payments-project' was brought on its way in December 2005. It remains questionable, though, if the EUSEC-project, consisting of only 40–45 military experts will effectively be able to control to check the payment flows of salaries as well as procurement expenditures (ICG, 2006b p. 19f). Although both factions, Kabila and the Ministry of Defense, have welcomed this initiative, it is likely that military commanders will seek to bypass these initiatives.

Of major concern is the unclear distribution of political authority between the powerful Presidential Military Office ('Maison Militaire') under Kabila's control and the Ministry of Defense. In this context, the still unclear role, structure and size of Kabila's presidential guard GSSP within the post-war/post-transition security architecture of the DRC remains a major source of controversy. Since it is placed exclusively under the president's command it provides an extremely important asset, providing Kabila with a *de facto* private army of up to 10,000–15.000 comparatively well-equipped and -paid soldiers. The FARDC, in contrast, is chronically underfunded: (ICG, 2005a p. 16f).<sup>59</sup> The failure of the new defense law of November 2004 to solve this problem is a telling example of how the "Cold War" (Kibasomba, 2005) between the former belligerents in the TNG negatively affects SSR- and other security-related reforms.

## **2. A Tale of two Cities: Goma and Bukavu as case studies of the transition in North and South Kivu**

The following chapter will address the Kivu provinces in the east of the DRC that were 'rebel territories' during the war. After an introductory subchapter on conflict dimensions and developments in the Kivu provinces during the war, two case studies will focus on the main cities in each province; Goma in the North and Bukavu in

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<sup>59</sup> Ruberwa and Onusumba have frequently criticized the 'Maison Militaire' (Kabila) for not freeing or transferring money to the Ministry of Defense to purchase equipment or pay salaries for FARDC-soldiers. While keeping the FARDC short on resources, the Kabila faction is reported to prop up the GSSP. Interview with military analyst in Nairobi, June 2005.

the South. The case studies provide a more in-depth analysis of the situation 'on the ground'. The main focus is placed on an evaluation of continuities and changes during and after the war that have occurred in the political and economic realm.

To begin, we must assume that the transition process in the Kivu provinces differs from processes in those parts that were under control of the Kabila government(s). There are several grounds for this assumption. During the war, political and military power in the government-controlled areas was also fragmented and uncertain, but not to the extent that it was in the rebel territories. It is likely that transition in the former rebel territories will take a more volatile path because of the more diffuse—and contested—structure of political and military power during the war. Since political and economic power was also not firmly established during the war, competition between different groups attempting to hold on to their positions or strengthen them at the expense of other groups is more likely to occur during the post-war period.

Although the former 'rebel' party RCD still holds an important position of power, especially in North Kivu, the changes in the status quo that have occurred so far (e.g. the takeover of Walikale by FARDC forces in late 2004) have not been in its favor. The Kabila faction within the TNG has attempted to increase its political influence and to gain foothold in the resource-rich East. In this light, the local former rebel authorities perceive (in some cases rightly so) the re-establishment (or better yet, the establishment) of the TNG's military and political control of the Eastern provinces as an attempt to 'capture' the transition process. If 'Kinshasa' indeed uses the rhetoric of reform to reward former allies and punish former rebels, the risk of renewed violent confrontations remains.

### *2.1 A background to conflict dimensions, the war and political power*

Until 1988, both Kivus and parts of Maniema and Orientale were one province. The region has a history that is somewhat detached from the rest of the country, and it is disconnected from the nation's formal, centralized economy and Mobutu-era politics. Hence, it has played only a marginal role at the national level, and from as early as the 1980s until the end of Mobutu's reign, it even enjoyed a certain *de facto* autonomy, which included the political as well as the economic sphere. This situation partly resulted from the deteriorated infrastructure and the weak administrative capacities of the Zairian state, but also from the

way in which the informal economy was structured. Informal trade relations with communities in neighboring countries (Burundi, Rwanda, Tanzania, and Uganda) were well established, while Kinshasa was more remote. For the local economy, these transnational trading networks were more important than economic relations with Kinshasa (Jackson, 2002 p. 522; Vlassenroot, 2004 p. 40ff).

The densely populated Kivu provinces on the eastern periphery of the Congo have a long history of inter-communal conflicts. Inter-communal tensions resulted from the settlement of several groups of immigrants in the area at various points in time. While some of these influxes resulted from colonial policies, others were more recent, such as the settlements of Rwandan 'Tutsi' communities in the East of Zaire who had fled ethnically targeted violence in Rwanda during the 1960s and 1970s. The result was a very heterogeneous society, in which different groups regularly disputed over land rights, access to economic privileges, political representation and participation in the power networks of the weak Zairian state. Even though inter-communal conflicts were frequent, the level of violence remained comparatively low until the early 1990s. This changed when local politicians started to build their power networks almost exclusively on ethnic bases. As a direct result of such political manipulation, both small and large conflicts broke out, especially when inter-communal conflicts over ownership and access to land were drawn into the political sphere in the course of Mobutu's last survival strategy of 'warlord politics' (Jackson, 2002 p. 520f; Vlassenroot, 2004 pp. 39–45).

In 1993 and in 1994, two large influxes of 'Hutu' refugees from Burundi (see Box 5) and Rwanda took place. From April to August 1994, extremist factions within the Hutu-dominated government of Rwanda had orchestrated a well-organized bloodbath that took the life of nearly one million people from the 'ethnic' minority group of the Tutsi and several thousand moderate Hutu who had opposed the *de facto* authoritarian government and/or the genocide.<sup>60</sup> At the same time the Tutsi-dominated rebel

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<sup>60</sup> For a more detailed and accurate analysis of the Rwandan genocide see des Forges, 2002. Estimates of the death-toll of the genocide range from 800,000 to 1.2 million. An important feature of the events accompanying the genocide is the complete failure of the UN and Western powers, notably France and the USA, to protect civilians from the Interahamwe.

*Box 5: Conflicts in the Kivu provinces*

1959–1963	In the wake of the so-called 'Hutu-Revolution' around Rwanda's independence (1961), some 150,000 Tutsi from Rwanda flee to Zaire, Burundi, Uganda.
1972:	300,000 Hutu flee from Burundi (after a massacre by the Tutsi-dominated army) to Rwanda, Tanzania, and (to a lesser degree) Zaire.
1981:	The Mobutu government takes away the civil rights from the 'Banyarwanda', a heterogeneous group of Rwandan origin that had lived in Zaire for decades and which had, until then, enjoyed privileged access to Mobutu's patronage networks.
1993:	Some 400,000 Hutu flee Burundi (after massacres and the beginning of a civil war following a military coup and the murder of President Melchior Ndadays), mostly to Rwanda, Zaire (South Kivu) and Tanzania.
1994:	About 2 million Hutu flee from Rwanda (the RPF takes over after genocide on Tutsi by Hutu extremists). About 1.3 million seek refuge in the DRC.
1996:	Beginning of the AFDL-rebellion (September); the RPA enters the Kivus to track down Interahamwe, Ex-FAR and Hutu refugees.
1998:	Escalation of the second Congolese war: The RPA enters DR Congo

**Sources:** Des Forges, 2002 p. 55ff; Lemarchand, 2004; Vlassenroot, 2004

organization of the Rwandan Patriotic Front (RPF) led by Paul Kagame (re-)launched its military campaign against the extremist government and its forces of the Rwandan army. When the RPF advanced quickly to the Rwandan capital Kigali, a massive influx of up to 1.3 million (Hutu) refugees who feared retaliation into the neighboring Kivu provinces resulted. The refugees included mostly civilians but also many members of the former regime and its security apparatus. By the time the RPF's military victory ended the genocide, nearly 50,000 heavily armed Rwandan 'Hutu' militias and soldiers from the armed forces of the former Rwandan regime (Forces Armées Rwandaises, FAR) were operating freely in Eastern Zaire, controlling the area and launching cross-border raids from refugee camps or established strongholds in the mountainous Kivu provinces (Reed, 1998 p. 134; 140ff). The Mobutu regime was

unable and unwilling to stabilize the situation. On the contrary, Mobutu tried to capitalize on the situation through 'ethnic scapegoating' (McCalpin, 2002 p. 45f). In fact, anti-Tutsi feelings among the Hutu refugees fitted well with xenophobic resentment felt by parts of the 'indigenous' Congolese groups toward the Rwandophone population of Tutsi communities that had settled in the east of Congo/Zaire in the 1960s and 1970s. Anti-Tutsi feelings facilitated the emergence of alliances between opportunistic local politicians and Hutu-refugees, sometimes resulting in attacks on Congolese Tutsi communities. These attacks served as one of the official justifications put forward by the Rwandan regime when it intervened in Zaire in 1996: it pointed to its obligation to protect Tutsi communities in Zaire. Its other justification was its need to secure its borders from raids of Interahamwe and ex-FAR (Longman, 2002 p. 129ff; Vlassenroot, 2004 pp. 41–48).

The Rwandan government initiated and strongly supported the formation of the rebel organization 'Alliance des Forces Démocratiques pour la Libération du Congo/Zaire' (AFDL), a merger of several Congolese armed groups. Due to the massive military support from Rwanda and the weakness of Mobutu's armed forces, the AFDL, under command of Laurent Désiré Kabila, advanced to Kinshasa with relative ease and ended Mobutu's rule after just seven months of war. After the installation of the new regime in May 1997, Laurent Kabila sought ways to consolidate his fragile power position within the country. At the same time, he tried to reduce and limit foreign—especially Rwandan—influence in the Congo, since his former patron continued to exert an influence on Congolese politics and the security apparatus. In order to regain public popularity Kabila tried to capitalize on public fears of 'Tutsi domination' and adopted an increasingly nationalistic and xenophobic rhetoric. He blamed Congolese (and Rwandan) Tutsis for the country's continuing economic and political misery. From early 1998 onwards, frequent and at times pogrom-like attacks by Congolese citizens on actual or suspected Tutsi communities occurred with the tacit approval of Kabila (Dunn, 2002 p. 66f; McNulty, 1999 p. 55).

Kabila dismissed all foreign troops from the new Congolese army (Forces Armées Congolaises; FAC) in July 1998. This served as a pretext for Rwanda, and later Uganda to intervene militarily. Also, Rwanda pushed for the formation of the Congolese rebel group Rassemblement Congolais pour la Démocratie (RCD), which started a rebellion in the East in August of the same year. As noted earlier, the RCD rebellion did not succeed in toppling the

Kabila regime, since Kabila rallied international support from a number of countries. But backed by soldiers from Rwanda and Uganda, the rebels captured vast parts of the DRC. Even after the formation of rivaling rebel groups, the Rwandan-backed RCD remained the most important Congolese actor in the Kivu Provinces. In addition to the Kivu provinces, the RCD controlled parts of Orientale and Maniema, as well as a small strip of Northern Katanga.<sup>61</sup> Thus, the RCD had access to—and claimed control over—rich natural resources such as the coltan and cassiterite in the Kivu provinces, diamonds in Province Orientale and gold in Province Orientale, South Kivu and Maniema. The *de facto* partition of the country and the failed attempts of the RCD (Goma) to install a functioning rebel administration still influence politics in the East. The 'structures' of political rule and economic exploitation that evolved during the war, the incorporation of older structures and networks of informal politics and economics into the rebel 'system' and the resulting militarization of resource exploitation and trade, still affect the post-war economics of the region to an important degree.

#### RCD control of the Kivus

As Vlassenroot (2004 p. 57) notes: "[i]n the Kivu-provinces, since the start of the RCD-rebellion, ethnic communities became divided into two different camps: those supporting the RCD and those opposing it." Unlike the AFDL, the RCD never managed to gain wide-spread popular support. Even though the 'founding fathers' of the RCD included many well-known Congolese politicians—such as, for example, long-time opponent to Mobutu, Professor Ernes Wamba dia Wamba—the rebellion lacked political credibility and popular support from the start. Other members of the leadership, like Emile Ilunga and Azarias Ruberwa, who had been high-ranking figures in the AFDL rebellion (but had broken with Laurent Kabila), were popularly perceived as representing a Rwandan-sponsored 'Tutsi-colonialism' in the Congo. The RCD's military dependence on Rwandan support and the repeated interference of high-ranking elites close to Kagame in internal power struggles of the rebel organization nurtured a (partly correct) popular perception of the RCD as a mere 'puppet' of

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<sup>61</sup> For detailed accounts see ICG, 2000, Jacquemart, 2001 and Clark, (ed.) 2002.

Rwanda. With the exception of a narrow support base of Rwandophone Banyamulenge and Banyarwanda communities, the RCD faced harsh resentment from the majority of the population (Afoaku, 2002 p. 116ff).

The political aspiration of the RCD was to install a viable rebel authority in the Eastern provinces of the DRC. In fact, this goal was more than just a rhetorical 'disguise' for extractive practices. As observers have shown, the RCD leadership made considerable efforts to gain national authority and international legitimacy through means other than military force. With the inclusion of some academics and well-known professionals as RCD figureheads, such asernes Wamba Dia Wamba, who would later be toppled and replaced by Emile Ilunga, the RCD sought to counter (not only) Congolese accusations that denounced the rebel group as a foreign organization. The RCD leadership put considerable effort into an attempt to gain international political support, or at least the recognition of its self-proclaimed status as a 'government in waiting' (Tull/Mehler, 2005 p. 380f). Secondly, the rebel organization tried to re-establish the weak administrative structures of the Zairian/Congolese state. For a variety of reasons—most importantly political rent-seeking within its own ranks—the RCD proved incapable of institution-building. It thus resorted to the exploitation of the 'inherited' bureaucratic structures to 'uphold a fiction of bureaucratic order' (Tull, 2003 p. 435).<sup>62</sup> Last but not least, from 2001 onwards, the RCD tried to establish and consolidate a political support base in the eastern DRC, especially in the Kivu provinces. But the movement largely failed to achieve this goal. Every move to incorporate existing structures was met by deep anti-RCD feelings and had only limited success. In an attempt to incorporate (or co-opt) activists from civil society and the political opposition to Kabila, the rebel group gave posts within its organization and/or its administration to important (Congolese) figures from non-armed groups—sometimes without the consent of the candidates (ICG, 2003a pp. 15–16). It does not come as a surprise that many actors within civil society refused to take up a post that was forced upon them by the RCD. The movement also tried to capitalize on inter-communal conflicts and rivalries between traditional (Congolese) authorities. By taking sides in

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<sup>62</sup> While the RCD put some efforts into achieving administrative control over the lucrative mineral trade (see below), the rebel organization did not 'invest' in any form of public services. Still, the administrative structures of the RCD were the most advanced of all Congolese rebel-administrations (Johnson/Tegera, 2005 p. 83f)

intercommunal conflicts and conflicts over succession of contested chieftaincies the RCD tried to play 'godfather' to loyal local strongmen (Tull, 2003 p. 437ff). In similar vein, the RCD approached local commanders of their military enemy, the Mai Mai. Although the RCD managed in some cases to co-opt local politicians and 'traditional chiefs', and although it engaged in mutually beneficial, economic/commercial alliances with several Mai Mai commanders, the rebel group could never live up to its self-proclaimed status as *de facto* power, let alone form a legitimate administration to rule the DRC's east.

As the political attempts to improve its position in the Kivu provinces failed, the RCD had to enforce its claims by using military might. The movement claimed to have a fighting force of up to 40,000 combatants within the ranks of its military wing, the Armée Nationale Congolaise (ANC). These were aided by—at different times—20,000 to 40,000 regular soldiers from the RPA. Considering the vast territory under nominal control, the rebels' high unpopularity and the fact that several thousands of Mai Mai militias and FDLR-fighters<sup>63</sup> were challenging the RCD from within its territory, it is obvious that RCD control was only relative. Political and administrative control was fragmented to an even greater extent than was the case in the areas controlled by the government. The insurgents also failed to gain firm control over the economic structures in the region.

**Military control over extraction sites and trade:** Although the RCD is said to have 'controlled' the Kivus, this was never full territorial control, but rather limited to a control of the largest cities and most mining areas. During the war a significant number of coltan, cassiterite, diamond, and gold mining sites in the more remote parts of both Kivu provinces remained under military control of the FDLR and Mai Mai militias, such as the coltan-mines in the Virunga national park or the National Park Kahuzi-Biega near Bukavu. At different mining sites, FDLR or Mai Mai militias exerted control over artisanal miners—either by issuing local 'mining licenses' (at varying prices) or by collecting 'protection fees' from the miners. But FDLR or Mai Mai units were unable to extend their limited power beyond the control of the extraction sites. This enabled the RCD (and its ally the RPA) to secure the most important strongholds in the exploitation and trading networks.

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<sup>63</sup> Interahamwe and Ex-FAR merged in 2000 to form the FDLR ('Forces Démocratiques pour la Libération du Ruanda').

Transportation, trade and export of minerals remained largely in the hands of the RCD (and the RPA), which either intercepted transport routes by force or engaged in direct bargaining with their military adversary. In addition to these commercial alliances they tried to co-opt local FDLR and Mai Mai commanders (cf. ICG, 2003a p. 10f; UNSC, 2002 p. 14ff).<sup>64</sup> The control over the larger cities (such as Goma, Walikale, Masisi, in North Kivu, Bukavu, Kamituga in South Kivu), where licensed purchasing offices (comptoirs) collected the merchandise from small traders (trafiquants) and control over most airports or airstrips, secured the RCD's (and RPA's) comparably tight grip over the mineral trade in the Kivus. Of critical importance was the control of border cities like Goma (next to the Rwandan city of Gisenyi) or Bukavu (next to Cyangugu) from which the minerals were exported, either through Rwanda or directly to international customers.<sup>65</sup> Since Congolese trading networks sought to escape taxation by the RCD, the RCD (and the RPA) needed to maintain control over the regions bordering Rwanda and more importantly, Burundi and Tanzania, in order to curb 'illegal' smuggling.

**Inability to curb established trading networks:** The strength of established informal structures made it nearly impossible for the RCD to curb them. Informal trade networks, 'unrecorded trade' and 'smuggling' have a long history in the region and obviously predated the war. Mukohya (1991 pp. 43–71), for instance, describes an informal gold producing and trading network. The evolution of large-scale artisanal mining in the Kivu provinces (as in the rest of the country) dates back to the early 1980s, paralleling the decline of industrial mining. Thus, when the RCD and the RPA started to exploit local resources in the Kivus, they encountered pre-existing and well-established extraction structures and trading networks that had been in use for decades. The RPA and its

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<sup>64</sup> The UN Expert Panel (UNSC, 2002 p. 14) cites Jean-Pierre Ondekane, Chief of the High Command of the RCD's armed wing ANC in 2000, urging all armed units of the RCD to maintain good business relations "with our Interahamwe and Mayi-Mayi brothers (sic!) [and] if necessary, to let them exploit the sub-soil for their survival."

<sup>65</sup> While being military allies, the RPA and the RCD were competing over the 'lion's share' of resource extraction. At the height of the Coltan-boom in 2000, about two-thirds of the Coltan extracted in the Kivu provinces was flown out by aeroplane from cities like Masisi and Walikale to Rwanda whereas the remaining one-third was exported via comptoirs in Goma and Bukavu (Jackson, 2002 p. 525).

Congolese counterpart tried to drive out Congolese businessmen through various means, including force and administrative strategies. The rebel administration sought to eliminate Congolese intermediary structures with the creation of a new web of purchasing offices (comptoirs). The comptoirs needed to obtain licenses from the rebel administration and were the only legal actors to export minerals. The rebels tried to manipulate the business by granting licenses only to selected (and presumably 'loyal') Congolese businessmen, and to Rwandan or Rwandophone businessmen and foreigners. When redistributing licenses, the rebel administration collected fees for running a comptoir. These fees of US \$15,000 per year and a tax amounting to eight percent of all exports were hardly affordable for many of the 'old' business people (Vlassenroot/Romkema, 2002; Global Witness, 2004a p. 22; Johnson/Kayser/Tegera, 2002 p. 9). The majority of the old—or, one could say, 'traditional'—informal traders, who still remained in business, notably at the 'level' of the 'négociants' were thus either forced to sell at fixed prices set by a new business elite close to the RCD leadership and RPA commanders, or to smuggle their produce. Although the rebel administration tried to regulate the trade and elites close to its leadership forced themselves into business, they failed in marginalizing the 'old' networks. Furthermore, as the war progressed, RCD was increasingly confronted with individual rent-seeking by its local commanders, who often cooperated with Congolese businessmen in smuggling activities and engaged in trade relations with Congolese and foreign militias such as, for example, Mai Mai and FDLR (Vlassenroot, 2004c p. 132f).

A second attempt to curb the established networks was the monopolization of the coltan-trade in late 2000. At that time, coltan prices had reached their peak after a steep rise throughout the year. At the same time the RCD's revenues from mining licenses and taxes on transportation and production of ores were declining. The high prices led to evasions of RCD taxes (through more smuggling), and it was therefore decided that the RCD should grant an export monopoly to the 'Société Minière des Grands Lacs' (SOMIGL). Shareholders of SOMIGL included the RCD as a majority shareholder (up to 75 percent of all shares), businesswoman Aziza Gulamali Kulsum and her company Shenimed (located in Bukavu), and the "mysterious" (Johnson/Kayser/Tegera, 2002, p. 7) companies Africom, Promeco, Cogecom. When SOMIGL received the monopoly, 19 comptoirs

(mainly in Goma and Bukavu) lost their rights to export coltan. But the SOMIGL monopoly was abandoned after less than half a year in early April 2001, after coltan prices had fallen dramatically to only 30 percent of the value at the peak of the 'coltan boom'. In addition, local resistance of Congolese (and Rwandophone) businesspeople against the monopoly was rising, and smuggling was increasing again (Jackson, 2002 p. 526; Johnson/Kayser/Tegera, 2002 p. 9ff).

#### Losing control after the war's end

The Second Congolese War formally ended in late 2002, when the RCD was still the strongest actor in the eastern provinces of the DRC. It remained so despite political setbacks and, after the sudden pull-out of the RPA in the Summer of 2002, an increasingly precarious military position vis à vis its Congolese contenders, or the Mai Mai and the Rwandan insurgents of the FDLR (see Chapter 1.1). Accordingly, the RCD was able to secure a substantial share of political positions in the TNG and seats in the two chambers of the new Congolese parliament. The RCD was also granted leading positions in the command structure of the new Congolese army, the FARDC. In contrast to other provinces, in which political positions were re-assigned, the RCD kept the governor's posts for North Kivu and, initially, for South Kivu. Although the RCD's political influence in the TNG and local administration was substantial in terms of formal representation, the years of the transition marked a gradual erosion of its power base. The group has lost its formerly dominant political, military and economic position in both Kivu provinces. In both cases, the erosion of power was accompanied by severe political and, at times, violent confrontations. As noted, 'peace' in the Kivu provinces only existed in theory, whereas the political reality on the ground was characterized by continued power struggles and frequent eruptions of armed confrontations. At first glance, the RCD remains the most important power in North Kivu, and particularly in Goma. In South Kivu, however, the power position of the former rebels has been contested more vigorously by the Kabila faction of the TNG. In addition, the RCD lost its former military dominance to the FARDC, the majority of whose commanders, if not loyal to the Kabila camp, are at least hostile to the former ANC (Kibasomba 2005).

As the case studies will show, the RCD certainly possesses a significant 'spoiler potential' (cf. Stedman, 1997) it can, and in the past repeatedly has, blocked political reforms. As the Bukavu crisis in Summer 2004 has shown, significant actors of the RCD/ANC did

not hesitate to risk a military confrontation (see below). Nevertheless, the RCD—if it may be considered to be a coherent organization—increasingly finds itself with its ‘back against the wall’. Its reluctance to implement political, security-sector and economic reform (at times well-founded and at times based on the fear of losing its (unaccountable) power position) eventually worked against it; the Kabila faction repeatedly sought to capitalize on the RCD’s reluctance, denouncing its leadership as threat to the transition. On the one hand, this claim certainly holds some truth to it. But on the other hand, it also provided the Kabila faction with an easy scapegoat that could be blamed for the stalled transition vis à vis the Congolese population as well as international donors (ICG, 2005a p. 16f; Wolters, 2004 p. 9).

The RCD’s failure to influence the transition in a constructive way can be explained by two main phenomena: An increasingly ‘desperate’ RCD, weakened by internal divisions and power struggles, and the successful attempts of the presidential camp to ‘capture’ the transition process in an effort to realize its own aspirations for power. A closer look into the RCD’s power structure reveals important and growing internal divisions, notably between a ‘hard-line faction’ that is primarily concerned with defending its local power base on one hand, and a more ‘moderate faction’ whose members adjusted to the new power balance of the TNG. Members of this faction are, accordingly, more preoccupied with securing their new privileges and, as seen in the example RCD-leader Azarias Ruberwa, establishing new political alliances.<sup>66</sup> The ‘Kabila faction’—Kabila’s close allies in the TNG and the presidential party, PPRD—has been fairly successful in co-opting representatives of former armed groups (see Chapter 1.2). The provisions of the power-sharing formula included in the peace agreement have enabled the former government to extend its ‘grip’ on political power positions in the Eastern provinces. For example, it controls the post of governor for South Kivu (see Chapter 2.3).<sup>67</sup> Against the background of the unpopularity of the RCD even in the Eastern provinces, the provision of formal power positions to individuals from the presidential camp opened new possibilities for the latter to access or infiltrate informal power

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<sup>66</sup> Interviews with political analysts in Nairobi and Goma, June 2005.

<sup>67</sup> Interview with political analyst in Nairobi, June 2005. For a brief overview over the distribution of power in the TNG see ICG, 2005c, Appendix B.

networks that had previously been under the 'control' of the RCD.<sup>68</sup>

The central government in Kinshasa, under the disguise of pursuing measures of political and economic reform and fighting corruption, also sought to curb the economic influence of the RCD and affiliated Rwandophone and Rwandan businesspeople. Companies that had obtained concessions in the mineral trade or had conducted business ventures under the RCD-administration, such as the insurance company SCAR ('Société Congolaise d'Assurance et Réassurance'), the telecommunications company Supercell and the tobacco company Supermatch became the target of investigations, law-suits, temporary suspensions of business activities and other forms of 'bullying' (Cuvelier, 2004 p. 200f; Johnson/Tegera, 2005 p. 84ff). When Jean-Pierre Bemba, Vice-President and head of the Commission for Finance and Economics, announced in late 2004 the lifting of restrictions that had been placed on these companies by the TNG, members of the Kabila faction (and the majority of the Congolese/Kinshasa-based media) denounced this as an act of pacticing between Ruberwa (sic!) and Bemba (cf. Bucyalimwe 2005 p. 3).<sup>69</sup>

## *2.2 Goma: Rising from its ashes?*

"Maybe a third of Goma city is burning, the situation remains volatile" (CMN, 18 January 2002). This is not an excerpt from a report on fighting in the capital of North Kivu but an eyewitness account one day after the eruption of the Nyiragongo-volcano in January 2002. The catastrophic eruption of the volcano was the finale to almost a decade of gradually increasing problems for the city. It was also the only catastrophe not caused by conflict. But the ongoing Congolese conflict greatly aggravated the ensuing humanitarian disaster (Verhoeve, 2004 p. 104).

Despite Goma's geographical and geological location the city attracted—and continues to attract—large numbers of migrants from the surrounding countryside. Between 1993 and 2003, Goma's population shot up from some 170,000 residents to

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<sup>68</sup> Given the recent history of corrupt, autocratic and at times brutal rule of the RCD-administration during the war, the majority of representatives of civil society and the unarmed opposition that were granted political positions in the Kivu Provinces during the transition sides (and collaborates) with the Presidential camp.

<sup>69</sup> Although the article by Bucyalimwe (2005) is very one-sided in favor of the Kabila faction, the facts quoted here seem to be correct.

more than 550,000, and the city has not stopped growing. The reason, to put it simply, is that the countryside is even worse off. Smaller and larger conflicts have plagued the region (see Box 5). As a result, Goma has been expanding rapidly as large portions of the population from the surrounding rural areas and even from South Kivu have fled to the city in search of security. Furthermore, economic circumstances in Goma are and were better than those in the country. Because of the city's proximity to the Rwandan border and to Lake Kivu, the city was and still is an important crossing of several formal and informal trade routes (see below). In addition, Goma became the provincial capital of North Kivu in 1988, and the rebels of the RCD chose the city as their military headquarters and administrative 'capital'. Thus, the city offered more business opportunities than the increasingly insecure hinterland. Yet another important pull-factor are the relatively low costs of living in Goma. As a consequence of insecurity, road blocks and the absence of infrastructure due to neglect and destruction, many smaller cities and communities were virtually cut off from trade routes during the war. This situation did not change during the first years of transition, since the countryside of North Kivu was still plagued by different armed groups. In remote areas, even basic items like food, clothing, tools and fuel were not available, or were too expensive because of the costs of transportation (Verhoeve, 2004 pp. 107–112).<sup>70</sup> This situation of insecurity and, consequently, the isolation of rural areas and peripheral cities has changed only gradually since mid-2005.

#### Goma during the war and its importance for the war economy

Goma is located right on the border to Rwanda, and the infrastructure of Gisenyi (on the Rwandan side) is of comparatively high quality. The importance of Goma during the conflict is therefore not hard to understand; its strategic position made it a much-used point of entry for Rwandan troops. Goma had been the outset of the war in 1998. Prior to the start of that conflict, it

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<sup>70</sup> In studies on South Kivu, Vlassenroot/Raeymaekers (2004c), and Jackson (2001) on both Kivu provinces illustrate the isolation of rural areas during the war. Even now, the rural areas are often virtually cut-off from urban centers. Whereas the security situation has improved slightly during the last few years, the deterioration of even the most basic infrastructure has a crippling effect on people's mobility and economic recovery. Interviews with representatives of international aid agencies in Goma, June 2005.

was the city where most Rwandophone Congolese soldiers of the government's army, FAC, and regular Rwandan troops were stationed. The staged mutiny of these brigades that sparked off the 1998 war started in this very city.

In addition, the city was (and remains) a conveniently located place for 'businessmen' to conduct their affairs. The Kivu provinces have historically been an important transit point for regional trade, and Goma still is a transit point for valuable minerals and ores. It is, for instance, an important intersection on the trading route for diamonds from Kisangani. The relatively rich resource environment of the Kivu provinces and their proximity to both Burundi and Rwanda constitute an ideal surrounding for unrecorded cross-border trade—and other activities. Minerals, agricultural products, ivory and manufactured goods were the important commodities that were brought, for example, from Bukavu, via Goma and Rutshuru to Kampala in Uganda (Global Witness, 2004a p. 9). The establishment of informal trade networks and trade routes long predates the conflicts of 1996 and 1998.<sup>71</sup> It is likely that these routes and networks were used for different goods and have occasionally 'switched' to trade in more lucrative commodities. This is in any case true for the tin ore cassiterite, which has currently replaced coltan as the most important commodity of the region. Cassiterite is not only traded and marketed by the same networks as coltan, but also uses the same productive units that were used to make a living through coltan exploitation (Global Witness, 2004a p. 22 and 2005 p. 14).

Because of Goma's relative economic and political importance and because of its strategic importance during the war, the city remains well-connected to trade routes—especially cross-border trade routes. In addition to the proximity of the Rwandan town Gisenyi—literally around the corner—another important route involves Lake Kivu itself. In the words of a MONUC official in Bukavu: "Lake Kivu has never been a natural boundary, quite the opposite, it's a busy road."<sup>72</sup> But the importance of Lake Kivu, as well as the importance of road transport, has given way to transportation by airplanes. The first UN Panel of Experts identified a clear shift in 1998 (UNSC, 2001a p. 71). Produce from mining activities accounted for one of the resource flows through Goma

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<sup>71</sup> The evolution of these informal trading networks have been the subject of several studies undertaken in the 1980s and 1990s (cf. MacGaffy (ed.), 1991).

<sup>72</sup> Interview with a Political Officer of MONUC in Bukavu, June 2005.

during and after the war. The role of Goma as an important turntable for resources is exemplified by the presence of a large number of important comptoirs during the war (see Table 1). Cassiterite and coltan are the primary resources found around Goma. They can be found in the vicinities of the cities Masisi and Kalahe, but the most important mining area in North Kivu is near Walikale. These areas were under military control of the RCD during the war. At first, coltan was by far the most important mineral, of which Congo presumably has the world's largest reserves. Almost coincidental to the conflict in the DRC, there was a 'boom' in the international price of coltan. Prices surged from US \$30 to US \$40 per pound to more than US \$365 per pound in November 2000, but prices faltered at an equally rapid speed in early 2001 (Cuvelier/Raeymaekers, 2002 p. 3f; Global Witness, 2004a p. 19). There are no reliable figures addressing how much money was channeled through Goma during the war, or during the height of the 'coltan boom'.

The link between commercial coltan activities and armed groups became a highly publicized issue internationally. NGOs condemned the connection, which resulted in the creation of several public awareness campaigns. Many reports, including the reports of the UN Expert Panel on Illegal Resource Exploitation in the DRC, have been published on coltan (and other minerals) in the DRC, tracking the ore's way from the mines to the manufacturers of (for instance) mobile phones. These reports document the involvement of local warlords as well as Rwandan and Ugandan military and political officials who entered into shady business deals with companies from the OECD world and (increasingly) the People's Republic of China, usually via a complex web of subsidiaries and shadowy import-export companies and cover firms frequently based in tax-free havens.<sup>73</sup> Coltan became a 'conflict commodity', and during the following years, the trade was placed under closer public scrutiny—at least when European and North American companies were involved. In addition, the prices for coltan fell dramatically in early 2001. This price crash had three main causes: 1) oversaturation on the demand side since coltan-importing and -processing companies

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<sup>73</sup> For reports with special or exclusive focus on coltan see: Cuvelier/Raeymaekers, 2002; Global Witness, 2004a; Hayes and Burge, 2003, Johnson/Kayser/Tegera, 2002; Montague, 2002; cf. Cuvelier/Raeymaekers, 2002 p. 3 and fn 3 for a list of NGOs participating in these campaigns.

had piled up stocks of the ore in 2000, 2) the crash of the 'bubble economy' in the OECD-world that not only affected the over-expanded 'virtual' economy but also led to a (short) overall recession, and 3) last but not least, deliberate political measures that curbed the demand for coltan from the DRC and others. To counter the increasing speculation, in late 2000 the USA 'flooded' the coltan market by selling large quantities (worth US \$91.3 million) of its strategic coltan reserves (Johnson/Kayser/Tegera, 2002 p. 10; Cuvelier/Raeymaekers, 2002 p. 9). All these factors led the main importers of coltan in Europe and the United States to cease buying activities in the Great Lakes region.<sup>74</sup> Coltan lost its strategic economic importance for the parties to the war, and was subsequently replaced by other resources such as cassiterite.

#### Current situation in Goma

With the TNG in place, and transition supposedly on its way, coltan and tin exploitation (as well as that of numerous other resources, albeit on a smaller scale) continue in similar ways, carried out by more or less the same networks of traders and buyers and conducted along similar trade routes. What was considered 'illegal' exploitation during the war by the Congolese (central) government as well as by international observers is now hard to identify and even harder to counteract. A result of this is the problem of 'legal pluralism' (cf. Cuvelier, 2004). Now, on the one hand, ores and minerals from the eastern provinces leave the DRC with 'clean' papers. However, on the other hand, many legal controversies regarding concessions, mining and trading permits remain: the overall 'legalization' of wartime contracts by the RCD administration as foreseen in the Peace Agreement of 2002 has frequently been challenged by Congolese businesspeople close to Kabila seeking a foothold in the Kivu provinces as well as the 'old business class' that enjoyed privileges under Mobutu and had been sidelined during the war. Legality (not only in the Kivu provinces) is a politically contested issue. The most problematic aspect at the moment, however, is that control of the mines remains highly militarized even after the formal take-over of the region by the FARDC.

Within the DRC, the transport routes have changed in some instances, but often only temporarily. Since the exploitation

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<sup>74</sup> Authors' interview with H.C.Starck representatives, Goslar (Ger), June 2004)

networks at meso- and micro-level remain virtually the same, there is little reason to alter the modus operandi. An example of this continuation can be found in the case of mining in Walikale. The city and its surroundings host the richest cassiterite and coltan deposits in the province. Walikale had been under RCD-control but fell into government hands in December 2004 after Kabila deployed 10,000 FARDC troops to the East and captured the town with the help of local Mai Mai groups.<sup>75</sup> While the RCD was in control of Walikale, cassiterite was transported to Goma by plane, at a rate of 22–40 tons per day. When the FARDC took over, the ore was no longer brought to Goma, but initially flown to Bukavu. The destinations after that presumably were the same as before: Rwanda and Tanzania (Global Witness, 2005 p. 16). According to an international observer in Goma, traffic along the original route resumed after a few months and ores are traded again via Goma because old trade networks persisted.<sup>76</sup> Interestingly, the SSR process in which former armed adversaries now share the same uniform has led to new alliances and new forms of economic cooperation. High-up former RCD, Mai Mai and pro-Kabila military personnel now frequently collaborate in the mineral trade, particularly in the case of the cassiterite flow from Walikale to Goma (Johnson/Tegera, 2005 pp. 59–60; cf. Wolters, 2004 p. 5f).

While the trade routes are stable, the companies trading in minerals are all but established and 'steady'. According to the Goma-based Pole Institute, companies appear "practically overnight and [disappear] just as fast" (Johnson/Tegera, 2005 p. 31). Interestingly, Dietrich (2001) provides a rather different list of buying agents, in which Kaferege is the only company or agent also featuring on the list by the Pole Institute. According to Dietrich, the

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<sup>75</sup> The 'fall' of Walikale in December 2004 was the second decisive defeat (after the failed occupation of Bukavu in June) for RCD hard-liners and marked the start of the rapid unravelling of the RCD/ANC's military command structure.

<sup>76</sup> Interview with MONUC political affairs officer in Goma, June 2005.

*Table 1: Mineral trading companies dealing in coltan in Goma in 2000 and 2003*

	2000	2003
Company	Recorded coltan exports (in tons)	Recorded coltan exports (in tons)
GBC	56.14	--
Kaferege	24	--
MHI	11.71	9.0
SOMINKI	--	10.0
Telecel	--	7.0
Cocotrade	4.66	--
Tshamulg	4.6	--
GLM	3.45	--
Mukabuteza	1.97	--

**Source:** Johnson/Tegera, 2005 pp. 31–33

comptoirs in RCD-Goma-controlled territory were: 'Ntale, Mbanzabugabo, Socomi, Singoma-Mwanza-Shenimed, MDM, Muyeye, Sogermi-Congo, Vanga-Enterprise, Kaferege, Hitimana (litigiueux), EFP/Business (litigiueux). In this list, Kaferege exports are valued at only nine tons. Dietrich's data was obtained from the RCD Département des Terres, Mines et Energie in Goma in March 2001. In 2003, the Pole Institute drew up a new inventory of mineral trading and exporting companies in the city. The results confirmed the fluctuating character of the trade: Of the seven companies listed in its earlier inventory, only one was still in business in 2003 (Johnson/Tegera, 2005 p. 33). In 2005, coltan was still being exported but MHI was the only recognized exporter left in Goma (Johnson/Tegera, 2005 p. 34).

The monopolized situation was replaced in 2001 by a return to a system of licenses that are distributed to purchasing offices (comptoirs). Licenses can be bought for as much as US \$40,000, a small fortune (Johnson/Kayser/Tegera, 2001 p. 9). It is not surprising that many comptoirs have disappeared from the cities, unable to raise enough money to pay for a permit. After liberalization of the market, a concentration has taken place. It is very likely that most smaller buyers have now integrated themselves as well as their networks of traders and contact persons at the mining sites (négociants and trafiquants) into the business structure of larger players. The largest cassiterite trading company in the Kivu provinces is Metal Processing Congo (MPC), which is run by an Iranian national and which has an office in Goma. MPC is a

subsidiary of the South African Metal Processing Association, whose management allegedly maintains close relations to Rwanda's ruling party. Other purchasing agents in the city include Munsad Minerals, Clamab, Sodexmines and Cometex (Global Witness, 2005 p. 18). In the course of this concentration, mergers as well as 'hostile takeovers' might have taken place, because 'liberalization' has meant nothing in terms of transparency. Many local observers state that, in fact, the market has become even *more* opaque since the end of the war.<sup>77</sup>

Large and crucial parts of daily economic life in Goma, such as food distribution, communication and transportation, are in the hands of Rwandan businessmen and conglomerates although many are run by Congolese shop-keepers or partners. Many RCD leaders also invested large sums in land and cattle around Goma (ICG, 2005a p. 14). The war provided opportunities for entrepreneurial Rwandans. For instance, in the communication business, Rwandan companies had a *de facto* monopoly for several years and newcomers to the market are still lagging behind. As exemplified above, in the more lucrative sectors—mines, insurances, telecommunications and several industries—economic competition is nevertheless still overshadowed by political and legal controversies. Politically well-connected businesspeople and politicians from (or close to) the Kabila faction seek to curb the 'Rwandan dominance' in Kivus' economy. Furthermore, in the case of telecommunications (which refers exclusively to mobile phones), it is not Congolese but international players like the communication company Celtel that now share the market with Rwandan companies. The Kivutian elite (and many expatriates) walk around with two mobile phones, one with a Congolese and one with a Rwandan sim-card.

War is not merely a strain on economic life; it also creates chances. With the formal end of war, some forms of business often need to adapt because of the illegal nature of their operations. Some businesses lose attractivity when the uncertain political climate of the war, which made certain operations more lucrative than in peacetime, gives way to greater stability and increasing institutional capacities (even if these improvements are only relative, as in the case of the DRC): For example, taxes on coltan to be paid by comptoirs are now an estimated three to four times

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<sup>77</sup> Interviews with civil society representatives in Bukavu and Goma, June 2005.

higher than in times of the rebellion.<sup>78</sup> Yet, it is still unclear if, how and in what quantity these taxes are flowing back to Kinshasa. The same goes for revenues derived from trade in natural resources. There is no public data available on the scale of cassiterite and coltan trading, no figures on exports, and no information on how much of the revenues flows into the state treasury (Global Witness, 2005 p. 31). Often, the International Community is not much better informed. For example, it was impossible to obtain reliable figures (or even estimates) on the number of expatriates currently working in Goma or Bukavu.

Stuck between a rock and a hard place? Why the stakes are so high for RCD-Goma

The RCD is losing its important position in the East. Goma is the last real stronghold of the organization. The RCD's loss of territory and political influence is the result of political miscalculations such as those described in the chapter on Bukavu (see below) as well as internal inter-elite power struggles and rent-seeking. The organization also suffers from factionalism, although no further 'formal splits' have occurred since the break-away of the rebel factions RCD-ML and RCD-N during the war. The crises in 2004 merely underline the notion that "[t]he RCD no longer exists. All those in Kinshasa have no authority and control nothing [in the Kivu provinces]."<sup>79</sup> ICG cited another RCD Member of Parliament who stated: "The only thing that holds the RCD-G together today is their quota in the government and in the parliament" (ICG, 2005a p. 18). A main divide exists between the 'Kinshasa faction', led by RCD-president Azarias Ruberwa and which forms part of the TNG, and a heterogeneous 'Kivu faction' consisting of local strongmen such as North Kivu's governor Eugène Serufuli who receive partly covert support from Rwanda. But the different local strongmen also compete among each other.

Azarias Ruberwa, RCD's President and one of the four Vice-Presidents, is in a difficult position. While Kinshasa accuses him of being too closely allied with Rwanda, critics within the RCD say Ruberwa has been co-opted by the TNG (ICG, 2004b p. 4). Ruberwa is in risk of being marginalized 'at home' in North Kivu, which would mean more space for maneuvering for hard-liners

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<sup>78</sup> Interview with NGO worker in Bukavu, June 2005.

<sup>79</sup> Interview with a political analyst in Nairobi, June 2005. Similar statements were given by a political officer of MONUC and local civil society activists in Bukavu, June 2005.

within the RCD-Goma. His position is challenged by figures surrounding the RCD governor of North Kivu, Serufuli (ICG, 2005a p. 18). Although Ruberwa has frequently been at odds with the Kabila faction, notably on issues of security sector reform, Ruberwa has been able to establish political contacts with several Congolese (opposition) politicians in Kinshasa and is 'well-connected' within the TNG. Observers note a rapprochement between the still popular politician Étienne Tshisekedi and other leading figures of the biggest Congolese party, UPDS, and Ruberwa.<sup>80</sup> Cooperation between UPDS and RCD figures loyal to Ruberwa is—at the moment—rather 'concealed' since the Kabila faction tries to discredit the UPDS as another Rwandan puppet (the UPDS, in turn, tries to capitalize on the TNG's policy failures, denouncing its corruption and civil rights abuses). But according to UPDF politicians, there is actually a 'secret alliance' between the UPDS and Ruberwa. Sources predict that Ruberwa (and his followers in the RCD) might join the UPDS after the elections.<sup>81</sup>

The most powerful person in North Kivu at the moment is probably Governor Eugène Serufuli. He has been governor of the province since September 2000. In all other Congolese provinces (eleven in total), governors were replaced by persons not affiliated with the war administration, but Serufuli's power position and his administration were left untouched. The governor himself is a Hutu, but he builds his political power on what he describes as a 'unity of interest between Hutus and Tutsis'. The formation of a 'Pan-Rwandophone movement' comprised of both Hutus and Tutsis, has been the result of attempts by the RCD to gain a base of popular support. The governor is backed by Rwanda, and the Rwandophone idea is used by RCD officials as well as their Rwandan allies (Wolters, 2004 p. 4). Serufuli controls the so-called Local Defense Forces (LDF), which at one point consisted of 30,000 men, according to Serufuli's own claims. The LDF existed before Serufuli came to power, but the governor revived them and made sure that Hutus also took part in them. Rwandan ex-FAR soldiers were responsible for the training of the LDF (ICG, 2003a p. 21). The units were intended to be integrated into the military branch of the RCD and ANC, but Serufuli largely remained in control of his

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<sup>80</sup> Already during the talks of the ICD both, Tshisekedi and Ruberwa, frequently sided together against the 'Kabila camp' (see ICG, 2002). The UPDF had walked out of the negotiations of the ICD and is not included in the TNG (cf. ICG, 2005a p. 2).

<sup>81</sup> Interview with a political analyst in Nairobi, June 2005.

troops. As formal parts of the ANC, some elements of the LDF were integrated into the FARDC, while others were demobilized. Yet according to MONUC, up to 4,000 armed men belonging to LDF remain at Serufuli's disposal. With the installation of General Gabriel Amisi (also RCD), who seems to be genuinely committed to the integration of the ANC into the new national army, this might change.<sup>82</sup>

Another vehicle for Serufuli's political and economic interests is the 'NGO' 'Tous Pour la Paix et le Développement' (TPD). The governor is one of the founders of this organization, which was meant to undertake local development projects. Yet TPD is doing more than that. TPD vehicles have been used to transport LDF personnel and supplies. Allegedly, they also transported some of General Nkunda's units towards Bukavu when this city was taken over by dissidents (see Bukavu Chapter). Several reports document the TPD's involvement in the cassiterite trade, or at least in the transportation of ore (Global Witness, 2005 p. 17). Many of the RCD leaders are also members of TPD (Bucyalimwe, 2004 p. 21) and it is said to have been used as a means of garnering popular—as well as elite-level—support for the RCD (Tull, 2003 p. 442). According to amnesty international, the organization has been used to distribute arms to local RCD units and LDF militias. It has also been used as a political vehicle for replacing community leaders with people loyal to the governor (amnesty international, 2005 p. 58). TPD is a highly suspect organization and its developmental activities are rather unclear. Fortunately, alternatives for development exist, and these are usually backed by the international donor community. One important example is the project implemented by German Agro Action (see Box 6).

It is hard to identify positive developments in the transitional process in North Kivu before late 2005. In administrative terms, not enough has changed since the war; to a large extent, the current (informal) administrative structure resembles that of the RCD during the war. Notwithstanding the growing tensions between moderates and local strongmen like Serufuli, who are hostile towards the transition process, the latter secured their comparatively tight *de facto* control over the administrative and economic structures. The mining industry and the trade in mineral resources, supposedly the 'engine' for a recovery of the economy in North Kivu, remains opaque, unregulated and corrupt. The

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<sup>82</sup> Interview with MONUC political officer and DDR specialist in Bukavu, June 2005.

emergence of economic and political actors related to the Kabila camp has not changed this. While the example of AAA (see Box 6) shows that there are many opportunities to improve the lives and living conditions of people in North Kivu, the 'fate' of this project equally revealed that infrastructural improvements are limited when so much remains unresolved on the political and economic level. Future, post-election developments in North Kivu are hard to predict. It seems probable that the elections will yield results that are unfavorable to the RCD and Serufuli and that would force them to cede power to their rivals. This will create a highly volatile situation in the region. Democracy, political reform and economic recovery have still a long way to go in North Kivu.

*Box 6: Alternatives for development: 'The road to Walikale'*

As part of a broader plan to ameliorate the social and economic life of people on the Masisi-Walikale axis, German Agro Action (known in the region by its French acronym Agro Action Allemande, AAA), commenced 'rehabilitation' work on the road between the two cities. Construction is here a better term, since there has never been more than a dirt track, which was in very bad condition. The road between Goma and Sake was taken as a starting point. If successful, the project could be extended to the road to Walikale and even Kisangani. The Sake-Kashebere road was finished in February 2003. Aside from road-building, AAA was to be an integrated program, also incorporating agricultural initiatives, re-forestation, food distribution projects and, finally the construction and rehabilitation of schools and health centers.

The AAA program has direct and indirect economic impacts. AAA uses the local workforce for unskilled construction works. Workers are paid US \$17 per cubic meter of stone they produce, which comes down to overall wages of between US \$1.5 and 2 per day for unskilled labor. But the largest economic impact is indirect. Two available studies, commissioned by AAA, show that the project has improved possibilities for trade. Inhabitants of formerly isolated areas are now connected to urban markets, where they sell their produce. In turn, prices for manufactured goods have decreased, even in remoter regions. Aside from providing a sense of increased safety, the road also reintroduces social structures in the form of road committees. The road is supposed to be self-financing through a toll-system. The collection of the toll and the maintenance of the road is overseen by local road committees, who pay locals to carry out the work that needs

to be done. As part of the broader rehabilitation efforts by AAA, villages along the road also receive assistance when they decide to build schools or health centers. The latter efforts too, are overseen by local committees.

Mai Mai and FDLR units are also active in the area, living in the villages and from the villages. Some bands are trade palm oil and timber (mainly eucalyptus). Since a large part of Goma's markets also supply Rwanda, the construction of the road has intensified this trade relationship as well. By making Goma accessible, Goma's hinterland also profits. The re-opening of a road between Goma and Kisangani would potentially link the Eastern part of the country to the Western part. Road construction is a means of reviving the economy and facilitating the return of internally displaced persons (IDPs). However, the project has received virtually no support from the TNG, nor has it been given support by the army (arguably the only representation of government on the ground in the area) or the provincial government. Furthermore, work is currently at a standstill. In late December 2004 the logistics base of AAA in Nyabiondo was systematically looted. The looters were organized and probably used trucks, given the sheer quantity of equipment and supplies stolen. The involvement of government authorities in the crime can not be determined, but the events have not been investigated so far. Following the looting, the project was suspended.

**Sources:** Endanda et al., (2004); *IRIN*, 30 April 2004 and 1 May 2005; Interviews with AAA workers in Goma, June 2005.

### *2.3 Continued vacuum or emerging stability? The case of Bukavu*

"Bukavu was once the 'Riviera' of the Congo, one of its most prosperous and populous cities." This observation was made by journalist John de St. Jorre, almost forty years ago (de St. Jorre, 1967). His is still a suitable description for the city, located on the banks of Lake Kivu, except for the fact that de St. Jorre, further in the article, describes it as deserted. Nowadays Bukavu is quite the opposite. Life is picking up pace again, although not at the speed its inhabitants would like to see. The presence of a large international crowd, this time not mercenaries but NGO workers and UN officials, is one of the few positive aspects for its inhabitants, since they provide security as well as a new source of income.

During the war Bukavu, like Goma, was a stronghold of RCD-Goma. It was indeed a kind of fortress in the sense that the authority of the RCD was limited to the city itself and a zone of

about five miles around it. Much of the countryside was in the hands of Mai Mai and FDLR-units. During the war, it was the location of (among others) the mineral trading firm Shenimed, one of the most important exporters of coltan in the year 2000 (Tegera/Kaysner/Johnson, 2002 p. 7). Today, Bukavu is still an island of relative stability, owing its relative calm to the presence of MONUC. Even after the formal end of the war FDLR units, Mai Mai and a militia called 'Mudundo Quarante' operated outside of its boundaries. This did not change until Summer 2005 when the new Congolese army in cooperation with MONUC started cordon and search-operations into Bukavu's hinterland and destroyed several former FDLR and Mai Mai camps. But until now, many areas remain largely inaccessible. Today, wealth creation in Bukavu is based on other things than the tourism that made the city thrive in colonial and post-independence times. Like during the war, cassiterite, coltan, and gold make up the economy of the city. In addition, the city has seen a new and thriving economic sector due to NGO- and UN presence. The newly arising 'aid industry' and related businesses (like various services) currently form a substantial part of Bukavu's economy. According to local observers, Bukavu's overall economic situation remains precarious. With the exception of this new sector, the situation in many other economic sectors at the moment seems worse-off than at the time of the war.<sup>83</sup>

#### War and post-war economy

During the war, Bukavu was an important location for the trade in natural resources such as coltan. The city is located within the 'coltan-belt' (an area roughly from Bunia to Goma, Bukavu and Kindu and was a turntable for ores and commodities coming from smaller and more isolated cities in South Kivu. Coltan (and cassiterite) mining sites in the area around Bukavu were to a large extent controlled by Mai Mai and FDLR, but the RCD controlled most of the trading routes and networks. Thus, mined ores were still transported to RCD-controlled Bukavu, sometimes via smaller cities

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<sup>83</sup> In various interviews Congolese as well as international experts unanimously stressed the economic significance of the 'aid industry'. But similar to other economic sectors its exact 'size'—the number of jobs directly and indirectly connected to it, its boost to local shopkeepers, bars and restaurants, etc.—is impossible to quantify.

under RCD-control. In Bukavu, the ores would be bought by 'comptoirs' for set prices and from there transported to Rwanda, via truck or airplane. As in Goma, the RCD sought to control the 'comptoirs' and even imposed a short-lived monopoly on the export of coltan in late 2000 (Montague, 2002 p. 112; Vlassenroot, 2004 p. 128ff).

Mining still takes place in more or less the same way as it did during the war. World market prices in 2003 for coltan (always calculated according to the percentage of tantalum) were US \$14.4/kg for coltan containing 30 percent tantalum. In September 2005, the same grade of coltan would fetch US \$26 (Johnson/Tegea, 2005 p. 31). Despite the fact that coltan prices are on the rise again, the importance of coltan seems to have been replaced by another ore; cassiterite (tin-ore). Since both coltan and cassiterite are regularly found in the same mining sites in the Kivus, the 'switch' of the commodity has not led to great changes in the organization and networks of the mining sector.

In November 2004, there were 22 known mineral mining locations in South Kivu. Minerals mined included cassiterite, coltan, gold, wolfram, tourmaline<sup>84</sup> and diamonds. Of these 22 mining locations, five were without doubt under the control of FDLR (with an additional two, in Nzombe and Nyamweru, 'probably' under their control), two were controlled by FARDC, five by the 10th military regiment of the ANC (formerly Nkunda's men, see below) and one was under control of ex-Mai Mai ('Colonel Kibwana'). It was not known, or uncertain, who was controlling the other six mining locations and gold mines in the Minembwe area that was controlled by forces of Patrick Masunzu, a Congolese national of Rwandan Tutsi-ancestry, who disassociated himself from RCD-Goma in June 2002. The nature of exploitation varied from location to location, not necessarily depending on who was in control of the mine. While the local FDLR-units in Kitamba carried out own digging—as well as taxation of civilians—other units limited themselves to 'taxation on diggers in kind and cash' like, for example, in Wakabango (where mining took place at various locations). The entire output of at least one mine was sent to Rwanda up to October 2004 (Idjwi Nord, under control of the 10th regiment). The weekly output was known for two mines, one FARDC-controlled gold mine produced approximately 30 kg/week. A cassiterite mine under control of

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<sup>84</sup> A gem used in jewellery but also in pressure devices and specialist microphones.

the 10th regiment put out 3 tons every week, which were transported to Goma.<sup>85</sup> Another mining area under control of the FDLR (until late 2005) was located in the Kahuzi-Biega national park.<sup>86</sup>

With the end of the war most of the comptoirs disappeared. Although allegedly seven comptoirs were still registered in 2004–2005 (Global Witness, 2005 p. 22), it is unclear how many are actively conducting operations at the moment. Many comptoirs relocated to spaces nearer the actual mining sites, or opened up business just across the border in Rwanda (and to a lesser extent in Burundi and Tanzania). By moving closer to mining sites, comptoirs seek to ensure a steady supply of ore and to cut costs, since operating in the vicinities of the mines allows them to save on fees that originally had to be paid to intermediaries—'negociants' and 'trafiquants'. Although most of Bukavu's comptoirs have left the city, two or three large ones (or their dependencies) and a smeltery remain. It is remarkable that the comptoirs have markedly reduced their visibility in the city. While not actually 'hiding' their activities, they are not advertised and continue with their business discreetly and by and large unnoticed by the public. One can only give hypotheses for this: One explanation might be, that with national and international attention paid to the 'illegality' of the trade on the rise, comptoirs prefer not to raise further (public) attention. As a result, and similar to the situation in Goma, the trade in minerals, business structures and networks are currently even less transparent than during the war. There are also alternative explanations for the marked reduction in numbers of comptoirs: Similar to Goma, the business went through a process of concentration. This might also have to do with the increased fees and taxes that have to be paid, forcing smaller shops/enterprises out of business. A local economist estimates that since the government has been levying taxes again, these are now three to four times higher than taxes raised by the wartime administration. Increased taxes are not restrained to the mineral business. Following the same logic, the price of a bag of cement has risen from US \$10 during the war to about US \$14 at the

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<sup>85</sup> Internal MONUC document „Known mineral mines in South Kivu“ obtained in June 2005.

<sup>86</sup> The park is on UNESCO's World Heritage lists and also home to one of the last groups of mountain gorillas. Its conservation could be of the utmost importance for the economic future of the area, because of its potential for tourism.

moment. In addition to higher taxes, Bukavu's economy also suffers from declining demand. For example, during the war there were more building activities in the city than in the current period of transition.<sup>87</sup> Aside from the mining sector, a few industrial structures such as Pharmakina and Bralima that form a potential for economic recovery are already present. At the moment, the only investment in the region seems to come from cell phone companies and Western Union. Although it is hard to present reliable data, the lack of investment and the (perceived) downturn of the economy—or in any case the absence of economic recovery—are directly related to persisting security problems. In contrast to North Kivu, where local strongmen were able to maintain their comparatively tight grip over the region (at least until the end of 2005), the security situation in Bukavu and South Kivu has been more volatile due to the fact that the military position of the RCD has been weaker and contested ever since the formal end of the war in 2002.

#### The end of RCD hegemony

The 'Bukavu Crisis' in 2004 terminated RCD's position as 'ruling party' in South Kivu. The organization was by no means ever in total control of the province, but it was the single most important player. Nevertheless, its power position already had been eroding for years, and the Bukavu crisis was a direct result of efforts by the transitional government under Kabila to weaken RCD's position in South Kivu.<sup>88</sup> When the TNG installed General Prosper Nyabiolwa as military commander for the new military region of South Kivu (10th military region) in 2003 this move was perceived as a direct threat by local RCD elites. Tensions escalated into an open crisis when the new commander Nyabiolwa accused the RCD-governor Xavier Chiribanya of preparing a new rebellion and building up arms caches. When Nyabiolwa's troops actually found arms caches on properties belonging to the governor as well as other leading figures of the former rebel group, fighting broke out. An intervention by MONUC led to a temporary de-escalation of

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<sup>87</sup> Interviews with civil society activists and representatives of FEC in Bukavu, June 2005. The smeltery where cassiterite and coltan are processed for export is located in walking distance from MONUC's headquarter. It is guarded and not accessible. A comptoir right across to our hotel remained closed most of the week.

<sup>88</sup> Several reports have been published on the crisis (ICG, 2004a, 2004b, 2006b p. 12ff; amnesty international, 2005, Global Witness, 2005) of which we will give an abbreviated account.

tensions, and a team of high government officials was sent to report on the situation. Chiribanya was suspended on the basis of their findings and replaced in early 2004. He now resides in Goma (Wolters, 2004 p. 5).

Within a month, tensions rose again. The direct cause was the arrest of Joseph Kasongo, an ex-member of RCD and now military governor of Bukavu. The event showed the inner divisions of the new national army, when Nyabiolwa's deputy, Jules Mutebutsi, rose up against him. In an attempt to solve the crisis, Kinshasa not only released Kasongo but also replaced Nyabiolwa with general Mbuze Mabe, who had supported the government throughout the civil war. Mutebutsi was ordered to return to Kinshasa, but he refused. Bukavu was now under control of two factions, the government's FARDC under Mabe and the opposing forces of Mutebutsi. Fighting broke out between the two forces in Bukavu on 26 May, after some of Mutebutsi's men were arrested by the FARDC. Support for Mutebutsi came from North Kivu in the form of General Laurent Nkunda who headed to Bukavu with a force of 4,000 well-armed men. Nkunda claimed to be coming to the rescue of Tutsi minorities in Bukavu. But according to UN information, Nkunda had been preparing for such an action for months, supported by Rwanda (*UN Press release SC 8156*). Nkunda and Mutebutsi took Bukavu after FARDC commander General Mabe had fled the city (hastily assembled FARDC forces, together with Mai Mai fighters proved terribly incapable of stopping Nkunda's forces). MONUC, having few personnel available, could not and did not do anything to prevent the fall of the city. The Bukavu crisis only ended after severe international pressure on the dissidents—with Belgian Foreign Minister Louis Michel openly contemplating intervention by a European force—and, importantly, on Rwanda. (*Press Office Foreign Affairs Belgium*, press release 10-06-2004). After three days Nkunda and his men ended their siege of the city and (allegedly assisted by Serufuli) retreated to North Kivu (ICG, 2004a p. 5).<sup>89</sup> Interestingly, none of the RCD-Goma dissidents were charged, tried or sanctioned for their actions (amnesty international, 2005).

The end of RCD-Goma's control over Bukavu has left a vacuum. Though this vacuum has largely been filled by troops (supposedly)

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<sup>89</sup> After the Bukavu crisis, there was a split in RCD political leadership. Eight powerful RCD politicians suspended their participation in the TNG in July 2004 (ICG, 2005b).

loyal to the transitional government, several problems have come to light. The tenth region military division of the FARDC under General Mabe is in control of the city of Bukavu, but many areas in South Kivu remain volatile. The FARDC troops that have taken over are ill disciplined, have received little training and generally receive little or no payment. Officers want to be stationed at ports, airports or in mining areas, so they can assure their 'share' of their informal 'income' in form of 'taxes'. There is rivalry within the tenth division, with Mabe being accused of having economic interests himself.<sup>90</sup> These events—the escape of Nkunda and his men to North Kivu as well as the swift involvement of the newly arrived FARDC-troops and officers in illicit economic activities—reflect the current environment of impunity in the Kivus.

At the same time, the status of security sector reform (SSR) is 'problematic' at least. A visit to the retraining camp in Luberizi in June 2005 sufficed to see how difficult and even chaotic the exertion of the SSR process proved to be at the level of the individual camps. Specific problems included the registration of ex-combatants, a first step in any DDR process, but in this case largely left aside. Some 400 ex-combatants were 'missing' from the site, not having arrived yet and it was unclear if these former rebels would show up at some point. It is unclear if these people were indeed missing, or if their 'absence' was being used as an excuse for the fact that the training program had not yet started.

There was a shortage of medical supplies and transportation, as well as clean water—a problem that was later solved with the help of Pakistani MONUC personnel. The camp was supposed to hold only people wanting to integrate into the new national army, but because the division between people wanting to be demonized and those wanting to be soldiers did not succeed in the gathering site, these two groups were both present in what was supposed to be a training camp for soldiers. Furthermore, disarmament had only partly been carried out.<sup>91</sup> However, since June 2005, things seem to have changed. On 28 September, the inauguration of the 6th FARDC brigade took place in Luberizi. The brigade consisted of 30 percent ex-Mai Mai, 30 percent ex-RCD, 30 percent ex-government and 10 percent ex-Masunzu (MONUC, 2005).

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<sup>90</sup> Interview with MONUC official in Bukavu, June 2005.

<sup>91</sup> Interviews with FARDC commanders and MONUC officials in Luberizi and Kamanyola in June 2005.

### Problems and Possibilities

As for the rest of the country, the most obvious challenge in Bukavu is to build a base for economic recovery. Yet the logical building stones for such a base—the region's abundance of natural resources—are still being 'held hostage' by different armed groups—remaining combatants from former rebel groups, various militias, but also soldiers of the current government's armed forces, and, last but not least armed gangs. The militarization of artisanal mining is a problem closely linked with security. Aside from 'organized' militarized control over mines by local commanders that involves whole armed units (see above) and ensuing 'big time corruption', militarized artisanal mining also happens on the small scale. Individual soldiers start to impose 'taxes' on civilians, demand goods or services at (unauthorized) road blocks, or impose other forms of corruption on the ordinary population and small traders. This effect is locally called 'trafic d'influence' (Vlassenroot/Raeymaekers, 2004 p. 132). Despite the official end of the war, 'trafic d'influence' persists on the ground. There is little reason to believe that this situation will change in the short term as long the state's security apparatus is not capable of ensuring stability and continues to present an important source of instability itself.

At many mining sites the only alternative at the moment is artisanal mining. The old infrastructure of industrial mining has deteriorated due to decades of asset-stripping and neglect as well as plundering and destruction during the wars. It would take enormous investments to restart industrial and profitable production. The DRC's remaining parastatals are in no place to 'kick-start' the economy/restart industrial mining: Virtually all parastatals are defunct, crippled by destroyed and/or worn-down infrastructure and corruption. Kivu's (partly) state-owned mining company Sominki (Société Minière du Kivu) is a case in point. It ceased industrial mining as early as in the mid-1980s and subsequently laid off its formerly up to 7,000 employees who had not received salaries for years. On paper, this company still holds the cassiterite and coltan concessions for South Kivu, yet in reality the company seems to have ceased to exist (Johnson/Tegera, 2005 p. 11). The precarious security situation, and last but not least the entrenched character of corruption add more risks and potential costs that are hard to calculate in advance and thus discourage external investments. Operating in such an environment with little or no governance, and sporadic but

continuing militia wars raging near and on mining sites also involves severe political dangers. Striking agreements with local strongmen bears the risk of commercial complicity since aside from *de facto* legitimizing these actors this also involves turning a blind eye on human rights abuses committed by these groups (see Chapter 1.2). Given the unreliability and 'military unprofessionalism' of the FARDC, siding (and actively assisting) the government's forces is equally problematic, as experienced by ANVIL mining in Katanga.<sup>92</sup> In South Kivu, the biggest player at the moment is the Canadian corporation Banro. Banro holds substantial gold concessions (exploration permits) in the Twangiza-Namoya gold belt that it purchased from Sominki (see Box 7). According to estimates from geologists, the gold belt hosts the largest deposits in Africa. Although it has been 'in the field' (again) since late 2002, Banro just carried out explorations on two of its four major concessions in Summer 2005, since the gold fields were still under threat from various armed gangs. To avoid the mistakes of the other mining companies, Banro has entered negotiations with the local administration and traditional authorities of the area but not directly with the armed groups. The company has not taken any active measures on its own to secure its assets, neither has it provided (logistical or financial) support to FARDC-troops. According to a company representative, Banro had not started large-scale operations until June 2005 and, consequently, has not collected any profits so far. With the security situation improving at an extremely slow speed and government capacities remaining low, it remains hard to predict when industrial gold extraction will recommence in South Kivu.<sup>93</sup>

A company like Banro actually starting production would be good news for South Kivu, not only because of the jobs it would create, but especially because this would mark a first step of a conversion of the artisanal and still largely 'militarized' mining sector into 'legal' (registered, controlled) exploitation of natural resources.

Without a reformalization of the mining sector, a re-installation of transparent and accountable methods of exploitation and trade, South Kivu's rich natural resources will never contribute to

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<sup>92</sup> AngloGold Ashanti was accused of having paid bribes to militias in Ituri. Anvil mining allegedly provided logistical support to the Congolese army for an operation that ended in a massacre including innocent civilians (*MineWeb*, 8 June 2005)

<sup>93</sup> Interview with Banro representative in Bukavu, June 2005.

development and restoration of the area. Although some (rudimentary) chances for change do exist, the persisting

*Box 7: Banro: Corporate governance in a hostile environment*

Banro Corporation first got involved in the Eastern DRC in 1996, when it acquired 72 percent of SOMINKI SARL (Société Zairoise Minière et Industrielle du Kivu) from private European shareholders, with the balance of 28 percent held by the DRC. SOMINKI was the sole important player in the Kivus. In 1997, Banro reorganized SOMINKI's assets into a new company called SAKIMA SARL, negotiated a new 25-year Mining Convention and invested US \$20 million to increase its interests to 93 percent. In July 1998, Laurent Kabila expropriated Banro's assets. A long legal battle followed with Banro filing suit against the Congolese government at the US Federal Court in Washington, DC.

After the death of Kabila the elder, Joseph Kabila acknowledged Banro's rights to the former SOMINKI mining concessions. In April 2002, Banro and the DRC signed a Settlement Agreement transferring 100 percent of SAKIMA's gold assets to Banro and reinstating its 25-year Mining Convention. Banro also agreed to transfer its 93 percent interest in SAKIMA to the DRC, which still owns 35 mining concessions consisting primarily of cassiterite. The Ontario-registered exploration company Banro is listed both on the Toronto and the American Stock Exchange. It has interests in the DRC, where it has four gold properties, comprising 13 'Exploitation Permits' (PEs)—formerly known as 'concessions'. The four major properties, covering some 2,600 square kilometers of land, are Twangiza, Kamituga, Lugushwa and Namoya; the first three are in South-Kivu and the fourth in Maniema province. These properties are in the exploration stage; none hosts an operating mine. The company currently provides employment, either directly or through contractors, for over 1,000 people, almost all of whom are local Congolese. The company has also applied for and is awaiting confirmation of title to explore an additional 6,800 square kilometers of land, within the same gold belt (Twangiza-Namoya gold belt).

Banro is a so-called 'junior' exploration company. Many of its professional staff were previously employed by the former mining multinational Ashanti Goldfields. The high risks involved in gold exploration, both in economic terms—globally only one percent of these activities actually yield positive results—as well as in political terms (as in the case of the DRC), make it less feasible for large

companies to get involved. Instead, geologists have set up junior companies. Should Banro succeed in the DRC, there is a high chance that it will be bought out by a larger company.

**Sources:** Global Witness, 2005, Newswire.ca, ICSID Case No. ARB/98/7, www.banro.com, Mining Review Africa; issue 5 (2003), GRAMA Spring 2001. Interview with Banro official in Bukavu, Banro Resource Corporation: Press Release, 27 August 1998.

problems are far greater. By far the largest problems are the lack of security and corruption. As argued above, corruption is far more than an economic problem but an important part of political (dis-)order (see Chapter 1.2). Seen as such, the corruption within the TNG becomes an apparent aspect of the current political running of Congolese politics. As examples of 'joint ventures' in artisanal mining between former adversaries have shown, these politico-economic networks even provide some sort of local stability and reflect a sort of arrangement between the former foes. Currently, it is politically unrewarding for political elites of the TNG as well as for local powerholders to fight corruption head-on (and 'for real'). Taking decisive action would not only hurt the opposing faction, but also one's own network. Instead, and not surprisingly, the TNG—and especially the Kabila-faction—seems to opt for a different strategy: The fight against corruption is restricted to political rhetoric, and seeking access and control over informal networks continues to be the rule of the game. While this strategy secures the particularistic interests of national and local elites, it inhibits a sustainable economic and social recovery. As in Goma, Bukavu's underlying problems are unlikely to be 'solved' after the elections. If the elections mark the *formal* end of the transition period, they in fact do not amount to more than a first step of transition in South Kivu.

### **Conclusion: Challenges and opportunities to overcome 'violent peace'**

The DRC has well entered its fourth year of formal peace. As the preparations for the upcoming elections proceed, even the period of political transition *officially* reaches its final stage. While this suggests that peace might be on its way, it has become increasingly clear that there is still a long road ahead before the 'violent peace' of the present has transformed into a sustainable peace. This road, to stay in the metaphor, leads steeply uphill and is full of potholes. The country still faces many structural problems that remain unresolved. Substantial security threats loom large

over the DRC as endemic violence still occurs, in particular in the eastern provinces and northern Katanga. Owing to the slow speed of security sector reform, the FARDC remains weak and incapable of guaranteeing security to the population. The catastrophic humanitarian situations in Ituri, parts of the Kivu provinces and Katanga have not substantially improved. Economic recovery does not get on track and efforts to rebuild the worn-down administrative structures are barely existent since only a few of the political and economic reforms the TNG has initiated show real progress. One of the most daunting tasks of the TNG (and the future government) remains to overcome exploitative structures and politico-economic networks of the former war economy and current post-war economy. Concerning this issue the record of the TNG is particularly poor. More problematic than the—at best—modest achievements is the fact that the TNG, local powerholders and military commanders have not only dragged their feet on important reforms, but have actively undermined their implementation in order to protect their power positions and privileges.

These general findings clearly confirm the assumption that exploitative structures of the war economy have by no means disappeared after the signing of Pretoria II. In our analysis we followed theoretic arguments and findings of peace and conflict research on post-conflict situations in weak-state settings, that stress the strong interrelation between security-related political and economic issues, for better and for worse. Our findings confirmed these interrelations and revealed that networks of influential actors of wartime politics, economics and military continued to play an important role during transition. This said, it remains highly questionable whether the upcoming elections alone, even if carried out without major disruptions, will bring about a decisive change for the better.

#### War and post-war economy

In the academic discourse on current war economies in 'internal wars', a pointed statement made by David Keen has become proverbial: Keen paraphrased Clausewitz' dictum on war by stating that "[today,] war has increasingly become the continuation of economics by other means." (Keen, 1998 p. 11) At first glance it seems to apply perfectly to the Congolese war. As briefly summarized in Chapter 1, economic interests did influence strategies and the movements of rebel and government forces, as

well as those of their respective foreign allies. This is not to say that the war was 'all about' diamonds, coltan, etc.. While many observers stress that fighting over the control of economically interesting structures—especially mining sites, trade routes and border-crossings—was the strongest explanatory factor for the Congolese war's dynamics and duration, most of them equally highlight the political functions of the war economy. Spoils derived from the exploitation and export of resources as coltan or diamonds not only satisfied individual 'greed motives' of the different war elites but were also politically 'reinvested' to gain and secure access to political power and to maintain informal power networks.

Especially journalistic accounts and policy-oriented research—as for example the findings of the UN Expert Panel (cf. Box 1 in this study)—have highlighted the element of radical change, that is the emergence of new forms of militarized resource exploitation by politico-military networks consisting of Congolese actors and their foreign backers. Nevertheless, what concerns these networks it is important to place the emergence of the Congolese war economy in its historic context of politics of patronage in a failing state. State decay, the informalization of politics and economics, the draining of formal economic output by entrenched rent-seeking and unrecorded transborder trade as well as the frequent recurrence to violence by ruling elites on the national level as well as by local strongmen were constitutive for Zairian and Congolese politics long before the escalation of the (second) war. From this perspective, the emerging war economy of the late 1990s can be judged as a sort of radicalization of neo-patrimonial rule to 'warlord politics' (cf. Reno, 1999 p. 18ff; 147ff and 217ff).<sup>94</sup> But despite the well-recorded historic aspects of power politics and economic exploitation, research has placed too little attention on the analysis of these continuities. It is still unclear in how far the war economy constituted a clear break with the past.

The case studies on the Kivus revealed that the war economy displayed both elements of continuity and (forced) change regarding structures, networks and patterns of resource exploitation. While the rebels of the RCD and their foreign ally, the Rwandan RPA, sought to dominate resource exploitation and

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<sup>94</sup> Owing to its focus on the post-war situation, the paper could only briefly touch these historic dimensions (see Chapter 1 and Chapter 2.1).

trade in the east of the DRC through military means and the capture of remaining state institutions, they failed in their efforts to monopolize political power, economic control and the use of violence. Military control was limited to important cities and strategic points but remained contested by various groups on the local level. In sum, the rebel administration of the RCD never managed to fully install a new political power structure. Last but not least, although RCD and RPA, by the militarization of resource exploitation, brought in new business networks (with close personal relations to the military elites), these could never completely crowd out established trading/smuggling networks—the fate of the short-lived coltan-monopoly of SOMIGL was a case in point (Chapter 2.1). Thus, informal economic and power structures adapted to the new and violent reality of the war, sometimes because they were forced to do so by the military powers at hand, sometimes because it provided opportunities for enrichment. In similar vein, the survival strategies of ordinary people had to adapt to the new situation. However bad the working conditions at mining sites were (and are), many workers migrate(d) to mining areas, to ensure their subsistence.<sup>95</sup> The Congolese war economy thus added to a further militarization of economics and politics by introducing new actors and structures and by forcing pre-existing networks to adapt.

Regarding the Congolese war economy as a catalyst for social transformation has important implications for judging the post-war situation. Since these changes are not superficial but deeply entrenched the informal and violent character of politics and economics will—in the short run—not change for the better. Without (outside) commitment, there will be no *structural* change although power-relations within and between different elite networks might undergo—in some cases important—shifts. In fact, our empirical analysis on the overall situation in the DRC (Chapter 1) as well as the case studies (Chapter 2) revealed a high level of structural continuity in the post-war DRC. When power-shifts took place this change took only the form of a 'replacement' of actors, rather than of structural improvement or economic and political

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<sup>95</sup> An important issue is the emergence of a new class of artisanal miners ('creuseurs') consisting of predominantly young males that migrated to the mining sites during the war and adopted a distinct lifestyle (cf. Vlassenroot/Raeymaekers, 2004c p. 141ff). This phenomenon of social change has also been observed in other war economies as for example in Angola.

consolidation/development. The case of the Kivu provinces provided telling evidence. The gradual erosion of the RCD's power base after the peace agreement was paralleled by efforts of the Kabila faction of the TNG—the former wartime government—to extend its military 'reach', its political power and economic influence to the regions formerly under rebel control. The Kabila faction tried to 'capture' the transition process by applying a two-pronged strategy: In line with the reshuffling of formal power positions in administration and armed forces as agreed upon during the peace negotiations, the presidential camp successfully undermined the RCD's dominance in the former rebel administration. At the same time, the Kabila faction sought to extend its power into informal political, business and military networks by strategies of coercion and co-optation. The relative success of these strategies can be explained against the background of the RCD's low popular support. Due to its nebulous political agenda, its involvement in (militarized) resource extraction and, above all, due to its strong linkage to Rwanda, the group was perceived by most Congolese as a fig leaf for individual resource exploitation and as a puppet of 'Rwandan imperialism'.

#### Outbreak of peace

War has not ended in the DRC, but peace has 'broken out'. The analysis has shown that the signing of the peace agreement and the ensuing inauguration of the TNG was primarily the result of external political developments that tipped the balance in favor of the incumbent ruler, Joseph Kabila. Due to their relative weakness—militarily as well as politically—the warring (Congolese) parties accepted the accord as a compromise (see Chapter 1.1). On the one hand, the inclusionary character of the peace accord and the carefully negotiated distribution of power in the TNG served as the precondition for 'formal peace'. On the other, the power-sharing formula quickly led to a political stalemate. Since no party is willing to give up its power base to strengthen the authority and capacity—not to mention the efficiency—of the TNG, the latter largely remains unable to deliver what it should. Nevertheless, a new constitution was drafted, adopted by parliament and approved in a referendum in December 2005. The adoption of the institution was considered to be a success for the TNG and an important bench-mark on the way to parliamentary and presidential elections. Preparations for the voting by TNG and electoral commission indeed gained momentum in 2005—but

Congolese efforts were decisively assisted (and pushed) by international donors, especially the UN and EU.

Many post-conflict countries receive a high level of international attention during the actual fighting, but see this attention deteriorating after a peace accord is signed. This did not happen in the DRC, where international assistance continued and 'donor fatigue' only seems to be a recent phenomenon. 2004 saw serious reductions in the transfers by important donors. But recently, with elections approaching, multilateral donors—including the EU—have promised to release additional assistance. In sum, the DRC is a major recipient of bilateral and multilateral aid, and the deployment of MONUC alone costs more than US \$1 billion per year.<sup>96</sup> Besides, even if international assistance fell short of the sums needed, this would never fully explain the slow pace of transition.

Economic recovery indeed faces enormous challenges. The already weak formal economy inherited from the Mobutu era further collapsed during the war. The political and administrative structures as well as the infrastructure, already in dire shape before the conflict, deteriorated further. The 56 years, according to World Bank estimates, that Congo's GDP will need to reach its 1960 level are telling, however, it assumes that recovery has actually started. Unfortunately, there is a lot to be criticized when it comes to evaluating the TNG. Resource distribution is questionable, deadlines are not kept, the pace of reform is at times ridiculously slow. More important than the structural difficulties—infrastructure problems, insecurity, absence of rule-of-law—that are typical for any post-conflict society, is the fact that economic recovery and political transition and DRC suffer from *political* problems. While all parties pay lip-service to political and economic reform, reaching agreements on legislative initiatives and concrete policy-strategies has been significantly hampered by the tendency of the parties to veto policies (that potentially risk their particular interests) rather than to cooperate. The assessment of the transition process (in Chapter 1.2) has highlighted some examples. Even if the TNG agreed on legislation or on taking concrete measures, their

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<sup>96</sup> The last comprehensive evaluation of international assistance (CAP, 2005) bemoaned growing donor fatigue for 2004. An analysis for 2005 only recently publicized and equally criticized lacking donor commitment (CAP, 2006 p. 16f).

implementation into political practice is often delayed or even actively undermined.

The examples point to the underlying reasons for the TNG's inability to implement laws and policies: National institutions and administrative structures are weak, and only the top positions (like, for example, the governors) have been reshuffled after the war. The 'subordinate' posts in provincial and local administrations display a high degree of continuity, and many of the state employees on the local level remain loyal to the former war-elites who act as local strongmen and still exert substantial *de facto* power—and at times even occupy influential posts within the formal institutions. North Kivu's governor Eugène Serufuli is just one example. While the most obvious and immediate reason for institutional inefficiency is the state's lack of material capabilities to finance institutional reform,<sup>97</sup> this lack of public resources and systemic corruption have merged into a vicious cycle: Due to the virtual destruction of the formal economy and the inefficiency of tax authorities and customs, state revenues are low and recover only slowly—more than half of the state's budget comes from international donors. Since the end of 2002, formal exports of natural resources are on the rise, but in no way near the estimates of the 'real' output of Congolese production. Since revenues are low, the state cannot even pay its employees let alone shoulder the huge investments necessary to create efficient and transparent institutions that are capable of curbing the enormous smuggling business. This creates huge incentives of "big-time corruption" (de Sardan, 1999): even the large-scale illicit export of natural resources like copper, cassiterite, etc. that are not easy to transport and hide is a virtually risk-free venture for business people who are either 'well-connected' to—or even part of—the former war elites.

Corruption in the DRC—as in many parts of Sub-Saharan Africa—is not just an economic, but also a political problem. The Congolese parastatals, especially in the mining sector, remain a major target of rent-seeking activities despite the fact that they have been largely stripped from their assets and infrastructure. Different strategies of organized asset-stripping, fraud and embezzlement channel the—potentially public—benefits to the

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<sup>97</sup> In many cases 'institutional reform' *de facto* equals a complete (re-)building of defunct administrative structures that would include a (re-)building of the physical infrastructure as well as huge investments in training (and paying) qualified personnel.

coffers of specific elite networks. Though this happens throughout the country, organized asset-stripping is particularly frequent in areas controlled by the government where it proceeds under a—at first glance—formally legal cover, primarily taking the form of distributing exploitation permits (concessions) or granting/selling important shares of the parastatals to shadowy companies of ill-repute. The Kabila faction continues to control most of the parastatals and refuses to give way to the proper authorities that are legally in charge. It is telling that the Ministry of Mines has been sidelined at different occasions when mining deals were struck by business men with close contacts to Kabila and cronies. A parliamentary commission—named Lutundula Commission after its leading investigator—found out that the squandering of the DRC's potential 'crown jewels' continues in the same manner as during the war (cf. Commission Spéciale, 2005; UNSC, 2002). Today like during the war, selling out public/state property at ridiculously low prices serves to grease informal power networks. Lavish kick-backs to individual politicians are reinvested in bolstering their power position. The presidential party PPRD has (and still does) financed its electoral campaign by kick-backs derived from these deals (Vandaele, 2006). The 'fate' of the Lutundula Report that was presented in May 2005 further highlights the political dimensions of corruption: The Kabila faction—with tacit approval by other powerful groups—managed to suppress the distribution of the report to Parliament until late February 2006 to avoid a parliamentary and public debate (since they feared political consequences before the elections; see Chapter 1.2).

To sum up: The former war economy has proven to be a serious liability for the processes of political transition, economic recovery and consolidation of peace. While political developments have led to a reshuffle of political, economic and military elites since the 'outbreak of peace' and the installation of the TNG, it is safe to say that many of those that had acquired power positions in the elite networks, remained or at least could secure the assets they derived from the war economy. Even more worrisome is the fact that the (wartime) structures and practices of violence-based enrichment and political rent-seeking display a high degree of continuity. Reforms have either met stalling strategies of different elite groups or were instrumentalized (especially by the Kabila camp) to sideline opponents and to secure particularist interests and to reward political allies. Instead of yielding a (re-)institutionalization of the Congolese state, the

transition period saw the systematic attempts of the former adversaries to evade formal institutions by maintaining corrupt parallel networks. This paralyzes government structures and may well lead to a perpetuation of the Congo's political and socio-economic grievances.

#### Remaining insecurity

Coupled with the enormous political and economical challenges mentioned above, the remaining security issues form the second part of factors explaining why the DRC still runs the risk of renewed, if probably 'only' local conflict. The state's monopoly on violence is continuously contested in various parts of the country. For different reasons MONUC was not able to contribute to peace before the All Inclusive Peace Agreement was signed, primarily due to unclear and limited mandates and insufficient capabilities. This changed only gradually after the force was increased substantially and provided with a Chapter VII mandate (Resolution 1493). During the first years of transition MONUC's overall performance remained limited. It could neither end fighting in Ituri nor avert major confrontations in the Kivus in 2004. The fact that the overall security situation has improved since mid-2005 is to a large extent attributable to MONUC's revised and more robust mode of operation that includes active (forced) disarmament of reluctant militias and assistance to the FARDC in operations against Ituri warlords, FDLR and 'rogue' Mai Mai units in the Kivus. Despite undeniable successes there are still severe problems: MONUC's forces remain stretched thin, and in some critical parts of the country—as in Katanga—its presence is largely symbolic. Even though for the moment, renewed large-scale military encounters are unlikely, localized violence continues. Local threats arise from remaining militias in Ituri, the continued presence of FDLR and Mai Mai groups in the Kivus, the crisis in Katanga as well as from low intensity conflicts throughout the DRC. The recent mutiny of parts of the 5th brigade of the FARDC from mid-January to February has shown that there is still a risk of more severe clashes.<sup>98</sup>

The most important reason for the slow improvement of the security situation is the unsteady and dragging pace of the

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<sup>98</sup> The dissidents of the 5th Brigade were members of the former ANC, RCD's military wing. They were allegedly under the command of former ANC-General Laurent Nkunda. The mutiny was turned down by FARDC and MONUC (*IRIN*, 3 February 2006)

reintegration and training of the national army, FARDC. Security Sector Reform (SSR), a *de facto* (re-)building of a national army has so far yielded little results, other than the 'delivery' of six new, integrated FARDC brigades until early 2006—instead of eighteen as foreseen. While another six brigades may be integrated and trained until the election, the number says little about the real strength of the force. Most of the new brigades are widely considered to be in poor shape. The FARDC is only nominally in control of the country and has frequently proven its inefficiency in dealing with the comparatively easy task of tracking down ragtag militias. Instead, low-paid (if paid at all) units of the FARDC even pose a security threat to the local population themselves.

Aside from lacking resources, substantial logistical and practical obstacles, the progress of SSR (and DDR) is seriously challenged by political controversy and power struggles and ridden by economic rent-seeking of former war elites. The weakness of the FARDC can be directly linked to infighting within the political and military elites, along the lines of former belligerent parties. Control over the military is an important political asset, especially to the former Kabila government and the RCD. Accordingly, parallel command structures have paralyzed the build-up of the FARDC and led to corruption and rent-seeking. Foot-dragging on SSR-related issues has been the 'order of the day' ever since Pretoria II: The new military law of 2004 did not address core issues of political control and institutional competencies. Of major importance is the ongoing power struggle between Military Commission and the Ministry of Defense, headed by Azarias Ruberwa and Adolphe Onusumba (both RCD), and Joseph Kabila's 'Maison Militaire' (the presidential military office). These institutions are deadlocked in entrenched rivalry over formal competencies and resources—one major unresolved issue is Kabila's presidential guard (GSSP) that currently consists of about 10,000 comparatively well-trained and equipped soldiers. In addition, the Kabila faction has frequently used the 'Maison Militaire' and persisting personal networks of former FAC-officers to bypass the Ministry of Defense and circumvent the formal chains of command in the FARDC.

'Breaking the conflict trap': Towards sustainable peace in the eastern DRC?

A recent study from the Conflict Research Group of the World Bank has coined the term of the 'conflict trap' (Collier et al., 2003

p. 79ff; 150ff) stating that countries run a high risk of renewed war (or continued low-level conflict) if political reform, economic recovery, social services, the strengthening of state capacities (institutional reform) and security sector reforms are not tackled or stalled by 'spoilers' (former war elites).<sup>99</sup> Applied to the DRC in its fourth year of transition, there is no doubt that the Congo has not yet escaped this conflict trap. A re-escalation to full-fledged war in the short term is very unlikely, given the exhausted capacities of the former adversaries on the 'national' level and the military weakness and relatively low political importance of remaining 'rogue' militias. In contrast, the continuation of politically and economically motivated low-level violence in many parts of the country still remains a major obstacle to sustainable peace. Aside from the considerable human toll the civilian population still has to pay, violence and insecurity hamper economic and social recovery in parts of the country that had been marginalized even prior to the war. The perpetuation of political, economic and social grievances in these regions may—in the long run—become once more a destabilizing factor for the whole region like in the early and mid-1990s. In the short run, it is therefore of utmost importance that SSR-initiatives be stepped up, and a truly integrated, de-politicized and militarily proficient FARDC be put in place to exert the monopoly of (legitimate) violence. Conversely, the DDR-process needs to be accelerated, and the influx of weapons into the region must be curbed.

Unfortunately, the analysis has shown that control over (parts of) the armed forces is a highly politicized issue and subject of entrenched power struggles between the former adversaries, especially between the Kabila camp (former FAC) and the RCD. Consequences of parallel command structures in the DRC are as follows: they are a major source of military unprofessionalism, a continued threat to security and a major source of corruption. Against this background MONUC's contribution to peace (and transition) in this phase remains crucial.

The past years of the TNG yielded soberingly meager results with regards to political and economic reform. Necessary reform initiatives faced staunch opposition from elite networks who feared a loss of influence, power and wealth once the violence-

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<sup>99</sup> In this study, the research group significantly tones down its economistic 'greed' model to explain civil war (cf. Collier, 2000; and critical: Pugh/Cooper, 2004 p. 18ff). The study also departs from earlier neoliberal approaches to post-conflict assistance that focused on macro-economic growth and privatization of the state.

based exploitative structures of the war economy are replaced by transparent economic and political institutions and practices. These networks initially ran well along the lines of the former armed parties of the conflict, but the last years saw a gradual but decisive tip of the power balance to the favor of the president's camp. Kabila proved apt to co-opt politicians into his networks and at times succeeded to 'capture' and instrumentalize the transition process to sideline his adversaries, most notably those from the RCD. While the RCD, distrustful against reform initiatives that threatened their *de facto* power in the east of the DRC, has vetoed many policies during the first years of transition, the issues of SSR, control over the parastatals and the crisis in Katanga have shown that the Kabila camp, too, is primarily interested in protecting its power base and economic privileges, and does not refrain from practices of rent-seeking and rule by networks, intimidation of opponents and the use of low-level violence.

Although the constellations within and between some networks changed, important structural characteristics of the war economy persisted and have proven to be a major impediment to reform and sustainable peace until the present. 'Remnants' of the war economy—in their 'original form'—are clearly visible on the mining sites especially (but not exclusively) in the eastern provinces where artisanal mining still proceeds in a highly militarized form. Looking at the issues of organized unrecorded trade, asset-stripping of parastatals, policies of granting concessions to (foreign) investors not only in the mining sector, and 'joint-ventures' between the Congolese state or other public entities and private enterprises owned by 'well-connected' businessmen, the term 'war economy' in its narrow meaning does no longer seem appropriate. Open violence occurs less often and has been replaced by more 'subtle' forms of intimidation directed against competitors, political rivals and state employees that are not corrupt, and trade unions and civil society activists. Nevertheless, (informal) political power and (criminal) economic influence are still closely interlinked. Criminal/corruptive activities are still primarily predatory and involve high-ranking politicians and other members of the former war elites, and their networks are in fierce competition. While the resort to open violence may not be their principal 'policy of choice' it is safe to say that it remains an option to many. Thus, the current situation in the DRC meets the criteria of "crisis corruption" (cf. Le Billon, 2003) that not only yields disastrous consequences for the state and public assets, and excludes the

majority of the population from economic participation but also adds to the perpetuation of a politically highly volatile situation. There are political forces in the DRC—civil society groups and NGOs like CENADEP, trade unions, and some churches—that address, seek to publicize and eventually curb these conditions of corruption and asset-stripping by the state and its industries.<sup>100</sup> Since they suffer from a lack in resources, limited access to media and intimidation from (local) elite groups and security forces, their political impact is still limited and in need of outside support. The same applies to a number of parliamentarians and employees of state institutions and administration. While the case of the Lutundula Commission and the work from institutions like the ‘Cour de Comptes’ (Court for Public Accounts) are positive signs in that they reveal the functioning of control mechanisms, the way they are silenced by the coalition of (war) profiteers remains a major cause of concern.

Another ‘asset’ for political transition is the Congolese people. The vast majority is war-weary and yearns for stability, political and economic reform and thus supports the up-coming elections. It is important to note, though, that most of them do not have any illusions concerning the current political elite’s commitment to democracy. The highest rates of approval to the new constitution during last year’s referendum were scored in the most war-ridden parts of the country. Likewise, voter registration has met great resonance in these areas, too. This has certainly added to the commitment of the International Community to invest substantially in a successful vote in July. In the particular case of the EU, these investments include the foreseen deployment of the multinational force. As analyzed (see Chapter 1.2), owing to substantial financial and technical assistance of the International Community, the electoral preparations are also one of the few success stories of the TNG. Nevertheless, the legal framework of the electoral laws still displays omissions and ‘loopholes’ regarding important aspects like ensuring juridical independence of courts, providing for equal access to media representation for all candidates and formulating clear-cut regulations for campaign finance. Observers have objected that independent candidates have been harassed and

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<sup>100</sup> It is important to consider that the *formal* representation of civil society representatives in the TNG does not equal a *political* representation. Many local activists complain that ‘their’ representatives are often sidelined. Others have been successfully co-opted by other groups, for the most part by Kabila and the PPRD. Interviews in Bukavu and Goma, June 2005.

intimidated, and political demonstrations have been forcibly dissolved by security forces loyal to the former belligerents.

This said, it becomes clear that the elections indeed mark an important step on the DRC's 'road to peace', but they will not immediately transform the DRC into a stable democracy. Many of the now-powerful actors have a lot to lose, notably the former war elites from the unpopular RCD. But aside from countering the immediate threat of post-election instability, the democratization process in the DRC also faces severe long-term challenges as administrative structures and institutions of the state remain weak and intransparent and the economy is characterized by (informal) predatory practices that exclude the majority of the population from (formal) economic reproduction. Accordingly, the donor community must be careful with regard to its future strategies and commitment. The current policy debates within the donor community display a remarkable willingness to accept best-case scenarios as the baseline for political strategies and are largely focused on short-term 'technical' questions of how to guarantee a free and fair election and deter potential spoilers from taking up arms after a loss at the polls. It is telling that in the public debates in the donor countries only two of the three foreseen election rounds are openly addressed: While international attention and assistance (as the deployment of the multinational EU-force and observer teams) focuses on presidential and parliamentary elections, the poor state of the institutional and political preparations for the provincial elections, and the political risks they involve, receive too little international attention. At the same level, and arguably with a lot more relevance to policy makers, the continuing economic exploitation of violence during the transitional phase runs the risk of not receiving the attention it should. Put bluntly, parachuting in 'on the eve' of the vote, patrolling the streets to deter spoilers from staging riots, and leaving the country after international observers have judged the outcome as compatible with Western democratic standards, is no substitute for a concerted long-term policy-strategy of the donor community that addresses the underlying socio-economic and political problems of the DRC. It is important to keep in mind that many of the structural challenges of the TNG—as identified in this report—will remain in place after 31 July.

## Policy recommendations

Different donors—international organizations, multilateral donors, IFIs and NGOs—have transferred substantial sums in aid, technical assistance and loans to the DRC. So far, the donor community<sup>101</sup> has not used its potentially substantial political and economic leverage over the TNG, although it has repeatedly bemoaned the diversion and/or squandering of these transfers. The question of ‘neotrusteeship’ (cf. Fearon/Laitin, 2004) is a thorny issue—since it easily turns to some form of, supposedly, ‘benevolent imperialism’. Nonetheless, placing future aid transfers under a stricter political conditionality to enforce the adherence of Congo’s elites to principles of good governance is of major importance in the light of the fragility of Congo’s reform processes and the ongoing suffering of its people. The International Community should put political pressure on the TNG to adopt the following measures:<sup>102</sup>

*In the field of good governance and resource management:*

- **Undertake a thorough revision of the Mining Code and secure its implementation:** As analyzed, the Mining Code—in theory—lays the ground for (environmentally, socially) sustainable mining activity. In practice, it had little—if any—impact on economic policies. An important reason is the complexity of the Code and its reliance on institutional preconditions that the weak administrative structures of the DRC cannot deliver. A revision (assisted by the World Bank) and adaptation of the Mining Code to the DRC’s administrative capacities is necessary. After revision, its implementation must be enforced with greater credibility: A (revised) Code will still benefit the DRC in economic terms as it will attract ‘serious’ foreign investors interested in long-term involvement and, at the same time, keeps predatory businesses out.

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<sup>101</sup> While the term ‘donor community’ implies some sort of harmony of interests, we are well aware of the different interests, competences and capacities of the respective actors.

<sup>102</sup> Obviously, there are many other recommendations that could be addressed to the ‘donor community’ (as, for example, help protecting civil and human rights etc.). The following policy recommendation focus on issues that are related to our field analysis.

- **Press for the implementation of the recommendations by the Lutundula-Commission:** The foot-dragging of the Kabila-faction (well-assisted by other factions of the TNG) on a parliamentary debate on the findings of the Lutundula-Commission is a political scandal. In accordance to the Lutundula report the TNG should immediately stop several ongoing negotiations with a number of predatory companies and renegotiate a number of contracts—including war-time contracts—that contribute, effectively to the complete sell-out of the states' assets.
- **Curb corruption and impunity:** The systemic character of corruption in politics and economics has been criticized by donors but by and large accepted as 'necessary evil'. Given the detrimental effects of corruption on both economic recovery and political (democratic) reform efforts to curb corruption must be stepped up. Bi- and multilateral donors need to put political pressure on the Congolese government to investigate on and prosecute persons involved in corruptive networks. A 'last resort' would be targeted sanctions against individuals, (partial) freezing of aid transfers, etc. Administrative bodies of the DRC (like, for example the Court de Comptes) need to be supported both in financial and political terms. The same applies to civil society initiatives that need to be strengthened by financial and technical assistance as well as by political support since many of its representatives feel threatened by the intimidation of influential elite groups.
- **Further and enforce transparency initiatives and corporate governance:** To curb corruption and illegal (cross-border) trade from the DRC also implies that permissive structures need to be abolished. Regional approaches to curb corruption must therefore be strengthened. It is also important to counter commercial complicity of foreign corporations investing in the DRC. Western donor countries should enforce the adherence of (Western) corporations to the OECD-guidelines more thoroughly, and develop firm regulatory mechanisms that also include corporations from industrializing non-OECD countries to guarantee sustainable corporate governance.

- **Strengthen institutional and administrative capacities:** At the same time, institution-(re-)building needs to be closely observed to ensure transparency and (political) neutrality and independence of the state's institutions and bureaucracies. Of major importance are administrative bodies like OFIDA that—in principle—are crucial in collecting revenues to the government, but—in practice—are highly corrupted.
- **Curb 'militarized exploitation' and (illegal) trade in 'conflict commodities':** More than three years after the formal end of the war, artisanal mining in parts of the country still suffers from militarization. While providing security (not only) in mining areas is one issue (see below), a review and closer observation of business practices is necessary since also in 'secure' areas, armed groups (including FARDC) harass/tax/'employ' artisanal miners. The Mining Code does not permit members of the armed forces to engage in mining activities. The donor community needs to develop mechanism and regulatory frameworks that go beyond the Kimberley Process to curb these practices.

*In the field of security, SSR and DDR*

- **Provide reinforcements to MONUC:** In Fall 2005, prior to the extension of MONUC's mandate, Secretary-General Kofi Annan had requested a significant reinforcement for MONUC. This request explicitly referred to MONUC's overstretched capacities in the Kivus and Ituri, as well as the upcoming elections and the rapidly deteriorating security environment in Katanga. The 300 additional soldiers agreed to by the Security Council are by no means sufficient. Taking into account the practices of targeted intimidation, violence and unlawful arrests of civil society activists and members of the political opposition by local security forces and the provincial administration in Katanga, MONUC needs to build up a visible presence in Congo's richest province to secure a minimum of fairness during the last weeks of electoral campaigning and the actual voting.

- **Provide additional funding for SSR and the build-up of the FARDC:**<sup>103</sup> Compared to other policy fields, multilateral and bilateral funding and technical assistance to SSR-related programs is low, and there are only a few (international) funding programs. Military assistance (for good reasons) does not meet OECD/DAC guidelines. Given the importance of SSR, donors need to adopt a flexible approach to step up financial support for SSR and the build-up of the FARDC.
- **Provide technical assistance and ensure institutional oversight:** The integration of former armed groups into the FARDC does only proceed very slowly. Aside from providing additional funding, technical assistance in logistics (for re-grouping, integration, deployment), assistance for military training is needed. So far, Belgium, South Africa and Angola and MONUC have trained integrated brigades. These efforts need to be stepped up. The analysis has shown that the FARDC is plagued by parallel chains of command and corruption. The donor community has to develop mechanisms to counter these structures and practices. The EU-funded 'chain of payment project' is only a start: It needs to be extended substantially.
- **Press for a resolution of interagency-struggles** between the 'Maison Militaire' and Ministry of Defense. The donor community should use its leverage to press for a (partial) revision of the defense law: The competencies between the two bodies need to be clarified. A major issue in this context is the GSSP (and its current size of 10,000 soldiers (minimum). The donor community should press the president (and the legal bodies of the government) to reduce the size of the GSSP to a moderate number of 600–800 soldiers.
- **Provide technical assistance and ensure institutional oversight to CONADER:** DDR faces enormous challenges. In the past CONADER has proven to be highly inefficient and corrupt. CONADER needs technical assistance to cope with the tasks of registration, supervision and counseling of demobilized combatants. While providing this assistance, external actors should make sure that the organization makes a clear break with its corrupt past. Corruption within the body and the

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<sup>103</sup> In most general terms, these recommendations also apply to the reform of the national police that could not be covered in this paper. See Kibasomba (2005) and ICG (2006b).

embezzlement (large-scale and petty) of allowances for demobilized combatants remain a problem that CONADER has not been capable to solve on its own.

*Concerning Donor Policies:*

- **Reversing the trend of ‘donor fatigue’ and lacking donor commitment:** In 2004 transfers in aid and loans were falling below the level of the previous years. This trend needs to be reversed, at least a further scaling needs to be avoided. While the donor community should, on the one hand, secure that aid is not diverted and good governance criteria are met (see above), donors, on the other hand need to secure that promised/earmarked aid packages are actually transferred. In the past, especially UN-programs active in the DRC have suffered from lacking donor commitment and/or substantial delays.
- **Increasing efficiency and co-ordination:** Donor commitment must not be confused with just spending more money. The country is vast, and the dismal shape of virtually everything—administration/institutions, infrastructure, security sector and so on—will be a drain even for (a politically unrealistic) quadrupled amount of assistance. It is therefore necessary to ensure greater efficiency. Aside from diversion of aid (see above) current assistance suffers from lacking coordination. OCHA’s and ECHO’s capacities to harmonize (and possibly evaluate) donor contributions must be strengthened.
- **Provide secure planning horizons for medium- and long-term projects:** Currently, comparatively high sums are spent—at times in highly inefficient ways—on short-term projects focusing on humanitarian relief. In contrast, medium-or long-term projects are rare. Especially a large part of the vast (Congolese and international) NGO-community on site—even if they focus on medium- or long-term projects of post-conflict rebuilding, empowerment or development—is threatened by the short-term character of their contracts.

*Additional recommendations with special reference to the deployment of a multinational EU-force to safeguard the up-coming elections*

- **Develop a ‘follow-up’ to the mission:** Concerning violent clashes or military uprisings of factions that lost the elections, there are no clear plans of how the force should react. Should it assist MONUC as foreseen in the UN-resolution (S/RES 1671 § 8 a,b) - even if the locales of violence are out of the geo-

graphic limits of their respective national mandates? If the force refrains from action, the political costs in the DRC (loss of credibility) would be immense. (In contrast to widely held belief within climatized EU-offices IEMF is *not* regarded as a path-breaking contribution to peace in Ituri by the Congolese.) If the EU sticks to its current policy to decide on an ad-hoc-basis whether and to what extent to assist MONUC, Eufor runs the risk of 'mission creep'. Instead of assuming best-case scenarios the EU should openly debate the possible negative consequences of its deployment - including the high - political as well as financial - costs that may arise, and the possibility of European casualties.

Another lesson that can be drawn from the experience of the IEMF-intervention is thinking about a 'follow-up' in time. If the EU is not willing to prolong its mandate - are there any provisions for strengthening MONUC to take over EU's role in the case the situation does not calm down?

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**Press sources and available via-based news services**

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Mine Web  
Mining Review Africa  
New Vision (Kampala, Uganda)  
Reliefweb  
South Scan (London, UK)  
Sueddeutsche Zeitung (Munich, Germany)  
Tageszeitung (taz) (Berlin, Germany)  
United Nations News Service

## **Appendix 1**

### *Timetable of the Congolese war and the transition process*

#### **1998**

2 August	'Mutiny' in Goma, intervention of RPA
August–September	Foundation of RCD; intervention of Angola, Chad, Namibia, Zimbabwe, and Uganda
November	Foundation of MLC

#### **1999**

June	Escalation of the conflict in Ituri
10 July	Signing of Lusaka Peace Agreement
August	Skirmishes between RPA and UPDF around Kisangani
October	Split of RCD (RCD-Goma and RCD-ML)

#### **2000**

February	Revision of Lusaka-Process; MONUC provided with Chapter VII mandate and 5,500 troops
May	'Battle over Kisangani' between RPA and UPDF
14/15 August	Failure of Negotiations in Lusaka
Fall/Winter	Failed offensive of government/allies; counter-offensive of RPA

#### **2001**

January	Assassination of Laurent Kabila; Joseph Kabila becomes President
15 February	Renewed negotiations in Lusaka
22 February	MONUC presence reduced to 2,500 troops
2nd half of the year	Intervening troops draw back behind a demarcation line as agreed upon in Lusaka; Namibia withdraws troops from DRC
October	Start of the Inter-Congolese Dialogue (ICD) in Addis Ababa

#### **2002**

Spring	Heavy fighting in the Eastern provinces
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19 April	Peace talks of Sun City: Failure of ICD; partial agreement between Kabila and MLC; RCD-ML and RCD-N
July / September	Separate agreements between Rwanda/Uganda and DRC on withdrawal of RPA/UPDF
17 December	All Inclusive Peace Agreement (signed in Pretoria)
<b>2003</b>	
Winter/Spring	Reescalation of war in Ituri; UPDF intervention (until May 2003)
May	Failure of Ituri Pacification Commission; violence escalates
30 May	IEMF mandated by the UN to stabilize situation in Bunia
30 June	Inauguration of TNG in Kinshasa
27 July	MONUC authorized to increase forces up to 10,800 troops
<b>2004</b>	
26 May–9 June	Bukavu-Crisis: RCD-rogues capture city; international pressure ends crisis
July	Renewed escalation of violence in Ituri
1 October	MONUC authorised to increase forces up to 16.700
December	Military clashes in North and South Kivu between RCD and other groups (e.g. Mai Mai, RCD-ML, FARDC)
<b>2005</b>	
25 Feb.–present	MONUC attacked in Ituri; starts to disarm militias by force
13 May	Constitution adopted by TNG and national assembly
June	MONUC and FARDC start disarmament of militias in the Kivus
18 December	Constitution adopted in referendum by 80 percent of the votes

## Appendix 2

### *Natural Resources*

**Minerals and Ores:** In the south-east of the country the so-called 'copper belt', stretching northwards from the south-east of Katanga over large parts of the province and extending well into neighboring Kasai Orientale, holds rich deposits of copper and cobalt. These currently amount to shares of 10 percent and 34 percent respectively of the known copper and cobalt reserves worldwide. Other minerals and ores are also extracted from the subsoil in the 'copper belt': silver, zinc, uranium and smaller quantities of iron ore, coal, lead and manganese. Other parts of the Congo are equally rich in precious ores, metals and diamonds: Another 'resource belt'—the 'coltan belt'—extends from northern Katanga to the north into the Kivu provinces and parts of Maniema. Here, the prime mineral resources are tin-ore (cassiterite) and 'coltan', an alloy of columbium (or niobium) and tantalum that is used in the manufacture of capacitors for electronic products. About 64 percent of the world's known coltan reserves occur in the DRC.

**Gold and Diamonds:** Most parts of the Twangiza-Namoya gold belt are located in South Kivu. The gold belt holds one of the richest and largely untapped gold fields in Africa. Large deposits of diamonds—alluvial and kimberlite<sup>104</sup>—can be found in the south as well as in the north and north-east of the country. In the south, alluvial diamonds of high quality and value are especially found in the provinces of Bandundu. Large fields of predominantly kimberlite diamonds occur in both Kasai provinces. In northern Congo, substantial diamond-rich areas are located in in parts of

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<sup>104</sup> The most general distinction is made between kimberlite diamonds and alluvial diamonds. Kimberlite diamonds rest in pipes in deeper layers of rock beneath the surface. The extraction of kimberlite diamonds requires mining technology and know-how. Diamonds from kimberlite pipes are of comparatively 'low' quality and are used for industrial purposes. Alluvial diamonds, in contrast, are of higher quality ('gem quality'). They can be found close to kimberlite pipes and, more often, in riverbeds close to the surface, and up to hundreds of miles away from the pipes. Over the past millions of years the gems have been washed out of the kimberlite pipes by water, that cleared/separated them from other minerals. Since alluvial diamonds are of high quality and comparatively easy to access, they are also mined by (informal) artisanal miners (Dietrich, 2002 pp. 2-4).

Equateur and Orientale (around Kisangani and in some areas in the north close to the Ugandan border).

**Oil:** The north-eastern part of Orientale, especially the Ituri district, also holds important gold deposits. Oil fields have been discovered in this region around Lake Albert, but it remains unclear if the oil can be extracted at profitable conditions from the sand. In the western Bas-Congo province, oil (and gas) production in the Congo Delta has been going on for decades (since 1976), but recently exploration activities have been extended to the deeper sea shelves and to regions further off-shore.

In addition to its mineral wealth, most parts of the country are covered by fertile soil, yielding up to three harvests in some regions. Last but not least, located right at the equator, the DRC possesses the world's second largest reserves of tropical forest. Logging of timber for commercial purposes started as early as in the 19th century but large-scale, export-oriented industrial logging began in the early 1970s.<sup>105</sup>

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<sup>105</sup> Information on Congo's natural resources has been gathered from various sources, including: Braeckman, 2003 p. 180f; Global Witness, 2004a p. 17ff; Montague, 2002 p. 104f; Wrong, 2000.

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## **Information about the authors:**

**Björn Aust** is a political scientist and currently a PhD-student at the Free University of Berlin. His research is funded by the Friedrich Ebert Foundation. His PhD-thesis focuses on inter- and transnational influences and local consequences of war economies in internal wars. His regional focus is the Sub-Saharan Africa.

Contact: [bj@zedat.fu-berlin.de](mailto:bj@zedat.fu-berlin.de)

**Willem Jaspers** is a junior researcher at the Bonn International Center for Conversion (BICC), a German peace research institute. He has worked on the role of external economic actors in settings of (internal) war and violent conflict and on war economies in general. Contact: [jaspers@bicc.de](mailto:jaspers@bicc.de)