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**REPORT OF THE CHAIRPERSON OF THE COMMISSION ON
THE SITUATION IN THE EAST OF THE DEMOCRATIC
REPUBLIC OF CONGO (DRC) AND THE RELATIONS
BETWEEN DRC AND RWANDA**

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I. INTRODUCTION

1. At its 21st Session held at Ministerial level held on 7 December 2004 to consider the situation in the East of the Democratic Republic of Congo (DRC) and developments in the relations between the DRC and Rwanda, the Peace and Security Council (PSC) requested me, in consultation with the Current Chairperson of the AU and the Chairperson of the PSC, to take appropriate measures to convene a Summit bringing together the Rwandan and the Congolese Heads of State, in the presence of the African Union (AU), the United Nations and other stakeholders, with a view to reducing the crisis between the two countries.

2. The present PSC meeting therefore provides a framework to first take stock of the situation created between the DRC and Rwanda and secondly, decide on additional measures that could be taken to speed up the restoration of peace and stability in the region.

II. GENESIS AND DEVELOPMENT OF THE CURRENT CRISIS

3. By letter dated 25 November 2004, addressed to President Olusegun Obasanjo, Current Chairperson of the AU, the Chairperson of the Peace and Security Council for the month of November 2004 and myself, President Paul Kagamé underscored the danger constituted for his country by the negative forces present in the DRC. He indicated that in spite of the mechanisms agreed upon between the DRC and Rwanda to address the issue, the facilitations conducted by third parties, particularly the United States of America, and information shared regularly with the United Nations Mission in Congo (MONUC), genocidal groups had significantly increased their activities, thus posing an imminent and unacceptable threat to Rwanda, and raising the stakes in the light of the recent conclusions of the International Conference on

Peace, Security and Development in the Great Lakes Region. According to President Kagamé the aim is not only to destabilize Rwanda, but also to destroy his country's existing infrastructure, in addition to the stated objective of the group concerned to complete the genocide they were unable to finish in 1994. He emphasized that he had expressed his concerns to President Joseph Kabila at the 1st Summit of the International Conference on the Great Lakes Region process, held in Dar-es-Salaam from 19 to 20 November 2004, regretting that there had been no response to these concerns.

4. President Kagamé stressed that his country had waited patiently for the reaction of the international community, including the AU, to the repeated attacks against Rwanda during the last ten years. He requested the Current Chairperson of the AU to include this issue among the priorities of the African Union. In the meantime, he said that his country would face the threat in a decisive manner. In this regard, he stated that the action envisaged would be proportional to the threat, strictly targeting the ex-FAR/Interhamwé and would be completed in a period not exceeding 14 days, at the end of which a solution would be found that could enable Rwandan troops to return to their base.

5. President Paul Kagamé reiterated the threats of his country's intervention in Dakar where he was on an official visit, and in Ouagadougou, where he stayed within the framework of the France-Africa Summit. Addressing his country's Parliament on 30 November 2004, he said that Rwandan troops could already be in the DRC to check the Rwandan Hutu extremists who had taken refuge there. He added that each time the United Nations and the international community failed to disarm and contain the Interhamwé and ex-FAR they would do so on their own.

6. On 3 December 2004, the Rwandan Government issued a communiqué reiterating its position on the problem of negative forces present in the DRC, as well as its appeal to the international community to disarm and demobilize the latter. Rwanda proposed the following options to the DRC:

- Appeal jointly to the United Nations to change the mandate of MONUC to include the forced disarmament of the ex-FAR/Interhamwé;

- Mobilize an African Force by virtue of Chapter 8 of the United Nations Charter to disarm the ex-FAR/Interhamwé;
- Conduct joint DRC/Rwanda military operations against the ex-FAR/Interhamwé;
- Authorize Rwanda to carry out operations against the ex-FAR/Interhamwé in the East of the DRC, as was the case between The Sudan and Uganda in Southern Sudan, with a view to neutralizing elements of the *Lord Resistance Army* (LRA);
- Deploy Rwandan forces under the command of the DRC to carry out operations against the ex-FAR/Interhamwé.

7. In the same vein, the Rwandan Government called on the African Union to address the issue of the presence of negative forces in a Member State, in violation of its principles, and requested MONUC to show more determination in tackling the menace these groups posed to Rwanda. Lastly, the Rwandan Government stated that there were no Rwandan troops in The Congo.

8. The Rwandan threat of military intervention in the DRC provoked a strong reaction from the Congolese authorities. On 25 November 2004, the Permanent Mission of the DRC to the African Union, by Note Verbale, drew the attention of the Commission to the statement made by President Paul Kagamé. Having underscored the importance of the security of Rwanda and the DRC, the Permanent Mission of the DRC recalled the signing on 20 November 2004, in Dar-es-Salaam, under the auspices of the African Union and the United Nations, of the Declaration on Peace, Security, Democracy and Development in the Great Lakes Regions. By virtue of this Declaration, the Heads of State of the region pledged to respect the principles of the UN Charter and the Constitutive Act of the AU, as well as other pertinent international and regional instruments.

9. The Permanent Mission requested the Commission to immediately take the necessary preventive measures to discourage any initiative by Rwanda which would be contrary to the bilateral

and regional agreements and mechanisms put in place by the international community and the African Union to ensure peace in the region. Finally, the Permanent Mission proposed the immediate convening of a special session of the AU Peace and Security Council.

10. On 29 November 2004, President Joseph Kabila summoned the Ambassadors of permanent member countries of the United Nations Security Council to draw their attention to the seriousness of the situation and inform the latter of his Government's intention to dispatch 10,000 soldiers to the East of the country, bordering Rwanda, to reinforce the Armed Forces of the DRC (FARDC) already deployed in the region. On 2 December 2004, he placed the FARDC on the alert and declared that his country would defend itself.

11. In a note dated 3 December 2004, the Permanent Mission of the DRC informed the Commission that Rwandan troops had crossed the Congolese border to attack the territories of Walikale and Rutshuru in North Kivu. The Congolese Government urgently requested the PSC to hold an emergency meeting to condemn this new attack, in flagrant violation of the relevant provisions of the UN Charter and the Constitutive Act of the AU, as well as the bilateral agreement between the two parties.

12. On 7 and 8 December 2004, President Joseph Kabila convened the Supreme Defence Council emanating from the Global and All-Inclusive Agreement signed in Pretoria, South Africa on 17 December 2004. At the end of its deliberations, the Council decided as follows:

- To speed up the re-deployment of the FARDC in the East of the country;
- That this re-deployment should be carried out under conditions which reassure the people and reinforce the units of the 8th military region;
- The strengthening of operations to neutralize the ex-FAR/Interhamwé and any other armed group present on Congolese soil;

- To request the Government of National Unity to abide by the rational of international commitments and avoid the escalation of the situation.

13. The re-deployment thus decided by the Supreme Defence Council was perceived by some elements of the Rwandan population in North Kivu as a threat against them. These populations accused the Congolese Government, among other things, of constantly making them bear the brunt of the least conflict between the DRC and Rwanda, and claimed that they were the victims of discrimination, rebelling against the marginalization of their region by the central authority. On 9 December 2004, a demonstration was organized against the proposed operation, followed by a counter demonstration in support of the principle of deployment.

14. On 12 December 2004, elements of the army, going from Béni, Butembo and Lubero towards Masisi and Rutshuru communities, were stopped at Kanyabayonga by dissidents of the 8th Military Region, essentially pro-Rwanda, an offshoot of the former RCD/Goma rebellion, now a political party represented within the transition institutions. The two parties clashed for many days, with heavy weapons, in Kanyabayonga and neighbouring communities.

15. The Congolese authorities affirmed that the dissidence was instigated and backed by Rwanda. The Rwandan authorities denied any involvement in this situation, which they felt was exclusively Congolese.

16. Faced with the exacerbation of the security situation in the East of the country, the Council of Ministers of the DRC met on 17 December 2004 and on this occasion, endorsed the measures adopted by the Supreme Defence Council. In addition, it instructed the Armed Forces of the DRC to deploy all efforts to re-establish, by any means, the authority of the State in the East of the Republic, particularly in North Kivu. The Council also decided to field a conciliation mission to Goma to clarify the situation and assess the level of responsibility of the different perpetrators of the crisis. Beforehand, the Supreme Defence Council, meeting on 15 December 2004, had decided to switch around the Commandants of the 5th and 8th Military Regions, in order to foster the

intermingling of the army and prevent disturbances like those in North Kivu.

17. The combats in Kanyabayonga and its environs resulted, according to humanitarian organizations operating in the region, in dozens of deaths in both camps and the displacement of over 130,000 persons. Several communities were said to be completely cleared of their populations, fleeing combats, rape and other atrocities which they would have been subjected to by combatants from both sides. Due to the deterioration of the situation, humanitarian organizations were forced to withdraw from some communities.

18. On 20 December 2004, MONUC decided, following consultations with FARDC officers, to establish a buffer zone around Kanyabayonga to separate the warring factions, put an end to the clashes and enable the free provision of humanitarian assistance to the needy populations.

III. EFFORTS AIMED AT REDUCING TENSION

19. At the outbreak of the crisis, the international community mobilized to call on the two Governments to exercise calm and restraint, and requested Rwanda not to carry out its threats of intervention in the DRC. In this regard, the PSC at its 21st meeting on 7 December 2004 to consider the situation in the East of the DRC and developments in relations between the DRC and Rwanda, *inter alia*:

- Underscored the need to find a peaceful solution to the problem of the ex-FAR/Interhamwé and other foreign armed groups in the DRC, requested Rwanda to refrain from any unilateral action and appealed to the two parties to show maximum restraint:
- Requested the Chairperson of the Commission, in consultation with the Current Chairperson of the AU and the Chairperson of the PSC to take appropriate measures to convene a Summit bringing together the Presidents of the DRC and Rwanda, with a view to reducing the tension between the two countries and considering the practical

modalities of effective action for the disarmament and demobilization of the ex-FAR/Interhamwé;

- Called on the United Nations to continue efforts geared towards strengthening MONUC, to enable it to effectively contribute to the disarmament and demobilization process of the ex-FAR/Interhamwé.

20. On 7 December 2004, the UN Security Council adopted a presidential statement whereby it:

- Expressed its grave concern over the many reports referring to military operations by the Rwandan army in the East of the DRC and the threats of the Rwandan Government in this regard;
- Demanded that the Rwandan Government immediately withdraw all the forces it may have on the territory of the DRC and called on all States in the region to refrain from any action or declaration which could violate international law, threaten the already fragile stability of the region, or the transition process backed by the international community;
- Called on all Governments of the region to pledge to make full use of the mechanisms they had agreed to establish, including the Joint Verification Mechanism and the Tripartite Commission for the peaceful resolution of their conflicts;
- Recognized that the presence of the ex-FAR/Interhamwé is still a source of instability in the region, a threat to the civilian populations and an obstacle to relations of good neighbourliness between the DRC and Rwanda. In addition, the Council deemed that the armed presence and activities of elements of the ex-FAR/Interhamwé in the East of the DRC was unacceptable and demanded that they disarm and disband without delay, with a view to their repatriation or reintegration...

21. Following the deterioration of the security situation in Kanyabayonga, in a communiqué dated 15 December 2004, I expressed my serious concern and emphasized that the recent developments might compromise the efforts aimed at easing

tension between the DRC and Rwanda. I requested the dissident elements to obey the discipline of the Army to which they belong and refrain from any action likely to jeopardize the peace and transition process.

22. Other members of the international community also intervened. Indeed, the European Union (EU), the American, Belgian, British and French Governments expressed their concern over the tension between the two countries, particularly the American Government, which sent an emissary to the authorities of the two countries to appeal to them to resolve their differences within the framework of existing mechanisms, namely the Tripartite Agreement signed on 26 October 2004, in Kigali by the DRC, Uganda and Rwanda, to resolve the security problems along their common borders.

23. I wish to express my satisfaction at the fact that after all these efforts, the Rwandan Government, through its Minister of Foreign Affairs and Cooperation, announced on 20 December 2004, its decision to withdraw its threat to intervene in the DRC. The Rwandan Minister intimated that this decision was taken after the international community had given the assurance that the problem of the ex-FAR/Interhamwé would be dealt with head-on.

IV. CONTEXT OF THE TENSION BETWEEN THE DRC AND RWANDA

24. The tension between the DRC and Rwanda, particularly at the border between the two countries, has become a recurring problem in the last few years, despite the sustained efforts of the international community to re-establish trust between the two countries.

25. The grievances of Rwanda against The Congo focus essentially on the presence in the Kivus of armed Rwandan groups that left Rwanda after the 1994 genocide. The threat they pose to the security of Rwanda and the feeling that they are backed by the Congolese authorities are regularly put forward to justify the armed Rwandan interventions and/or threats of intervention in The Congo. In addition is the fact that the Rwandan Democratic Liberation Forces (FDLR)- a political wing of the Rwandan armed groups present in the DRC – seize every opportunity to reiterate

their determination to return to Rwanda, if need be by force. For their part, the Congolese authorities feel that Rwanda has territorial ambitions on The DRC, and that its interventions and repeated threats are simply aimed at destabilizing The Congo in order to create the conditions for the annexation of the Eastern part of the country.

26. The tension between the two countries found fertile ground in the two Kivus, particularly North Kivu. In violation of the recommendations of the Global and All-Inclusive Agreement, since the launching of the transition process in June 2003, this Province has been administratively run by the same Governor, a member of the former RCD/G rebellion, and militarily by an officer of the same origin. The integration and intermingling of the Army in this Province is more theoretical than practical. The 8th Military Region, which covers this Province, includes a large number of officers and soldiers, the majority from the community said to be pro-Rwanda, who refused to return to their duty posts after the establishment of the FARDC, feeling that they would not be safe there. These officers and soldiers participated in the May/June 2004 mutiny which resulted in the occupation for a few days of the town of Bukavu, in South Kivu. These events were brought about by the mutual accusations between the DRC and Rwanda and gave rise to great tension. At the time, I had sent a delegation to the two countries, to contribute to the efforts aimed at easing the tension.

27. Less than three months after, attacking forces from the DRC perpetrated the cold-blooded massacre of Gatumba, in Burundi. More than 160 refugees were killed, the majority of whom were «Banyamulengé». These events led to very high tension in the region, particularly between the Congolese Government on the one hand, and the Burundian and Rwandan Governments, as well as the DRC on the other hand. The Congolese authorities were accused of being behind these massacres, described as «genocide» by Burundi, Rwanda and the DRC. The Rwandan Minister of Foreign Affairs specifically requested the Congolese Government and the international community to forcibly disarm the FDLR, failing which, Rwanda would respond itself, if necessary by fighting the Hutu rebels inside The Congo. The Congolese Government denied any involvement in these massacres, and called for the establishment of an International Commission of Inquiry to shed light on these events. The rapid mobilization of the international

community, including the African Union, through President Thabo Mbeki, made it possible to contain the tension.

28. In order to address the problem posed by the presence of negative forces, several mechanisms were put in place. In this regard, Council will recall that the Lusaka Agreement (July 1999) and the Pretoria Agreement (July 2002) provided for mechanisms for the verification and monitoring of the ceasefire as well as the disarmament/repatriation of armed Rwandan groups present in The Congo. These mechanisms were namely the Joint Military Commission (JMC), emanating from the Lusaka Agreement and the Third Party Verification Commission recommended by the Pretoria Agreement. For various reasons, these mechanisms remained virtually dormant after the withdrawal of foreign troops from the DRC.

29. Following the events that occurred in Bukavu in May/June 2004, and consultations held by President Olusegun Obasanjo, the United Nations Secretary General and myself, the DRC and Rwanda agreed on a Joint Verification Mechanism (MCV), whose terms of reference were signed in New York on 22 September 2004. The United Nations and the African Union signed that document as witnesses. The MCV should focus its efforts on three issues: the problem of Rwandan combatants in the DRC, the allegations of Rwanda's involvement in the DRC and control of the common border. With regard to its structure, the MCV comprises a Joint Verification Commission (CVC) and Joint Verification Teams (EVC). The CVC, which considers the reports of the EVC in order to make recommendations to the Heads of State, the Secretary General of the United Nations and the Chairperson of the AU, is composed of senior officials of the parties as well as representatives of the UN and the AU. The EVC will be made up of civilian and military liaison officers, from the parties, MONUC, and the AU and will be posted at the border (Bukavu, Gyangugu, Goma, Gisenyi) or other border areas as the need arises.

30. The first meeting of the MCV was held in Kigali on 5 October 2004, in the presence of the United Nations and the African Union. At this meeting, differences emerged between the DRC and Rwanda on the working procedures of the EVC. The Congolese delegation was against any idea of joint composition of the EVC which would involve the presence of Rwandan officers on Congolese territory and

that of Congolese officers on Rwandan territory. They felt that the verification teams should be separate and only come together for specific missions.

31. Consultations carried out thereafter by MONUC facilitated some progress. The Mechanism should have been operational from 14 December 2004. Rwanda blames the Democratic Republic of Congo for the faint and indeed the even non-implementation of the two verification mechanism resulting from the Lusaka and Pretoria Agreements, as well as the difficulties encountered in the establishment of the MCV.

32. For his part, the roving ambassador of the DRC, Ambassador Antoine Ghonda Mangalibi wrote to me on 8 December 2004, to inform me that on 15 November 2004, his Government had deployed its verification teams to the selected locations in Goma and Bukavu. He regretted that the Rwandan Government had not deployed its teams and not responded to the successive invitations of MONUC for the scheduled verification mission on the basis of allegations made by the Congolese parties on 29 November 2004. Lastly, he expressed the hope that Rwanda would be further involved in the take-off of verification operations. On 16 December 2004, Ambassador Mangalibi wrote to me again to express the concerns of the authorities of his country on the functioning of the MCV, in the light of what it felt was a clear violation by Rwanda of its commitments to the DRC and the international community.

V. OBSERVATIONS

33. The resurgence of tension in North Kivu could, if a rapid solution is not found, pose a serious threat to the ongoing process in the DRC. The Congolese parties have the imperative duty of successfully completing the reconciliation process and working towards the speedy restoration of peace and stability in their country. The countries of the region, the AU and the international community should spare not effort to preserve and consolidate the progress made to date, inasmuch as the stability of the DRC is central to that of the region as a whole.

34. Equally, sustained efforts should be made to build trust between the DRC and Rwanda, for without trust, the instability prevailing in the region will only be exacerbated with the attendant

risks for the ongoing process in the DRC. In this regard, there is an imperative need to resolutely tackle the problem of the ex-FAR/Interhamwé and other negative forces whose presence in the DRC endangers the security of this country and that of neighbouring countries. I call for the immediate establishment of the MCV, and this in the spirit and the letter of the Terms of Reference agreed on in New York last September. For its part, the AU is in the process of taking the necessary measures to play its expected role within the framework of the functioning of the MCV. In this regard, representatives at the level of the CVC should be appointed and military observers deployed to participate in the work of the EVC, it being understood that the observers will be assisted by the necessary civilian and military support staff, in the DRC as well as in Rwanda.

35. However, it should be noted that the MVC, in its present form, is woefully inadequate to effectively carry out the duties assigned to it. There is therefore an urgent need to beef up its staff strength as well as its working procedures. I intend, in consultation with MONUC, to immediately initiate contacts with the two parties to decide with them on the modalities of strengthening the MVC, including a meeting between the Chiefs of Army Staff of the two countries.

36. As earlier indicated, the problem of negative forces is beyond the framework of relations between the DRC and Rwanda. Only a regional and determined approach will pave the way for finding a lasting solution. Therefore, the AU and the UN should facilitate a meeting between the countries of the region concerned to decide on a strategy and concrete modalities for the disarmament and neutralization of negative forces. Such a step would be in line with the Dar-es-Salaam Declaration signed last 20 November.

37. Admittedly, the disarmament and neutralization of negative forces would require the strong participation of the international community. In this regard, MONUC would play a crucial role. There is an urgent need for the Security Council to provide it with a mandate and greater means to enable it to contribute more effectively to current efforts. Such a strengthening would be in consonance with Resolution 1565(2004) of the Council dated 1 October 2004, increasing the strength of MONUC to 16,700 and mandating it to support operations for the disarmament of foreign

combatants led by the FARDC and facilitate the demobilization and voluntary repatriation of disarmed foreign combatants and their dependents.

2005

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