

OFFICE OF THE FACILITATOR  
DIALOGUE BETWEEN THE DRC  
GOVERNMENT AND THE M23  
ON THE SITUATION IN  
EASTERN DRC



BUREAU DU FACILITATEUR  
DIALOGUE ENTRE LE  
GOUVERNEMENT DE LA RDC  
ET LE M23 SUR LA SITUATION  
DANS L'EST DE LA RDC

**REPORT ON CLUSTER I (ONE) OF THE AGENDA FOR  
THE DIALOGUE BETWEEN THE GOVERNMENT OF  
THE DEMOCRATIC REPUBLIC OF CONGO AND M23**

**REVIEW OF THE PEACE AGREEMENT  
OF 23 MARCH 2009**

## TABLE OF CONTENTS

LIST OF ABBREVIATIONS	4
INTRODUCTION	5
EVALUATION OF THE PEACE AGREEMENT OF 23 MARCH 2009	6
Article 1. Transformation of the Congrès National pour la Défense du Peuple (CNDP)	
Government position	6
M23 position	6
Facilitator's Comments	9
Article 2. Political prisoners	11
Government position	13
M23 position	13
Facilitator's Comments	13
Article 3. Amnesty	15
Facilitator's Comments	15
Article 4. National reconciliation mechanism	16
Government position	16
M23 position	16
Facilitator's Comments	16
Article 5. Local conflict resolution	17
Government position	17
M23 position	17
Facilitator's Comments	18
Article 6. Return of refugees and internally displaced persons	19
Government position	19
M23 position	19
Facilitator's Comments	19
Article 7. War-affected areas	21
Government position	21
M23 position	21
Facilitator's Comments	21
Article 8. Territorial Administration	23
Government position	23
M23 position	24
Facilitator's Comments	24
Article 9. Public Administration	25
Government position	25
M23 position	25
Facilitator's Comments	25
Article 10. Reform of the army and the security services	26
Government position	26

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M23 position	26
Facilitator's Comments	27
Article 11. Voting system	
Government position	28
M23 position	28
Facilitator's Comments	28
Article 12. Specific issues	
Government position	29
M23 position	29
Facilitator's Comments	31
	32
Article 13. Economic reforms	
Government position	35
M23 position	35
Facilitator's Comments	35
	35
Article 14. National Monitoring Committee	
Government position	36
M23 position	36
Facilitator's Comments	36
	36
Article 15. International Monitoring Committee	
Government position	37
M23 position	37
Facilitator's Comments	37
	37
CONCLUSION	38
ANNEXES SUBMITTED BY THE GOVERNMENT	
ANNEXES SUBMITTED BY M23	46

46  
48  




## LIST OF ABBREVIATIONS

ADF-NALU	Allied Democratic Forces–National Army for the Liberation of Uganda
AFP	Agence France-Presse
ANC/CNDP	National Congolese Army/National Congress for the Defence of the People
AU	African Union
CNDH	National Human Rights Commission
CNDP	National Congress for the Defence of the People
CEI	Independent Electoral Commission
CENCO	National Episcopal Conference of the Congo
CENI	National Independent Electoral Commission
DRC	Democratic Republic of the Congo
FARDC	Armed forces of the Democratic Republic of the Congo
FDLR	Democratic Forces for the Liberation of Rwanda
GO	General Orders
ICGLR	International Conference on the Great Lakes Region
ISSS	International Strategy for Security and Stabilization in the Democratic Republic of the Congo
LRA	Lord’s Resistance Army
M23	Movement of 23 March 2009
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
MONUSCO	United Nations Stabilization Mission in the Democratic Republic of the Congo
OHADA	Organization for the Harmonization of Business Law in Africa
PARECO/FAP	Coalition of Congolese Patriotic Resistance/Popular Armed Forces
PNC	Congolese National Police
RDF	Rwandan Defence Forces
SADC	Southern African Development Community
STAREC	Stabilization and Reconstruction Plan for Eastern DRC
UNHCR	United Nations High Commissioner for Refugees

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## INTRODUCTION

In accordance with the Rules of Procedure, and in consultation with the Leaders of the two delegations, the work on reviewing the implementation status of the Peace Agreement of 23 March 2009 was carried out in stages, within the following structures:

- (i) A Joint Committee of Leaders of Delegations under the chair of the Facilitator, to define the Terms of Reference of the Joint Technical Committee to review the implementation of the Agreement;
- (ii) A Joint Technical Committee, to discuss in detail, article by article, the implementation status of the Agreement, and report back to the Joint Committee of Leaders of Delegations;
- (iii) Plenary presentation of the findings of the Facilitator.

Both Parties provided, through the facilitation, documents to support their positions regarding the implementation status of the Agreement. The Parties exchanged their supporting documents, as part of information sharing.

The texts in this report regarding the positions of the Parties were provided directly by the Parties themselves. Taking into account the views of each Party, the facilitation has made deductions as to the status of implementation in the form of comments.

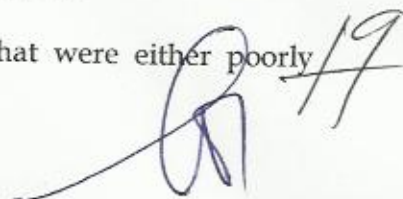
At the end of this document, a conclusion has been provided by the facilitator assessing each provision of the Agreement.

In summary, the articles have been grouped in three categories:

Category 1 is related to provisions considered to have been fully implemented;

Category 2 groups provisions that were partially implemented; and

Category 3 indicates those provisions of the Agreement that were either poorly implemented or not implemented.



## EVALUATION OF THE PEACE AGREEMENT OF 23 MARCH 2009<sup>1</sup>

### Article 1. Transformation of the Congrès National pour la Défense du Peuple (CNDP)

#### Government position

#### 1.1. Cessation of political and military activities by the CNDP

The CNDP has not ceased its political and military activities. It has therefore failed to comply with this article, having resumed political and military activities through the open rebellion of M23. Indeed, the CNDP has never completely terminated its political and military activities since the Peace Agreement was signed. Since the integration operations took place, it has allowed 663 of its members to be hidden; those members have gone to a number of areas formerly occupied by the CNDP rebels in order to destabilize them (Annex 1).

At the same time, General Bosco Ntaganda, then deputy commander of operations in North Kivu and South Kivu, continued to act as head of the militia, developing a parallel order within the army, organizing targeted assassinations, arms caches, bank hold-ups, illicit trafficking of minerals, kidnappings, acts of terrorism and other significant human rights violations (Annex 2). Furthermore, several former CNDP commanders have continued to provoke political and ethnic discourses within the armed forces of the DRC and to obey the orders of their former political and community leaders, despite the army being national and apolitical.

#### (a) Integration into the police and armed forces

##### Integration into the police

The training and integration of members of the former CNDP police force has taken place, notably in partnership with the Japan International Cooperation Agency and the United Nations Stabilization Mission in DRC (MONUSCO). The figures in annex 3 of the document provided to the Facilitator serve to illustrate this: between 2010 and 2012, 2,557 police officers were trained, of whom 1,885 were formerly members of the CNDP, constituting 73.7% of the total membership of the police force. They have all been assimilated into the Congolese National Police and have

<sup>1</sup> Both delegations of the Joint Committee of Experts submitted to the Facilitator their annexes related to the implementation of the Peace Agreement. The Delegation of the DRC Government provided 26 annexes, the list of which is presented on pages 46 and 47. The M23 Delegation provided 22 annexes, the list of which is presented on pages 48 and 49. The annexes referred to in the text always relate to the list of annexes of the party which is expressing its position.

been posted to the province of North Kivu (Annex 3), following appropriate training in the area on how to secure the areas to which displaced persons and refugees would return and how to react to local conflict. Moreover, 234 former CNDP officers were appointed under Presidential Order No. 10/085 of 31 December 2010 on the appointment of senior police officers of the Congolese National Police (Annex 4). Later, some former CNDP police officers, influenced by their former political leaders, refused to participate in further training sessions organized by the General Inspectorate of the National Police outside North Kivu, including in Kisangani in Province Orientale.

Finally, the request by M23 for a separate list of former CNDP police officers is a grave matter, tantamount to politicizing the Congolese National Police.

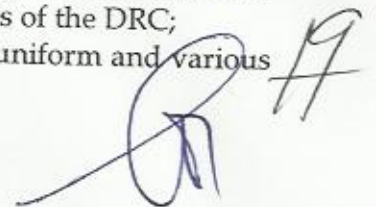
#### Integration into the army

The integration of the CNDP was fully achieved, apart from the deserters and some elements that were removed from the biometric checks by the former CNDP. A commission for the speedy disengagement and integration was set up (Annex 5). Ex-CNDP officers who were members of this commission in North Kivu included Col. Antoine Manzi (now a member of the M23 delegation), Lt. Col. Séraphin Mirindi (now a member of the M23 delegation) and Lt. Col. Elias Byinshi, Lt. Col. Padiri Dieudonné (now a member of the M23 delegation) and Capt. Kanyamwimba.

Of the 6,263 names supplied by the former CNDP for integration into the national armed forces, all those who fulfilled the nationality and age criteria have been integrated. All relevant administrative decisions have been taken. Annex 6 shows that integrated staff have been appointed to the appropriate grades. All have been assigned to units of the armed forces of the DRC as follows: 4,566 in regiments, 211 appointed in Kitona; 155 in regional military headquarters, sectors and operations; 46 were found to be child soldiers and 22 others were voluntarily demobilized (Annex 7). Integration has been fully completed. Of the numbers declared by the CNDP, 663 deserted and went to destabilize former CNDP areas and 600 declared themselves to be of Rwandan nationality and were repatriated by MONUSCO. (Annex 8).

We also want to stress as proof of full integration into the Congolese armed forces the following facts:

- (i) they were appointed to the Amani Leo programme;
- (ii) they were incorporated into the units of the Congolese armed forces;
- (iii) they benefited from the opportunity to rise through the ranks on the same terms as other soldiers within the armed forces of the DRC;
- (iv) they enjoyed a range of benefits (including salary, uniform and various types of equipment); and
- (v) they occupied posts at all levels of command.



Finally, it should be noted that the Government categorically refutes any allegations of harassment, massacres and discrimination within the FARDC, as claimed by M23.

As for the functions within the army, members of the former CNDP armed forces occupied 40% of commanding posts in eastern DRC, despite representing only 15% of the total number of troops deployed in that part of the country (Annex 9). Likewise, Col. Makenga Sultani, the current leader of the M23 rebellion, was put forward for the post of commander of the Kisangani military region, although he declined the post.

Furthermore, only approximately 30% of the members of the former CNDP armed forces mutinied. Some 70% have been assimilated into and remain part of the Congolese armed forces; they are being deployed normally in the provinces of North Kivu, South Kivu, Kasai Occidental, Bas Congo and Province Orientale, and remain loyal to the institutions of the State.

**(b) Transformation of the CNDP into a political party**

The former CNDP has become a political party and is participating fully in political life as a member of the presidential majority.

**(c) Undertaking to seek solutions to concerns through purely political means, with due regard to the institutional order and the laws of the DRC**

The M23, which took on the Agreement of 23 March 2009 signed by the CNDP, has breached this article through its return to arms and by once again becoming a political and military movement.

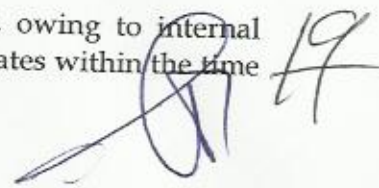
**1.2. Undertaking by the Government to expeditiously consider the request by the CNDP to be recognized as a political party.**

This provision has been implemented.

**1.3. Participation of the CNDP in the political life of the DRC**

This requirement has been complied with. A member of the former CNDP (François Rucogoza, now Leader of the M23 delegation to the Dialogue) has been appointed provincial Minister of Justice in North Kivu but he resigned on 2 June 2012 (Annex 10). Furthermore, the CNDP has joined the presidential majority. Its political leaders are eligible. Its president, Mr. Mwangacucu, who is here as part of the Government delegation, was elected as a deputy in the Masisi area in the 2011 elections.

The Government offered a ministerial post to the CNDP, but, owing to internal wrangling over positioning the latter failed to submit any candidates within the time limit provided.





## M23 position

### 1.1. Cessation of political and military activities by the CNDP

The CNDP has put a definitive end to its political and military activities as set out in the Peace Agreement. Within the context of article 1, a distinction should be made between M23 and the CNDP, which are two distinct entities. Indeed, it is the flagrant failure of the Government of the DRC to respect the Peace Agreement of 23 March 2009, despite numerous reminders and calls to order by the former CNDP, which forced the former military members of the CNDP to distance themselves in order to demand implementation in accordance with the spirit of the Peace Agreement (see Annexes 4 & 5). The Government decided to hunt them down and ambush them, rather than listen to them, which led to the degradation of the situation. The alleged list of 2,157 former CNDP police officers who have been trained speaks for itself and is testimony to the failure to set up the Joint Integration Commission (see page 3, item 2 of the Military Declaration of the Cessation of Hostilities of 16 January 2009, as officially acknowledged in the preamble to the Peace Agreement). Moreover, the CNDP has never provided a list of over 2,157 police officers and, indeed, did not have such a list. It should be noted that the Government has shown its true colours through its unilateral implementation of the Peace Agreement and it is that which has led to its failure.

The allegations made by the Government side about General Bosco Ntaganda are false. During the period when he was Deputy Commander of Operations in North and South Kivu, he was under the command of General Hamuli Bihigwa. The facts alleged by the Government side, however serious they may be, have never been the subject of a disciplinary or judicial action for more than three years against the incriminated General during the period he occupied the above position.

#### (a) Integration into the police and armed forces

##### Integration into the police

The community-based police force, responsible for ensuring security for the return of refugees and displaced persons, and intended to integrate the members of the former CNDP police, has not been set up. Indeed, in accordance with the preamble to the Peace Agreement, which officially acknowledged the Military Declaration of 16 January 2009, a joint commission, responsible for monitoring the effective integration of those members into the police force and the armed forces, should have been established, but that commission has not seen the light of day.

Certain members of the former CNDP police force have indeed been integrated into the Congolese national police force, but not always in accordance with the terms of the Peace Agreement. (For example, some have been posted to areas not envisaged in the Agreement, despite the fact that in accordance with article 5.5, a significant number of them should have been included in the special police unit or, in accordance with paras. 2, 3 and 4 of article 5, the community-based police force).

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Furthermore, the list of appointments published by the Government includes the names of several people who were not members of the police force of the former CNDP. The Government should provide a list of appointments which includes only members of the former CNDP police force who have joined the national police force, and not a comprehensive list of all those who have joined the Congolese National Police.

#### **Regarding integration into the army**

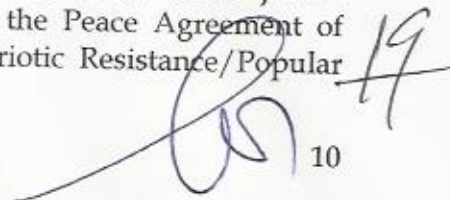
The planned Joint Integration Commission has not been established (see item 2 of the ANC/CNDP Military Declaration of 16 January 2009 as officially acknowledged in the preamble to the Peace Agreement). Integration into the armed forces has not taken place in accordance with the terms of the Peace Agreement. Instead of being truly integrated into the permanent structure of the army, members of the former CNDP were appointed to "Umoja wetu" operations, which subsequently became Amani Leo operations, within the framework of the implementation of the Nairobi Joint Communiqué of the Heads of State of the Great Lakes Region on the situation in the DRC (Nairobi, 7 November 2008) and subsequently found themselves without support or supervision when the Government ended the programme. In particular, the CNDP expected to be integrated into other army services beyond the Land Forces, as well as taking command positions at all levels, from Defence HQ to the battalions. Finally, the few members of the former CNDP who have rejoined the army have been subjected to discrimination and received remuneration significantly lower than that received by other officers of similar rank and seniority, as demonstrated in a report on pay which M23 obtained after taking Goma in November 2012 (see Annex 7). As regards the serious testimonies according to which 600 soldiers of the former CNDP declared themselves to be of Rwandan nationality, M23 maintains that the fact that this matter has never been brought before the National Monitoring Committee and that the CNDP was never notified of it is either an act of diversion or borders on treason.

#### **(b) Transformation of the CNDP into a political party**

The former CNDP has fulfilled all the formalities required for its transformation into a political party and has paid the expenses related to that transformation from its own funds.

#### **(c) Undertaking to seek solutions to concerns through purely political means, with due regard to the institutional order and the laws of the DRC**

The CNDP has complied with this article and even has a Deputy in the National Assembly, the Hon. Mwangacucu, who is part of the Government delegation to the negotiations. However, the article does not apply to M23, which is an entity distinct from the former CNDP. A sizeable proportion of the members of the CNDP joined up with other armed groups which were signatories to the Peace Agreement of 23 March 2009, including the Coalition of Congolese Patriotic Resistance/Popular



Armed Forces (PARECO/FAP) (Mr. Sendugu Museveni, President of PARECO/FAP is a member of the M23 delegation) and other groups, to create M23.

- 1.2. Undertaking by the Government to expeditiously consider the request by the CNDP to be recognized as a political party.

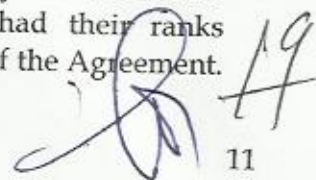
This provision has been implemented.

- 1.3. Participation of the CNDP in the political life of the DRC

The Government has not complied with this provision of the Peace Agreement. The appointment of Rucogoza took place prior to the signing of the Agreement. In interpretation of this article, M23 has provided the report of the Communiqué of the Mini-Summit of the Heads of State of the ICGLR, held in Addis Ababa on 1 February 2010 and countersigned by the National Monitoring Committee, which provides clear evidence of integration into the institutions of the State, including the Government, public enterprises and embassies. Regarding the granting of a ministerial post, the CNDP requested the Government to specify which post was envisaged for the CNDP, so that it could identify one or more qualified candidates from within its ranks. The Government did not act upon that request and a new governmental team has been put in place that excludes the CNDP.

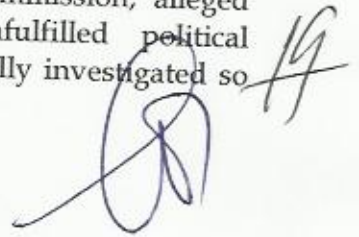
Facilitator's Comments

1. The CNDP handed over its troops to the Government. The Government provided the following breakdown of appointments of former CNDP soldiers: (a) 4,566 in regiments; (b) 211 appointed to Kitona; (c) 155 were deployed to regional military headquarters, sectors and operations; (d) 663 deserted to CNDP areas; (e) 600 declared that they were Rwandan citizens and were repatriated to Rwanda by MONUSCO; (f) 46 were child soldiers; and (g) 22 volunteered for demobilization. CNDP soldiers were also on special operations.
2. With regard to the Police, the Government provided the following breakdown: (a) 2,557 police officers were trained between 2010 and 2012, 1,847 were ex-CNDP representing 73.7 % of all police officers trained; and (b) 234 former CNDP officers were appointed by the President of the Republic on 31 December 2010 in the category of senior officers of the Congolese National Police.
3. M23 indicates that former CNDP soldiers were discriminated against and were given insufficient logistics for their work. Furthermore, M23 indicates that the Joint Integration Commission was never formed and therefore, M23 contends that integration was not properly done. It is also reported by M23 that not all CNDP army officers had their ranks confirmed. According to M23, this was in contravention of the Agreement.



In regard to the Police M23 disputes the numbers outlined by the Government side.

4. On the political front, both parties agree that the CNDP has been transformed into a political party. The Government showed that some CNDP members were appointed to political and technical positions at the provincial level. However, the expectations by CNDP for national level political appointments, e.g. ministerial and ambassadorial, were never met.
5. From the above, it is clear that CNDP police and army troops were taken into Government police and army services. Ranks were awarded. The difference of opinion between the Government side and that of M23 relates to the formation of the Joint Integration Commission, alleged discriminatory treatment, poor logistics and unfulfilled political appointments. It is desirable that this matter be formally investigated so that facts are established one way or the other.

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## Article 2. Political prisoners

### Government position

#### 2.1. Undertaking by the CNDP to produce an updated list of its members who are political prisoners

This provision has been complied with.

#### 2.2. Release of prisoners listed by the CNDP and return to their place of domicile

Several sources in our possession provide evidence of the release of prisoners: (i) the amnesty decree, which includes the list of the names of those affected; (ii) the list of released prisoners; (iii) the MONUC transport manifest; (iv) the list of military personnel taken to the integration and retraining centre at Lubirizi (South Kivu); and (v) the members of the ad hoc commission established by the National Monitoring Committee.

In short, all prisoners have been released. Some have been moved by MONUC (Annex 11). However, given the particular status of military personnel, the Government had decided that they should be taken to an integration and retraining centre where they were reintegrated. Civilian personnel returned to their place of domicile.

### M23 position

#### 2.1. Undertaking by the CNDP to produce an updated list of its members who are political prisoners

This provision has been implemented.

#### 2.2. Release of prisoners listed by the CNDP and return to their place of domicile

According to MONUSCO, all prisoners have been released. Only 13 have been repatriated; the remainder have not been seen since then. A commission was set up to search for those missing prisoners. The commission visited Lubirizi, but the M23 delegate found no one. They must be found and the M23 must be told where it is claimed that they have been deployed.

### Facilitator's Comments

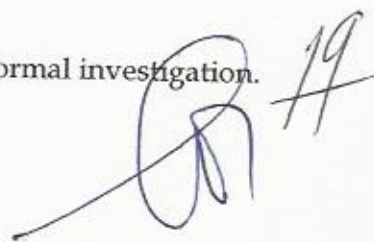
1. While the Government states that all of the prisoners have been released, the M23 claims that only 13 reached their homes and the M23 is concerned about the whereabouts of the remainder.
2. In order to resolve the issue of former political prisoners who were released but never arrived home, a committee was formed to investigate their

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whereabouts. No report of this ad hoc committee has been availed to the facilitation.

3. It is critical that this matter be resolved by a formal investigation.

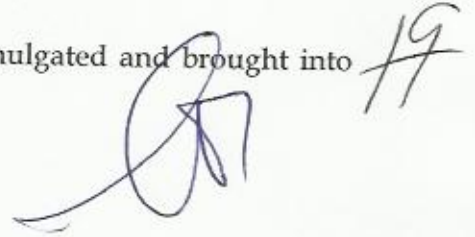
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**Article 3. Amnesty**

The parties agree that the law on amnesty has been promulgated and brought into force.

Facilitator's Comments

The parties agree that the law on amnesty was promulgated and brought into force.

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#### Article 4. National reconciliation mechanism

##### Government position

The national reconciliation mechanism has been put in place. The mechanism has been jointly managed by the Ministry of Justice and Human Rights and the Ministry of the Interior, Decentralization and Traditional Affairs. When Parliament enacts the organic law governing the creation, organization and workings of the National Human Rights Commission (CNDH), the Ministry of Justice and Human Rights shall be assisted in this task by this independent organ responsible for overseeing respect for human rights, mechanisms guaranteeing fundamental liberties and the rights of vulnerable persons and groups (Annex 12).

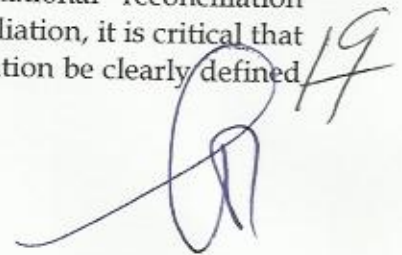
As for the Ministry of the Interior, it is in charge of the reconciliation mechanisms at the grass-roots; and has already undertaken several reconciliation missions, namely in the provinces of Maniema, Equateur, Orientale and Kasai.

##### M23 position

The national mechanism responsible for defining and conducting policy regarding reconciliation and the fight against xenophobia has not been set up. The ministry which should have been responsible for internal security, local affairs and reconciliation has not been set up and no ministry is currently responsible for those matters. The Government should provide proof that a ministry, whichever that may be, has been given specific responsibility for such matters, as provided for under the Peace Agreement.

##### Facilitator's Comments

The Government has decided that the issue of national reconciliation shall be jointly handled by the Ministry of the Interior, Decentralization and Traditional Affairs and the Ministry of Justice and Human Rights. In addition, the Government indicates that the National Commission for Human Rights will support the work of reconciliation. However, it is not clear that these entities have been institutionally linked to constitute the national reconciliation mechanism. Given the fundamentality of national reconciliation, it is critical that whatever mechanism has been set up to handle reconciliation be clearly defined to ensure that it will effectively handle the matter.





## Article 5. Local conflict resolution

### Government position

#### 5.1. Setting-up of permanent local conciliation committees

Fourteen such committees have been set up and are operational (Annex 13).

#### 5.2, 5.3, 5.4 and 5.5. Creation of an interim special police unit with responsibility for refugees and displaced persons returning to their homes, pending the establishment of a community-based police force

The Congolese National Police carried out pilot experiences for the Community-Based Police in South Kivu, Kasai and Bas-Congo (Annex 14).

The special police unit that was to be in charge of the security of the refugees and IDPs returning to their respective home areas, while waiting for the creation of the Community-Based Police, has not been set up yet. Its implementation will be the outcome of tripartite discussions between UNHCR, the DRC Government and the host countries of the Congolese refugees, with regard to the terms of reference of the said unit.

However, as a priority, the tripartite meetings first concentrated on the problem of securing and rendering viable the areas of return of the refugees and IDPs, which must precede the deployment of this special police unit.

In the meantime, the Congolese National Police, with the support of international partners, went ahead and constructed the centres that will accommodate the staff of the said Special Police Unit. These centres are:

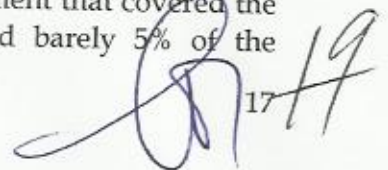
- MUGUNGA (North Kivu Province)
- Jules MOKE (South Kivu Province)
- KAPALATA (Province Orientale)
- 

Likewise, in some of the areas of return for the refugees and IDPs, police stations were constructed, namely at Bitale, Baraka, Fizi Bunyakiri and Hombo, (in South Kivu); Sake, Matanda, Kibali, Masisi Rutshuru, Nyamilima and Kinyandoni (in North Kivu).

### M23 position

#### 5.1. Setting-up of permanent local conciliation committees

M23 recognizes only a few pilot committees, including three groups in the Rutshuru and Nyiragongo areas. However, those committees are no longer in existence, due to a lack of funding and infrastructure. Set out in the Peace Agreement that covered the entire DRC territory, such local pilot committees represented barely 5% of the



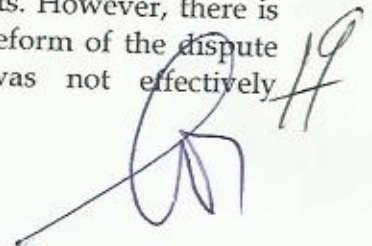
planned implementation. In summary, such committees have not even been operational.

**5.2, 5.3, 5.4 and 5.5. Creation of an interim special police unit with responsibility for refugees and displaced persons returning to their homes, pending the establishment of a community-based police force**

The Peace Agreement of 23 March 2009 envisaged the integration of former CNDP members into the National Police. A special police unit would be created to ensure the safety of refugees and internally displaced persons, and a third police force, the so-called community-based police (which would be both stable and permanent), should be set up. The special police unit has not been created, let alone equipped for taking responsibility for the return of refugees and internally displaced persons in the interim period until the community-based police force has been recruited and trained. Only the Congolese National Police has taken on certain members of the former CNDP police. Joint training has taken place for officers from the Congolese National Police and former CNDP police officers in Kanyarucinya (2 sessions) and in Mugunga, and 500 officers from the national police force and former CNDP officers went to the Kapalata camp in Kisangani for training within the framework of the Congolese National Police. The community-based police force has never seen the light of day.

Facilitator's Comments

Some preparatory work for setting up conciliation committees and Special Police Units has been done. This has been in the form of some training, pilot schemes and construction of some housing units. However, there is no clear roll out programme for this fundamental reform of the dispute resolution system. This provision, therefore, was not effectively implemented.



## Article 6. Return of refugees and internally displaced persons

### Government position

Tripartite agreements have signed between the Government of the DRC and the governments of neighbouring countries, namely Burundi, Republic of the Congo, Rwanda and Uganda, under the auspices of the United Nations High Commissioner for Refugees (UNHCR) (Annex 15). The implementation modalities of those agreements have already taken effect and are being managed by UNHCR, which has emphasized the need to ensure that areas to which refugees and displaced persons will return are made safe and viable before any such return takes place, as well as a number of other criteria, including security and sanitary infrastructure. Furthermore, many former CNDP members were impatient and took the initiative of bringing refugees back clandestinely, which, rather than helping to create appropriate conditions for their return, has complicated the situation. The National Refugee Council and UNHCR have indicated that the conditions for return have not been satisfied. It is vital that the procedures and all technical matters be followed.

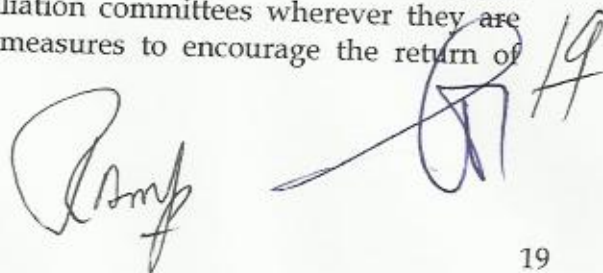
### M23 position

The tripartite Agreements have been signed, but the parties to the Peace Agreement of 23 March 2009 had agreed that awareness training to ensure that areas to which refugees would return would be safe should be carried out in order to facilitate the return of the refugees, the majority of whom are from the Rwandophone community and who remain numerous in the neighbouring countries of the DRC. This work has not been done and, on the contrary, militias targeting a section of the Congolese population have been set up and armed. A group of refugees who volunteered to return were brutally repressed and forbidden to enter the DRC at Uvira by the Congolese army and police. According to a press release from Agence France Presse, a group of refugees who were trying to return were stopped by the Government. What is lacking is a clear expression of political will from the Congolese Government to resolve this issue.

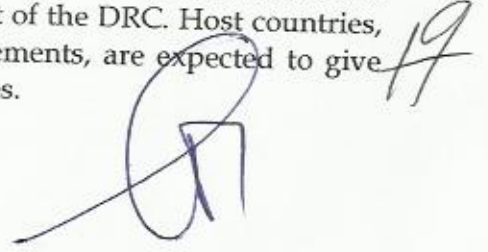
Furthermore, not all displaced persons have returned; there were camps for displaced persons in existence prior to the war with M23 (notably in Nyanzale and Mugunga) as a result of insecurity and lack of infrastructure in the repatriation areas.

### Facilitator's Comments

1. Having concluded the tripartite agreements, and once peace is re-established, the Government should move quickly to establish the Special Police Units and conciliation committees wherever they are required and take additional measures to encourage the return of refugees and IDPs.

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2. The international community, in particular UNHCR, should continue to give strong support to the Government of the DRC. Host countries, within the context of the Tripartite agreements, are expected to give support to the process of return of refugees.



## Article 7. War-affected areas

### Government position

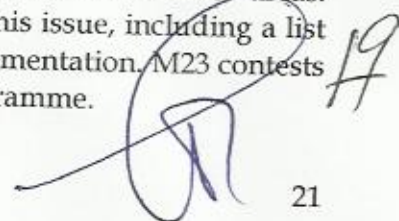
A presidential decree in June 2009 established the Stabilization and Reconstruction Plan for Eastern DRC (STAREC) programme, which has been extended several times. Governments have responsibilities at the national level and must consequently respond to the needs of all their people. STAREC is a programme that focuses on stabilizing areas emerging from conflict and which has benefited from both national and international support, subject to a number of conditions being met. It is not necessary to discuss here the choices made by the Government regarding priority zones. However, the provinces of North Kivu and South Kivu have been treated as a priority and most of the STAREC activities have been carried out in those two provinces (Annex 16). Some 60% of projects which have been either completed or are under way within the framework of the STAREC programme or the International Strategy for Security and Stabilization (ISSS) in the DRC relate to North Kivu and South Kivu, mobilizing over US\$300 million.

### M23 position

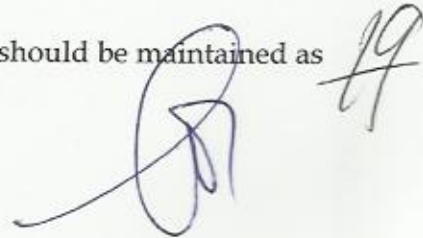
In view of the recurrent wars which have brought about the destruction of basic infrastructure, fields, homes and cattle, and rendered the roads barely usable, the provinces of North Kivu and South Kivu should be declared war-affected areas. Integrating projects and high-intensity labour development projects should be set up to assimilate the demobilized, internally displaced and refugee workforce, starting with the worst affected areas (Masisi, Rutshuru, Nyiragongo and Mwalikale). However, that has all been diluted in a STAREC programme in which the CNDP has had no involvement, in flagrant breach of the spirit of the Peace Agreement (see the report of the meeting of the National Monitoring Committee in May 2009, in particular the revised implementation plan [Annex 17, p. 3 and Annex 22], signed by both parties) and the Presidential Ordinance of 29 June 2009, regulating the organization, institution and operation of the STAREC Programme (Annex 22). In the spirit of the Agreement, post-conflict work should be started in the provinces of North Kivu and South Kivu, which were worst affected by the conflict. In the course of negotiations, the areas of Masisi, Rutshuru and Walikale were specifically identified. The integrating projects to be set up by the Government were intended to assimilate demobilized CNDP military and police officers.

### Facilitator's Comments

1. A Presidential decree was issued in June 2009 to establish the STAREC programme and declared not only North Kivu and South Kivu, but also North Katanga, Maniema, Equateur and Oriental Province disaster areas. The Government has provided evidence related to this issue, including a list of projects either completed or in the course of implementation. M23 contests the inclusion of other provinces in the STAREC programme.



2. The priority status of North Kivu and South Kivu should be maintained as per the Agreement.

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## Article 8. Territorial Administration

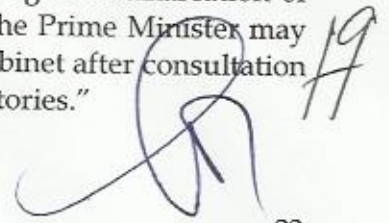
### Government position

The new territorial division envisaged under the Constitution affects neither North Kivu nor South Kivu. The CNDP proposal was received and submitted to both chambers of Parliament, but was rejected on the grounds that it failed to satisfy the requirements of the Constitution.

Indeed, decentralization in the DRC is set out in the Constitution, which was voted for in the referendum and promulgated on 18 February 2006. The Constitution sets out a semi-presidential regime and a detailed plan for territorial decentralization, splitting the country into 26 provinces, rather than the current 11 (article 3). A planning law is being drafted in accordance with article 226 of the Constitution, which provides as follows: "A planning law determines the implementation modalities of the new provinces cited in article 2 of the present Constitution. In the interim, the Democratic Republic of Congo shall comprise the city of Kinshasa and the following ten provinces, which are conferred with legal personality: Bandundu, Bas-Congo, Equateur, Kasai Occidental, Kasai Oriental, Katanga, Maniema, North Kivu, Province Orientale and South Kivu."

The materialization of the agreed efforts for the rapprochement of the authority of the State that underpins the framework of the decentralization process has permitted the adoption of the first eight texts governing the founding principles of the free administration of the provinces (Law 08/012 of 31 July 2008); the organization and operation of the Governors' Conference (Organic Law 08/015 of 7 October 2008); the composition, organization and operation of decentralized territorial entities and their relationship with the State and the province (Organic Law 08/016 of 7 October 2008); the demarcation of subdivisions within the provinces and the operation of the devolved entities (Organic Law 10/011 of 18 May 2010); the public tenders code (Law 10/010 of 27 April 2010); public finances (Law 11/011 of 13 July 2011); fundamental principles concerning agriculture (Law 11/022 of 24 December 2011); and the ordinance-law 009/012 of 21 September 2012 setting out the nomenclature of taxes, rights, charges and fees for the provinces and decentralized territorial entities, as well as the modalities of their apportionment.

These constitutional and legal measures confirm that the CNDP proposal that certain territories should be created and certain territorial separations in North Kivu be proceeded with has not been taken up. However, the conditions for taking initiatives in the field of decentralization and devolution were defined by legislation in 2008 and 2010. On this matter, article 5 of the organic law governing the demarcation of territorial boundaries within the provinces stipulates that: "The Prime Minister may create a new territory, by an ordinance duly deliberated in Cabinet after consultation through a referendum of the population in the concerned territories."



The Government undertakes to pursue with the same momentum the future adoption of other legislative documents concerning the human and financial resources of the decentralized entities, in particular the organic law setting provincial borders and those of the city of Kinshasa; the law governing the organization and operation of the equalization fund; the law governing the nomenclature of taxes in the provinces and decentralized territorial entities; the law governing the local and provincial civil service; the law governing the organization and operation of the services provided by central government, the provinces and the decentralized territorial entities; the framework law on primary, secondary and professional education; and the law governing the status of traditional chiefs.

The legal framework aside, decentralization will not be effective until urban, municipal and local elections have been held, providing local entities with voting assemblies, since the political representatives of both the majority and opposition parties wished such elections to take place after the restructuring of the Independent National Electoral Commission (CENI) which is currently taking place. Regarding the 40% of the revenue that has to be retained at the source by the provinces, this measure shall only be effective after the establishment of the equalization fund when all the provinces shall be in a position to handle all the matters that fall under their exclusive competence, in accordance with Article 204 of the Constitution.

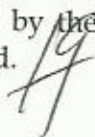
In the meantime, several actions on decentralization have already been carried out by the decentralization technical support unit, with the support of development partners (Annex 17).

#### M23 position

No action has been taken; indeed, on the contrary, the Government has breached the constitutional provisions relating to decentralization. The new territorial division (into 26 provinces) proposed under the Constitution has not been implemented.

#### Facilitator's Comments

It appears that the difference between the Parties relates to implementation and not lack of legislation. In so far as the CNDP submitted its views on the matter, and these were considered by the appropriate institutions of the Government, the article was implemented.





**Article 9. Public Administration**

Government position

The CNDP submitted its contribution, which was received and taken into account by the Government within the framework of the Civil Service Bill, which is currently being drafted.

M23 position

The CNDP submitted its contribution to the Government as required under the terms of the Peace Agreement.

Facilitator's Comments

This article has been implemented.



## Article 10. Reform of the army and the security services

### Government position

The DRC Government considers reform of the army and other security services to be a priority. All reforms start with the establishment of a legal framework, which is already in place. Thus, the fundamental laws regulating the organization and working of the armed forces of the DRC and of the Higher Defence Council have been voted on by Parliament and promulgated by the Head of State, as well as the fundamental law regulating the status of military personnel. The law regulating the police has been adopted and promulgated. The law regulating police staffing is currently being drafted.

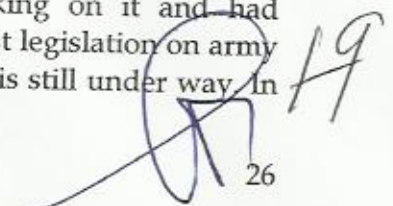
A number of concrete processes of significance have taken place, including the following:

- (i) Biometric controls for the roll call of troops in order to improve staff management; certain former CNDP commanders have, however, forbidden their troops to collect their biometric cards;
- (ii) Improvement in living conditions (salaries) and infrastructure (two new camps in Bukavu); however, certain former CNDP commanders (Col. Innocent Zimurinda, Col. Josué Biyoyo, Col. Bernard Byamungu, and Lt. Col. Alexis Muhire Bujati) systematically retained the salaries of soldiers for two or three months for reasons unknown;
- (iii) Training (seminars for officers, and the establishment of a military academy and other military training facilities). It should be noted that a number of members of the former CNDP declined to take part in such seminars;
- (iv) Reorganization of units into regiments (Annex 7). It should be noted, however, that a number of members of the former CNDP declined to be deployed outside their home province;
- (v) Rank appointments for all military personnel (Annex 6).

The very existence of this framework and the concrete processes undertaken within it prove that reform is under way and is continuing, despite the resistance of certain former CNDP military personnel to obey orders relating to the reforms.

### M23 position

Unilateral reforms have been initiated, but the results have been unsatisfactory. Despite the support of various partners in this domain, the DRC remains without an army capable of defending the country. The spirit of article 10 of the Peace Agreement is enshrined in item 10.3, under which as long ago as 2009, the Government was aware of the need for reform, was working on it and had undertaken to include it in its list of priorities. However, the first legislation on army reform was enacted in November 2011, yet in 2013 the process is still under way. In summary, reform is not yet a reality, but remains a process.



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There has been an unacceptable delay as a result of a problem, which was allegedly being dealt with in 2009 and is allegedly a matter of priority. In that sense, the spirit of the Peace Agreement has not been respected. The army and security forces constitute the very backbone of the Government, a founding principle of a nation, and should be considered a priority.

As far as the reforms, as presented by the Government delegation, are concerned, it is egregious that many legal documents in the DRC have gone unheeded. The biometric controls mentioned above were poorly implemented and are now ineffective. The refusal by ex-CNDP soldiers to accept biometric cards is justified by the fact that the ranks mentioned on those cards did not correspond with the actual ranks of those officers. The majority of the cards indicated "Commander" as the rank. Salaries remain inadequate (leading to the misappropriation of funds seen in the army).

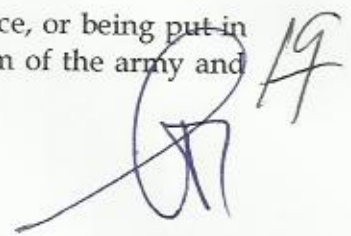
As regards accusations levelled against Colonels Zimulinda, Biyoyo, Bernard Byamungu, Alexis Muhire Bujati, these are accusations without any foundation. It is amazing to hear from Government Officials that Officers retained salaries intended for soldiers without being held accountable by the relevant authorities of the Army and that such allegations would be made several months later. This largely proves that these are allegations invented wholeheartedly to tarnish the image of ex-CNDP Officers.

The seminars organised were poorly targeted, particularly during the post-conflict period; and members of the former CNDP have never refused to be deployed elsewhere, even if the real problems emanating from the presence of the FDLR did not justify such redeployment.

The existence of documents shows that the process has begun, not that reform has happened, although it remains a priority.

Facilitator's Comments

1. The reform of the army and security services has been slow.
2. However, some laws to govern the reform have been enacted and others are nearing completion.
3. Now that the framework for the legal reforms is in place, or being put in place, every effort should be made to hasten the reform of the army and security services.



## Article 11. Voting system

### Government position

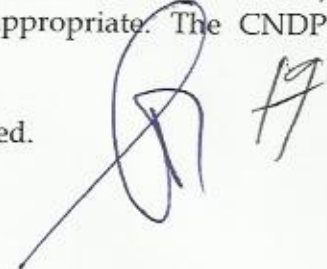
The CNDP proposals have been submitted to both chambers of Parliament. This matter has been discussed at length. The legislator has not followed the CNDP proposals to the letter because the proposed voting system did not match the national configuration of the country. We opted for a system of proportional representation in which the strongest candidate survives, so that candidates on short party lists could achieve elected positions. Electoral reform should bring together two issues: the number of political parties (over 400 in the DRC) and sociological reality (Annex 18).

### M23 position

The regime has amended the Electoral Act by abolishing the second round, thus depriving the people of their role as primary sovereign, and it is thus no longer necessary to obtain the support of the majority of the population in order to govern. (The current president governs the country, having achieved 48% of the vote, despite the result having been disputed by several international organizations, including the Carter Center, the European Union, the African Union, MONUSCO, the Congolese National Episcopal Conference, and through the peaceful representations of the Congolese people, which were savagely quashed.) The M23 has made proposals and has just learned that the Government authorities have discussed those proposals at length, but it has no further information regarding them.

### Facilitator's Comments

1. What was required under the agreement was an evaluation of the Electoral Act, which was handled by the appropriate national institution, which took the decision it considered most appropriate. The CNDP submitted its views for consideration.
2. This aspect of the Agreement has been implemented.



## Article 12. Specific issues

### Government position

#### 12.1. Re-employment of administrative officials who were members of the CNDP

Civil servants are covered by specific regulations which explains why certain administrative officials who were formerly members of the CNDP have been re-employed and other have not (Annex 19). Furthermore, when it was occupying territory, the CNDP took it upon itself to create administrative posts that are not legally recognized. It maintained parallel administrations in the Masisi territory. Rebellion and mutiny are not the method of recruitment for a country's civil service.

#### 12.2. Reinstatement of provincial deputies

The legal position regarding the reinstatement of provincial deputies has been raised. Following the objection raised by the Provincial Assembly of North Kivu, the names of Members of Parliament who fall into that category were added to the waiting list of political staff which was sent by the CNDP in preparation for future appointments. However, there has never been a promise as such by the Government on this matter.

#### 12.3. Traditional leaders not co-opted into the Provincial Assembly of North Kivu

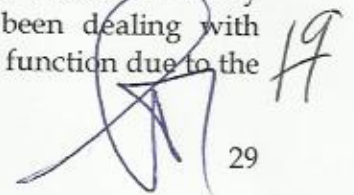
This process has been delayed, as the matter had already been dealt with by the Supreme Court. The Government contacted the Independent Electoral Commission, which informed it that it had notified the national authorities that the decision of the Supreme Court was dependent on the settlement of the succession litigation that was at the root of the dispute. Furthermore, these were global problems. In certain areas, disputes of this nature have been dealt with, but in others they have not yet been settled. In some areas, there is disagreement regarding the legitimacy of certain traditional leaders. It is therefore a matter which needs to be resolved by other mechanisms and, at present, it falls under the purview of the Ministry of the Interior, Decentralization and Traditional Affairs.

#### 12.4. Restoration of State authority

The authority of the State has been re-established in the areas of Masisi, Rutshuru and Nyiragongo.

#### 12.5. Misappropriated property

This is a lengthy process which is following its natural course. In fact, North Kivu and South Kivu are provinces which for over a decade have witnessed many traditional and land conflicts, which the justice system has been dealing with unremittingly. The Commission established in this regard did not function due to the fact that the monitoring committee was not operational.



## 12.6. Liberalizing public enterprises

The Government of the DRC has undertaken major reforms, notably the stabilization of the macroeconomic framework and membership of the Organization for the Harmonization of Business Law in Africa (OHADA). Furthermore, the process of liberalizing public enterprises has resulted in a reduction in the national debt and a fall in depreciation from 9,000% to 9 per cent, with an average growth rate of 6%, which is currently above the African average (Annex 20).

## 12.7. Government support for the war-wounded

The National Monitoring Committee, with the support of General Sumbeyiwo and Ambassador Kapya, who represented the Mediators, their Excellencies Obasanjo and Mkapa, having considered the dossier for the support to orphans, widows and the war-wounded from the CNDP, decided to consider only the war-wounded, owing to problems of feasibility and equity with regard to the populations that were victims of the war (Annex 21).

The CNDP has presented a list of 250 individuals wounded in the war out of the 266 that had been declared. The Government took care of them with a contribution from the Fund for the Consolidation of Peace, ICRC and MONUC (Annex 22). Furthermore, several former CNDP officers even benefited from medical evacuation overseas, including Col. Mulomba Bahati (India), Col. Faustin Muhindo (India), Col. Innocent Kahina (India), Col. Wilson Nsengiyunva (Kenya) and Col. Makenga Sultani (Kenya), etc.

## 12.8. Formal recognition of the ranks of former members of the CNDP, both in the national police force and the armed forces

The Government confirms that all officers and corps troops have been appointed to the appropriate rank. A general ranks commission has been set up, with a former CNDP officer, Col. Innocent Gahizi (who is still in the DRC armed forces and is currently Commander of Operations in the province of North Kivu) as its vice-president. The commission also included one other former member of the CNDP, Col. Esaie Munyakazi (Annex 6 b).

With regard to logistical matters, considerable efforts have been made. The FARDC is currently undergoing a reform process that is being undertaken in accordance with the criteria established for the creation of a professional republican army. The regiments formed have been provided with sufficient equipment in terms of vehicles, arms, uniforms and other requisites.

Certain former CNDP officers, such as Col. Kahina, Col. Byamungu and Col. Makenga, permitted themselves to maintain arms caches. Subsequently, during the M23 mutiny, those same officers and others maliciously set fire to vehicles and burned down weapons stores.

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Furthermore, with particular regard to the operations against the FDLR, several operations have successfully been undertaken and joint evaluations have been held regularly with the Rwandan army and MONUSCO (Annex 23).

### M23 position

#### **12.1. Re-employment of administrative officials who were members of the CNDP**

It is necessary to return once again to the spirit of the Peace Agreement, which dealt with exceptional circumstances. Some administrative officials have been re-employed, but - in flagrant breach of the spirit of the Agreement - the vast majority have not been able to benefit from re-employment.

The CNDP never maintained any parallel administration since the two Parties recognized that State authority had been restored. By affirming that "rebellion and mutiny are not the method of recruitment for a country's civil service", the Government is shying away from commitments made in full awareness.

#### **12.2. Reinstatement of provincial deputies**

No unseated Members of Parliament have been reinstated. This is as a result of the absence of a broader framework for CNDP participation in national political life, under which modalities would be settled upon by common accord (see article 1, item 3 of the present Agreement).

#### **12.3. Traditional leaders not co-opted into the Provincial Assembly of North Kivu**

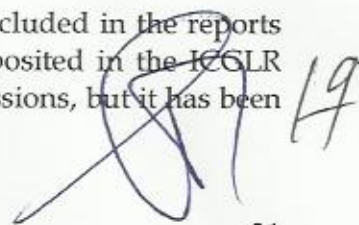
Traditional leaders were not co-opted by the Provincial Assembly on the grounds that the lines of succession were contested, despite being covered by a Supreme Court judgment (see article 12, item 3, which is the substantive provision of this section of the Agreement). The M23 believes that accounts are being settled and that there is a lack of political will, as decisions of the Supreme Court are absolute and final.

#### **12.4. Restoration of State authority**

The authority of the State has been re-established in the areas of Masisi, Rutshuru and Nyiragongo.

#### **12.5. Misappropriated property**

The text referred to by the Government party today was not included in the reports of the meetings of the Commission, nor in any document deposited in the ICGLR archives. A compromise solution was reached during the discussions, but it has been established that no action has been taken on this matter.



## 12.6. Liberalizing public enterprises

The liberalization of public enterprises has been carried out unilaterally and has seen the selling off of the economic and mining interests of our country.

## 12.7. Government support for the war-wounded

The Government committed itself to taking responsibility for the war-wounded, widows and orphans. Support for just three months has been provided for the 182 war-wounded, 70% of which was funded by MONUC, with the remaining 30 % funded by the Congolese Government. Not all the war-wounded have recovered in that time. Indeed, this issue has been a cause of great tension in the town of Goma and the Masisi area. The names of officers indicated as having benefited from treatment outside the country are not included on the list of war casualties provided by the CNDP.

The widows and orphans have been abandoned to their sad fate in clear breach of the Peace Agreement of 23 March 2009. Given that the National Monitoring Committee has been dissolved, the CNDP has not been able to submit the list of widows and orphans so that they can be taken care of.

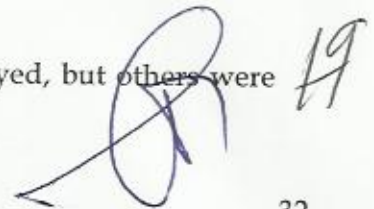
## 12.8. Formal recognition of the ranks of former members of the CNDP, both in the National Police and the armed forces

The majority of members of the armed forces of the former CNDP have not been given any rank. A few high-ranking officers have been appointed to the appropriate rank, but not most of the troops. 60% of former CNDP military personnel are still waiting for their rank to be recognized. Since the General Orders were published, former CNDP military personnel have not collected their biometric cards (although they were recognized as commanders). The second part of the article, relating to logistics, has not been implemented. We have seen helicopters, ballistic missiles and Congolese army tanks, all supported by the international community to overthrow the M23. Such logistics have never been put at the disposal of the army to fight foreign forces (such as the FDLR, ADF-NALU [Allied Democratic Forces-National Army for the Liberation of Uganda] and LRA [Lord's Resistance Army]) living and operating on Congolese soil, destabilizing the Congolese people and creating precedents with neighbouring countries. Military rations and funding earmarked for operations have been misappropriated with total impunity.

### Facilitator's Comments

#### 12.1 Re-employment of administrative officials who were members of the CNDP

Some civil servants affiliated to the CNDP were re-employed, but others were not, due to legal restrictions.





## 12.2 Reinstatement of provincial deputies

The CNDP provided the list of names of the provincial deputies to be reinstated, but posts were not provided for them.

This provision was not implemented.

## 12.3 Traditional leaders not co-opted into the Provincial Assembly of North Kivu

This matter concerns the upholding of the decisions of the Supreme Court.

This provision was not implemented. In order to implement this article, as well as foster harmony in the community, the Government should take a deeper interest in this matter and ensure its conclusive settlement.

## 12.4 Restoration of State authority

This provision was implemented.

## 12.5 Misappropriated property

This provision was not implemented.

## 12.6 Liberalizing public enterprises

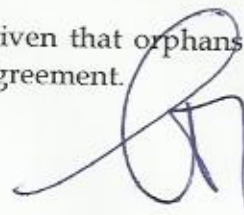
The liberalization of the economy is still work in progress.

This provision has been implemented.

## 12.7 Government support for the war-wounded

The 'War-wounded' project was fully completed, as indicated by annex 21. Despite evidence from the Government showing that some CNDP officers got long-term and specialized treatment abroad, the M23 maintained that the three months support was inadequate, especially for combatants with serious injuries that need long-term treatment and care. In addition, the M23 asserts that support for widows and orphans provided for in the Agreement was never given, because the Monitoring Committee to which the CNDP's list of widows and orphans was to be submitted had been dissolved.

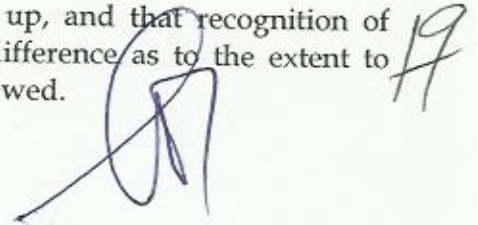
Accordingly, the provision was not fully carried out, given that orphans and widows did not receive the support as required by the Agreement.



**12.8 Formal recognition of the ranks of former members of the CNDP, both in the National Police and the armed forces**

A general ranks commission was set up. Both parties agree that ranks were awarded. However, the M23 is concerned that the majority of its military personnel did not receive their ranks. With regard to field logistical support, the M23 considers that this was inadequate.

Given that the appropriate commission was set up, and that recognition of ranks was indeed carried out, the issue of the difference as to the extent to which this exercise was carried out should be reviewed.

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### Article 13. Economic reforms

#### Government position

Economic reforms have been undertaken in accordance with relevant recognized international standards. They have enabled the national debt to be wiped out for the first time.

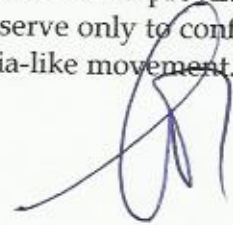
The efforts deployed in the mining sector are real and aim to prohibit the plundering of natural wealth, which undoubtedly incites resistance on the ground, as the plundering of mineral wealth in eastern DRC is the fuel which has lit the fire for successive conflicts in that part of the country.

#### M23 position

Unilateral reforms have been undertaken and the decisions taken in this regard have been distinguished by the political will to punish the people of North Kivu and South Kivu in domains related to the mining sector, to the benefit of other provinces. Disputes and reports, such as the Lutundula report and others, serve only to confirm the selling off of the Congolese economy for the benefit of a mafia-like movement.

#### Facilitator's Comments

The article was implemented.



## Article 14. National Monitoring Committee

### Government position

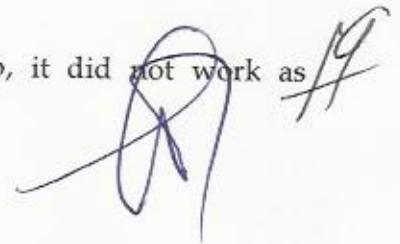
The National Monitoring Committee was set up. It met on several occasions, in spite of the blockage by CNDP (Annex 24). Its mandate was regularly and repeatedly renewed. Activities which required longer to be achieved have been entrusted to the relevant ministries or to the STAREC programme (Annex 25).

### M23 position

The National Monitoring Committee was established. It was dissolved unilaterally and prematurely by the government party. Its initial mandate of three months was unrealistic and reflected a deliberate lack of will on the part of the Government of the DRC to implement the Peace Agreement. Only three meetings of the Committee have been held and the signed reports of those meetings are available. Despite the heavy correspondence and numerous other demands made by the CNDP for the framework as set out in the Peace Agreement to be the sole one used to deal with all the issues reflected therein, the demands of the CNDP have been unsuccessful. The National Monitoring Committee had no budget at either the provincial or national level.

### Facilitator's Comments

Although the National Monitoring Committee was set up, it did not work as smoothly as expected.



## Article 15. International Monitoring Committee

### Government position

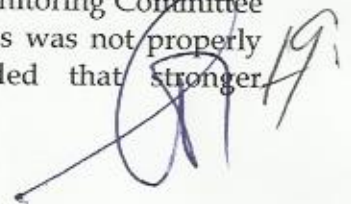
The International Monitoring Committee has been established and has operated normally. The international facilitators have assessed a number of actions taken and have judged them to be sufficient. As regards the remainder, they judged that the work should continue within the framework of the regular structures of the Congolese State. It is within this spirit that they submitted their report to the African Union and the United Nations (Annex 26).

### M23 position

The International Monitoring Committee has been established. However, as Their Excellencies Chief Olusegun Obasanjo and Benjamin Mkapa noted in their most recent report to the African Union and the United Nations, "[...] a further grave concern remains. What we have successfully treated were mainly the symptoms, most of the underlying ailments that have led to repeated crises in the region still need to be addressed. Without dealing effectively with root causes, peace can neither be durable nor irreversible." (Annex 16)

### Facilitator's Comments

1. This Committee worked only for one year.
2. Both the National and International Monitoring Committees were to provide two main functions: i) confidence-building between the parties; and ii) the International Monitoring Committee was to act as a guarantor for the implementation of the Agreement. Given the turn of events, and that the National Monitoring Committee did not work as smoothly as expected and that the International Monitoring Committee was short-lived, the work of these two Committees was not properly executed. It is therefore strongly recommended that stronger monitoring mechanisms be established.



## CONCLUSION

1. Taking into account the positions of each Party, as reflected in this document, the Facilitator draws conclusions as to the status of implementation of the Peace Agreement of 23 March 2009 between the Government of DRC and the CNDP.
2. These conclusions are not necessarily the positions of the Parties.
3. The conclusions of the Facilitator are reflected in the brief summary below:
  - 3.1 The following provisions were fully implemented:  
1.1a; 1.1b; 1.2; 2.1; 3.1; 3.3; 7.1; 7.2; 8.3; 9.3; 11.1; 11.2; 12.4; 12.6 and 13.
  - 3.2 The provisions in the Agreement which were partially implemented are as follows: articles 6.2; 10.3; 12.1; 12.3; 12.7; 12.8; 14; 15.2 and 15.3.
  - 3.3 Those provisions where implementation was either not carried out or poorly done are as follows: 1.1c; 1.3; 2.2; 4.1b; 5.1; 5.2; 5.3; 5.4; 5.5; 6.3 and 6.4; 12.2; and 12.5;.
  - 3.4 A formal investigation should be carried out in respect of the following two (2) matters:
    - (a) The whereabouts of political prisoners that were released as a result of the Agreement of 23 March 2009. Given that the ad hoc committee which was established by the National Follow-up Committee to establish the whereabouts of some of the political prisoners did not report back, it is necessary to have another investigation.
    - (b) The allegations by the M23 of harassment and discrimination in the Army.
  - 3.5 Both Parties to the Dialogue view the Peace Agreement of 23 March 2009 as still relevant.
  - 3.6 Accordingly, monitoring and evaluation mechanisms should be re-established in order to provide channels for confidence building and guaranteeing timely actions. ICGLR, SADC, AU and UN should play a role in these monitoring mechanisms.
  - 3.7 The conclusions regarding the status of the implementation of the Agreement are detailed in the tables below.

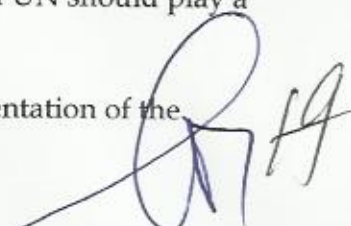


Table 1: Provisions of the Agreement that have been fully implemented.

Serial No.	Article No.	Provision	Party responsible of the implementation
1.	1.1a	CNDP undertakes to integrate its police force and its armed units into the Congolese National Police and the Armed Forces of the Democratic Republic of the Congo, respectively	CNDP
2.	1.1b	CNDP transform into a political party	CNDP
3.	1.2	The Government undertakes to respond swiftly to the CNDP's request for recognition as a political party	Government
4.	2.1	The CNDP undertakes to produce, as soon as possible, an updated list of its members who are political prisoners	CNDP
5.	3.1	In order to facilitate national reconciliation, the Government undertakes to enact a law of amnesty for the period from June 2003 to the date of its enactment, in accordance with international law	Government
6.	3.3	The CNDP having expressed concerns over certain provisions of the bill already enacted by the National Assembly, which it views as restricting the grounds for amnesty, it has been agreed that the Government will submit these concerns to Parliament for review.	Government
7.	7.1	As a result of the recurring wars, which led to the destruction of basic infrastructure, houses, fields, plantations and livestock, as well as the impracticability of roads, the Parties recommend that the provinces of North Kivu and South Kivu be declared "disaster areas".	Government
8.	7.2	The Government undertakes to implement integration projects as well as high density labour development projects, in order to employ the workforce that will become available as a result of the demobilisation and the return of internally displaced people and refugees, starting with the territories most affected.	Government

Serial No.	Article No.	Provision	Party responsible of the implementation
9.	8.3	Territorial Administration: It has been agreed that the CNDP's views on the subject should be one of the elements considered to constantly improve the effectiveness of the territory's administration.	Government
10.	9.3	It has been agreed that the CNDP's views should be presented to the Government to enrich reflections linked to the reform of Public Administration in the Democratic Republic of the Congo.	CNDP & Government
11.	11.1	The Parties agree that an urgent assessment of electoral law is required, followed by a revision if necessary, in order to allow representation that is as large as possible, without compromising the effectiveness of institutions at any level, and to reinforce sanctions against those who, during the election campaign, hold sectarian or hateful views.	Government
12.	11.2	Voting System: A proposal, in this regard, has been made by CNDP to the Government, for transmission to the Independent National Electoral Commission.	CNDP & Government
13.	12.4	Both parties agree on the restoration of the State's Authority in the territories of Masisi, Rutshubu and Nyiragango. The agreed principle is therefore, to reinstate into their functions Territory Administrators and Assistant Territory Administrators appointed by the State. Other staff will remain in place until further notice. Furthermore, the Parties agree that during the implementation of these provisions, it is necessary to promote social harmony and peace. To this end, sanctions will be imposed against those who violate these provisions. Former CNDP Territory Administrators will be assigned to other tasks in the larger framework of the CNDP's participation in national politics.	Government
14.	12.6	In order to increase the competitiveness of the domestic economy, the Parties agree on the necessity to speed up the process to liberalize state-owned companies in the DRC.	Government

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Serial No.	Article No.	Provision	Party responsible of the implementation
15.	13	The Parties agree to the necessity for reliable and effective good governance mechanisms at all levels and in all fields, including the certification, exploitation, assessment and control of natural resources.	Government



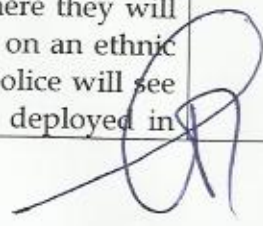
Table 2: Provisions in the Agreement where performance of implementation was partial

Serial No.	Article No.	Provision	Party responsible of the implementation
1.	6.2	<b>Return of Refugees and Internally Displaced Persons:</b> Consequently, the Government undertakes to re-establish, as soon as possible, Tripartite Commissions on Congolese refugees located in neighbouring countries and to carry out the rehabilitation actions necessary to their reintegration. The Parties also agree to encourage and facilitate the return of internally displaced people.	Government & CNDP
2.	10.3	The Government, who is aware of this necessity and is already addressing it, undertakes to make the reform of the Army and Security Services a top priority in the activities that must be carried out as quickly as possible.	Government
3.	12.1	The Government commits itself to providing a political solution to the problem of the re-employment of administrative officials who joined the CNDP, without prejudice, however, to the legal instruments in force.	Government
4.	12.3	With regard to the issue of traditional Leaders who were not co-opted into the Provincial Assembly of North Kivu, it has been noted that this matter is already covered by a decision of the Supreme Court. The Parties agree to forward a recommendation to the Independent National Electoral Commission as the body responsible for the prompt implementation of that decision.	Government
5.	12.7	The Government undertakes to support former CNDP members wounded during the war, as well as their orphans and widows. The CNDP will compile a list.	Government & CNDP
6.	12.8	The Parties agree on the formal recognition of the ranks of former members of CNDP, both in the Congolese National Police and in the Armed Forces of the Democratic Republic of the Congo. This issue will be dealt with in a comprehensive manner at the administrative level within the framework of the general ranks commission, and the necessary	Government

Serial No.	Article No.	Provision	Party responsible of the implementation
		statutory instruments will be set in place. Strengthened efforts will be made to provide effective logistical support to units on the ground.	
7.	14	A joint Government-CNDP Monitoring Committee will be instituted through a regulation. It will be in charge of implementing this Agreement. It has a three-month mandate, with a possibility of renewal.	Government
8.	15.2 & 15.3	The International Monitoring Committee will periodically carry out assessments to monitor the progress made in implementing the Agreement. It will also assist the Government in mobilizing regional and international support for the implementation of the aforementioned Agreement. The International Monitoring Committee has a three-month mandate, with a possibility of renewal.	

Table 3: Provisions where implementation was either not carried out or poorly done.

Serial No.	Article No.	Provision	Party responsible of the implementation
1.	1.1c	From now on, the CNDP undertakes to seek solutions to its concerns strictly through political means and in accordance with the institutional order and laws of the Republic.	CNDP
2.	1.3	In addition, the parties accept the principle of the participation of the CNDP in the political activities of the Democratic Republic of the Congo. The modalities for such participation will be established by mutual agreement.	Government & CNDP
3.	2.2	<b>Political Prisoners:</b> In accordance with the Goma Peace Agreements, the Government undertakes to proceed to the release of these prisoners. The Government also undertakes to ensure their repatriation to their place of residence.	Government
4.	4.1b	The Government undertakes to create a ministerial structure responsible for national security, local affairs and reconciliation. If no distinct Ministry is created, all of the subjects mentioned above must clearly be taken into account in the definition of a same ministry's responsibilities.	Government
5.	5.1	The Government undertakes to set up Permanent Local Arbitration Committees, falling within the local civil authority and made up of local wise men and women, to overcome inadequacies in the extrajudicial prevention and resolution of conflicts.	Government
6.	5.2	The Parties agree with the principle of the creation of a "community police" which is understood as a branch of the Congolese National Police, in touch with and at the service of common people.	Government
7.	5.3	Members of the community police will be recruited and trained at the domestic level. Their training program will be structured in order to provide them with a profound knowledge of the sociological realities of the regions where they will be deployed. Without being made up on an ethnic or community basis, the community police will see to it that the composition of its units deployed in	Government

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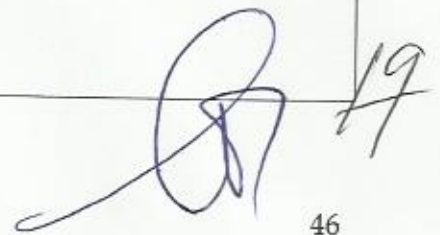
Serial No.	Article No.	Provision	Party responsible of the implementation
		the field reflects local social diversity.	
8.	5.4	<b>Local conflict resolution:</b> Both Parties agree that the CNDP's views on the subjects mentioned above should be provided to the Government.	CNDP
9.	5.5	Before the community police is put in place, and in order to ensure the security of refugees and displaced people returning home, the Parties agree to the deployment, by the Government, of a special police unit arising out of the process of integrating CNDP policemen into the Congolese National Police. This unit will be made up and equipped in accordance with the requirements for maintaining order at the local level.	Government
10.	6.3 & 6.4	The practical details pertaining to these operations will be subjected to the elaboration of specific mechanisms, including: a) Identification b) Location analysis c) Viability of return areas (security, infrastructure, water...) d) Social reintegration. A strict schedule will be prepared for the quick implementation of this provision.	Government
11.	12.2	The Parties agree that the solution to the problem of reintegrating provincial deputies removed from office could be found in the larger framework of the CNDP's participation in national politics.	Government
13.	12.5	Without prejudice to rights and equity, all plundered goods must be returned to their owners, natural and legal persons. Besides the traditional mechanisms used to solve this type of dispute, the Parties agree on the swift implementation of Permanent Local Arbitration Committees.	Government

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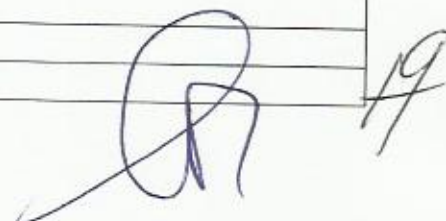
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ANNEXES SUBMITTED BY THE GOVERNMENT

Annex	Title	Date
Annex 1: a, 7b and c	a. Record of the integration of armed groups b. Overview of major military issues related to integration c. Further details on the integration of members of former armed groups into the armed forces of the DRC	
Annex 2	Hold-ups, assassinations and the fraudulent exportation of minerals by the Bosco Ntaganda group	
Annex 3	List of former CNDP police officers in the provincial police station of North Kivu	
Annex 4	Ordinance No. 10/085 of 31 December	
Annex 5	Official Journal of the Democratic Republic of the Congo	Special edition - 30 April 2009
Annex 6	Various Ranks awards	
Annex 7	Synthèse d'intégration au Nord-Kivu et au Sud-Kivu	
Annex 8	Rwandan members of the CNDP	
Annex 9	Ex-CNDP elements at the command of Units	
Annex 10	CNDP Participation in the political life of the DRC	
Annex 11	Released CNDP prisoners	
Annex 12	National Human Rights Commission	
Annex 13	Local conciliation committees	
Annex 14	Community-based police	
Annex 15	Mechanism for the return of refugees	
Annex 16	Creation of the STAREC programme	
Annex 17	Law on decentralized units and Status of the Decentralization Process	
Annex 18	Law No. 11/003 of 25 June 2011 amending Law No. 06/006 of 9 March 2006 relating to the Organization of Presidential, legislative, Provincial, Urban, Municipal and Local Elections	

Annex	Title	Date
Annex 19	Assimilation of CNDP leaders into the national administration	
Annex 20	Transformation of public enterprises	
Annex 21	National Follow-up Committee on Peace Agreements	
Annex 22	Support to CNDP war casualties	
Annex 23	Outcome of operations against FDLR	
Annex 24	Note on meetings of the Follow-up Committee on the Agreement of 23 March 2009	
Annex 25	STAREC multi-sectoral projects	
Annex 26	International Follow-up Committee	




ANNEXES SUBMITTED BY M23

Annex	Title	Date
Annex 1	Nairobi Joint Communiqué of the Heads of State of the Great Lakes Region on the situation in the DRC	Nairobi, 7 November 2008
Annex 2	Declaration of the cessation of hostilities	Bwiza, 16 January 2009
Annex 3	Peace Agreement between the Government and the National Congress for the Defence of the People (CNDP)	Goma, 23 March 2009
Annex 4	Letter addressed to H.E. the President of the National Follow-up Committee for the implementation of the Peace Agreement signed in Goma on 23 March 2009 and to the Minister for International and Regional Cooperation: Deadlock in the National Follow-up Committee and failure to implement the Peace Agreement of 23 March 2009, signed in Goma between the Government and the CNDP	Goma, 12 August 2010
Annex 5	Memorandum addressed to H.E. the President of the Democratic Republic of the Congo and Supreme Commander of the armed forces of the DRC in Kinshasa/Goma: Problems faced by former CNDP military personnel and by the armed forces of the DRC in general	Goma, 24 March 2012
Annex 6	Aide-memoire for the attention of H.E. the Deputy Prime Minister responsible for internal matters and security, and for the President of the National Follow-up Committee for the implementation of the Peace Agreement of 23 March 2009, signed in Goma between the Government and the National Congress for the Defence of the People (CNDP)	14 June 2011
Annex 7	Payroll report - January 2012	January 2012
Annex 8	List of police officers appointed by the Government not known to the CNDP	
Annex 9	Memorandum addressed to H.E. the President of the Republic: Some solutions to unblock the implementation of the Peace Agreements signed in Goma on 23 March 2009	9 September 2010

*[Handwritten signatures and initials]*



Annex	Title	Date
Annex 10	Annexes to letter V (ref.: SRSG/787/2008), dated 29 September 2008, addressed to H.E. Ambassador Alan Doss, Special Representative of the United Nations Secretary-General for the DRC, in Kinshasa/Gombe	
Annex 11	Report of the meeting between the members of the National Follow-up Committee and the international co-facilitators	22 January 2010
Annex 12	Minutes of the meeting between the members of the National Follow-up Committee and the international co-facilitators	6 August 2009
Annex 13	Statement of the President of the Republic on the state of the nation	7 December 2009
Annex 14	Communiqué of the Mini-Summit of the Heads of State and Government of the International Conference on the Great Lakes region	Addis Ababa, 1 February 2010
Annex 15	Briefing to the Summit of the African Union by the Special Envoy of the Secretary-General for the Great Lakes Region, H.E. President Olusegun Obasanjo, and the co-facilitator, H.E. President Benjamin Mkapa	2 February 2010
Annex 16	United Nations Security Council urges DRC parties to fully implement peace deal	
Annex 17	Annex to the Peace Agreement between the Government and the CNDP: implementation plan as revised at the meeting of National Follow-up Committee	May 2009
Annex 18	Response of the M23 on Government's Documents relating to the Evaluation of the Agreement of 23 March 2009	
Annex 19	List of 13 Prisoners received by CNDP	
Annex 20	List of 46 CNDP and PARECO officers killed in Dungu, Orientale Province	
Annex 21	M23 evaluation of the agreements of 23 March 2009	
Annex 22	DRC Official Journal	31 October 2011