

**Security Council**

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**Letter dated 14 November 2013 from the Permanent
Representative of the Democratic Republic of the Congo to the
United Nations addressed to the President of the Security Council**

On instructions from my Government, I have the honour to transmit to you, annexed hereto, a document entitled “Communiqué from the Government of the Democratic Republic of the Congo” which explains in detail the Government’s position regarding the Kampala talks.

My Government requests the Security Council to have this document and its annex circulated as documents of the Security Council.

(Signed) **Ignace Gata Mavita**
Ambassador
Permanent Representative



Annex to the letter dated 14 November 2013 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council

Communiqué from the Government of the Democratic Republic of the Congo (via Mr. Lambert Mende Omalanga, Minister for Media responsible for relations with Parliament and Training for the New Citizenship, spokesman for the Government)

Kinshasa, 14 November 2014

1. The Government of the Democratic Republic of the Congo wishes to inform the nation and the international community that, in accordance with the decision of the Heads of State of the International Conference on the Great Lakes Region (ICGLR), who had recommended, at their extraordinary summit on 24 November 2012 at Kampala (Uganda), that it should hear the demands of the 23 March Movement (M23), it participated in the Kampala talks, facilitated by Uganda, with elements of M23 from 9 December 2012 to 11 November 2013.
2. To that end, the Government delegation stayed at Kampala on a permanent basis for nearly an entire year. Throughout that period, it was regularly joined by several other missions arriving successively from Kinshasa, which demonstrates the good faith and determination of the authorities of the Democratic Republic of the Congo to bring the talks to a conclusion as expeditiously as possible. The delegation, at the behest of His Excellency Mr. Joseph Kabila Kabange, President of the Republic and Head of State, was endeavouring to ensure the protection of the civilian population, which had endured massive and repeated human rights violations, without at the same time endorsing impunity or encouraging recidivism among the perpetrators of these crimes in the eastern part of our country. Similarly, our defence and security forces were seeking to promote the restoration of peace and at the same time safeguard the integrity of the national territory at the least possible cost in human lives. These efforts formed part of the three-part strategy carried out by the Head of State combining political, diplomatic and military options in a harmonious and effective manner to put an end to the unjust war waged against the Democratic Republic of the Congo.
3. The success achieved through the military response to aggression did not lead the authorities of the Democratic Republic of the Congo to relax their efforts; they at no time gave up on the Kampala talks initiated on 9 December 2012 despite the frequent stalemates which occurred as a result of the constant procrastination and delaying tactics in which M23 took a perverse pleasure. It may be recalled in this regard that, on 5 September 2013 at Kampala, the Heads of State of ICGLR, annoyed by the capricious behaviour of M23, finally demanded an end to the talks within 14 days, called on the belligerents to observe maximum restraint and served notice on the negative forces of M23 to cease all military activity on the ground.
4. This demand by ICGLR, which was in line with Security Council resolution [2098 \(2013\)](#), was ignored by the rebels who, as is well known, categorically refused to comply. In defiance of the international community, they instead took the initiative of resuming combat operations against the Forces armées de la République démocratique du Congo (FARDC), while carrying out random shootings and other acts of terrorist violence against innocent civilians in North Kivu and attacks against

the personnel, facilities and equipment of the Intervention Brigade of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).

5. In the face of these provocative actions, the FARDC were ordered to defend themselves and to protect the civilian population by restoring State authority by force in the territories of Nyiragongo and Rutshuru. The counteroffensive of the Congolese regular forces, which were better organized than in the past, led to the routing of the negative forces and their mentors and the restoration of the full integrity of the Congolese State. The resumption of freedom of movement of goods and persons which followed put an end to the internal exile of tens of thousands of our compatriots.

6. These actions enabled FARDC, with the support of the MONUSCO Intervention Brigade, to inflict a military defeat on the brazen and unrepentant negative forces of M23. The Government of the Republic is extremely pleased and once again congratulates our defence and security forces on their bravery and speed.

The Government nevertheless remains committed to the political and diplomatic approach in order to achieve lasting peace. It is for that reason that, despite the irreversible military success achieved by the valiant FARDC, we urged that the Special Envoys of the international community should be present at the Kampala talks on 15 October 2013. Our hope was that they would be good faith witnesses of our commitment to peace in hearts and minds in the eastern part of the Democratic Republic of the Congo. Instead, they saw the distressing spectacle of bad faith and a total lack of autonomy among elements of M23 in the face of their sponsors.

7. After the military defeat of M23 first at Kibumba, and then at Kiwandja, Rutshuru, Rumangabo and Bunagana, the entire Government delegation once again travelled to Kampala in order to finalize the talks with M23 in the presence of the Special Envoys of the international community.

On this occasion, since, despite the progress made in the Kampala process, M23 was maintaining an aggressive stance on the ground, and not wishing to be complicit in non-respect by M23 of any document jointly signed with it, in the event that, disavowing its signature, M23 resumed hostilities, the Government informed the Office of the Facilitator, in the presence of the Special Envoys, that it was no longer in a position to sign an agreement with M23. It proposed instead that, in order to confirm the completion of the talks, M23 should sign a declaration renouncing the rebellion, while the Government would sign a separate document setting forth its commitments at the end of the talks.

8. In reaction to this position by the Government, the Facilitator, in the presence of the Special Envoys, presented to the Government delegation a compromise that the latter subsequently accepted, which consisted of three parts, namely:

- (a) A declaration by M23 renouncing its rebellion;
- (b) A declaration by the Government taking note of the declaration by M23 renouncing its rebellion;
- (c) The joint signature, by the Government and M23, of a document confirming the completion of the Kampala talks and setting forth what had been

agreed upon during the talks. The form and title of the document remained to be determined, although it was agreed that it would not be an “agreement”.

9. Before leaving for Kampala on 11 November 2013, the Government delegation reminded the Facilitator of the terms of this compromise. It also asked that the text to be signed, which had been amended to reflect the terms of the compromise, should be transmitted to it before the date of signing so that it could be checked for accuracy.

10. The Facilitator chose not to respond to this very legitimate request. Nor did he respond when he was reminded during the long working session that the Government delegation conducted with him during the afternoon of 11 November 2013 at Serena hotel that before providing him with the text, he should first inform the Mediator of the amendments sought by the Government and should proceed to amend the text if the Mediator was in agreement.

11. It was thus only on its arrival at the State House in Entebbe during the evening of 11 November 2013, and at the insistence of the Special Envoys, that the Government delegation of the Democratic Republic of the Congo finally saw, for the first time, the text which was supposed to be signed by the parties a few minutes later.

12. On reading that text, the Government delegation of the Democratic Republic of the Congo was surprised and shocked to note the following:

- i. The Office of the Facilitator had not taken into account the Compromise which it had itself proposed to the Government of the Democratic Republic of the Congo, in the presence of the Special Envoys, on Saturday, 2 November 2013 at Serena hotel in Kampala, whereby it had been understood that the document to be signed would not be an “agreement”;
- ii. The Office of the Facilitator had not taken into account, in the preamble of the text to be signed, the declaration of renunciation of rebellion made by M23 on Tuesday, 5 November 2013 at Kampala, or the communiqué of the Government of the Democratic Republic of the Congo taking note of this declaration by M23 which was issued 24 hours later;
- iii. As if finding it inconvenient, the Office of the Facilitator had not taken into account in the text, either, the evolution of the situation on the ground, namely that M23 has been militarily defeated, that it no longer controls any part of Congolese territory and that the military defeat of M23 renders null and void some provisions previously agreed upon, such as:
 - The establishment of a contradictory situation report by the Government of the Republic and M23, at the time of the restoration of State authority, although that authority had already been restored in all areas previously under the control of the former M23 rebellion;
 - The transitional security provisions concerning the disengagement, stationing and disarmament of the M23 combatants, although since 5 November, they have surrendered or fled the national territory to find refuge in neighbouring countries.

13. Regarding the recent missed appointment at State House in Entebbe, on Monday 11 November 2013, and in order to counter the disinformation campaign being mounted by various media outlets in the region, the Government of the

Democratic Republic of the Congo feels compelled to point out, below, what really happened:

(1) Contrary to the statement made by Mr. Ofwono Pondo, spokesman for the Ugandan Government, to the effect that the document signing ceremony had been scheduled for 4 p.m. local time in Entebbe, the programme which the Ugandan Protocol Office distributed to all the guests gave the starting time as 6 p.m. local time;

(2) The delegation of the Congolese Government arrived in Uganda with time to spare (9 a.m. local time), on Monday 11 November 2013, and went to the Sheraton hotel in Kampala where it waited, as agreed, for the facilitator of the Kampala talks to follow up on its concerns regarding the format and content of the text to be signed, and the details of the signing ceremony;

(3) During talks with the facilitator that took place earlier that same day,* from 2 to 5 p.m. local time, the head of the Democratic Republic of the Congo delegation had expressed the following views:

(a) The Government pointed out that, as it had informed the facilitator several days earlier in order to avoid any last minute glitches, and in accordance with the Compromise of 3 November 2013, it was not prepared to sign an “agreement” with M23 but rather a “declaration”;

(b) The Government refused, on the basis of protocol, to be placed on an equal footing with M23, whether face to face, side by side or around the same table;

(c) For the same reason the Government was opposed to M23 speaking at the signing ceremony;

(d) The Government again asked the facilitator to let it have a copy of the text it was to sign, before the 6 p.m. ceremony at the State House, so that it could take a look at it and make sure that it was in order;

(4) In his reply to the delegation of the Democratic Republic of the Congo the facilitator had:

(a) Promised that he would convey these concerns immediately to the Mediator, H.E. President Yoweri Museveni, and that he would get back to the Congolese delegation immediately to let it know how its concerns would be met;

(b) Suggested that the Congolese delegation should go forthwith to Entebbe, so that it could get to the Protea hotel — which was not far from State House — before 6 p.m. and wait there until he contacted it to say how its concerns had been received and what the final arrangements for the signing ceremony were;

(5) The Government delegation arrived in Entebbe at 6 p.m. and immediately informed the facilitator, via the aide-de-camp, that it was at the Protea hotel. It sent the message several times but received no reaction. It was not until 7 p.m. local time that the facilitator finally sent the Government delegation a message, via the embassy’s protocol staff, inviting it to come to the State House;

Translator’s note: That is, indeed, what the text says.

(6) Upon arriving at the State House, the Government delegation of the Democratic Republic of the Congo was taken by the Ugandan Chief of Protocol to a room where it was to await the facilitator's instructions. It was informed, at the same time, that the mediator, tired of waiting for the signing ceremony to begin, had gone;

(7) When they did not see the Government delegation — which was already within the State House — come into the room where the signing was to take place, the special envoys left in order to find out what was going on. They had realized that several things were not quite right, including the following:

(a) The delegation of the Democratic Republic of the Congo had yet to receive, from the office of the facilitator, the document which it was supposed to be signing a few minutes later;

(b) Neither the title, nor the content of the text to be signed — let alone the formal provisions — reflected the Government's concerns, although those concerns had been communicated to the facilitator in time for them to be taken into account, or at the very least for a discussion to be held so that consensus could be reached prior to the signing ceremony;

(8) Given the refusal by the facilitator and the M23 delegation to accommodate the Government's relevant concerns or any of the compromise formulas that had been proposed with a view to settling the situation and permitting the signing, there was no alternative but to recognize that things were deadlocked and the Vice President of Uganda, who had meantime taken over as chair of the signing ceremony, adjourned the meeting and the special envoys left the premises;

(9) The delegation of the Democratic Republic of the Congo cannot understand why the office of the facilitator and Chief of Protocol of Uganda should have taken it upon themselves to have His Excellency President Yoweri Museveni go to the conference room, when they knew perfectly well that the delegation of the Democratic Republic of the Congo was still in the Protea hotel waiting for the signal to come to the State House, and that the issues of which the office of the facilitator was well aware had yet to be settled.

14. In spite of all the foregoing the Government of the Democratic Republic of the Congo welcomes the efforts made by:

- Their Excellencies the mediator and the facilitator of the Kampala talks;
- All the Heads of State and Government of the members of ICGLR and of the Southern African Development Community (SADC);
- The Secretary-General of the United Nations;
- The Chairperson of the African Union Commission;
- The United Nations Security Council, the United States of America, the European Union and the African Union through their respective special envoys;
- The States contributing troops to MONUSCO, in particular those contributing to the intervention brigade, namely, Malawi, the Republic of South Africa and the United Republic of Tanzania; and
- The Special Representative of the Secretary-General, head of MONUSCO.

15. In recognition of these efforts the Government of the Democratic Republic of the Congo reaffirms its wish to complete the Kampala talks by proceeding to sign, with M23, a document which, though not an “agreement”, would give legally binding force to the Declaration of renunciation of rebellion made by M23 this past 5 November and settle the issues relating to the stationing, disarmament, demobilization and social reintegration of its former combatants.

16. Concerned for the well-being of the Congolese people and desiring to make the end of the M23 rebellion irreversible, the Government of the Democratic Republic of the Congo wishes to inform the nation and the international community that, should consensus not be reached within a reasonable period of time on a document of that nature that does not hide the military defeat of M23, it will take the following steps concerning the main concerns which have been the subject of discussion in the Kampala talks.

1. Concerning Amnesty

The Government is against granting general amnesty to the members of the M23 former rebellion.

Rather, it undertakes to submit, shortly, to Parliament an amnesty bill for war deeds and insurrection covering the period from 1 April 2012 until now, for any member of M23 who undertakes, individually and in writing, to refrain permanently from resorting to arms and/or from participating in an insurrection movement to secure any claim and who agrees that any violation of this commitment would automatically render null and void the amnesty hereby granted and disqualify the perpetrator of such a violation from benefiting from any subsequent amnesty.

In accordance with national and international law, this amnesty would not apply to the well-known perpetrators of war crimes, the crime of genocide and crimes against humanity, including rape and sexual violence, recruitment of child soldiers or other mass violations of human rights.

2. Concerning Integration/reintegration of former M23 fighters within the Forces armées de la République démocratique du Congo (FARDC)

The Government does not agree to the integration of elements of the former M23 rebellion within the FARDC, especially since such integration whether individual or collective, is not part of the obligations incumbent upon it under the terms of the Kampala talks.

The only option that was accepted during these talks concerning the future of such elements is demobilization, followed by reintegration into society.

3. Concerning Demobilization and reintegration into society of former M23 fighters

Subject to the amnesty to be granted, demobilization and reintegration into society of the fighters of the former M23 rebellion will be effected by the appropriate State structures with support from MONUSCO and other relevant partners of the Democratic Republic of the Congo and in accordance with international standards in terms of both the procedures used and of the security of the former fighters to be demobilized.

4. Return and resettlement of refugees and internally displaced persons

The Government undertakes to work for the prompt implementation of the tripartite agreements on repatriation of refugees, signed with neighbouring States and the Office of the United Nations High Commissioner for Refugees (UNHCR) and for the speedy reintegration of internally displaced persons.

To that end, the Government will continue to work with MONUSCO in order to improve security in areas that were formerly the scenes of conflict, to protect the civilian population and to wipe out the negative forces and other groups resistant to peace which have not agreed to lay down their weapons.

The Government undertakes to secure various areas of return for refugees and internally displaced persons, to make them viable and attractive and also to speed up the deployment of community policing.

5. Concerning other relevant issues

The Government undertakes to implement all the other provisions agreed to during the talks having to do with:

- Security of members of the former M23 rebellion during their stationing, demobilization and social reintegration;
- Release of members of the former M23 rebellion who were jailed because they were part of that movement;
- Formation in due course of a political party by members of the former M23 while respecting the constitution and the laws of the republic;
- National reconciliation;
- Economic reforms;
- Implementation of constitutional provisions relating to decentralization;
- Prosecution for war crimes, crimes of genocide and crimes against humanity, including rape and sexual violence, recruitment of child soldiers and massive human rights violations.

20. The Government warmly thanks the Congolese people for their unwavering support in the search for solutions to the major challenges facing the nation, and assures them that His Excellency Mr. Joseph Kabila Kabange, President of the Republic, Head of State and Commander in Chief of the Armed Forces of the Democratic Republic of the Congo, is determined, as always, to spare no effort to defend national sovereignty and to safeguard territorial integrity, peace and the well-being of the Congolese men and women.

Done at Kinshasa, on 14 November 2013

Lambert Mende Omalanga
Minister for Media responsible for relations with Parliament
and Training for the New Citizenship
Spokesman for the Government