

INTER-CONGOLESE DIALOGUE

POLITICAL NEGOTIATIONS ON  
THE PEACE PROCESS AND  
ON TRANSITION IN THE DRC

GLOBAL AND INCLUSIVE AGREEMENT ON TRANSITION

IN

THE DEMOCRATIC REPUBLIC OF THE CONGO

Signed in Pretoria (Republic of South Africa)  
on 16 December 2002

## **Preamble**

We, the various elements and entities involved in the Inter-Congolese Dialogue, Parties to this Agreement: the Government of the Democratic Republic of the Congo, the Congolese Rally for Democracy (RCD), the Movement for the Liberation of the Congo (MLC), the political opposition, civil society, the Congolese Rally for Democracy/Liberation Movement (RDC/ML), the Congolese Rally for Democracy/National (RCD/N), the Mai-Mai,

Aware of our responsibilities towards the Congolese people, Africa and the international community,

Considering the Agreement on a cease-fire in the Democratic Republic of the Congo signed in Lusaka on 10, 30 and 31 July 1999,

Considering the relevant Resolutions of the UN Security Council concerning conflict in the Democratic Republic of the Congo,

Considering the Resolutions of the Inter-Congolese Dialogue which took place at Sun City (South Africa) from 25 February 2002 to 12 April 2002,

Calling on the following persons to bear witness: His Excellency Mr Ketumile MASIRE, neutral facilitator in the Inter-Congolese Dialogue, His Excellency Mr Koffi ANNAN, Secretary General of the United Nations Organisation, represented by His Excellency Mr Moustapha NIASSE, Special Envoy of the Secretary General of the United Nations for the Inter-Congolese Dialogue, His Excellency Mr Thabo MBEKI, President of the Republic of South Africa and current Chairman of the African Union,

Conclude this Global and Inclusive Agreement on Transition in the Democratic Republic of the Congo, by agreeing as follows:

### **I - Cessation of hostilities**

1. The Parties to this Agreement and having armed forces, namely the Government of the DRC, the RCD, the MLC, the RDC-ML, the RCD-N, and the Mai-Mai renew their commitment, in accordance with the Lusaka Agreement, the Kampala Withdrawal Plan, the Harare Sub-Agreement and the relevant Security Council Resolutions, to cease hostilities and to seek a peaceful and equitable solution to the crisis that the country is facing.
2. The Parties to this Agreement and having armed forces agree to commit themselves to the process of creating a restructured, integrated national

army in accordance with the Resolution adopted on 10 April 2002 by the Plenary of the Inter-Congolese Dialogue (DIC) at Sun City.

3. The various elements and entities involved in the DIC, Parties to this Agreement (the Parties), namely the Government of the DRC, the RCD, the MLC, the political opposition, civil society, the RDC-ML, the RCD-N and the Mai-Mai, agree to combine their efforts in the implementation of the Security Council Resolutions for a withdrawal of all foreign troops from the territory of the DRC and the disarming of the armed groups and militia and to safeguard the sovereignty and territorial integrity of the DRC.
4. The Parties agree to combine their efforts in order to achieve national reconciliation. To this effect, they decided to set up a government of national unity which will organise free and democratic elections after a period of transition the duration of which is fixed in this Agreement.
5. The Parties agree to take all the necessary measures to make the people and the leaders involved in the transition process feel secure both in Kinshasa and in the whole of the national territory. To this effect, measures will be taken to guarantee the security of the population, the institutions, the organisers and the main leaders of the different Parties to this Agreement and their armed forces.

## **II. Transition objectives**

The principal transition objectives are:

1. The reunification and reconstruction of the country, the re-establishment of peace and the restoration of territorial integrity and State authority in the whole of the national territory;
2. National reconciliation;
3. The creation of a restructured, integrated national army;
4. The organisation of free and transparent elections at all levels allowing a constitutional and democratic government to be put in place;
5. The setting up of structures that will lead to a new political order.

### **III - Transition principles**

1. To guarantee a peaceful transition, the Parties shall participate in the political administration of the country during the period of transition. The institutions that will be set up during the transition shall ensure appropriate representation of the eleven provinces of the country and of the different tendencies within the political and social forces. In particular, provision shall be made for appropriate representation of women at all levels of responsibility.
2. To ensure the stability of the transitional institutions, the President, the Vice-presidents and the Presidents of the National Assembly and the Senate shall remain in office during the whole transitional period, unless they resign, die, are impeached, or convicted for high treason, misappropriation of public funds, extortion or corruption.
3. The Parties shall reaffirm their support for the Universal Declaration of Human Rights, the International Pact on Civil and Political Rights of 1966, the International Pact on Economic and Socio-Cultural Rights of 1966, the African Charter on Human Rights and the Rights of Peoples of 1981, and duly ratified international conventions. From that standpoint, they shall undertake to strive during the transitional period for a system that will respect democratic values, human rights and fundamental liberties.
4. The transitional institutions shall be based on the principle of the separation of the executive, legislative and judicial powers.
5. The transitional institutions shall be run on the basis of consensus, inclusiveness and the avoidance of conflict.
6. The division of responsibilities within transitional institutions and at different State levels shall be done on the basis of the principle of inclusiveness and equitable sharing between the various elements and entities involved in the Inter-Congolese Dialogue, in accordance with criteria such as ability, credibility and integrity and in a spirit of national reconciliation. Provision is made in the Annexe to this Agreement for the modalities of the implementation of the principle of inclusiveness.
7. The allocation among the different Parties of posts within the transitional government and, in particular, within the government committees shall be as equitable as possible in terms of the number and the importance of the ministries and government posts. A balance should be sought between the committees themselves. The allocation of posts within each committee shall be done by the signatory Parties according to an order of priority guaranteeing a general balance between the Parties.

8. To achieve national reconciliation, amnesty shall be granted for acts of war, political and opinion breaches of the law, with the exception of war crimes, genocide and crimes against humanity. To this effect, the transitional national assembly shall adopt an amnesty law in accordance with universal principles and international law. On a temporary basis, and until the amnesty law is adopted and promulgated, amnesty shall be promulgated by presidential decree-law. The principle of amnesty shall be established in the transitional constitution.

#### **IV - Duration of the transition**

The period of transition shall come into effect from the investiture of the transitional government. The election of the new President shall mark the end of the transitional period. The election of the President shall take place after the legislative elections. The elections shall be held within the 24 months following the beginning of the transitional period. Because of problems specifically linked to the organisation of the elections, this period may be extended by 6 months, renewable once for a period of six months, if circumstances so require, on the recommendation of the Independent Electoral Commission and by a well-founded joint decision of the National Assembly and the Senate.

#### **V - Transitional institutions**

During the transitional period, a transitional Executive, a transitional Parliament consisting of a National Assembly and a Senate, a judiciary composed principally of the existing courts and tribunals, and institutions supporting democracy shall be formed under the conditions specified in the transitional constitution.

The transitional institutions shall be as follows:

- The President of the Republic
- The Government
- The National Assembly
- The Senate
- The courts and tribunals

In addition to the above institutions, the following Institutions supporting democracy shall be set up:

- The Independent Electoral Commission
- The National Watchdog on Human Rights
- The Media Authority
- The Truth and Reconciliation Commission
- The Committee on Ethics and the Fight against Corruption

## **1. The Executive Power**

### **A. The President**

- a. The President of the Republic shall be the Head of State. He shall represent the nation. He shall see to it that the transitional constitution is observed. The President of the Republic shall be the supreme commander of the armed forces. He shall chair the Defence Council. He shall convene and chair Cabinet meetings every fortnight. He shall remain in office until the end of the transitional period,
- b. The duties and powers of the President of the Republic shall be as follows:
  - b.1 He shall promulgate laws.
  - b.2 He shall appoint and dismiss ministers and deputy ministers, at the instigation of the elements and entities involved in the DIC.
  - b.3 He shall accredit ambassadors and special envoys to foreign countries and international organisations. He shall grant accreditation to foreign ambassadors and special envoys.
  - b.4 In accordance with this Agreement and the Annexes thereto, he shall appoint:
    - Senior public servants
    - Army and police officers, after consultation with the Defence Council
    - Provincial governors and deputy governors
    - The Governor and Deputy Governors of the Reserve Bank
    - Ambassadors and special envoys
    - Members of the Magistrates' Council
    - State representatives in public enterprises and parastatals
  - b.5 On the advice of the Magistrates' Council, he shall appoint and dismiss judges and public prosecutors, after informing the Government accordingly.
  - b.6 He shall confer the ranks of national orders and decorations in accordance with the law.
  - b.7 He shall have the right to remit, commute or reduce penalties after informing the government accordingly.

- b.8 He can declare war and a state of siege or emergency following a Cabinet decision after the agreement of both Chambers of Parliament.
- c. The duties of the President of the Republic shall be terminated by resignation, death, impeachment, conviction for high treason, embezzlement, misappropriation of public funds, extortion or corruption. In the case of resignation, the element to which the President of the Republic belongs shall present his substitute to the National Assembly for confirmation within seven days. The Vice-President from the Government element shall provide the acting president. The conditions for the implementation of this provision shall be set out in the transitional constitution.

## **B. The Presidency**

- d. The Presidency shall comprise the President and four Vice-Presidents.
- e. The President and the Vice-Presidents shall provide the necessary and exemplary leadership in the interests of national unity in the DRC.
- f. The President of the Republic, together with the Vice-Presidents, shall deal with all matters relating to the running of the government as well as the matters mentioned under points A/b/b4 (i) and (v).
- g. The meetings between the President and the Vice-Presidents shall be held regularly, at least once a fortnight, and in all cases before each Cabinet meeting. The meetings between the President of the Republic and the Vice-Presidents can also be convened by the President at the request of a Vice-President. In the absence of the President of the Republic, the latter shall appoint, in rotation, the Vice-President who is to chair the meetings.

## **C. The Vice-Presidents**

- h. There shall be four vice-president posts. The Vice-Presidents shall come from the following elements: the Government, RCD, MCL and the political opposition. Each Vice-President shall be in charge of one of the following four government committees:
- The Political Committee (RCD)
  - The Economic and Finance Committee (MCL)
  - The Committee for Reconstruction and Development (Government element)
  - The Social and Cultural Committee (political opposition).

- i. The duties of the Vice-Presidents shall be as follows:
  - i/1 They shall convene and chair the meetings of their Committee.
  - i./2 They shall present the reports of their Committee to Cabinet.
  - i./3 They shall coordinate and supervise the implementation of Cabinet decisions relating to their respective Committees.
  - i/4 They shall make proposals to the President of the Republic regarding the ranks of national orders and decorations, in accordance of the law.
- j. The duties of the Vice-President shall be terminated in the case of his resignation, death, impeachment, conviction for high treason, or in the case of misappropriation of public funds, extortion or corruption. If his duties cease, the element from which the Vice-President came shall present his substitute to the National Assembly for confirmation. The substitute as well as the conditions for the implementation of this provision shall be specified in the transitional constitution.

#### **D. The Government**

- k. The government shall consist of the President of the Republic, the vice-presidents, the ministers and deputy ministers. The ministerial portfolios shall be allocated among the elements and entities involved in the Inter-Congolese Dialogue under the conditions and according to the criteria set out in Annexe 1 to this Agreement.
- l. The government shall determine and conduct the policy of the nation in accordance with the Resolutions of the Inter-Congolese Dialogue.
- m. The government shall have full responsibility for the conduct of public affairs and shall be accountable to the National Assembly under the conditions set out in the transitional constitution. However, during the whole transitional period, the National Assembly may not vote in favour of a motion of censure of the government as a whole.
- n. Government or Cabinet meetings shall be chaired by the President of the Republic or in his absence, or if he should so decide, by one of the Vice-Presidents, in rotation.
- o. The government shall be consulted by the President of the Republic on the matters mentioned under points A/b/b4 (i) and (v) above.



- p. While in office, the members of government may not by themselves nor through a third party buy or rent anything belonging to the State. They shall be obliged, from the day of taking office and on expiry thereof to declare all their belongings in writing and on their word to the National Assembly.
- q. The term of office of ministers and deputy ministers shall be terminated in the case of their resignation, dismissal, death, impeachment, conviction for high treason, or in the case of misappropriation of public funds, extortion or corruption. Where a vacancy arises, the element or entity of the DIC from which the minister or deputy minister concerned comes shall present his successor to the President of the Republic. The conditions for the implementation of this provision shall be specified in the transitional constitution.
- r. A general secretariat of the government shall assist the President and the Vice-Presidents in the coordination of government action. It shall prepare the meetings, the work and all the matters to be discussed between the President and the Vice-Presidents and at Cabinet level.
- s. The transitional Executive shall work together, in the spirit of a government of national unity and on the basis of a common government programme founded on the Resolutions adopted within the DIC.

## **2 - The Legislative Power**

The transitional Parliament shall consist of two Chambers: the National Assembly and the Senate.

- a. The National Assembly shall be the legislative body during the transitional period. It shall exercise the powers and functions set out in the transitional constitution which forms an integral part of this Agreement.
- b. The National Assembly shall consist of 500 members. The members of the National Assembly shall be called deputies. The minimum age for a deputy shall be 25 years by the date of appointment. The deputies shall be entitled to an equitable monthly salary that will allow them to be independent and to leave honourably at the end of their term of office.
- c. The deputies shall be appointed by their elements and entities within the DIC under the conditions set out in the Annexe to this Agreement. All the elements and entities shall ensure a balanced provincial representation within their group.

- d. The Bureau of the National Assembly shall consist of a chairman, three deputy chairmen, a rapporteur and three assistant rapporteurs. Each of them shall come from a different element or entity.
- e. The Senate shall play the role of a mediator in a case of conflict between the institutions. The Senate shall prepare the draft of a post-transition constitution. It shall have a legislative function together with the National Assembly in all matters concerning citizenship, decentralisation, the electoral process and the institutions supporting democracy.
- f. The Senate shall consist of 120 members. The members of the Senate shall be called senators. The minimum age for a senator shall be 40 years by the date of appointment. The senators shall be entitled to an equitable monthly salary that will allow them to be independent and to leave honourably at the end of their term of office.
- g. The senators shall be appointed by their elements and entities within the DIC under the conditions set out in the Annexe to this Agreement. The Senate shall be constituted in such a way as to be representative of all the provinces.
- h. The Bureau of the Senate shall consist of a chairman, three deputy chairmen, a rapporteur and three assistant rapporteurs, as provided for in this Agreement. Each of them shall come from a different element or entity.
- i. The duties of the Presidents of the National Assembly and the Senate shall be terminated in the case of their resignation, death, impeachment, conviction for high treason, or in the case of misappropriation of public funds, extortion or corruption.

### **3 - The Judicial Power**

- a. The Parties reaffirm the need for an independent judiciary. The Magistrates' Council shall constitute the disciplinary jurisdiction for judges. It shall keep an eye on the career of judges and on safeguarding their independence.
- b. The organisation of the judiciary shall be set out in the transitional constitution and in a law.
- c. The first president of the Supreme Court of Justice, the public prosecutor and the auditor general of the armed forces shall be appointed as soon as possible after the signing of this Global and Inclusive Agreement, with due

regard for a national balance, according to a mechanism to be determined by the Parties.

#### **4 - The Institutions supporting democracy**

- a. The following Institutions supporting democracy shall be created:
  - The Independent Electoral Commission
  - The Media Authority
  - The Truth and Reconciliation Commission
  - The National Watchdog on Human Rights
  - The Committee on Ethics and the Fight against Corruption
- b. The organisation, functioning and powers of the institutions supporting democracy shall be established by law.
- c. The duties of the presidents of institutions supporting democracy shall go to the civil society component. The presidents of institutions supporting democracy shall have the status of minister. The institutions supporting democracy shall function independently of the transitional government. The duties of the presidents of institutions supporting democracy shall be terminated in the case of their resignation, death, impeachment, conviction for high treason, or in the case of misappropriation of public funds, extortion or corruption. Where a term of office is terminated, the element to which the president of one of the institutions belongs shall present its substitute to the National Assembly for confirmation within seven days.

#### **VI - The Army**

- a. A meeting of the staff of the FAC, RCD, MLC, RCD-N, RCD-ML and Mai-Mai shall be convened before the setting up of the transitional government. It shall develop the military mechanism entrusted with the training of the other staff up to the level of military regions.
- b. A Defence Council shall be set up. This Council shall be chaired by the President of the Republic and, in his absence, by the Vice-President whose responsibilities include Defence.
- c. The Defence Council shall be composed as follows:
  - The President of the Republic
  - The four Vice-Presidents
  - The Minister of Defence
  - The Minister of the Interior, Decentralisation and Security

- The Minister of Foreign Affairs
  - The Army Chief of Staff (his deputies may also be invited)
  - The Chiefs of Staff of the Air Force, Army and Navy
- d. The Defence Council shall give its assent to a declaration of a state of siege, a declaration of a state of emergency or a declaration of war.
- e. The Army and National Defence Law shall establish the responsibilities and the functioning of the Defence Council.
- f. The Defence Council shall give advice particularly on the following matters:
- The setting up of a restructured and integrated national army
  - The disarming of armed groups
  - Supervising the withdrawal of foreign troops
  - The drafting of defence policy
- i. The conditions for the implementation of the provisions regarding the army shall be established by law.

## **VII - Final Provisions**

- a. The transitional constitution shall be drafted on the basis of this inclusive Agreement on transition in the DRC and shall form an integral part thereof.
- b. The Parties shall accept as obligatory the appended Annexes that constitute an integral part of this Agreement.
- c. The Parties shall agree to set up a mechanism for the implementation of this Agreement.
- d. This Global and Inclusive Agreement shall come into force on the date of its adoption by the DIC. The transitional constitution that will be adopted by the DIC shall come into force on the date of its promulgation by the President of the Republic.
- e. The Parties shall undertake to implement this Agreement in good faith, to observe its provisions and to participate in all the institutions, structures and committees that will be set up in accordance with its provisions. The Parties shall undertake to do their utmost to see that this Agreement is observed and implemented.

### **III - ANNEXES**

**Annexe I:** The Division of Responsibilities

**Annexe II:** Public Enterprises

**Annexe III:** The Committee for Follow-up of the Agreement

**Annexe IV:** International Guarantee

**Annexe V:** Security Issues

#### **ANNEXE I: The Division of Responsibilities**

##### **A. The Government**

1. The participation of the elements and entities of the DIC in the transitional government shall be based on the manner of their participation in the DIC at Sun City.
2. The transitional government shall be composed of the following Ministries:

Interior, Decentralisation and Security  
Foreign Affairs and International Cooperation  
Regional Cooperation  
National Defence, Demobilisation and War Veterans  
Women's and Family Affairs  
Justice  
Human Rights  
The Press and Information  
Planning  
Budget  
Finance  
Economic Affairs  
Industry and Small and Medium-Sized Enterprises  
Mining  
Energy  
Foreign Trade  
Portfolio Matters  
Public Service  
Agriculture  
Rural Development  
Posts and Telecommunications  
Scientific Research  
Public Works and Infrastructure

Transport  
Culture and Arts  
Environment  
Tourism  
Land Affairs  
Town Planning  
Health  
Higher and University Education  
Primary and Secondary Education  
Labour and Social Welfare  
Social Affairs  
Youth and Sport  
Solidarity and Humanitarian Affairs

3. The transitional government shall also comprise the deputy ministers responsible for the following portfolios:

Foreign Affairs  
Interior  
Integration of the Army  
International Cooperation  
Defence  
War Veterans and Demobilisation  
Security and Public Order  
Justice  
The Press and Information  
Planning  
Finance  
Budget  
Portfolio Matters  
Mining  
Energy  
Trade  
Agriculture  
Public Works and Infrastructure  
Public Service  
Transport  
Health  
Higher and University Education  
Primary and Secondary Education and Vocational Training  
Social Affairs  
Labour and Social Welfare

4. Seven ministries and four deputy minister posts shall be allocated to each of the following elements: the Government, RCD, MLC and the political opposition (see Tables).

5. Two ministries and three deputy minister posts shall be allocated to the civil society component (in addition to the Presidency and five institutions supporting democracy) (see Tables).
6. Two ministries and two deputy minister posts shall be allocated to each of the following entities: RCD-ML, RCD-N and Mai-Mai (see Tables).

**B. The National Assembly**

1. The participation of the elements and entities of the DIC in the National Assembly shall be based on the manner of their participation in the DIC at Sun City. The Assembly shall be composed as follows:

Elements/entities	Number of deputies
RCD	94
MLC	94
Government	94
Political opposition	94
Civil society	94
RCD-ML	15
RCD-N	5
Mai-Mai	10
TOTAL	500

2. The Bureau of the National Assembly shall be composed as follows:

- Chairman: MLC
- First deputy chairman: Government
- Second deputy chairman: RCD
- Third deputy chairman: Political opposition
- Rapporteur: Mai-Mai
- First assistant rapporteur: Civil society
- Second assistant rapporteur: RCD-N
- Third assistant rapporteur: RCD-ML

**C. The Senate**

1. The participation of the elements and entities of the DIC in the Senate shall be based on the manner of their participation in the DIC at Sun City. The Senate shall be composed as follows:

Elements/entities	Number of senators
RCD	22
MLC	22
Government	22
Political opposition	22
Civil society	22
RCD-ML	4
RCD-N	2
Mai-Mai	4
TOTAL	120

2. The Bureau of the Senate shall be composed as follows:

- Chairman: Civil society
- First deputy chairman: RCD
- Second deputy chairman: Political opposition
- Third deputy chairman: Government
- Rapporteur: RCD-ML
- First assistant rapporteur: RCD-N
- Second assistant rapporteur: MLC
- Third assistant rapporteur: Mai-Mai

#### **D. Provincial Administration**

1. The governors and deputy governors in office shall remain there until new governors and deputy governors are appointed by the government of national unity.

#### **E. Diplomacy**

1. The transitional government shall appoint ambassadors during the first six months, taking into account proportional representation of political tendencies within government.
2. Career ambassadors shall be borne in mind when appointments are made.

#### **ANNEXE II: Public Enterprises**

1. The government of national unity shall appoint the administrators of public enterprises and parastatals, taking into account criteria such as morals,



competence and experience. In the meantime the current administrators shall remain in office.

### **ANNEXE III: The Committee for Follow-up of the Agreement**

1. A committee shall be set up for follow-up of the implementation of this Agreement, hereinafter called the Committee for Follow-up of the Agreement.
2. The Committee for Follow-up of the Agreement shall be chaired by the President of the Democratic Republic of the Congo, His Excellency Major-General Joseph Kabila.
3. The Committee for Follow-up of the Agreement shall consist of two high-ranking representatives per element and one high-ranking representative per entity, not including the chairman of the Committee himself.
4. The Committee for Follow-up of the Agreement shall have the following duties:
  - a. To ensure the positive implementation of the provisions of this Agreement.
  - b. To see to the correct interpretation of this Agreement.
  - c. To reconcile points of view and to assist in resolving any disagreements that may arise between the signatories.
5. The Committee for Follow-up of the Agreement shall be set up as from the entry into force of this Agreement. Its mission shall end after the submission of its report to the transitional government, at the latest a month after the installation of the said government.

### **ANNEXE IV: International Guarantee**


1. Provision shall be made for an international committee to guarantee the proper implementation of this Agreement and to support the programme for transition in the DRC, in accordance with these provisions.
2. The international committee shall give active support to ensure the security of the transitional institutions resulting from the DIC and the positive implementation of the provisions of Chapter 8.2.2 of Annexe A of the Lusaka Agreement, particularly in regard to the neutralisation and repatriation of the armed groups operating within the territory of the DRC.

3. The international committee shall arbitrate and make a decision in any disagreement that may arise between the Parties to this Agreement.
4. The international committee shall assist the Committee for Follow-up of the Agreement in fulfilling its mandate.

#### **ANNEXE V: Security Issues**

1. The security of the political leaders in Kinshasa shall be ensured as follows:
  - a. Each political leader shall have 5 to 15 bodyguards to ensure his personal safety.
  - b. No additional Congolese armed force may be brought into Kinshasa so as to prevent any possibility of armed confrontation.
  - c. The meeting of the staffs of the FAC, RCD, MLC, RCD-N, RCD-ML and Mai-Mai may propose additional security measures for certain leaders according to requirements.
2. The following interim security measures shall be taken:
  - a. An integrated police force shall be responsible for ensuring the safety of the government and the population.
  - b. The international community shall give active support to ensuring the security of the transitional institutions.

Signed in Pretoria on 16 December 2002

 Pages bearing the signatures of the Parties to this Agreement and the Witnesses (5 pages)