

August 18, 2016

The Honorable John F. Kerry
Office of the Secretary of State
United States Department of State
2201 C Street, NW
Washington, DC 20520

RE: Preventing a Wider Crisis in the Democratic Republic of Congo through Additional Financial Pressure and Incentives

Dear Secretary Kerry,

We are deeply concerned by the growing crisis of democracy in the Democratic Republic of Congo, which could become a full-blown crisis with serious implications for the region if steps are not taken to prevent it. We appreciate the Administration's high-level engagement with the DRC government on elections and its recent designation of Kinshasa Police Chief Gen. Célestin Kanyama for targeted sanctions. We strongly believe that the United States can and must exert more leadership now to help facilitate a successful democratic transition and that additional financial and other pressure is needed, as well as incentives.

The U.S. designation of Kanyama helped pressure the DRC government to not crack down on peaceful demonstrators at the massive July 31 pro-democracy rally. We are also encouraged that targeted sanctions have been welcomed by civil society activists in Congo and received support from Congress through bipartisan Senate and House resolutions and from the E.U. and Belgian parliaments. Nevertheless, the DRC government continues to pursue policies that undermine Congo's constitution and democratic transition – the root of the ongoing political crisis.

Recent events have underscored the need for additional pressure on the DRC government to move rapidly towards credible, timely national elections. President Kabila recently stated that elections will not be held at least until late 2017 and is using a dubious ruling by the Constitutional Court to insist that he will remain in office until elections are held. The government denies the electoral commission the funds to complete the voter roll preparation and has refused to release political prisoners who were not already due to be released. It also issued a criminal judgment – said by one of the judges to have been coerced – against presidential candidate Moïse Katumbi and kicked out independent researchers from Human Rights Watch, Global Witness, and the Congo Research Group.

September 19 and December 19 are constitutionally the days that should mark the beginning of the presidential campaign and the day that President Kabila steps down. It is imperative that the U.S. adopt additional targeted sanctions well before September 19. The pressure should be accompanied by clearly expressed policy goals and consequences for non-performance. Ambassador Swan's July 4 speech referring to the need for rapid progress towards credible elections and threatening further sanctions if that did not occur was helpful and should be consistently repeated in other official U.S. pronouncements. In addition, we believe the U.S. should take key steps to support the policy:

Enhanced use of targeted sanctions. Sanctions work most effectively when actions are taken consistently so that actors understand the stakes over a period of time. When sanctions are episodic and not followed up, the impact and overall efficacy diminishes. President Kabila and his senior associates use the U.S. banking system for illicit transactions. The U.S. should thus enact asset freezes, travel bans, and other sanctions on the officials against high impact targets central to Kabila's *glissement* strategy of undermining democracy and perpetrating human rights abuses. Higher-impact targets would help move beyond "naming and shaming" and toward having real financial impact and linking with broader illicit networks. Furthermore, sanctions' coercive effects are only as strong as their enforcement. The U.S. should ensure that designations are properly enforced with the cooperation of regional and international banks and governments.

Encourage the ICC to issue a warning. The International Criminal Court exerts influence over powerful actors in the region. The State Department should encourage the ICC's Chief Prosecutor to announce that it will conduct a preliminary examination on the DRC during the electoral period, noting that grave crimes by the regime and others will not go unpunished.

Messages on dialogue. Re: the dialogue, the U.S. can help advance negotiations by emphasizing the need for prompt, effective action (to avoid further delays and an ineffectual dialogue), strong international facilitation (to manage deep differences among participants) and serious confidence building measures (such as releasing all political prisoners and stopping political prosecutions).

Review direct budget support. The U.S. should block Congo's new request for \$500 million in direct budget support from the World Bank. It would support Kabila's unconstitutional usurpation of power, and his government has proven its poor financial mismanagement.

Additional financial pressure. Treasury's FinCEN can help counter the laundering of the proceeds of corruption, which would send powerful messages to the Kabila regime that it may be unable to transact in U.S. dollars. FinCEN could issue an Advisory to financial institutions that outlines money laundering concerns and requests more vigorous reporting of suspicious activity.

Fund the elections. The U.S. should significantly increase the amount of funding for legitimate elections if and when the opposition and Kabila government agree on a constitutional timetable.

Protection for civil society. Finally, there needs to be greater protection for civil society during this dangerous transition. MONUSCO should expand its protection program for human rights defenders. The U.S. should also increase support to pro-democracy activists and journalists. Support for the documentation of human rights abuses and corruption also is important.

Now is a critical time for the United States to take further action, starting with a new round of targeted sanctions, to support a peaceful democratic transition. Without urgent pressure from the U.S. and others, the situation will likely deteriorate, and Congo would face an escalation imperiling the future of the country and region.

Sincerely,

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