



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 18 February 2011**

**13159/10  
EXT 1**

**COPS 476  
CIVCOM 553  
PESC 1108  
RELEX 726  
COSDP 756  
JAI 707  
COAFR 313  
EUPOL RDC 47**

**PARTIAL DECLASSIFICATION**

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of document: 13159/10 RESTREINT UE

dated: 6 September 2010

new classification: none

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Subject: Concept of Operations (CONOPS) for the extended CSDP SSR Police Mission and its interface with justice in the Democratic Republic of Congo (DRC).

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Delegations will find attached the partially declassified version of the above-mentioned document.

  

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**ANNEX**

**COUNCIL OF  
THE EUROPEAN UNION**

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**13159/10  
EXT 1 (18.02.2011)**

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**NOTE**

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From: Committee for Civilian Aspects of Crisis Management  
To: Political and Security Committee

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Subject: Concept of Operations (CONOPS) for the extended CSDP SSR Police Mission and its interface with justice in the Democratic Republic of Congo (DRC).

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In view of PSC meeting on 7 September 2010, Delegations will find attached the Concept of Operations (CONOPS) for the extended CSDP SSR Police Mission and its interface with justice in the Democratic Republic of Congo (DRC) for 2010.

**CONCEPT OF OPERATIONS (CONOPS) FOR THE CSDP SSR POLICE MISSION AND  
ITS INTERFACE WITH JUSTICE IN THE DEMOCRATIC REPUBLIC OF CONGO  
(DRC)**

**Reference documents:**

- A. Guidelines for Command and Control Structure for EU Civilian Operations in Crisis Management (doc. 9919/07).
- B. I/A item note Draft Guidelines for Command and Control Structure for EU Civilian Operations in Crisis Management (doc. 10381/07 RESTREINT UE).
- C. Standard language for planning documents and legal acts for civilian ESDP operations (doc. 11277/07).
- D. Council Joint Action 2008/38/CFSP of 20 December 2007 amending Joint Action 2007/405/CFSP on the European Union Police Mission undertaken in the framework of the Security Sector Reform (SSR) and its interface with the system of Justice in the Democratic Republic of Congo (DRC).
- E. Mainstreaming Human Rights and Gender into European Security and Defence Policy: Compilation of relevant documents (doc.11359/07/RESTREINT UE) including the following EU documents on:
  - o Human Rights Mainstreaming (doc. 11936/4/06, doc. 11678/1/05);
  - o Gender / UNSCR 1325 (doc.14779/06, doc.12068/06, doc.11932/2/05, doc.15782/2/08 REV 2);
  - o Children and Armed Conflict / UNSCR 1612 (doc. 10019/08, doc. 9822/08);
  - o International Humanitarian Law (doc. 15246/05);
  - o Transitional Justice (doc. 15246/05);
  - o Standards of Behaviour (doc. 8373/3/05);
  - o Human Rights Defenders (doc. 10056/1/04);
  - o Protection of Civilians (doc. 14805/03);
  - o Civil Society (doc. 15574/1/06, doc. 10056/1/04).
- F. Agreement between the International Criminal Court and the European Union on cooperation and assistance (OJ L 115 of 28.4.2006, p. 50.).
- G. Comprehensive approach to the EU implementation of the UNSCR 1325 and 1820 on women, peace and security (doc. 15671/1/08 REV 1, dated 1 December 2008).

- H. Implementation of UNSCR 1325 and UNSCR 1820 in the context of ESDP (doc. 15782/3/08, dated 3 December 2008).
- I. Recommendations for enhancing cooperation with Non Governmental Organizations (NGOs) and Civil Society Organizations (CSO) in the framework of the EU Civilian Crisis Management and Conflict Prevention (doc. 15574/1/06).
- J. Policy of the EU on the security of personnel deployed outside the EU in an operational capacity under Title V of the Treaty on European Union (doc.9490/06).
- K. Initial Concept of Mission Support for ESDP Civilian Crisis Management Missions (doc. 12457/06).
- L. Guidelines for allowances for seconded staff participating in EU civilian crisis management missions (doc. 14239/06).
- M. Concept paper on procedures for the termination, extension and refocusing of an EU civilian crisis management operation (doc. 05136/06).
- N. Logistics Framework Paper for ESDP Civilian Crisis Management Operations.
- O. Guidelines for ESDP Crisis Response Information Activity (doc. 13817/02).
- P. SG/HR Decision 198/03 regarding the mandate of the Security Office.
- Q. Field Security Handbook.
- R. United Nations - Core International Human Rights instruments ratified by the DRC:
  - o International Covenant on Civil and Political Rights (ICCPR) + optional protocol number 1;
  - o International Covenant on Economic, Social and Cultural Rights (ICESCR);
  - o Convention of the Rights of the Child (CRC) + optional protocols 1 + 2;
  - o Convention on the Elimination of Discrimination against Women (CEDAW);
  - o Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
  - o International Convention on Elimination of Racial Discrimination (CERD);
  - o The Rome Statute of International Criminal Court (ICC).
- S. Policy of the EU on the security of personnel deployed outside the EU in an operational capacity under Title V of the Treaty on European Union (doc. 9490/06).
- T. Technical Arrangement Concerning Standing Arrangements Between the European Union Mission in Democratic Republic of Congo and the United Nations Organization Mission in Congo.

- U. EU Training Concept in ESDP (doc. 11970/04).
- V. Guidelines for identification and implementation of lessons and best practices in civilian ESDP missions (doc. 15987/08).
- W. Comprehensive EU approach to SSR in the Democratic Republic of Congo (COREU 2473/COR 1 of 13 November 2006).
- X. Options for strengthened ESDP action to combat sexual violence and impunity in the DRC (doc 9695/09 RESTREINT UE).
- Y. CIVCOM advice on the Options Paper for strengthened ESDP action to combat sexual violence and impunity in the DRC (doc. 10773/09) and COHOM advice (doc. 11441/09).
- Z. *Rapport semestriel du chef de la mission de Police EUPOL RD Congo* (doc. 16829/09 RESTREINT UE).
- AA. COAFR/COPOL/COHOM/CONUN – *Projet d'actualisation de la feuille de route pour l'engagement de l'UE en République Démocratique du Congo* (doc. 2423/09 COR 5 RESTREINT UE).
- BB. COAFR – *Recommandations de Chefs de Mission UE dans le cadre de la feuille de route pour la RDC* (doc. 0163/10 RESTREINT UE).
- CC. Way ahead paper for EUPOL RD Congo after 30 June 2010 (doc. 7409/10 RESTREINT UE).
- DD. CIVCOM Advice on Way Ahead Paper for EUPOL RD Congo after 30 June 2010 (doc. 8185/10 RESTREINT UE).
- EE. Strategic Review on the Engagement of EU CSDP Missions to Support the Security Sector Reform (SSR) in the Democratic Republic of Congo (DRC) (doc. 11390/10 RESTREINT UE).
- FF. CIVCOM Advice on the Strategic Review on the Engagement of EU CSDP Missions to Support the Security Sector Reform (SSR) in the Democratic Republic of Congo (DRC) (doc. 11640/10 RESTREINT UE).
- GG. Crisis Management Concept on the Engagement of EU CSDP Missions to Support the Security Sector Reform (SSR) in the Democratic Republic of Congo (DRC) (doc. 12141/10 RESTREINT UE).
- HH. CIVCOM Advice on the Crisis Management Concept on the Engagement of EU CSDP Missions to Support the Security Sector Reform (SSR) in the Democratic Republic of Congo (DRC) (doc. 12220/10 RESTREINT UE).

## 1. SITUATION

### 1.1 Background in the Democratic Republic of Congo

#### 1.1.1 Political and security situation

The DRC (Democratic Republic of Congo) continues its long journey away from armed conflict and towards stability, democracy and prosperity. The first truly democratic elections in the history of the country resulted in the victory of Joseph Kabila on 15 November 2006. The Supreme Court of Justice confirmed Joseph Kabila's victory on 27 November and he was sworn in as DRC elected President on 6 December 2006. The National Assembly was installed halfway through the election process, on 22 September.

On 24 February 2007, the National Assembly approved the *Programme du Gouvernement* presented by then PM Antoine Gizenga where the main axes of government action were outlined (consolidation of peace appeared as the first one). Annexed to this document, the *Contrat de Gouvernance* (CDG) highlighted government priorities in the framework of good governance for 2007, with Security Sector Reform as first item.

Since the 1990s, the continued presence of Ex-FAR / *Interahamwe* or FDLR (*Forces Démocratiques pour la Libération du Rwanda*) and other violent militias had continued to cause permanent trouble in Eastern DRC and the intervention of Rwandan forces. On 9 November 2007, the governments of the DRC and of the Republic of Rwanda agreed in Nairobi on a joint communiqué, laying out a common approach to end this threat. Notwithstanding the spirit of this agreed approach, the *Forces Armées de la République Démocratique du Congo* (FARDC) launched an offensive in early December 2007, which was largely unsuccessful and forced the Congolese government to recognise once again both the inefficiency of their army in the absence of any major reform or support and its inability to bring a military solution to the problem in the Eastern DRC.

Following the botched offensive, a Conference for Peace, Security and Development in North and South Kivu was organized by the DRC Government in Goma, following which two *Actes d'engagement* were signed by the armed groups and the government on 23 January 2008, aimed at

ending the hostilities and restoring peace in the region. As a result, the so-called "Nairobi" and "Goma" Peace Processes have been elaborated to support the peace arrangements in the Eastern DRC. Within the framework of the Goma Peace Process, the "Programme Amani", driven by Father Apollinaire Malu Malu, as well as the UN-sponsored "*Plan de stabilisation de l'Est*" are intended to be implemented by various actors. The latter plan takes also into account the police aspects in the region. In accordance with these plans, it is expected that the national police will be deployed in the Kivus so as to gradually assume the public security function and regain control of the national borders in the area.

However, and in spite of the above-mentioned initiatives, the situation in the Kivus worsened drastically in August-November 2008 due to a *CNDP* (*Comité National pour la Défense du Peuple*) big offensive that advanced southwards in the North Kivu province and managed to virtually besiege the provincial capital, Goma<sup>1</sup>. Nonetheless, a dramatic shift in the DRC-Rwanda relationship brought about the arrest of *CNDP* leader General Laurent Nkunda in Rwanda and the launch of a combined offensive by the *FARDC* and the Rwandan military – assisted now by the *CNDP* – against the *FDLR* (*Operation Umoja Wetu*) during January and February 2009. This operation was followed in March by another offensive of *FARDC* backed by UN peacekeepers and Rwandan troops, named *Kimia II*, which lasted until the end of 2009. Though *Kimia II* managed to achieve some success in the fight against the rebel groups, it was also highly criticised for alleged violations of human rights and at the beginning of 2010 it was replaced by the new operation *Amani Leo*, aimed at consolidating previous gains rather than at re-conquering other parts of territory. Although mauled by all these joint offensives, the *FDLR* remains an important force for destabilisation in the Kivus. A process of Disarmament, Demobilisation and Reintegration (DDR), aimed at the spontaneous disarmament of rebel forces and their integration into the regular army and police forces has been launched by the UN and the Congolese government, but its results are still below expectations.

A few threats to the stability of the central authority remain in other provinces of the DRC. In the Bas-Congo, more than a hundred people reportedly died in the clashes between security services and followers of the politico-religious group *Bundu dia Kongo* (*BDK*) in February 2008;

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<sup>1</sup> *CNDP* forces had already attacked Goma in November 2006 with the Saké battle. In October 2008, they reached the outskirts of the city, but eventually they did not enter it.

government forces and *BDK* fought again in March 2008 and close to a hundred people were allegedly killed. The city of Dongo, in the Equator Province, was the theatre of ethnic conflicts between December 2009 and January 2010, while incidents, whose nature is still unclear in the absence of reliable information, troubled the city of Lubumbashi, in Katanga, in May 2010.

It is still widely acknowledged that the army and, to a lesser extent, the police are in fact responsible for the bulk of the human rights violations perpetrated in the country. For Eastern DRC, where human rights violations in particular against women and children are particularly intense, local NGOs report at least 40 rapes a day, whose responsibility, however, lies also with the *FDLR* and other particularly violent militias. According to UNFPA 15,275 rapes – the vast majority by armed men – were reported in Eastern DRC in 2009, and it is a figure that does not account for the many rapes that are not reported<sup>1</sup>. The scale of sexual violence in the DRC, notably in the East of the country, including sexual mutilation and torture has been described as "the worst in the world" by the UN<sup>2</sup>, and has been reported to be of "epidemic proportions"<sup>3</sup>. In view of such crimes, the scale of impunity in the DRC is particularly worrisome.

While the situation in several Regions, and particularly in the East, remains a concern, the situation in Kinshasa appears also to be affected by internal political dynamics. Since October 2008, the Gizenga government has been replaced by a new government team led by Adolphe Muzito as Prime Minister. This Government, however, is sometimes perceived as fragile, especially due to the rumours of conflict between the Prime Minister and the President, who is seemingly inclined to reinforce his powers. A Government reshuffle in February 2010, which did not allow *CNDP* representative to enter it, contributed to increase this perception.

The matter is particularly delicate as presidential and parliamentary elections, scheduled for 2011, are now approaching. In this context, the presence of a security apparatus able to effectively ensure

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<sup>1</sup> Statement by Mr. John Holmes, UN Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, at the Security Council Open Debate on the Protection of Civilians in Armed Conflict, on 7 July 2010

<sup>2</sup> Declaration of Mr. Holmes to the "New York Times" on October 7, 2007, [http://www.nytimes.com/2007/10/07/world/africa/07congo.html?\\_r=2&ref=world&oref=slogin](http://www.nytimes.com/2007/10/07/world/africa/07congo.html?_r=2&ref=world&oref=slogin)

<sup>3</sup> Message of the Secretary General to the African Union session on gender, Press Release SG/SM/9408 – AFR/991, <http://www.un.org/News/Press/docs/2004/sgsm9408.doc.htm>



a free and fair electoral process would be crucial. Therefore, a reform of the entire Security Sector including defence and police pillars, as well as the justice pillar and the intelligence services, constitutes more than ever the necessary step towards the stability and development of the DRC as a whole. It is to be noted, as a positive remark, that the DRC Government, and in particular the Ministry of Interior, has never questioned its support for the Security Sector Reform process since EUPOL RD Congo was launched.

## **1.1.2 The Defence, Police and Justice Sectors, including reform efforts**

### **1.1.2.1 Defence**

The restructuring of the defence sector (structures, procedures, administration, command and control) is a long-term project that requires both patience and tenacity. It also requires for the Congolese Government to seek a balance between the delicate operational requirements related to security issues in the East of the country and the need to maintain the course of reform. The signing of acts of commitments in Kivu in January 2008, then the peace agreements in March 2009 (Ihusi Agreement) should have created new conditions for building a national army, but unfortunately they have not yet been translated into real facts in the field.

Despite difficulties, the reform of the *FARDC* is underway. The Defence Reform Plan (*Plan de Réforme de l'Armée = PRA*) was presented to international partners on 26 January 2010. This plan establishes guidelines that must be implemented by the military authorities. It aims to strengthen the *FARDC* in reorganising the chains of command both at regional and operational level. It comprises three phases from 2009 to 2025. In this context, two priority areas can be identified, namely (a) prolongation of structural reforms (administrative, management, training, logistics, etc.) and (b) training of the infantry units (Rapid Reaction Forces, *Force de Couverture* and Military Police Units)

### **1.1.2.2 Police**

The *Police Nationale Congolaise (PNC)*, which is estimated to number around 100,000 police officers, is also in dire need of reform, training and equipment. The war time caused the police to

become politicized, ethnicized and progressively marginalized. Most of the PNC police officers have not benefited from training to date<sup>1</sup>, receive a minimal salary, if any, and operate in very poor working conditions. The police continues to be denounced as the perpetrators of petty corruption and human rights abuses. As a result, the *PNC* is not currently in a position to provide a sufficient level of policing for the Congolese people, whilst efforts like the IPU have strengthened the *PNC* from an overall perspective. This can only be one of the many necessary steps.

In early 2006, the DRC Minister of Interior set up the *Groupe Mixte de Réflexion sur la Réforme et la Réorganisation de la Police Nationale Congolaise (GMRRR)*, including representatives of the *PNC* and supported by international actors working on policing in the DRC (EC, EUPOL, *MONUC*, France, UK, South Africa, Angola). On 15 May 2006, the *GMRRR* produced a report on the status of policing in the DRC and made key recommendations, which focused on police re-structuring, wages and living conditions, training and ethos.

As a matter of priority the report called for the implementation of a quantitative, and, more importantly, qualitative, police census, the development of a policing curricula and the adoption of an Organic Law on Policing<sup>2</sup>. It also requested the creation of a mixed committee (*Comité de Suivi pour la Réforme de la Police/ CSRP*<sup>3</sup>), the conceptual and coordination forum for the development of the police reform.

After protracted efforts, the *CSRP* was finally created on 18 September 2007 (and held its first session on 14 February 2008). Other important milestones were achieved in 2007, namely the creation of the coordination group of international donors *Gouvernance Judiciaire et Sécurisation*; the creation of the *Inspection Générale d'Audit (IGA)*, a new control structure of the *PNC*; the creation of the *Direction Générale de la Police des Frontières*. The *CSRP* consolidated throughout 2008 its status as the organ for the reform of the police both in terms of coordination and from a conceptual perspective. The *Police de Recherche et d'Intervention (PRI)* charged with dealing with serious crime was created in 2008.

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<sup>1</sup> Some 50,000 police officers have received a one-week training by *MONUC*, thanks, among others, to EC support. It was, however, in the context of securing the election process in DRC.

<sup>2</sup> The Draft Organic Law on Policing has now been submitted to the Parliament.

In the police domain, the SSR Roundtable of February 2008 produced a list of needs of the PNC by sector and sequenced into short, medium and long term. It was then agreed that this list of needs was to accompany the reform process, supported by a legal framework (*Loi Organique*) and integrated into a general action plan that is to be developed by the *CSRP*. The need for *transversalité* between the three pillars of SSR was also debated during the Roundtable. The action plan was finalized in March 2009 and presented to the international community in the following October, while one month later the *Loi Organique* draft was submitted to the Parliament.

It is worth noting that with regard to the civil criminal investigation system, the crime police (“*Police Judiciaire*”) is divided into a regular crime police as part of the national police (“*Police Judiciaire de la PNC*”) and a crime police attached to certain prosecutorial levels (“*Police Judiciaire des Parquets*”). Whereas the former has both preventive and enforcement function, the latter is purely for law enforcement. Both crime police services include crime police officials (“*Officiers de Police Judiciaire*”) that are granted with certain investigative competencies and act under the guidance and supervision of the prosecutorial service (“*Ministère Public*”). One of the recommendations of the *GMRRR* as regards reforms is to merge these two services as part of the national police.

Following the cessation of hostility with the *Comité National de Défense du Peuple (CNDP)*, the absorption of thousands of its former combatants in the ranks of the *Police Nationale Congolaise* in suboptimal fashion is cause for concern.

### 1.1.2.3 Justice

The prevailing problems in the justice sector include a lack of independence of the justice, a serious problem of resources (infrastructure, material, human and financial) – constraints that continue to contribute to the overall vicious circle of corruption and impunity. The problem of impunity is aggravated by the fact that most crimes against the population are committed by members of the defence and police.

Access to justice is as low as 20% of the population and in 2006, there was virtually no state budget allocated to justice, affecting in particular the functioning of the prosecution and penitentiary

services. A particularly grave example of the serious situation on the ground was the riot in the Muzeze prison in Goma during which approximately 20 women were raped by other male prisoners during the night of 21 to 22 June 2009.

A comprehensive reform of the whole justice sector was initiated in 2004 and is supported and coordinated by the justice joint committee (“*Comite Mixte de Suivi du Programme Cadre de la Justice*”) co-chaired by the Minister of Justice and the Head of the EU Delegation. The new government in the *Contrat de Gouvernance* annexed to the *Programme du Gouvernement* of 24 February 2007, recognizes that the justice sector is part of SSR and identifies certain priorities (to continue the fight against impunity and restore the confidence in the justice system, respect human rights and international law, increase capacities, improve the penitentiary system and enhance the access to justice). Rule of Law will be part of the envisaged national concept on SSR, as stated in the government programme of February 2007.

On the legislative side, the justice reform is being further developed in the light of the new Congolese Constitution (February 2006), which gives firmer guarantees for a future independent judiciary. Special attention needs to be paid notably to the High Judicial Council (“*Conseil Supérieur de la Magistrature*”), intended to regulate the independent functioning of the judiciary and to military justice, which will be affected by the overall justice reform. However, the set up of the “*Conseil Supérieur de la Magistrature*” is being delayed. A restructuring of the military court system aims at merging the military criminal justice into the overall criminal justice system, with the newly created Court of Appeal being responsible for both civil and military justice cases.

## **1.2 International Community and Third States engagement in DRC**

### **1.2.1 *MONUC and MONUSCO***

There continues to be a strong International Community commitment to support the stabilization process of the country as well as institution-building efforts. *MONUC (Mission des Nations Unies au Congo)* has greatly contributed to security arrangements in support of the transitional process in the DRC and is willing to assist in the SSR process within the framework of its renewed mandate.

*MONUC* was established in 1999 to facilitate the implementation of the Lusaka Accord and with more than 20,000 personnel was the largest mission deployed by the Department of Peace Keeping Operations (DPKO) of the United Nations. The efforts of *MONUC* during the last years have concentrated in providing security in the Kivus region following the combats that have taken place there, mostly between *FARDC*, *CNDP*, *FDLR* and the Rwandan army; *MONUC* also supported plans for the stabilisation and reconstruction of this region. Its mandate expired on 31 May 2010 (UNSCR 1906) and was extended until June 30 (UNSCR 1925), after which the mission was renamed *MONUSCO* (*Mission de l'Organisation des Nations-Unies pour la stabilisation en République démocratique du Congo*). According to the UNSCR 1925, *MONUSCO* concentrates its forces in the East of DRC, in order to keep peace there, but should keep a reserve force capable of redeploying rapidly elsewhere in the country. Among the main tasks of the new mission are the consolidation of peace in DRC, the protection of civilians and the safeguarding of human rights, the support to Congolese forces in their actions against rebel groups, the completion of the DDR process and the improvement of the protection of the population by local authorities through the provision of durable security forces. *MONUSCO* will support, in close cooperation with other international partners, the action carried out by DRC authorities to strengthen and reform security institutions, in particular in the police and justice sectors. The mandate of *MONUSCO* runs until June 30, 2011. As DRC authorities have repeatedly asked for a withdrawal of UN forces by next year, it is unclear whether some UN presence should remain beyond that date.

### **1.2.2 Bilateral Engagement of non-EU States**

Several non-EU States such as Angola, Canada, China, the Republic of South Africa, and the USA are engaged in bilateral assistance programs in support of the SSR process. South Africa is present with a SSR Assistance Mission, called Teutonic Mission, the current mandate of which expires at the end of 2010. China and the USA are involved in the SSR military component. The USA is also supporting the *STAREC* Plan through USAID and expressed their intention to support EUPOL activities in the fight against sexual violence. Angola terminated a training programme for police officers in 2009, after which it did not carry out further activities of note in the police field. Finally, Japan, through its cooperation agency JICA, provides financial support to several police reform actions and projects.

### 1.2.3 Coordination

Coordination within the EU and with other international actors is of fundamental importance. Coordination within the *CSRP* aims to ensure coherence at the strategic level of Police Reform. In this regard, an horizontal SSR inter-pillar coordination mechanism has been discussed and was again evoked during the SSR Roundtable of 25-26 February 2008. The DRC 'Contact Group' continues to meet, including its Sub-Group on SSR. During 2010, *MONUC* was given a role of coordinator of international efforts to support the SSR process (UNSCR 1906), which has allowed the enhancement of synergies in this field. In the Police aspects of SSR, this role has frequently been delegated to EUPOL and UNPOL. The Congolese authorities have now decided to keep the coordination role for themselves, therefore in UNSCR 1925 there is no longer any mention of such a role for the UN.

**NOT DECLASSIFIED FROM THIS POINT UNTIL THE END OF THE DOCUMENT**

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