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BUILDING RECOVERY AND REFORM THROUGH DEMOCRATIC GOVERNANCE IN THE DRC PROGRAM

Quarterly Report (January 1 – March 31, 2009)

Contract No. DFD-I-00-05-00220-00/06

Fourth Quarterly Report for Task Order 06

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I. CONTRACT PERFORMANCE MONITORING REPORT

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Background

1. Over the past quarter, the following events affected the security within the DRC:
 - With the reversal of alliances, cessation of the war in Eastern DRC rendered the negotiations in Nairobi obsolete;
 - The FARDC-Rwandan troop joint operation began on January 20. Their mission, based on a military agreement signed between the Government of the DRC and that of the Rwandan Republic in December 2008, was to track down the FDLR in eastern DRC;
 - The Rwandan army arrested the rebel leader, Laurent NKUNDA, on January 22;
 - The FARDC integrated ex-CNDP rebels on January 29;
 - The Rwandan troops were withdrawn from the conflict zone in North Kivu, marked by a solemn ceremony organized in Goma on Wednesday, February 25;
 - The CNDP and the DRC signed a peace agreement, under the auspices of the international facilitation team lead by Presidents Obasanjo and Mpaka; and
 - Ugandan troops officially withdrew from eastern DRC.
2. The following events of the last quarter are relevant to BRDG DRC's legislative strengthening operations:
 - The parliamentary sessions (Senate and National Assembly) began on March 16;
 - The National Assembly President, Vitale Kamerhe, resigned without debate;
 - French President Nicolas Sarkozy punctuated his visit to the DRC with his March 26 speech before both houses of Parliament;
 - Five members of the bureau of the National Assembly resigned, thus rendering the Bureau inoperable and forcing the Assembly President to resign;
 - The National Assembly passed eleven resolutions, of which nine had the purpose of creating Parliamentary investigative committees;
 - The National Director of the General Direction of Tax Collection (Direction Generale des Impots) attempted to bribe National Assembly members belonging to the Economy and Finance committee while they were evaluating the 2009 draft state budget; and
 - The National Assembly adopted the organic law on the territorial subdivisions in the interior of the provinces (loi organique portant fixation des subdivisions territoriales a l'interieur des provinces), including the appointment of a joint committee for the March session with the objective of resolving differences of opinion.
3. The following events of the last quarter are relevant to the DRC's decentralization reform:
 - The Ministry of Decentralization and Territorial Development (Ministre de la Decentralisation et de l'Aménagement du Territoire) hosted a meeting for technical and financial partners on January 22. The objective of this meeting was to discuss different types of support that could be provided by the Government and partners to contribute towards the development and implementation of the decentralization process;
 - The Minister of Decentralization and Territorial Development (Decentralization et l'Aménagement du Territoire) conducted a visit to Mali, Beni, and Burkina Faso during the first two weeks of February; and
 - The Ministry of Decentralization and Territorial Development distributed a document detailing the strategic framework for the implementation of the decentralization process

(cadre strategique de la mis en oeuvre de la decentralization) to financial and technical partners on March 20. A workshop is scheduled for April 27-28 with the objective of validating this document.

1. LEGISLATIVE STRENGTHENING AT THE NATIONAL AND THE PROVINCIAL LEVELS

1.1. NATIONAL LEVEL

1.1.1. Support for the National Assembly

Adoption of laws:

During its December 15 – January 15 extraordinary session (session extraordinaire), the National Assembly passed the organic law on the designation of territorial subdivisions in the interior of the provinces. Initiated by Senator DJOLI ESENG'EKELI, the Senate passed this bill during the session of September-December, 2008. The two chambers proposed different modifications of the same law. A joint committee is scheduled to meet during the Parliamentary session (which opened on March 16) in order to resolve the distinctions within the two chambers' bills.

Members of the research offices (bureaus d'etudes) of both chambers of Parliament expressed the desire for technical training on preparing bills, hoping to eventually create a specific unit within the Parliament dedicated to editing laws.

The PAJ Committee of the National Assembly

The Political, Administrative, and Justice (PAJ) Committee of the National Assembly is responsible for providing the DRC with the judicial tools to facilitate the successful installation and operation of the new democratic institutions. DAI provides assistance to the PAJ Committee to ensure that they have the capacity to operate through the remainder of the transition period. BRDG DRC's support includes timely material support for office space, equipment, supplies, communications and utilities.

DAI's organizational support, in the form of a refresher course on the draft laws related to judiciary reform in the DRC and the start-up of the study on the State Council (Conseil d'Etat) generated positive results. One example is the vote on the law on the constitutional court (cour constitutionnelle) by the National Assembly and its subsequent transfer to the Senate and the submission of other judicial reform laws by the PAJ to the plenary.

The ECOFIN Committee of the National Assembly

The Economy and Finance (ECOFIN) Committee of the National Assembly is responsible for preparing and developing laws in the financial sector as well as exercising parliamentary control in the financial and economic domain. DAI provides logistical assistance to ensure that the ECOFIN committee possesses the capacity to remain operational throughout the early stages of the newly elected National Assembly. BRDG DRC's support includes timely material support in the form of office space, equipment, supplies, communications, and utilities covering costs.

The technical staff continued to reflect on how to improve program performance and identify new approaches to working with the ECOFIN Committee. Two meetings with members of the ECOFIN Bureau allowed for significant advances in the programming of activities.

1.1.2. Support for the Senate

Support in favor of the Senate continues to pose difficulties, due to the Bureau's inflexible schedule. The BRDG DRC technical staff is following-up on a proposed workshop for the Senate staff on producing parliamentary documents.

1.2. PROVINCIAL LEVEL

1.2.1. Support to Provincial Assemblies

The primary activity conducted in support of the Provincial Assemblies was the workshop on edict preparation techniques. The 279 beneficiaries of these workshops included the political and administrative staff and Provincial Assembly members in the provinces of Bandundu, Katanga and North Kivu. Below is a breakdown of the participants:

- Katanga: Held on 19-23 February; 130 participants including 90 Provincial Assembly members (14 women) and 40 political and administrative staff members (7 women);
- Bandundu: Held on March 4-7; 85 participants including 52 Provincial Assembly members (1 woman) and 33 political and administrative staff members (2 women); and
- North Kivu: Held on March 17-20; 64 participants including 34 Provincial Assembly members (1 woman), 30 political and administrative, and staff members (8 women).

1.3. DIFFICULTIES ENCOUNTERED

The principal difficulty encountered resides in the inherent inability of our partners to prepare proposals for assistance.

1.4. OPPORTUNITIES AND PROSPECTS

BRDG DRC has two principal activities planned for the upcoming quarter:

- Prepare a collaboration framework document in order to reinforce partnerships between program stakeholders; and
- Organize public forums in the CRDs to reinforce the provincial assemblies' capacities.

2. SUPPORT FOR LOCAL DEVELOPMENT AND THE DECENTRALIZATION SECTOR

2.1. AT THE NATIONAL LEVEL

Support for the Ministry of Decentralization and Territorial Development

A meeting held on Thursday, January 28 at the Technical Support Unit (Cellule Technique) of the Ministry of Decentralization and Territorial Development led to the identification of several needed supports: (1) the Support Unit must be rendered operational. This office plays an essential role in coordinating, implementing, and monitoring the decentralization process; (2) Partners should swiftly mobilize resources for the social communication campaign. With these issues in mind, the Ministry, in collaboration with the BRDG DRC technical team, conducted an analysis of prepared proposals. During this technical encounter on October 24, meeting participants retained four supports for the priority sectors:

- Train trainers at the national level on decentralization awareness building and decentralization laws;

- Train trainers at the provincial level in the Bandundu, Katanga, Maniema and North Kivu Provinces;
- Provide start-up-day support for the social communication campaign in Kinshasa (under the chairmanship of the Prime Minister); and
- Print and send copies of laws to the four target provinces (Katanga, Bandundu, Maniema, and North Kivu).

Start-up of deliberation on the creation of a database on the implementation of decentralization process in the target provinces.

The advent of the decentralized territorial entities (entites territoriales decentralisees) and promulgation of the decentralization laws create the need for a mechanism to evaluate and follow-up on the decentralization process. This mechanism will be built around a database that integrates a certain number of elements facilitating accurate monitoring of the decentralization process to be conducted by provincial stakeholders. The goal of this initiative is to develop an ongoing application available on a website, which will consolidate the decentralization process and will help improve the quality of governance at the provincial level.

Support for the Ministry of Plan

The startup of deliberation on the local planning process (processus de planification locale)

The promotion of local development is one of the fundamental objectives of decentralization reform. This activity starts by putting into place a local planning process that implicates the participation of all concerned stakeholders. In order to encourage this process, a deliberation on local planning supported by the program was the subject of discussion with the SERACOB (Service de Renforcement des Appuis aux organisations de la Societe Civile et aux Communautés de base en Afrique Centrale). During this encounter, the team wrote a technical note and submitted it to the DAI technical team for internal validation. This note included the following five points: (1) what are the difficulties involved with implementing the local planning process; (2) the objectives of this process; (3) the implementation strategy of this process; (4) target groups; (5) expected results. The technical note once validated will provide the foundation for a discussion with the Ministry of Plan cabinet.

Support for Civil Society

At the initiative of SERACOB, participation in the ninth discussion forum (neuvieme espace d'échanges) between Congolese stakeholders.

On March 2-4, SERACOB initiated a national workshop on decentralization financing in the DRC. On March 3, the Decentralization and Local Development Advisor, Cheick Samake, provided a presentation on the Malian experience in Decentralization financing. The workshop discussed the possibility of achieving a Public Discussion (Espace d'Echanges) between Congolese stakeholders. Workshop participants identified the following priorities: (1) Establish the current status of decentralization financing of each province in the DRC, by conducting a comparative, three-province study; (2) Obtain information from the Congolese government and the international community on decentralization financing in the DRC; (3) Analyze other countries' experiences in internal and external decentralization financing, with the final objective of preparing and presenting a list of key strategies for securing financial assistance for decentralization in the DRC.

2.2. AT THE PROVINCIAL LEVEL

2.2.1. Support for the Provincial Assemblies

The Provincial Assemblies of Bandundu and North Kivu benefited from legislative strengthening assistance this month. BRDG DRC conducted trainings in accounting and budgetary procedures, as well as decentralization and “deconcentration” (the central government’s delegation of decision-making powers to organizations under its jurisdiction). At any time, the central power may take back a prerogative delegated. It is up to the central government to create and set up an agency and to define its objectives at the lower level. Below is a summary of decentralization-related workshops that BRDG DRC provided to the Provincial Assemblies during this quarter:

- A workshop on accounting and budgetary procedures in favor of the North Kivu Provincial Assembly on March 12-16. Participants: 51 (including 30 Provincial Assembly members (1 woman) and 23 functionaries (12 women), and;
- Training on decentralization and “deconcentration” destined for the Provincial Assembly of Bandundu was held on March 18-23. Participants: 68 Provincial Assembly members (2 women) and 38 political and administrative functionaries (2 women). A total of 106 Assembly members and functionaries received training;

2.2.2. Support for the Provincial Governments

With assistance from BRDG DRC, the Government of Bandundu strengthened their capacity for implementing “deconcentration” initiatives during this period. During this workshop, which took place on March 25-29, three ministers, including 2 women and 17 members of the Governor’s Ministries cabinets, received training totaling 20 beneficiaries.

2.2.3. Support for the Decentralization Services (service deconcentres de l’Etat)

BRDG-DRC organized three training sessions benefiting the State “services deconcentres” this period. These sessions included:

- A workshop on accounting and budgetary procedures, focused on the “services deconcentres” of North Kivu on March 17-20. Participants: 75 (14 women);
- A training for 42 territorial administrators (cadres territoriaux) on the management of the base territorial entities (entites territoriaux de base) in Goma, North Kivu on March 7-10; and
- Training of territorial administrators (cadres territoriaux) on the management of the base territorial entities in Beni, North Kivu on March 23-28. Participants: 45 administrators (5 women).

In total, 341 provincial authorities (Provincial Assembly members, Ministers, Chiefs of Staff, administrative and political officials, officials from the state “services deconcentres” and territorial administrators) benefited from trainings focused on budgetary and accounting procedures, managing territorial entities, and decentralization and “deconcentration” this period.

2.3. DIFFICULTIES ENCOUNTERED

One of the primary difficulties that the project faced during this quarter was navigating partners’ very full and inflexible schedules. Numerous visits by delegations from Kinshasa provoked the scheduling complexities, thus hindering the implementation of programmed activities.

2.4. OPPORTUNITIES AND PROSPECTS

BRDG DRC anticipates engaging in the following future activities:

- Supporting the implementation of the social communication campaign on decentralization conducted by the Ministry of Decentralization and Territorial Development;
- Helping to render the Technical Unit for the Support of the Decentralization Process operational;
- Validating the strategic framework for implementation of the decentralization process;
- Deliberating on the creation of a database for the implementation of the decentralization process;
- Identifying a mechanism for financing the decentralization process;
- Deliberating on the installation of a local planning process; and
- Supporting the continuation of capacity strengthening within the reform framework.

3. SUPPORT FOR THE JUSTICE SECTOR

3.1. AT THE NATIONAL LEVEL

Activities within the justice sector concentrated on two components: the preparation of the strategic and organizational audit of the Justice Ministry and affiliated services, and the operations of the Supreme Council of the Magistrates (Conseil Supérieur de la Magistrature - CSM) through the preparation of their internal regulations.

3.1.1. Support for the Justice Ministry

Preparations for implementing a strategic audit of the Justice Ministry (Ministère de la Justice): On January 28, DAI initiated a series of encounters with Pierre Kaniki, the legal advisor and permanent secretary of the Mixed Justice Committee (Comité Mixte de la Justice – CMJ) to discuss:

- The strategic audit's location, funding stream(s), and terms and conditions; The formation of a study committee composed of USAID/DAI, a member of the secretariat of the CMJ, a Ministry advisor, a general services functionary, a magistrate from the permanent secretariat of the Supreme Magistrate (Conseil Supérieur de la Magistrature – CSM), a member of the National Bar Association (barreau national) and representatives of other interested partners;
- USAID's preparation to fund and coordinate the strategic and organizational audit in Kinshasa as well as three provinces (Bandundu, Katanga, Maniema), The final encounter with the Permanent Secretary of the CMJ (Mixed Justice Commission), held on March 5, permitted a start-up of the process of recruiting consultants to implement the Ministry of Justice audit, once the terms of reference are finalized. The principal consultant (the team leader) has been identified. Her name is Esther Elkrieff.

3.1.2. Support to the Supreme Council of the Magistrature (CSM)

The constitution designates that the CSM manages an independent judiciary. Article 9 of the organic law on the organization and functioning of the CSM, which was passed by both chambers and promulgated by President Kabila, requires the General Assembly of the CSM to adopt the internal

regulations of this institution within 30 days of its installation. According to article 17, paragraph three of the same law, internal regulations are prepared in draft form by the CSM Bureau.

In order to contribute to the existence of an independent judiciary, BRDG DRC provided material support to the CSM Bureau, equipping them to prepare the CSM draft internal regulations. This assistance consisted of providing a meeting space for the work group designated by the First President of the Supreme Court. In order to produce the draft document, the team (consisting of six local experts) worked for three days on December 4-6, 2008.

A workshop organized by DPK on February 27 – March 4 on the installation of the CSM had two objectives: (1) conduct an open and participative forum, in order to provide the CSM with the tools it needs to establish a base for its management systems; (2) develop a series of concrete proposals concerning urgent matters essential for the installation of the CSM. During the course of the workshop, four themes were developed, including “collaboration between the CSM and the Justice Ministry”. The Justice Advisor, Victor Yenyi, participated in the preparation of different mechanisms to help increase dialogue between the CSM and the Ministry on this matter.

The documentation and studies service (service d'étude et de documentation) of the Ministry of Justice developed different workshop training modules. BRDG DRC facilitated the work group that examined technical worksheets and the different workshop scenarios of the training modules in relation with the special penal code, civil responsibility of commercial airlines, inheritance laws, commercial activities and commercial enterprises.

In December, the experts submitted the internal regulations to the General Assembly of the CSM. The participants determined that it would be useful to revisit the contents of the internal regulations, add on recommendations made during the course of the workshop, and further define how the CSM should operate in relation to the internal regulations. This activity will take place in April, with funding from BRDG DRC.

Reinforcing the capacity of magistrates is an essential element of enabling an independent judiciary. With this in mind, BRDG DRC has scheduled training programs for the magistrates in the target provinces. This series of workshops will consist of three themes: money laundering as a source of terrorism financing, justice reform, and the norms and regulation of work related litigations. Although originally scheduled for February, these workshops did not take place because of the participants' busy schedules. These workshops will now take place in April.

3.1.3. Support for Civil Society

BRDG DRC financed a workshop on editing the draft law on general dispositions applicable for non-profit organizations and public service organizations (loi portant dispositions generales applicables aux Associations Sans But Lucratif et aux etablissements d'utilite publique) and the law regulating the liberty to hold public meetings and organize public demonstrations (loi portant reglement de la liberte de la tenue des reunions publique et l'organisation des manifestations publiques). DAI conducted this workshop in collaboration with the Konrad Adenauer Foundation. BRDG DRC's technical contribution included editing the draft law regulating the liberty to hold public meetings and organize of public demonstrations (proposition de loi portant reglement de la liberte de la tenue des reunions publiques et l'organisation des manifestations publiques).

3.2. DIFFICULTIES ENCOUNTERED

- The magistrates lack the expertise to prepare acceptable proposals.

3.3. OPPORTUNITIES AND PROSPECTS

BRDG DRC's interventions in the upcoming quarter will involve:

- Reinforcing the capacity of the magistrates and justice employees;
- Starting the strategic and organizational audit of the Ministry of Justice and affiliated services;
- Supporting the Congolese Magistrates Union (syndicat des magistrates du Congo - SYNAMAC)

4. COORDINATION OF ACTIVITIES IN THE PROVINCES

Travel to Kindu and prospects for potential partners and activities

On February 16-20, a team composed of Abou Boucary Soule Adam, Parfait Moukoko, Cheick Samake, Victor Yenyi and Malwisa Fulgence traveled to Kindu to conduct an assessment of potential partners and activities in the province of Maniema. The team held meetings with provincial authorities and local civil society members to evaluate the province's needs in terms of technical and material assistance of the different institutions (Provincial Assembly, Provincial Government, as well as their respective staffs including the decentralization services, justice personnel, civil society and the media).

During the visit, the justice services and the provincial institutions received the BRDG DRC delegation with great enthusiasm. Nine priority projects were identified: four for the Assembly, three for the Government, and two for the justice sector.

4.1. LOCAL MECHANISMS TO ENHANCE INTERACTIONS BETWEEN THE PUBLIC AND THE PROVINCIAL AUTHORITIES (AUDIENCE PUBLIQUES OR PUBLIC FORUMS)

During this quarter, BRDG DRC organized six mechanisms of local interaction between the provincial authorities and citizens on themes of local and/or provincial interest in the North Kivu and Bandundu Provinces. CRD staff, in collaboration with the Provincial Governments and civil society organizations, initiated these public forums (audiences publiques).

The following is a summary of these public forums:

In North Kivu:

- In collaboration with the Network for Citizens Actions for Democracy (RACID-Reseau d'Actions Citoyennes pour la Democratie), BRDG DRC organized "Refugees return to the territories of North Kivu and land tenure issues" on February 17. Mrs. Ines MUKAMURENZI, member of the Amani program, Mrs. Petia VANGELOVA, representative of the HCR, and Mr. Kafumba Maheshe, Provincial Administration Director of the Provincial Assembly all spoke at the event;
- On February 22, KAYISAVERA Mbake, Parliamentary Administrator (Questeur), served as the speaker at the "Passage of the 2009 Budget and Dealing with the Expectations of the North Kivu pPopulation." The NGO "Jeunes pour la Non Hypotheque du Congo" (Youths for not mortgaging the Congo) organized this encounter; and

- “The Problem with Cross-Border Prostitution and the AIDS Pandemic in the City of Goma Impact on the Local Youth” presented by the Provincial Health Minister, Dr. MBALUTWIRANDI Kinywa.

In Bandundu:

- On January 23, the CRD screened the documentary “jeunesse l’avenir entre tes mains”, a film directed by Arice SIAPA. The Principal Advisor of the Provincial Youth Minister and 52 others (7 women and 45 men), including many young inhabitants of Bandundu and members of civil society involved in youth-oriented activities, viewed the documentary. Resulting recommendations made to the Provincial Youth Ministry included putting into place a structure to supervise adolescents with the objective of alleviating idleness and lack of initiative encouraging youths to be responsible for themselves and installing a permanent framework for collaboration between local authorities and youth organizations in the province.
- On January 27, the CRD staff held a Public Forum on the “Place, Role and Importance of the DSCR (Poverty Reduction Strategy Document) in the Development of the Bandundu Province”. Mr. Fredrick KITOKO LOMY, the Provincial Division Chief of Planning, and Coordinator of the Steering Committee of the Bandundu Provincial DSCR moderated the forum. The Parliamentary Administrator (questeur), the Provincial Minister of Agriculture, Fisheries, and Animal Husbandry, the Provincial Credit Manager, the Bandundu Deputy Mayor, the Burgomaster (Bourgmestre) of the commune of Basoko, several Provincial Deputies, and the General Prosecutor for the Court of Appeals attended the forum. Many local citizens and civil society members also contributed. The participants formulated many recommendations, and designated a follow-up committee.
- “Current status and future prospects for the education sector for the province of Bandundu” was organized on February 20, featuring as principal speaker, the Provincial Minister for Education, Health and Foresight (l’Education, la Sante’ et de la Prevoyance Social), Mr. Philippe AKAMITUNA. Both the Vice President of the Provincial Assembly and several Provincial staff members for primary, secondary and professional education attended.

4.2. SUPPORT FOR THE INSTALLATION OF MECHANISMS WHICH ASSIST IN THE IMPLEMENTATION OF REFORMS

In the North Kivu and Bandundu Provinces, BRDG DRC developed initiatives and tools to aid stakeholders in fostering both decentralization as well as general political reform. The targeted objective is to put into place a local pool of experts capable of adopting reforms and multiplying this reform training at the territorial level and at the level of the decentralized territorial entities (ETDs). This support inserts itself into the framework of taking charge of reform at the grassroots level. In North Kivu, CRD staff identified experts among the upper echelon employees in the Interior Ministry.

4.3. ACCESS TO THE CRD RESOURCES AND SERVICES

During the first quarter of 2009, 2,872 individuals (including 522 women), representing Provincial institutions, services, and civil society, visited the CRDs in Bandundu and North Kivu. Internet access

totaled 41%, versus 59% who visited the libraries. The distribution of visitors between the two provinces of Bandundu and North Kivu was 52% and 48% respectively.

4.4. FOLLOW-UP TRAVEL

The team used follow-up travel to achieve two primary objectives: overseeing CRD personnel, and providing additional technical support at the Provincial Assembly level. It was critical to have in-person oversight of CRD personnel in order to:

- Provide strategic orientation for the Governance Advisors to assist them in the preparations of specific terms of reference for three local mechanisms (public forums);
 - Follow-up on and oversee the Goma and Bandundu CRD personnel as they formed themes and scheduled public forums (audiences publiques) during the first quarter of 2009; and
 - Introduce the concept of utilizing the workplan as a basic tool for program management and for the submission of timely periodic reports.
- Preparation and implementation of technical support provided to the Katanga Provincial Assembly, which included encouraging and assisting the initiative of the production of draft edicts. The objective of this mission was to collect ideas on draft edicts from Assembly members, determine if the proposed edict subjects were actually within the responsibilities of the Provincial Assembly and later to create a group of local experts to examine those ideas selected and transform them into draft edicts for submission to the Provincial Assembly.

4.5. DIFFICULTIES ENCOUNTERED

- During the early stages of the quarter, the restriction on the utilization of Congolese commercial flights had an enormous negative influence on activity planning, which had to adhere to the Air Serv schedule. USAID lifted this restriction near the end of March, which was a welcome change.
- Transport difficulties in Bandundu influenced the rapid mobility of the CRD team and limited professional contacts with partners throughout the province. Fortunately, the Embassy administrative office completed procedures for the exoneration and registration of the Bandundu CRD program vehicle, which will be at the staff's disposal in April.

4.6. OPPORTUNITIES AND PROSPECTS

The BRDG DRC team anticipates the following opportunities for program implementation during the coming quarter:

- Two training sessions on accounting and budget procedures targeting the members and technical staff of the Kindu Provincial Government and Assembly;
- Two training sessions on decentralization and “deconcentration” targeting members and staff of the North Kivu “services deconcentres”;
- One workshop on edict preparation techniques targeting members and technical staff of the Provincial Assembly and members and staff of the Provincial Government of Maniema;
- One workshop on team building targeting members of the North Kivu Provincial Assembly;
- Two training sessions targeting magistrates in Bandundu and North Kivu, and;

- Travel to South Kivu and material assistance targeting the provincial Assembly in Bukavu.

5. SUPPORT FOR THE AMANI PROJECT

Willet Weeks, STTA in charge of reporting on the Amani process arrived in Goma on January 19 left on April 1. During this period, he submitted periodic reports on the signature and subsequent implementation of the peace agreement between the CNDP and the government and related security sector issues in the Kivus.

6. STAFFING AND MANAGEMENT INPUT

Overview

During the first quarter of 2009, the BRDG DRC team focused on planning and implementing the approved training modules in the provinces of Bandundu, North Kivu, Katanga, and Maniema. Mr. Fulgence Mawisa Mukiele joined the staff as Program Assistant – STTA. Pending approval of the outstanding budget request, Mr. Mawisa will fulfil this capacity as a permanent member of the staff during the next quarter. The project continues to wait on approval of the budget modification, which was originally submitted on December 9, 2008. Discussion with the CTO led to a revised submission on February 6, 2009.

6.1. CONTRACTUAL AND CTO NOTES

- As noted above, the BRDG DRC project awaits USAID’s decision on the budget realignment that was originally submitted in 2008, and resubmitted during this quarter on February 6, 2009 after a discussion with the CTO on January 23, 2009. Approval or disapproval of this budget greatly affects the project’s activities, mostly notably the recruitment and hiring of a Rule of Law Advisor who will assist with the justice sector audit, and the Amani Program activities specified in Contract Mod 01, which increased the program’s scope of work, but did not provide additional funding.
- During this quarter, the project was notified that a new Acting Contracting Officer (CO), Mr. Bruce McFarland, had been placed in charge of BRDG DRC. Mr. McFarland’s interpretation of the contract’s regulations differed dramatically from the project’s previous CO, Ms. Lauralea Gilpin, resulting in two changes:
 - Rate approval is only required for individuals whose daily rate exceeds the approved U.S. Embassy’s Foreign Service National (FSN) Scale.
 - Technical approval was delegated back to the project CTO.

6.2. STAFFING

The Kinshasa office of the BRDG DRC program is fully staffed, although additional positions are pending approval with the budget modification. As mentioned in the Overview, Mr. Mawisa has joined the project as STTA, providing valuable new ideas and guidance on provincial planning activities. His transition to LTTA is dependent upon approval of the budget. The project has also begun the search for a Rule of Law Advisor (STTA) as Mr. Honoré Tougouri is no longer available. DAI would like to propose Ms. Esther Elkrieff for the position, although the project is unable to hire her without approval of the budget modification. The project is also awaiting technical and labor

category approval of Mr. William Perreault as Project Associate. Mr. Perreault will be replacing Clara Gelatt.

The following proposal positions are planned for next quarter:

- IEC Media Expert: Desire Molekela
- IEC Legal Expert: Odette Disu
- IEC Planning Advisor: Joseph-Laurent KULABAKWENDA TULENGI

BRDG DRC has encountered a problem with the approval of the IT Specialist (STTA) who was to set up the new project equipment. The technical and labor category approval request for Dejan Momirovic was sent to Mr. McFarland on February 20, 2009. The request was initiated prior to Mr. McFarland's clarification that such approvals should be granted by the CTO. On March 3, 2009, the Contracting Officer's office responded to say that the Fixed Burdened Daily Rate for Mr. Momirovic, who is considered an American expatriate and Mid Level IT Specialist per the terms of the BRDG Indefinite Quantity Contract (IQC), exceeded the maximum approved rate by the government (\$609.15).

On the same day, DAI responded to the message, explaining that the \$762 rate is stipulated in the T&M rate table (year 4) in section B.5(a)(1) "Labor Categories (US Expatriate Fixed Daily Rates)" under the IQC contract for a mid-level Information Technology position. Mr. McFarland responded to this message on March 4, 2009, citing AIDAR clause 752.7007, which states "Salaries for individual locally -hired personnel and other non-U.S. expatriates under this contract or any resulting subcontract must be in accordance with AIDAR 752.7007, Personnel Compensation (Aug 2004)."

On March 10, 2009, DAI acknowledged this message and noted again that Mr. Mormirovic is considered U.S. expatriate, not a TCN, CCN or any other non-U.S expatriate. Therefore, AIDAR 752.7007 which requires written approval from the M/OAA Director is not applicable. The next response DAI received on this issue from Mr. McFarland reads as follows:

"No kidding that your TCNs and FSNs also can't be paid above the CST. It's a contractual requirement for all your salaries. Read AIDAR 731.205-6(b) like I told you to. You need something from the Contracting Officer relaying the decision of the Director, M/OAA, or it is not an allowable cost. Nothing I can do to help you there – I'm not the IQC Contracting Officer. Without that approval, I can't accept that rate. That's final."

DAI then decided to pursue this issue with the IQC Contracting Officer, Joseph Lentini. The request for Technical and Labor Category approval was sent to Mr. Lentini on March 13, 2009. Mr. Lentini's response, received on March 31, 2009, is as follows:

"In short, I'm not clear what's happening here. Is this for a TCN or U.S. consultant (using the FDRs)? Is the proposed \$762 rate from the FDR table in the IQC? If so, I'm not clear why the field CO is referencing the maximum salary threshold since the FDRs are loaded rates. The Contractor Salary Threshold (CST) only applies to proposed salaries (not loaded FDRs). With FDR IQCs, the only time CST comes into play is for proposed CCNs/TCNs since their salaries are negotiated and then applied to the local multiplier.

Further, I'm not clear why my involvement would be needed either way. If this is for a TCN (with a proposed "salary" of \$762), the field CO and COTR would need to work directly with the OAA Policy and the OAA Director to get a CST memo approved. I don't send those forward for field task orders, nor is my involvement required in any way under ADS 302.

This appears to be a simple misunderstanding.”

This issue is still unresolved as of the end of this quarter.

6.3. CRD OPERATIONS MANAGEMENT

- **CRD Bandundu:** The Bandundu CRD has continued to play a pivotal role in the implementation of training activities with the Provincial Assembly and Provincial Government. The “Audience Publiques” which allow discussion between government, civil society, media and other interested individuals, are continuing with positive attendance and discussion. The license plate for the CRD vehicle was received this quarter, and the car was shipped to Goma in North Kivu.
- **CRD North Kivu:** As the violence in Goma has subsided since the last quarter, activities have increased. Similar to the Bandundu CRD, the North Kivu team is focused on coordinating the approved training sessions with the Provincial Government and Provincial Assembly. The project vehicle was shipped and received this quarter. **CRD Katanga:** The Katanga CRD will be operating at a smaller scale, relative to Bandundu and North Kivu. As the Katanga Provincial Assembly and Provincial Government have not been as engaged in the idea of Direct Assistance, it was decided, in discussion with the CTO, to open a smaller CRD in Katanga for logistical assistance and coordination efforts. The project is in discussion with the CTO about the possibility of using the extra funds to open a fourth CRD in Maniema.

6.4. CHALLENGES AND OBSTACLES

- Travel obstacles remain a constant challenge. AirServ has cancelled the Kinshasa-Goma flight, due to lack of funding, which leaves MONUC flights as the only option for air travel. BRDG DRC has found that scheduling in advance and noting changes or cancellations in a timely manner is the best route to ensure a positive relationship with MONUC.
- BRDG DRC is prohibited from paying a salary to government functionaries. However, most of the desirable and available trainers in the areas of decentralization, budgeting and accounting, edict development, etc. work for the government of the DRC in some capacity. To date, many of these trainers have agreed to work for the project without a salary for the good of their country. Unfortunately, these same trainers are less willing to do this as the project continues. Recruiting trainers will likely be problematic in the next quarter. The COP and DCOP are currently looking for available, competent trainers.
- Scheduling problems continue to require a constant level of flexibility in order to meet partner demands. Changes in scheduling often affect the budget, thus requiring BRDG DRC to submit modifications to approved Direct Assistance. Although sometimes unavoidable, daily communication with the CRDs has proved to be the most effective route for preventing the need for numerous modifications.
- BRDG DRC has purchased four new project vehicles. One has been retained for operations in Kinshasa, one has been sent to North Kivu, and the other two await license plates, which have been held up due to complications over the customs exoneration. The project will continue to follow-up, and expects this to be resolved by April 2009.

- The delay between approval request submission and receipt of approval has continued to slow or block the project. Namely, the delay on the IT Specialist has rendered this STTA useless as the proposed individual is no longer available. Additionally, the project runs the risk of losing Esther Elkrieff as the STTA Rule of Law Advisor due to the extreme delay on the budget modification. BRDG DRC consistently follows-up with USAID on these issues, and will continue to do so.