United Nations

Security Council

30 June 2010

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I. Introduction

1. In a letter dated 4 May 2010 (S/2010/187/Add.1), the President of the Security Council informed the Secretary-General of the Council’s intention to send a mission to the Democratic Republic of the Congo from 13 to 16 May 2010. The terms of reference of the mission are set out in annex I to the present report.

2. The Security Council mission met with the President of the Democratic Republic of the Congo, Joseph Kabila Kabange, at Inga, Bas-Congo Province. In Kinshasa, the mission met with the Prime Minister, Adolphe Muzito, and Government ministers, including the Vice-Prime Minister for the Interior and Security, the Minister of International and Regional Cooperation and the Minister of Justice. The mission met with the President of the Senate, Léon Kengo wa Dondo, and members of the Senate Bureau, as well as with the President of the National Assembly, Evariste Boshab, and representatives of political parties represented in the Parliament, including the parliamentary opposition. The mission also met with the President of the Independent Electoral Commission, Abbé Apollinaire Malu Malu; representatives of civil society organizations from Equateur, Orientale, North and South Kivu Provinces and of international non-governmental organizations; and senior staff of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), the United Nations country team and the World Bank. This was the Council’s eleventh mission to the Democratic Republic of the Congo.

II. Background and context

Recent developments

3. The Security Council mission to the Democratic Republic of the Congo took place in the wake of significant developments at the end of 2009 and in early 2010, described in detail in the report of the Secretary-General to the Council dated 30 March 2010 (S/2010/164). Those developments included continued MONUC-supported operations of the Armed Forces of the Democratic Republic of the Congo (FARDC) against the Forces démocratiques de libération du Rwanda (FDLR), with Operation Kimia II concluding at the end of December 2009 and Operation Amani Leo beginning in January 2010; continuing operations by FARDC, with MONUC support, against residual Congolese militias and the Lord’s Resistance Army (LRA)
in territories of Orientale Province in operations Iron Stone and Rudia II, respectively; and continued actions by FARDC and MONUC in response to violence against Congolese security forces by armed insurgents in Equateur Province, where conflict between the Enyele and Monzaya communities took on the character of an armed insurgency of disparate elements, allegedly led by a féticheur named Lebese Mongbama (also known as “Udjani”). Efforts to implement the 23 March 2009 agreements between the Government and armed groups, including the Congrès national pour la défense du peuple (CNDP), as well as developments in the institutions of the Government and Parliament and regional relations, were also covered in the Secretary-General’s report. Following the issuance of the report, military operations against FDLR in North and South Kivu continued to result in the surrender of FDLR elements. Those operations included unilateral FARDC actions as well as MONUC-supported operations jointly planned by FARDC and the Mission. FDLR reprisals against civilians also continued, and human rights violations by elements of the Congolese security forces and FDLR continued to be reported. Eight workers of the International Committee of the Red Cross were kidnapped by members of the Mayi-Mayi Yakutumba in Fizi territory on 9 April and released on 15 April, while FARDC operations against that Congolese armed group continued. There has been little progress on the implementation of the 23 March 2009 agreements owing to disagreement between the Government and CNDP and among CNDP and other armed groups. In April, CNDP expressed concern that the Government had failed to appoint CNDP officials to national-level posts or to reappoint former CNDP territorial administrators.

4. With regard to the violence that erupted in Equateur late in 2009 following the issuance of the Secretary-General’s report of 30 March, on 4 and 5 April an estimated 100 armed elements attacked Mbandaka, including the Governor’s residence and the airport. In the course of the attack, three people associated with MONUC, a Ghanaian peacekeeper and two civilian contractors, were killed. In addition, the Government reported that 21 Enyele insurgents, 7 FARDC soldiers, 4 officers of the National Police, and 2 civilians were killed. Coordinated operations by FARDC and MONUC succeeded in retaking the airport and restoring order by 6 April, and FARDC continued operations against armed elements in the zone. In the wake of the attack, undisciplined elements of FARDC damaged and looted MONUC equipment and facilities at the airport. On 18 May, the military garrison tribunal in Mbandaka sentenced to death 13 individuals convicted of insurrection. Another 18 were sentenced to 5 to 20 years of imprisonment and 4 were acquitted.

5. MONUC has slightly reinforced and redeployed its forces in Equateur. Some 110 MONUC troops have been redeployed from Gemena to Mbandaka, with Egyptian Special Forces replacing Guatemalan troops, who have returned to Orientale Province. Thirty Ghanaian peacekeepers were deployed to Gbadolite, in northern Equateur, to reassure the population in the light of rumours about a possible armed attack by insurgents against the town. In Mbandaka, MONUC troops are coordinating patrols with FARDC. The FARDC 321st Commando battalion, which had been involved in earlier operations against armed elements following attacks in the area of Dongo, is now deployed at Mbandaka. Early in May, the Government announced that the alleged Enyele leader, “Udjani”, had been arrested by authorities in Congo together with some 40 supporters, and the two countries are said to be discussing their extradition to the Democratic Republic of the Congo.
6. In Orientale Province, following an investigation in Haut Uélé conducted from 27 to 29 April, the United Nations Joint Human Rights Office in the Democratic Republic of the Congo confirmed that LRA had massacred between 80 and 102 civilians on 22 April at Kpanga, following an even larger massacre perpetrated by the group in a wave of attacks in December 2009 that killed some 290 civilians.

7. There have also been significant developments with respect to the electoral process since the issuance of the Secretary-General’s report of 30 March. On 7 May, the National Assembly adopted draft legislation establishing the Independent National Electoral Commission, although the text diverged significantly from that proposed by the Senate. On 14 April, the President of the Independent Electoral Commission announced the electoral calendar. National elections are to be held on 4 September 2011, with a second round of presidential elections to be held on 4 December 2011, if necessary, together with elections for provincial deputies. Direct local elections will be postponed until 2012 and will be followed in 2013 by polls for indirectly elected officials. At a meeting of the Steering Committee on Elections on 11 May, the Independent Electoral Commission announced that it was seeking support from donors in the amount of $283 million to complete the 2010 update of the voter list as well as for general and local elections.

III. Key issues

Security and drawdown of MONUC

8. President Kabila provided the Security Council with an overview of the situation in the country, assessing the situation as calm. He emphasized that the security situation had significantly improved over the past 10 years. Only 3 of the 11 provinces were hot spots: North and South Kivu and Orientale Provinces. The President stated that FARDC would continue to need the support of MONUC in those provinces. The President noted that there had recently been problems in Equateur, but that the situation had been resolved. The President informed the members of the Council that the arrest of the alleged leader of the insurgency meant that he was no longer a threat. The Government’s priority was now to create conditions for the safe return of some 160,000 Congolese who had taken refuge in Congo. FARDC maintained a presence in the affected area and coordinated with MONUC.

9. The President noted that military offensives had been undertaken by FARDC in the Kivus, with the support of MONUC, to address the presence of FDLR. He noted also that his Government had introduced an innovative approach in dealing with FDLR: attempting to relocate them in other regions of the country. Military operations were continuing in order to persuade them to leave the east for other areas. He told the members of the Security Council that joint military operations between the Democratic Republic of the Congo, Uganda and Southern Sudan in Orientale Province had succeeded in compelling LRA to leave the region. He noted, however, that the LRA leader, Joseph Kony, had been in or near the Central African Republic ever since, wreaking havoc on civilians in border areas of the Democratic Republic of the Congo and the Sudan. He added that the group was still responsible for looting, rapes and massacres in the area north of Dungu, and that the Government and MONUC had deployed units in the area. He noted that there were significant humanitarian needs and that populations were still fleeing areas where
fighting was ongoing, citing the more than 100,000 refugees from the Democratic Republic of the Congo who were in neighbouring Congo. He also pointed to the humanitarian needs of displaced populations in North and South Kivu and Orientale Provinces. It was clear that humanitarian assistance was still needed.

10. President Kabila recalled his discussions with the Under-Secretary-General for Peacekeeping Operations in March, during the visit of the Technical Assessment Mission, led by the Department of Peacekeeping Operations. He noted the outcome of the joint working group, composed of representatives designated by the President and by the Department and MONUC, in which areas of agreement had been identified on certain aspects of the reconfiguration of MONUC and the redeployment of its units. The prospect of withdrawing up to 2,000 MONUC troops from the western part of the country by June 2010, the fiftieth anniversary of the independence of the country, had been discussed. He noted that a proposal had been made for the establishment of a mechanism for evaluating security conditions on the ground to guide the drawdown of MONUC troops.

11. President Kabila acknowledged that some regions of the country continued to face insecurity but stressed that the Government, with the assistance of the United Nations, was gradually building up its capacity to address those threats. He also stressed that he was not calling for a hasty withdrawal of MONUC. Rather, in order to better prepare for the drawdown, his Government and MONUC would conduct joint reviews of the security situation in areas from which MONUC would eventually withdraw its military component.

12. Prime Minister Muzito told members of the Security Council that his Government was supportive of the reconfiguration of the MONUC mandate. In his view, it had been agreed that MONUC would transition from a peacekeeping mission to an integrated mission with emphasis on stabilization and peace consolidation, with a new geographical scope and a new division of labour, including the handover to United Nations agencies of certain tasks currently performed by MONUC. The Prime Minister indicated that his Government was not opposed to the change in the name of the Mission to better reflect the focus on stabilization. In addition, he indicated that his Government wished to see the reconfigured Mission build the capacity of the national police and FARDC in reinforcing its capacities to protect civilians and further increase peace dividends through assistance for the extension of State authority.

13. The Prime Minister stated that the withdrawal of MONUC was a given both for his Government and for the Security Council — and so, in his view, should be the withdrawal of 2,000 peacekeepers by 30 June 2010 from areas declared safe by the Government.

14. The President of the National Assembly, Evariste Boshab, largely echoed the approach outlined by Prime Minister Muzito on the drawdown and withdrawal of the MONUC military, as well as on the redefinition of the Mission’s mandate. He told the Security Council mission that a progressive drawdown should be envisaged, to be conducted over 18 months, beginning in June 2010. However, François Mwamba, speaking for the opposition in the National Assembly, told the Council that his party, the Mouvement pour la libération du Congo, favoured maintaining the Mission’s current mandate and configuration until the end of the upcoming electoral cycle in 2012.
15. The perspective of the President of the Senate, Léon Kengo wa Dondo, differed significantly from that of the Government on a number of points. He provided the members of the Security Council with an overview of the situation, emphasizing that the armed forces, the police and the judiciary still lacked what they needed in order to perform their respective functions. In his view, discussions regarding the withdrawal of the MONUC military component were premature. He recommended that the drawdown be linked to a quantifiable reduction in security risks, not only in the east, but throughout the territory of the Democratic Republic of the Congo. He highlighted the threats to the civilian population in Orientale Province and the atrocities committed by LRA.

16. The Council met with representatives of several international humanitarian non-governmental organizations who deplored the continued violence and human rights violations committed against civilians by both FDLR and FARDC. They cited the continued displacement of populations and reprisals due to military operations and argued that there was no military solution to the problem of FDLR. They advocated achieving clear and measurable benchmarks before MONUC reduces and eventually withdraws its military component. They recommended that the drawdown be guided by a proven reduction in the human rights violations committed by FARDC and a concomitant increase in the number of investigations and prosecutions of and sentences for the perpetrators of human rights violations; a higher percentage of armed groups integrated into FARDC, disarmed or repatriated to their countries of origin; and an increase in the number of returns of refugees and internally displaced persons to their areas of origin.

17. In a separate meeting, representatives of Congolese civil society organizations from several provinces, including the Kivus, Orientale and Equateur, argued that MONUC should focus on peace consolidation by supporting stabilization programmes such as the Government’s Stabilization and Reduction Plan, as well as on logistical support and training for FARDC and on ensuring the successful conduct of elections by providing logistical support, police training and security. They emphasized the link between human rights and security and the need for the assistance of the international community for the reform of FARDC and the extension of State authority. In their view, the presence of MONUC would still be required at least into 2012 in order to help stabilize areas where armed groups were still operating and to support security sector reform and the organization of the 2011-2012 elections. They favoured the idea of a joint Government/MONUC mechanism to guide the drawdown, but expressed the view that civil society should also have a role to play in this regard. They highlighted the gap between expectations — the enormous hope of the population for rapid, effective action by MONUC in terms of civilian protection — and what they perceived as lack of action on the part of MONUC, despite the Mission’s extensive means.

**Security sector reform**

18. President Kabila noted that, despite many years of discussion, efforts aimed at security sector reform had not produced the desired results. He noted that his country had placed its confidence in the international community, which, along with the Government, had underestimated the cost and efforts such a process requires. His Government had developed a plan that had been approved by the High Defence Council and awaited the adoption of legislation that would accelerate the process.
The door was still open for bilateral partners to assist in meeting the needs identified by the Government.

19. With regard to the police, President Kabila recalled the details of his meeting, on 3 March, with the Under-Secretary-General for Peacekeeping Operations, notably the request for MONUC to train, equip and deploy 20 police battalions, instead of the 20,000 military troops initially envisaged by MONUC, and to equip three military police battalions, to be trained by Congolese trainers. The President indicated that his Government had yet to receive a clear response from the United Nations.

20. For his part, Prime Minister Muzito stressed that security sector reform would be coordinated solely by the Government and indicated in this regard that the training and equipping of FARDC would continue through bilateral arrangements. He identified the tasks that MONUC could undertake in the context of a new mandate: (a) training 20 police battalions and providing the necessary equipment for their deployment; (b) equipping three military police battalions to be trained by Congolese trainers; and (c) supporting military operational courts by providing them with transport and communications equipment and reinforcing the capacity of their administration.

21. The Minister of Justice called for greater engagement on the part of the international community for the reform of the justice system. He highlighted the Government’s support for transitional justice, and viewed the cooperation with the International Criminal Court as an example in this regard. He also pointed to the support provided by the Government to the High Council of Judicature for the recruitment of some 2,000 new magistrates over the next two years as an example of recent attempts to implement the reform of the judiciary.

22. The President of the Senate focused on the major reforms yet to be accomplished and the capacities needed to ensure that the Democratic Republic of the Congo was able to exercise its sovereignty, extend State authority and preserve security and stability throughout its territory. He characterized FARDC as an “army of juxtaposition” and noted that benchmarks relating to the reform of the armed forces, the police and the judiciary had not been met. He advocated the development of national armed forces under a single command. Notwithstanding the development of a legal framework relating to security sector reform, he emphasized that developing professional armed forces and police was a long-term process in which the international community should invest substantially so as to ensure that, by the time MONUC withdrew, the Democratic Republic of the Congo would be capable of facing security challenges on its own.

Protection of civilians and neutralization of armed groups

23. Prime Minister Muzito called for MONUC to continue supporting FARDC in addressing the presence of illegal armed groups, which, he stressed, represented the main threat against the civilian population. In his view, the robust and unconditional support of MONUC for FARDC represented an efficient means of protecting civilians. However, representatives of civil society urged the Security Council mission to call on the Government to address the protection of civilians, with respect for the rule of law and human rights and in the context of the fight against impunity. Representatives of international humanitarian non-governmental organizations, for their part, told the members of the Council that humanitarian
access to civilians in need had been seriously hampered by military operations and by increasing attacks against humanitarians. As a result, some 30 per cent of the population in need in North and South Kivu had been deprived of humanitarian assistance in 2009.

Sexual violence

24. The Prime Minister deplored the ongoing sexual violence, which he stressed was concentrated in conflict-affected areas. The Minister of Justice outlined various measures taken by the Government to address the issue, including a zero-tolerance policy, indicating that several trials had been held publicly and that operational military tribunals were passing severe sentences on perpetrators of sexual-violence-related crimes, including FARDC officers.

25. The Minister of Justice addressed the issue of the five senior FARDC officers who had been accused of serious crimes involving sexual violence and whose cases the Security Council had brought to the Government’s attention during its visit in 2009. He informed the mission that judicial proceedings had been initiated against three of the five, including General Jérôme Kakwavu, who had been arrested and was now being held in Kinshasa central prison. Trials in absentia were being considered for the other two officers, who had absconded.

Constitutional revision

26. The President of the National Assembly addressed the issue of the constitutional revision, emphasizing that it was neither excluded from discussion nor forbidden by the Constitution. In this regard, he indicated that the provision relating to the redefinition of provincial boundaries to create 26 provinces, which the Constitution had foreseen for 15 May 2010, would need to be amended owing to the lack of a minimum framework for the functioning of these new entities. However, he, the President of the Senate and the Prime Minister stressed that any constitutional review would be conducted in keeping with the letter and the spirit of the Constitution. The President of the Senate recalled in this regard that it was unconstitutional to revise certain provisions of the Constitution, including provisions relating to the nature of the political regime.

Elections

27. With regard to elections, President Kabila indicated that MONUC had a role to play, principally in the area of logistical support for the local elections in 2012. He acknowledged the Mission’s continuing work with the Independent Electoral Commission. In his view, there was no contradiction in calling for a withdrawal of the MONUC force by the end of 2011, as he did not believe that logistical support for the elections required the presence of 20,000 armed peacekeepers.

28. The Prime Minister assured the Security Council mission that, notwithstanding the withdrawal of the MONUC military component, the general elections would be free, fair and democratic and organized within the constitutional time frame. He confirmed that only MONUC logistical support would be required.

29. The head of the Independent Electoral Commission told the mission that MONUC logistical and technical support would be essential for the organization of the 2011-2012 electoral cycle. He recalled, in this regard, the partnership his
institutions had developed with MONUC and the United Nations Development Programme in successfully organizing the 2006 elections. In addition to MONUC assets, the Commission was seeking $283 million from the international community for the overall electoral budget, while the Government would contribute $418 million. The Commission believed that, given the successive organization of the presidential, parliamentary, gubernatorial and local elections, security risks would increase and MONUC support would also be needed to secure areas where the presence of the police would not be sufficient.

30. The head of the Independent Electoral Commission said that the inclusion of the local elections in the planning and budget process should increase the likelihood of their organization. He acknowledged that, given the number of candidates and constituencies involved, organizing the local elections would be a greater challenge than was the case in 2006. He stressed, however, that local elections, which are essential to the country’s decentralization process, would bring democracy closer to the population.

31. The President of the Senate cautioned that the 2011 electoral cycle would be significantly more complex than that of 2006, and called for heightened attention to security risks in the context of the local elections. He indicated that the legislative framework for the local elections would be adopted during the current parliamentary session, which would permit the definition of the constituencies for the local elections.

Regional relations

32. The Prime Minister expressed strong concern with regard to the situation in Southern Sudan in connection with the January 2011 self-determination referendum. The President of the National Assembly echoed that view, recalling the humanitarian crisis following the arrival of Rwandan refugees in 1994. They called on the Security Council to ensure that a flow of refugees from the Sudan would not jeopardize the ongoing consolidation efforts in the Democratic Republic of the Congo.

33. The President of the Senate noted that relations between the Democratic Republic of the Congo and its eastern neighbors had significantly improved, in particular in the context of regular meetings of parliamentarians of the Economic Community of the Great Lakes Countries. To further build on confidence-building measures adopted in the Great Lakes region, he called on the international community to assist the region in developing a force composed of Burundian, Rwandan and Congolese armed units tasked with patrolling the common borders of those countries.

34. On Angola, the President of the Senate noted that the dispute on the maritime boundary could strain the relations between the two countries. He called on the international community to assist the Democratic Republic of the Congo in resolving the matter in keeping with relevant international legal mechanisms. He also expressed concern about potential instability in the region as a result of the forthcoming referendum in the Sudan.
Annex I

Security Council mission to the Democratic Republic of the Congo (13 to 16 May 2010): terms of reference*

Led by Ambassador Gérard Araud (France)

A. Regional issues

The central objective of the Security Council mission to Africa in May 2010 is to discuss the mandate and configuration of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and the future of the United Nations presence in the Democratic Republic of the Congo. To this end, it will take this opportunity:

1. To recall the primary responsibility of the Security Council for the maintenance of international peace and security and commitment to the sovereignty, territorial integrity and political independence of all States in the Great Lakes region.

2. To express the strong support of the Security Council for the improvement of relations among the countries of the region and to encourage them to continue reinforcing cooperation in all fields, especially on political, economic and security issues, in order to guarantee the long-term stabilization of the Great Lakes region.

3. To reiterate support for the strengthening of the regional dynamic, including through the development, where appropriate, of economic projects of common interest and the implementation of appropriate steps to facilitate legal trade and put an end to illegal trafficking of natural resources, as means to consolidate peace and security.

4. To reiterate that all parties should contribute to stabilizing the eastern part of the Democratic Republic of the Congo, to encourage Rwandan and Congolese authorities to work together and agree on a clear set of end-of-state objectives on the Forces démocratiques de libération du Rwanda (FDLR), in the framework of a multidimensional approach, and to recall the importance of full implementation of relevant Security Council resolutions, including resolution 1896 (2009), as a means to stabilize the situation.

5. To emphasize the support of the Council for action against the Lord’s Resistance Army (LRA), to invite Governments in the region to develop a regional strategy to address the violations and abuses committed against civilians by LRA, taking into account existing regional mechanisms as well as the need to effectively protect the affected population, and to discuss the role of United Nations peacekeeping missions in the LRA-affected areas.

B. Democratic Republic of the Congo (specific elements)

6. To recognize the primary responsibility of the Government of the Democratic Republic of the Congo to consolidate peace and stability, to promote recovery and development in the country, to protect civilians, to develop sustainable security sector institutions and to express the continued support of the Council in this regard.

7. To reaffirm the commitment of the Security Council to MONUC and to discuss the future reconfiguration of MONUC, in particular the critical tasks that need to be accomplished before MONUC can envisage its drawdown without triggering a relapse into instability, taking into account the discussions of the Technical Assessment Mission with the Congolese authorities in March 2010.

8. To reiterate the continuing concerns of the Council about the protection of civilians, to discuss the implementation of Security Council resolution 1906 (2009), to address the situation of internally displaced civilians and to advocate for respect for human rights and international humanitarian law, and for the need to address sexual-violence and child-protection issues, bearing in mind the conclusions of the Security Council Working Group on children and armed conflict, to recall the importance of the fight against impunity, inter alia, by strengthening the capacity of the judicial and correctional systems and to reiterate its recognition of the interrelated nature of the effective protection of civilians, reduction and removal of the threat of armed groups, and comprehensive and sustainable security sector reform.

9. To review the progress and discuss with the Congolese authorities their plans for a comprehensive and sustainable reform of the security sector, in particular the implementation of the National Plan for the Reform of the Army as well as the action plans to reform the police and the National Action Plan for the Reform of the Justice System, and the role of the United Nations and wider international community in support of their implementation.

10. To obtain updates on operation Amani Leo and the cooperation between the Armed Forces of the Democratic Republic of the Congo (FARDC) and MONUC against armed groups, and to reaffirm that all military operations should be carried out in accordance with international humanitarian, human rights and refugee law, as set out in the mandate of MONUC.

11. To reiterate the support of the Council for the strengthening of democratic institutions, the rule of law, and good governance in the Democratic Republic of the Congo, including through the holding of elections.

12. To draw insights from the experience of MONUC that can inform the Council members on current and future peacekeeping operations.
Annex II


Follow-up Committee of the National Symposium on Civil Society
Ferdinand Mafolo, Vice-President of the Bureau
Me André Mwila, Member of the Bureau (thematic group on protection of human rights)
Me Sanduku Jo, Member of the Bureau (thematic group on security sector reform)

Human rights organizations
Floribert Chebeya, President, La Voix des Sans Voix
Georges Kapianga, Vice-President, Association Africaine de Défense des Droits de l’Homme
Albertine Likoke, President, Cadre Permanent de Concertation de la Femme Congolaise

Religious communities
Imam Moussa Rachidi, Imam, Islamic Community
Monseigneur Natalis Songo Vangu, First Vice-President, Église du Christ au Congo
L’Abbé Donatien, Deputy Secretary-General, Conférence Épiscopale Nationale du Congo

Orientale Province
Sambia Aruna, President, Association des Orpailleurs de Dungu
Deogratias Vale, Executive Secretary, Coordination du bureau de la société civile
René Sileki, Vice-President, Congo en Image

Équateur Province
Efeno Joseph, President, SOCITEC
Mongunza, Vice-President, SOCITEC

Goma
Jason Luneno, Coordinator, Société Civile Nord Kivu
Masumbuko Ngwassi, Vice-President, Société civile Nord Kivu UNIGOM
Edos Nziavake, Coordinator, Collectif des Associations des Femmes Pour le Développement
Bukavu
Bandeke Bisimwa Adolphe, Focal Point, Société Civile de Bukavu
Nanedigaba Karakubwa Bienvenu, Focal Point for Governance, Église du Christ au Congo
Yanda Bilolo Stella, Focal Point, Initiatives Alpha