

114TH CONGRESS
2D SESSION

H. RES. 780

Urging respect for the constitution of the Democratic Republic of the Congo
in the democratic transition of power in 2016.

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2016

Mr. SMITH of New Jersey (for himself, Ms. BASS, Mr. ROYCE, and Mr. ENGEL) submitted the following resolution; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Financial Services and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

RESOLUTION

Urging respect for the constitution of the Democratic Republic of the Congo in the democratic transition of power in 2016.

Whereas given its size, location, and diverse economy, the United States has deep interests in the democratic stability of the Democratic Republic of the Congo;

Whereas from 1996–2006, more than 3,000,000 people died in the Democratic Republic of the Congo (DRC) as a result of internal and regional wars, and significant violence persists in the Eastern Congo;

Whereas a root cause of these conflicts was the decay of the undemocratic and corrupt regime of President Mobutu Sese Seko;

Whereas in 2002 the United States, working with African and European partners, helped facilitate a Congo peace accord that included a democratic transition and free elections under a new constitution limiting the President to two terms by an unamendable provision and providing for the President of the Senate to assume power temporarily until elections can be held once a Presidential vacancy is declared;

Whereas in 2006 Joseph Kabila was elected President in what was widely viewed as a free and fair election, but many respected international observers concluded that his 2011 election “victory” was “not credible”;

Whereas President Kabila’s second term will end December 19, 2016, after which his government can no longer be considered the constitutionally legitimate representative of the Congolese people;

Whereas President Kabila has yet to declare unequivocally and publicly that he will step down at the end of his term, as required by the constitution, causing growing political tension, unrest and violence across the country;

Whereas during the summer of 2014, President Kabila tried unsuccessfully to persuade parliament to change the constitution to open the way for his continuation in power after his term expires on December 19, 2016, and subsequently attempted to pass a law requiring a multiyear census in advance of the Presidential election—an effort that was dropped in January 2015 after mass dem-

onstrations in which Kabila's security forces killed at least 42 people and arbitrarily jailed hundreds;

Whereas since January 2015, in further steps to undermine democratic processes and institutions, Congolese security and intelligence officials have clamped down on peaceful activists, political leaders and others who oppose President Kabila's effort to stay in power past his constitutionally mandated two-term limit;

Whereas since January 2015 President Kabila has continually used administrative and technical means to try to delay the Presidential election (including an overloaded, unfeasible multielection calendar, failure to pass timely election laws and release authorized election budgets, abruptly implementing the division of the country's provinces, and having his "Independent National Election Commission" recently declare that it will take 16 months to update the voter roll);

Whereas President Obama spoke with President Kabila on March 15, 2015, and "emphasized the importance of timely, credible, and peaceful elections that respect the DRC's constitution and protect the rights of all DRC citizens";

Whereas President Kabila is calling for a broad national dialogue that could be used to confuse the election issue and serve as yet another means of delaying the scheduled November elections;

Whereas international and domestic human rights groups continually report on the worsening of the situation with regard to human rights in the DRC, including the use of excessive force against peaceful demonstrators and an increase in politically motivated trials and whereas the

United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) has registered more than 260 human rights violations, mainly against political opponents, civil society and journalists during the past year;

Whereas the DRC retains a relatively vibrant civil society that is exerting pressure on the government, and is at risk of being stamped out due to government repression consistent with President Kabila's attempt to remain in power;

Whereas leaders of Congo's main opposition parties, non-governmental organizations and prodemocracy youth movements called on Congolese citizens to stay home from work and school on February 16, 2016, for "Ville Morte (Dead City Day)" largely to protest against delays in organizing Presidential elections; and whereas the strike was largely successful in major Congolese cities despite government detentions and threats;

Whereas, on March 10, 2016, the European Union Parliament adopted a resolution that urged the EU to "use all its diplomatic and economic tools" in favor of "compliance with the constitution of the DRC" and invited African Union member states to also become engaged in the effort to advance this goal; whereas the resolution also called upon the EU "to consider imposing targeted sanctions, including travel bans and asset freezes, so as to help prevent further violence"; and

Whereas, on March 30, 2016, the United Nations Security Council unanimously adopted Resolution 2277 expressing "deep concern" about "delays in the Presidential election" and "increased restriction of the political space in the DRC" and calling for "ensuring the successful and

timely holding” of Presidential and legislative elections “in accordance with the Constitution”: Now, therefore, be it

1 *Resolved*, That—

2 (1) under Executive Order 13413, as amended
3 by Executive Order 13671, in coordination to the
4 maximum extent possible with its African and Euro-
5 pean partners, the United States should impose
6 sanctions on government officials who impede
7 progress toward a peaceful democratic transition
8 through credible elections that respect the will of the
9 Congolese;

10 (2) sanctions should target core figures in the
11 government of President Kabila for visa denials and
12 for asset freezes because of actions that “undermine
13 democratic processes or institutions”;

14 (3) economic and security assistance provided
15 to the DRC government should be reviewed for pos-
16 sible termination, while preserving other, particularly
17 humanitarian, assistance through nongovernmental
18 and international organizations, and review future
19 international financial institution assistance to the
20 DRC until the election crisis is resolved;

21 (4) the President should lift sanctions only
22 when the President determines that—

1 (A) President Kabila has unequivocally
2 and publicly declared that, in accordance with
3 the constitution, he will not remain in power
4 once his term ends on December 19, 2016, has
5 made verifiable progress on the ground towards
6 holding timely free and fair national elections in
7 accordance with the constitution, and has de-
8 monstrably opened the necessary political space
9 for the opposition and civil society; or

10 (B) the DRC has held a free and fair Pres-
11 idential election as provided by the constitution
12 and a new President has been sworn in;

13 (5) if President Kabila's government meets the
14 condition specified in paragraph (4)(A), the United
15 States should join other donors in helping to support
16 election preparedness, including voter registration
17 and supporting a level playing field for campaign ac-
18 tivities by diverse political parties;

19 (6) the United States Government should sup-
20 port independent DRC civil society organizations
21 and media to more effectively monitor efforts to un-
22 dermine democracy and governance;

23 (7) the United States Government should use
24 authorities under subchapter II of chapter 53 of title
25 31, United States Code, chapter X of title 31, Code

1 of Federal Regulations, and the Patriot Act (18
2 U.S.C. 1956) to investigate and target money laun-
3 dering activities, specifically related to the diversion
4 of proceeds of corruption, by key figures close to
5 President Kabila;

6 (8) these authorities should be employed to tar-
7 get the financial institutions facilitating money laun-
8 dering by these figures as well as to pressure the ju-
9 risdictions in which they are located to monitor this
10 activity and take enforcement action as appropriate;
11 and

12 (9) the United States should coordinate these
13 efforts with key Western and African partners, in-
14 cluding through other financial intelligence units.

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