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**INTERNATIONAL COURT OF JUSTICE**

**ARMED ACTIVITIES ON THE TERRITORY OF THE CONGO  
(DEMOCRATIC REPUBLIC OF THE CONGO v. UGANDA)**

**SECOND PHASE**

**QUESTION OF REPARATION**

**REPLIES AND FURTHER EVIDENCE PROVIDED BY THE  
DEMOCRATIC REPUBLIC OF THE CONGO**

**VOLUME II**

**(Annexes 1.0.1-13.5)**

**26 October 2018**

*[Translation by the Registry]*

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**ANNEX 1.0.1**

**United Nations General Assembly resolution 40/34 of 29 November 1985, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power**

itation, even offenders who had been deemed dangerous at the time of their institutionalization can be conditionally released whenever feasible. Like probation, such release may be conditional on the satisfactory fulfilment of the requirements specified by the relevant authorities for a period of time established in the decision, for example relating to "good behaviour" of the offender, attendance in community programmes, residence in half-way houses, etc.

In the case of offenders conditionally released from an institution, assistance and supervision by a probation or other officer (particularly where probation has not yet been adopted) should be provided and community support should be encouraged.

29. *Semi-institutional arrangements*

- 29.1 Efforts shall be made to provide semi-institutional arrangements, such as half-way houses, educational homes, day-time training centres and other such appropriate arrangements that may assist juveniles in their proper reintegration into society.

*Commentary*

The importance of care following a period of institutionalization should not be underestimated. This rule emphasizes the necessity of forming a net of semi-institutional arrangements.

This rule also emphasizes the need for a diverse range of facilities and services designed to meet the different needs of young offenders re-entering the community and to provide guidance and structural support as an important step towards successful reintegration into society.

**Part six. Research, planning, policy formulation and evaluation**

30. *Research as a basis for planning, policy formulation and evaluation*

- 30.1 Efforts shall be made to organize and promote necessary research as a basis for effective planning and policy formulation.
- 30.2 Efforts shall be made to review and appraise periodically the trends, problems and causes of juvenile delinquency and crime as well as the varying particular needs of juveniles in custody.
- 30.3 Efforts shall be made to establish a regular evaluative research mechanism built into the system of juvenile justice administration and to collect and analyse relevant data and information for appropriate assessment and future improvement and reform of the administration.
- 30.4 The delivery of services in juvenile justice administration shall be systematically planned and implemented as an integral part of national development efforts.

*Commentary*

The utilization of research as a basis for an informed juvenile justice policy is widely acknowledged as an important mechanism for keeping practices abreast of advances in knowledge and the continuing development and improvement of the juvenile justice system. The mutual feedback between research and policy is especially important in juvenile justice. With rapid and often drastic changes in the life-styles of the young and in the forms and dimensions of juvenile crime, the societal and justice responses to juvenile crime and delinquency quickly become outmoded and inadequate.

Rule 30 thus establishes standards for integrating research into the process of policy formulation and application in juvenile justice administration. The rule draws particular attention to the need for regular review and evaluation of existing programmes and measures and for planning within the broader context of overall development objectives.

A constant appraisal of the needs of juveniles, as well as the trends and problems of delinquency, is a prerequisite for improving the methods of formulating appropriate policies and establishing adequate interventions, at both formal and informal levels. In this context, research by independent persons and bodies should be facilitated by responsible agencies, and it may be valuable to obtain and to take into account the views of juveniles themselves, not only those who come into contact with the system.

The process of planning must particularly emphasize a more effective and equitable system for the delivery of necessary services. Towards that end, there should be a comprehensive and regular assessment of the wide-ranging, particular needs and problems of juveniles and an identification of clear-cut priorities. In that connection, there should also be a co-ordination in the use of existing resources, including alternatives and community support that would be suitable in setting up specific procedures designed to implement and monitor established programmes.

**40/34. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power**

*The General Assembly.*

*Recalling* that the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders recommended that the United Nations should continue its present work on the development of guidelines and standards regarding abuse of economic and political power,<sup>36</sup>

*Cognizant* that millions of people throughout the world suffer harm as a result of crime and the abuse of power and that the rights of these victims have not been adequately recognized,

*Recognizing* that the victims of crime and the victims of abuse of power, and also frequently their families, witnesses and others who aid them, are unjustly subjected to loss, damage or injury and that they may, in addition, suffer hardship when assisting in the prosecution of offenders,

1. *Affirms* the necessity of adopting national and international measures in order to secure the universal and effective recognition of, and respect for, the rights of victims of crime and of abuse of power;

2. *Stresses* the need to promote progress by all States in their efforts to that end, without prejudice to the rights of suspects or offenders;

3. *Adopts* the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, annexed to the present resolution, which is designed to assist Governments and the international community in their efforts to secure justice and assistance for victims of crime and victims of abuse of power;

4. *Calls upon* Member States to take the necessary steps to give effect to the provisions contained in the Declaration and, in order to curtail victimization as referred to hereinafter, endeavour:

(a) To implement social, health, including mental health, educational, economic and specific crime prevention policies to reduce victimization and encourage assistance to victims in distress;

(b) To promote community efforts and public participation in crime prevention;

(c) To review periodically their existing legislation and practices in order to ensure responsiveness to changing circumstances, and to enact and enforce legislation proscribing acts that violate internationally recognized norms relating to human rights, corporate conduct and other abuses of power;

(d) To establish and strengthen the means of detecting, prosecuting and sentencing those guilty of crimes;

(e) To promote disclosure of relevant information to expose official and corporate conduct to public scrutiny, and other ways of increasing responsiveness to public concerns;

(f) To promote the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, medical, social service and military personnel, as well as the staff of economic enterprises;

(g) To prohibit practices and procedures conducive to abuse, such as secret places of detention and incommunicado detention;

(h) To co-operate with other States, through mutual judicial and administrative assistance, in such matters as the detection and pursuit of offenders, their extradition and the seizure of their assets, to be used for restitution to the victims;

5. *Recommends* that, at the international and regional levels, all appropriate measures should be taken:



(a) To promote training activities designed to foster adherence to United Nations standards and norms and to curtail possible abuses;

(b) To sponsor collaborative action-research on ways in which victimization can be reduced and victims aided, and to promote information exchanges on the most effective means of so doing;

(c) To render direct aid to requesting Governments designed to help them curtail victimization and alleviate the plight of victims;

(d) To develop ways and means of providing recourse for victims where national channels may be insufficient;

6. *Requests* the Secretary-General to invite Member States to report periodically to the General Assembly on the implementation of the Declaration, as well as on measures taken by them to this effect;

7. *Also requests* the Secretary-General to make use of the opportunities, which all relevant bodies and organizations within the United Nations system offer, to assist Member States, whenever necessary, in improving ways and means of protecting victims both at the national level and through international co-operation;

8. *Further requests* the Secretary-General to promote the objectives of the Declaration, in particular by ensuring its widest possible dissemination;

9. *Urges* the specialized agencies and other entities and bodies of the United Nations system, other relevant inter-governmental and non-governmental organizations and the public to co-operate in the implementation of the provisions of the Declaration.

*96th plenary meeting  
29 November 1985*

#### ANNEX

##### Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

###### A. *Victims of crime*

1. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

3. The provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

###### *Access to justice and fair treatment*

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

(a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where

serious crimes are involved and where they have requested such information;

(b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

(c) Providing proper assistance to victims throughout the legal process;

(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

7. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

###### *Restitution*

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

10. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.

11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence the State or Government successor in title should provide restitution to the victims.

###### *Compensation*

12. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:

(a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;

(b) The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.

13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including in those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

###### *Assistance*

14. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.

15. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.

16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.

17. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

###### B. *Victims of abuse of power*

18. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

19. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.

20. States should consider negotiating multilateral international treaties relating to victims, as defined in paragraph 18.

21. States should periodically review existing legislation and practices to ensure their responsiveness to changing circumstances, should enact and enforce, if necessary, legislation proscribing acts that constitute serious abuses of political or economic power, as well as promoting policies and mechanisms for the prevention of such acts, and should develop and make readily available appropriate rights and remedies for victims of such acts.

#### 40/35. Development of standards for the prevention of juvenile delinquency

*The General Assembly,*

*Recalling* resolution 4 adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Caracas from 25 August to 5 September 1980,<sup>63</sup> in which the Congress called for the elaboration of a set of standard minimum rules for the administration of juvenile justice and for the care of juveniles,

*Noting* that the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)<sup>76</sup> recommended by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan, Italy, from 26 August to 6 September 1985, are limited to the administration of juvenile justice and the assurance of legal guarantees in respect of young persons in conflict with the law,

*Mindful* of the need to develop national, regional and international strategies for the prevention of delinquency among the young,

*Recognizing* that the prevention of juvenile delinquency includes measures for the protection of juveniles who are abandoned, neglected, abused and in marginal circumstances and, in general, those who are at social risk,

*Recognizing further* the existence of a large number of young persons who are not in conflict with the law but who are at social risk,

*Acknowledging* that one of the basic aims of the prevention of juvenile delinquency is the provision of requisite assistance and a range of opportunities to meet the varying needs of the young, especially those who are most likely to commit crime or to be exposed to crime, and to serve as a supportive framework to safeguard their proper development,

1. *Takes note with appreciation* of the work undertaken by the United Nations regional institutes for the prevention of crime and the treatment of offenders and the regional commissions in the field of crime prevention;

2. *Also takes note with appreciation* of the working paper prepared by the Secretariat on youth, crime and justice;<sup>77</sup>

3. *Endorses* the recommendations contained in the report of the Interregional Preparatory Meeting for the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Beijing from 14 to 18 May 1984;<sup>78</sup>

4. *Requests* the Secretary-General and Member States to take the necessary steps to establish joint programmes in the field of juvenile justice and the prevention of juvenile delinquency with the United Nations Social Defence

Research Institute, the United Nations regional institutes for the prevention of crime and the treatment of offenders, the Arab Security Studies and Training Centre at Riyadh and other national and regional institutes, and with the assistance of regional commissions and national correspondents, which would include the following activities:

(a) To study the situation of juveniles at social risk and to examine the relevant policies and practices of prevention within the context of socio-economic development;

(b) To intensify efforts in training, research and advisory services for the prevention of juvenile delinquency;

5. *Invites* Member States to adopt distinct measures and systems appropriate to the interest of juveniles at social risk;

6. *Calls upon* the Economic and Social Council to request the Committee on Crime Prevention and Control, with the assistance of the United Nations institutes for the prevention of crime and the treatment of offenders, the regional commissions and the specialized agencies, to develop standards for the prevention of juvenile delinquency which would assist Member States in formulating and implementing specialized programmes and policies, emphasizing assistance and care and the active involvement of the community, and to report to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the progress achieved in the development of the proposed standards, for review and final action;

7. *Requests* that the prevention of delinquency among the young should be considered regularly by the Committee on Crime Prevention and Control and that it should be considered by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, under a separate agenda item;

8. *Urges* all relevant bodies within the United Nations system to collaborate with the Secretary-General in taking appropriate measures to ensure the implementation of the present resolution.

96th plenary meeting  
29 November 1985

#### 40/36. Domestic violence

*The General Assembly,*

*Recalling* Economic and Social Council resolution 1984/14 of 24 May 1984 on violence in the family,

*Recalling also* resolution 9 adopted by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in which the Congress called for the fair treatment of women by the criminal justice system,<sup>63</sup>

*Bearing in mind* the recommendations made on the subject of domestic violence by the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace,<sup>79</sup>

*Having regard* to the Declaration on the Rights of the Child,<sup>62</sup> in particular principle 9 concerning the protection of the child against exploitation, neglect and cruelty, and the Convention on the Elimination of All Forms of Discrimination against Women,<sup>75</sup>

*Mindful* of the important role of the family in ensuring the proper development of the young and their integration

<sup>76</sup> Resolution 40/33, annex.

<sup>77</sup> A/CONF.121/7.

<sup>78</sup> A/CONF.121/IPM/1, sect. 11.

<sup>79</sup> See *Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985* (United Nations publication, Sales No. E.85.IV.10), chap. I, sect. A.

**ANNEX 1.0.2**

**United Nations General Assembly resolution 60/147 of 16 December 2005, Basic Principles  
and Guidelines on the Right to a Remedy and Reparation for Victims of Gross  
Violations of International Human Rights Law and Serious Violations  
of International Humanitarian Law**



**GENERAL ASSEMBLY RESOLUTION 60/147**  
**(BASIC PRINCIPLES AND GUIDELINES ON THE RIGHT TO A REMEDY**  
**AND REPARATION FOR VICTIMS OF GROSS VIOLATIONS OF**  
**INTERNATIONAL HUMAN RIGHTS LAW AND SERIOUS VIOLATIONS OF**  
**INTERNATIONAL HUMANITARIAN LAW)**

The issue of basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights and humanitarian law was first raised in 1988 during the fortieth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in the context of its basic mandate to make recommendations to the Commission on Human Rights concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms. On 1 September 1988, the Sub-Commission adopted resolution 1988/11 in which it decided to discuss the matter of compensation at its forty-first session with a view to considering the possibility of developing some basic principles and guidelines in this respect (see Report of the Sub-Commission, E/CN.4/Sub.2/1988/45).

At its forty-first session, the Sub-Commission adopted resolution 1989/13 of 31 August 1989, by which it decided to entrust Mr. Theo van Boven, as Special Rapporteur, with the task of undertaking a study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, with a view to exploring the possibility of developing some basic principles and guidelines in this respect, and requested him to submit a preliminary report on the matter for consideration by the Sub-Commission at its forty-second session (see Report of the Sub-Commission, E/CN.4/Sub.2/1989/58 (E/CN.4/1990/2)). At its forty-sixth session, upon recommendation of the Sub-commission, the Commission on Human Rights adopted resolution 1990/35 of 2 March 1990, by which it recommended the Economic and Social Council to adopt a resolution authorizing the Sub-Commission to entrust Mr. van Boven with the abovementioned task and requesting the Secretary-General to provide him with all the assistance needed for this task (see report of the Commission on Human Rights, E/1990/22). The Economic and Social Council adopted resolution 1990/36 of 25 May 1990 to this effect.

At its forty-second session, the Sub-Commission considered the preliminary report submitted by the Special Rapporteur (E/CN.4/Sub.2/1990/10) and adopted resolution 1990/6 of 30 August 1990, by which it requested the Special Rapporteur to prepare a progress report for its forty-third session, taking into account comments made in the discussion on the preliminary report, as well as the relevant work and recommendations of the Committee on Crime Prevention and Control and relevant decisions of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and to undertake the necessary consultations with the United Nations Centre for Social Development and Humanitarian Affairs (see Report of the Sub-Commission, E/CN.4/Sub.2/1990/59 (E/CN.4/1991/2)).

The Special Rapporteur accordingly submitted his first progress report to the Sub-Commission on 25 July 1991, for its forty-third session (E/CN.4/Sub.2/1991/7). On 29 August 1991, the Sub-Commission adopted resolution 1991/25, by which it requested the Special Rapporteur to continue his study and to submit a second progress report containing additional information on and an analysis of relevant decisions and views of international human rights organs, as well as of national law and practice to the Sub-Commission, at its forty-fourth session, and a final report at its forty-fifth session (see Report of the Sub-Commission, E/CN.4/Sub.2/1991/65 (E/CN.4/1992/2)).

The Special Rapporteur submitted his second progress report to the Sub-Commission on 29 July 1992, for its forty-fourth session (E/CN.4/Sub.2/1992/8). On 27 August 1992, the Sub-Commission adopted resolution 1992/32, by which it requested the Special Rapporteur to continue his study and to submit to the Sub-Commission, at its forty-fifth session, a final report which should include a set of conclusions and recommendations aimed at developing basic principles and guidelines with respect to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms (see Report of the Sub-Commission, E/CN.4/Sub.2/1992/58 (E/CN.4/1993/2)).

The Special Rapporteur submitted his final report on 2 July 1993, at the forty-fifth session of the Sub-Commission (E/CN.4/Sub.2/1993/8). On 25 August 1993, the Sub-Commission adopted resolution 1993/29, by which it decided to transmit the study of the Special Rapporteur to the Commission on Human Rights. By the same resolution, the Sub-Commission decided to examine further, at its forty-sixth session, the proposed basic principles and guidelines included in the study and, for that purpose, to establish, if necessary, a sessional working group at that session with a view to adopting a body of such principles and guidelines, and it further requested the Secretary-General to invite governments and competent intergovernmental and non-governmental organizations to submit their comments on the proposed basic principles and guidelines (see Report of the Sub-Commission, E/CN.4/Sub.2/1993/45 (E/CN.4/1994/2) and Corr.1). At its fiftieth session, the Commission on Human Rights adopted resolution 1994/35 of 4 March 1994, in which it expressed its appreciation for the work of the Special Rapporteur and regarded the proposed basic principles and guidelines as a useful basis for addressing the question of restitution, compensation and rehabilitation for victims of gross violations of human rights. It therefore recommended that the Sub-Commission take measures to examine the proposed basic principles and guidelines with a view to making proposals thereon and report to the Commission (see Report of the Commission on Human Rights, E/CN.4/1994/132 (E/1994/24)).

At the forty-sixth session of the Sub-Commission, held from 1 to 26 August 1994 in Geneva, a Sessional Working Group on the Administration of Justice and the Question of Compensation was established to examine further the proposed basic principles and guidelines in accordance with resolution 1993/29 of the Sub-Commission. On 26 August 1994, the Sub-Commission adopted resolution 1994/33, by which, after noting the report of the Secretary-General prepared pursuant to Sub-Commission resolution 1993/29 (E/CN.4/Sub.2/1994/7 and Add.1) and the report of the sessional working group (E/CN.4/Sub.2/1994/22), it decided to continue the consideration of the proposed basic principles and guidelines at its forty-seventh session (see Report of the Sub-Commission, E/CN.4/Sub.2/1994/56). On 3 March 1995, the Commission on Human Rights, at its fifty-first session, adopted resolution 1995/34, in which it encouraged the Sub-Commission to continue to give consideration to the proposed basic principles and guidelines, requested States to provide information about relevant national legislation to the Secretary-General and requested the Secretary-General to submit a report to the Commission on this subject at its fifty-second session (Report of the Commission on Human Rights, E/CN.4/1995/176 (E/1995/23)).

The Working Group continued its consideration of the proposed basic principles and guidelines at the forty-seventh session of the Sub-Commission, which was held in Geneva from 31 July to 25 August 1995. On 24 August 1995, the Sub-Commission adopted decision 1995/117 (see Report of the Sub-Commission, E/CN.4/Sub.2/1995/51 (E/CN.4/1996/2)), by which it decided to request the Working Group to continue the consideration of the proposed basic principles and guidelines, with priority, at the next session and requested the former Special Rapporteur to submit a revised set of proposed basic principles and guidelines, taking into account the new comments received from States and intergovernmental and non-governmental

organizations (see Report of the Secretary-General E/CN.4/Sub.2/1995/17 Add.1 and Add.2) and the discussions on the matter in the Working Group (see Report of the Working Group, E/CN.4/Sub.2/1995/16). On 19 April 1996, the Commission on Human Rights, at its fifty-second session, adopted resolution 1996/35, by which, taking note of the report of the Secretary-General submitted to the Commission in compliance with its resolution 1995/34 (E/CN.4/1996/29), it requested States that had not yet done so to submit information in accordance with that resolution, and requested the Secretary-General to prepare an additional report, taking into account the information provided by States (see Report of the Commission on Human Rights, E/CN.4/1996/177 (E/1996/23)).

As requested by the Sub-Commission in its decision 1995/117 of 24 August 1995, the former Special Rapporteur submitted a revised text of the basic principles and guidelines to the Sub-Commission at its forty-eighth session (E/CN.4/Sub.2/1996/17). On 29 August 1996, the Sub-Commission adopted resolution 1996/28, by which it expressed its appreciation to the former Special Rapporteur and decided to transmit the revised draft to the Commission on Human Rights, together with its comments and the comments of the Working Group (E/CN.4/Sub.2/1996/16). By the same resolution, the Sub-Commission requested the former Special Rapporteur to prepare a note taking into account the comments and observations of the Working Group and the Sub-Commission in order to facilitate the examination by the Commission on Human Rights of the revised draft basic principles and guidelines (see Report of the Sub-Commission, E/CN.4/Sub.2/1996/41 (E/CN.4/1997/2)).

On 13 January 1997, the former Special Rapporteur accordingly submitted a note to the Sub-Commission, together with an adapted version of the draft revised basic principles and guidelines (E/CN.4/1997/104, annex). On 11 April 1997, at its fifty-third session, the Commission on Human Rights adopted resolution 1997/29, by which it invited the Secretary-General to request all States to submit their views and comments on the note and revised draft basic principles and guidelines and to prepare a report setting out such views and comments (see Report of the Commission on Human Rights, E/1997/23).

At its fifty-fourth session, the Commission on Human Rights adopted resolution 1998/43 of 17 April 1998 by which it took note of the report of the Secretary-General (E/CN.4/1998/34) submitted pursuant to the abovementioned resolution and, with the approval of the Economic and Social Council (see Economic and Social Council resolution 1998/256 of 30 July 1998), requested the Chairman of the Commission to appoint an independent expert to prepare a revised version of the basic principles and guidelines, taking into account the views of and comments provided by States and intergovernmental and non-governmental organizations, and to submit it to the Commission at its fifty-fifth session, with a view to its adoption by the General Assembly. By the same resolution, the Commission continued to request the Secretary-General to invite States that had not yet done so, as well as intergovernmental and non-governmental organizations, to submit their views and comments as soon as possible, and by no later than 31 October 1989, and to make that information available to the independent expert (see Report of the Commission on Human Rights, E/1998/23).

The independent expert appointed by the Commission on Human Rights, Mr. M. Cherif Bassiouni, submitted his first report to the Commission in February 1999, at its fifty-fifth session (E/CN.4/1999/65). On 26 April 1999, the Commission on Human Rights adopted resolution 1999/33, by which it requested him to complete his work and to submit to the Commission at its fifty-sixth session, in accordance with its resolution 1998/43, a revised version of the basic principles and guidelines (see Report of the Commission on Human Rights, E/1999/23).

The independent expert submitted his final report to the Commission on Human Rights (E/CN.4/2000/62) in January 2000, at its fifty-sixth session. On 20 April 2000, the Commission adopted resolution 2000/41, by which it requested the Secretary-General to circulate to all Member States the draft text of the “Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law”, annexed to the final report of the independent expert, and to request that they send their comments thereon to the Office of the United Nations High Commissioner for Human Rights. The Commission further requested the High Commissioner for Human Rights to hold a consultative meeting for all interested States, intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council, in order to finalize the basic principles and guidelines on the basis of the comments submitted, and to transmit to the Commission, at its fifty-seventh session, the final outcome of this meeting (see Report of the Commission on Human Rights, E/2000/23).

By note verbale of 31 August 2000, the Secretary-General invited all Member States to submit their comments on the basic principles and guidelines. However, as at 20 November 2000, replies had been received from only six Member States (see E/CN.4/2001/61). At its fifty-seventh session, the Commission on Human Rights therefore adopted decision 2001/105 of 23 April 2001, by which it requested again the High Commissioner for Human Rights to hold a consultative meeting in order to finalize the basic principles and guidelines and to transmit the final outcome of the consultative meeting to the Commission for consideration at its fifty-eighth session (see Report of the Commission on Human Rights, E/2001/23). On 24 July 2001, the Economic and Social Council adopted decision 2001/279, by which it endorsed the decision of the Commission on Human Rights.

At its fifty-eighth session, the Commission on Human Rights adopted resolution 2002/44 of 23 April 2002 by which it made an identical request (see Report of the Commission on Human Rights, E/2002/23).

The requested consultative meeting on the draft Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law took place on 30 September and 1 October 2002 in Geneva, and the report of the Chairperson-Rapporteur, Mr. Alejandro Salinas, was transmitted by the High Commissioner to the Commission on Human Rights on 27 December 2002 (E/CN.4/2003/63). On 23 April 2003, at its fifty-ninth session, the Commission on Human Rights adopted resolution 2003/34, by which it requested the Chairman-Rapporteur of the consultative meeting, in consultation with the independent experts, Messrs. van Boven and Bassiouni, to prepare a revised version of the “Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law”, taking into account the opinions and comments of States and of intergovernmental and non-governmental organizations and the results of the consultative meeting. The Commission further requested the High Commissioner for Human Rights to hold a second consultative meeting, with a view to finalizing the basic principles and guidelines, encouraged the Chairman-Rapporteur of the first consultative meeting to conduct informal consultations with all interested parties, and requested the High Commissioner for Human Rights to transmit to the Commission at its sixtieth session the final outcome of the second consultative meeting (see Report of the Commission on Human Rights, E/2003/23).

The second consultative meeting took place on 20, 21 and 23 October 2003 in Geneva and the report of the Chairperson-Rapporteur of the consultative meeting (E/CN.4/2004/57, annex) was transmitted by the High Commissioner for Human Rights to the Commission on Human Rights, at its sixtieth session. On 19 April 2004, the Commission on Human Rights adopted resolution 2004/34, by which it requested

the Chairman-Rapporteur, in consultation with the independent experts, to prepare a further revised version of the basic principles and guidelines. It further requested the High Commissioner for Human Rights to hold a third consultative meeting and to transmit to the Commission on Human Rights, at its sixty-first session, the outcome of the consultative process (see Report of the Commission on Human Rights, E/2004/23). On 22 July 2004, the Economic and Social Council adopted decision 2004/257, by which it approved the request by the Commission on Human Rights to hold a third consultative meeting.

At its sixty-first session, the Commission on Human Rights adopted resolution 2005/35 of 19 April 2005 by which, welcoming the report of the Chairman-Rapporteur of the third consultative meeting (E/CN.4/2005/59), it adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (see Report of the Commission on Human Rights, E/2005/23). Upon recommendation of the Commission, the Economic and Social Council adopted resolution 2005/30, by which it adopted the Basic Principles and Guidelines and recommended their adoption to the General Assembly.

At the sixtieth session of the General Assembly, the Third Committee discussed the text adopted by the Commission on Human Rights at four separate meetings (see A/C.3/60/SR.22, 29, 37 and 39). On 28 October 2005, a joint draft resolution (A/C.3/60/L.24) was submitted by Chile on behalf of forty-five delegations to the Third Committee entitled "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law" which was adopted by the Committee on the same day. On 16 December 2005, upon recommendation of the Third Committee (see Report of the Third Committee A/60/509/Add.1), the General Assembly adopted resolution 60/147 (Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law) without a vote.

**ANNEX 1.1**

**Victim identification forms for Beni**

**ANNEX 1.2**

**Victim identification forms for Butembo**

**ANNEX 1.3**

**Victim identification forms for Gemena**

**ANNEX 1.4**

**Victim identification forms for Ituri**

**ANNEX 1.5**

**Victim identification forms for Kisangani**

**ANNEX 1.5.1**

**Additional victim identification forms for Kisangani**

*[Annexes not translated]*

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**ANNEX 1.6**

**Assessment report of massacres (deaths) in Beni**

**ANNEX 1.7**

**Assessment report of massacres (deaths) in Butembo**

**ANNEX 1.8**

**Assessment report of massacres (deaths) in Gemena**

**ANNEX 1.9**

**Assessment report of massacres (deaths) in Ituri**

**ANNEX 1.10**

**Assessment report of massacres (deaths) in Kisangani**

*[Annexes not translated]*

*[These Annexes provide data on the deaths said to have occurred in Beni, Butembo, Gemena, Ituri and Kisangani and on the financial claims made in respect of those deaths. For each location, a detailed list of the victims and their associated financial claims is provided.]*

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**ANNEX 1.6.A**

**Assessment report of flight into the forest by victims in Beni**

**ANNEX 1.7.A**

**Assessment report of flight into the forest by victims in Butembo**

**ANNEX 1.8.A**

**Assessment report of flight into the forest by victims in Gemena**

**ANNEX 1.9.A**

**Assessment report of flight into the forest by victims in Ituri**

**ANNEX 1.10.A**

**Assessment report of flight into the forest by victims in Kisangani**

*[Annexes not translated]*

*[These Annexes provide data on the cases of flight into the forest said to have occurred from Beni, Butembo, Gemena, Ituri and Kisangani and on the financial claims made in respect of those flights. For each location, a detailed list of the victims and their associated financial claims is provided.]*

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**ANNEX 1.6.B**

**Assessment of bodily harm to victims in Beni**

**ANNEX 1.7.B**

**Assessment of bodily harm to victims in Butembo**

**ANNEX 1.8.B**

**Assessment of bodily harm to victims in Gemena**

**ANNEX 1.9.B**

**Assessment of bodily harm to victims in Ituri**

**ANNEX 1.10.B**

**Assessment of bodily harm to victims in Kisangani**

*[Annexes not translated]*

*[These Annexes provide data on the bodily harm said to have occurred in Beni, Butembo, Gemena, Ituri and Kisangani and on the financial claims made in respect of that harm. For each location, a detailed list of the victims and their associated financial claims is provided.]*

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**ANNEX 1.6.C**

**Assessment of property lost by victims in Beni**

**ANNEX 1.7.C**

**Assessment of property lost by victims in Butembo**

**ANNEX 1.8.C**

**Assessment of property lost by victims in Gemena**

**ANNEX 1.9.C**

**Assessment of property lost by victims in Ituri**

**ANNEX 1.10.C**

**Assessment of property lost by victims in Kisangani**

*[Annexes not translated]*

*[These Annexes provide data on the loss of property said to have occurred in Beni, Butembo, Gemena, Ituri and Kisangani and on the financial claims made in respect of those losses. For each location, a detailed list of the victims, their losses and their associated financial claims is provided.]*

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**ANNEX 1.6.D**

**Summary assessment table of property lost in Beni**

**ANNEX 1.7.D**

**Summary assessment table of property lost in Butembo**

**ANNEX 1.8.D**

**Summary assessment table of property lost in Gemena**

**ANNEX 1.9.D**

**Summary assessment table of property lost in Ituri**

**ANNEX 1.10.D**

**Summary assessment table of property lost in Kisangani**

*[Annexes not translated]*

*[These Annexes provide data on the loss of property said to have occurred in Beni, Butembo, Gemena, Ituri and Kisangani in the period from 1998 to 2003 and on the financial claims made in respect of those losses. For each location, losses and their associated financial claims are shown by site (in table and chart form).]*

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**ANNEX 1.6.E**

**List of property lost in Beni, 1998-2003**

**ANNEX 1.7.E**

**List of property lost in Butembo, 1998-2003**

**ANNEX 1.8.E**

**List of property lost in Gemena, 1998-2003**

**ANNEX 1.9.E**

**List of property lost in Ituri, 1998-2003**

**ANNEX 1.10.E**

**List of property lost in Kisangani, 1998-2003**

*[Annexes not translated]*

*[These Annexes provide data on the loss of property said to have occurred in Beni, Butembo, Gemena, Ituri and Kisangani in the period from 1998 to 2003. For each location, the type and quantity of property lost is shown in table form.]*

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**ANNEX 1.6.F**

**Summary table of instances of property loss in Beni, 1998-2003**

**ANNEX 1.7.F**

**Summary table of instances of property loss in Butembo, 1998-2003**

**ANNEX 1.8.F**

**Summary table of instances of property loss in Gemena, 1998-2003**

**ANNEX 1.9.F**

**Summary table of instances of property loss in Ituri, 1998-2003**

**ANNEX 1.10.F**

**Summary table of instances of property loss in Kisangani, 1998-2003**

*[Annexes not translated]*

*[These Annexes provide data on instances of property loss said to have occurred in Beni, Butembo, Gemena, Ituri and Kisangani in the period from 1998 to 2003. For each location, instances are shown by site (in table and chart form).]*

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**ANNEX 1.11**

**Video containing victim statements and attesting to the atrocities committed by the Ugandan army in Kisangani during the six-day war**

*[Annex not translated]*

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**ANNEX 1.12**

**Report on the events in Kisangani between August 1999 and May 2002**

*[Annex not translated]*

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**ANNEX 2.1**

**United Nations Office of the High Commissioner for Human Rights, *Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003, August 2010***

**(Excerpts)**

*[Complete document available at [http://www.ohchr.org/Documents/Countries/CD/DRC\\_MAPPING\\_REPORT\\_FINAL\\_EN.pdf](http://www.ohchr.org/Documents/Countries/CD/DRC_MAPPING_REPORT_FINAL_EN.pdf)]*

**United Nations Office of the High Commissioner for Human Rights, Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003, August 2010**

*Pages 172-173*

347. Following these incidents, the Mayi-Mayi restarted and intensified their attacks on UPDF convoys between Beni and Butembo. In retaliation, the UPDF forces led operations against villages suspected of sheltering Mayi-Mayi groups. UPDF soldiers often made disproportionate use of force during these attacks, killing combatants and civilians indiscriminately.

- On 1 November 2000, UPDF soldiers allegedly killed between seven and eleven people during an attack on the population of the villages of Maboya and Loya, 16 kilometres north of the town of Butembo. A few hours before the attack, four UPDF soldiers had been killed by Vurondo Mayi-Mayi during an ambush close to the village of Maboya. During the afternoon, UPDF soldiers apparently launched an indiscriminate attack on the inhabitants of both villages and set 43 houses on fire. Some victims were shot and killed, whilst others were burned alive<sup>532</sup>.

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348. On 8 November 2000, close to the village of Butuhe, 10 kilometres north of Butembo, Vurondo Mayi-Mayi attacked a UPDF convoy that was escorting lorries transporting minerals.

- On 9 November 2000, UPDF soldiers are alleged to have killed indiscriminately 36 people in the village of Kikere, close to Butuhe, north of Butembo. The soldiers fired blindly on civilians using rifles and rocket-launchers. Some civilians died as a result of being burned alive in their homes. The soldiers also systematically killed domestic animals and destroyed civilian property<sup>533</sup>.

349. In the town of Beni, UPDF soldiers instituted a reign of terror for several years with complete impunity. They carried out summary executions of civilians, arbitrarily detained large numbers of people and subjected them to torture and various other cruel, inhuman or degrading treatments. They also introduced a particularly cruel form of detention, putting the detainees in holes dug two or three metres deep into the ground, where they were forced to live exposed to bad weather, with no sanitation and on muddy ground.

- In March 2000, UPDF soldiers allegedly killed four civilians and wounded several others in the town of Beni during an operation to quell a demonstration. The victims had been protesting against the murder of a woman, the arbitrary arrest of her husband and the pillaging of their house, committed a few days earlier by UPDF soldiers<sup>534</sup>.

350. During the period under consideration, UPDF soldiers carried out several operations against an armed group of Ugandan origin, the ADF-NALU (Allied Democratic Forces–National Army for the Liberation of Uganda<sup>535</sup>) based in the Ruwenzori massif in the Beni region. For their part, ADF-NALU carried out attacks on villages in the Ruwenzori region, kidnapping numerous civilians and pillaging their property. In this context, the Mapping Team documented the following alleged incidents.



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361. In August 1999, whilst international pressure on the leaders of the RCD-Goma to sign the Lusaka Agreement<sup>596</sup> was intensifying, the simmering crisis between Rwanda and Uganda for the control of the RCD degenerated into open conflict in Kisangani. On the morning of 7 August, APR and UPDF soldiers fought with heavy weapons for several hours without any civilians being wounded. The situation calmed down again over the course of the following days. Tension continued to build, nonetheless, and both sides strengthened their positions and brought large numbers of weapons into the town. On the evening of 14 August, fighting again broke out between the two armies at the airport and extended along the main roads and into the town centre.

- From 14 to 17 August 1999, APR and UPDF soldiers are said to have used heavy weapons in areas with a dense civilian population as they fought to gain control of the town of Kisangani. The fighting allegedly caused the deaths of over 30 civilians and wounded over 100 of them. The APR fired on both military targets and private homes belonging to civilians suspected of supporting the Ugandans. Once the hostilities were over, Rwandan and Ugandan soldiers pillaged several places in Kisangani.<sup>597</sup>

362. After three days of fighting, Uganda and Rwanda signed a ceasefire agreement that provided for Kisangani to be demilitarised and the headquarters of the pro-Ugandan branch of the RCD, the RCD-Kisangani-*Mouvement de Libération* (RCD-K-ML) led by Wamba dia Wamba, to be relocated to Bunia on 1 October 1999. During the months that followed, Orientale Province found itself divided into a “Rwandan zone” under the control of the RCD-G and a “Ugandan zone” dominated by the various movements supported by Kampala. In May 2000, however, tension between the Ugandan and Rwandan armies again moved up a notch in Kisangani. The UPDF strengthened its military positions to the north-east of the town and the APR reacted by bringing in additional weapons.

- On 5 May 2000, the APR and UPDF are said to have used heavy weapons in densely populated areas, causing the deaths of over 24 civilians and wounding an unknown number of them. Before the start of the hostilities, the Ugandan army had warned the population of the imminent bombardments and had asked for the evacuation of several areas located close to their targets<sup>598</sup>.

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363. On 12 May 2000, a team of United Nations military observers was sent to the area. Under international mediation, the two parties adopted a demilitarisation plan for the town, which they began to implement on 29 May. Fighting broke out again on 5 June, however, resulting in the so-called “Six-Day War”.

- The APR and UPDF fought each other in Kisangani from 5 to 10 June 2000. Both sides reportedly embarked on indiscriminate attacks with heavy weapons, killing between 244 and 760 civilians according to some sources, wounding over 1,000 and causing thousands of people to be displaced. The two armies also destroyed over 400 private homes and caused serious damage to public and commercial properties, places of worship, including the Catholic Cathedral of Notre-Dame, educational institutions and healthcare facilities, including hospitals. The UPDF had taken steps to avoid civilian losses by ordering the evacuation of combat zones before the start of hostilities and prohibiting access to three areas that were declared off-limits to non-combatants. This restriction was, however, also extended to humanitarian workers, in particular the ICRC, which was not able to get help to the wounded for several days<sup>599</sup>.

**7. Ituri**

364. In mid-August 1998, UPDF soldiers arrived in Ituri and quickly took control of the district without encountering any real resistance. Like the rest of Orientale Province, Ituri was placed under RCD administration. Following the movement's split, in March 1999, into a pro-Rwandan branch (RCD-Goma) and a pro-Ugandan branch (RCD-ML), Ituri was integrated into the RCD-ML zone and administered from Kisangani. The key man on the ground in Ituri, however, was the UPDF Chief of Staff, General Kazini. He applied a policy that supported autonomy for the region in relation to the rest of Orientale Province and openly favoured the interests of the Hema community, thus reviving former conflicts over land.

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365. The Hema-Gegere farmers<sup>600</sup> who, a few years previously, had acquired new concessions from the land registry in the Djugu region, took advantage of the new political situation to enforce their rights. As the Lendu from the Walendu Pitsi<sup>601</sup> community, who held the customary rights to the land concerned, disputed the value of their title deeds, the Hema-Gegere farmers appealed to the courts and had the Walendu Pitsi expelled from the concessions they wanted. The latter refused to leave, however, and clashes broke out with the police officers who had come to remove them. Several senior Lendu, including the leaders of the Walendu Pitsi and Walendu Djatsi communities, were arrested for vandalism. In April 1999, the Hema-Gegere concession-holders paid UPDF and APC soldiers to attack the Lendu villages located in the disputed concessions<sup>602</sup>.

366. . . .

— Between June and December 1999, UPDF and APC soldiers killed an unknown number of Lendu civilians in villages in the Djugu region close to the concessions claimed by the Hema-Gegere farmers. Villages in the Dz'na Buba, Linga, Jiba, Dhendo, Blukwa Mbi, Laudjo, Laudedjo Gokpa, Nyalibati and Gbakulu *groupements* were particularly badly affected. Most of the victims were Lendu but Hema were also killed during the attacks. Numerous victims died when their village was set on fire or following heavy arms fire directed at their homes. Some victims were shot dead at point-blank range<sup>605</sup>.

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— Between June and December 1999, members of the Lendu militia killed several tens of Hema-Gegere in the village of Libi from the Walendu Pitsi community and in the village of Fataki from the Walendu Djatsi community. These attacks led to the displacement of almost all the Hema-Gegere living in the Walendu Pitsi community<sup>606</sup>.

.....

— On 20 June 1999, members of the Hema militias and UPDF soldiers killed at least 25 people, including several civilians, during an attack on the village of Dhendro, in the Walendu Pitsi community, on the border with the Dhendro *groupement*<sup>608</sup>.

— On 14 September 1999, members of the Lendu militias from the Walendu Pitsi community used edged weapons to kill several hundred Hema-Gegere, including a majority of civilians, during widespread attacks on locations in the Dhendro *groupement* in the Bahema-Nord community. Members of the militias also pillaged and set fire to tens of villages. The victims were buried in mass graves. According to several sources, the massacre took place in

retaliation for an attack committed on 20 June by members of the Hema militias in the village of Dhendro<sup>609</sup>.

- On 14 September 1999, during a night-time offensive on the village of Fataki, in the Walendu Djatsi community, members of the Hema militias and Hema soldiers from the APC killed several tens of civilians with edged weapons, including at least 15 minors and several women. The assailants then buried the bodies themselves. Following the attack, all the Lendu left the village and Fataki became a Hema bastion in the Walendu Djatsi community<sup>610</sup>.

367. During the months that followed, members of the Lendu militias tried to regain control of Fataki on several occasions. For its part, the UPDF concentrated its troops on Fataki and Linga and led several offensives against Lendu militia bases in Kpandroma and Rethy, in the Walendu Djatsi community.

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368. During the period under consideration, the Lendu militias also attacked villages in the Djugu region on the shores of Lake Albert, the majority of which were populated by Hema<sup>611</sup>.

- In July 1999, members of the Lendu militias from the Buba group in the Walendu Pitsi community allegedly killed over 100 Hema civilians in the fishing village of Musekere in the Bahema-Nord community. Having encircled the village at dawn and forced six APC soldiers there to flee, they massacred the population using machetes and other edged weapons. From the start of the conflict, the Lendu leaders of the Buba *groupement* had threatened to attack the inhabitants of Musekere on several occasions<sup>612</sup>.

369. . . .

- On 1 December 1999, members of the Lendu militias confronted elements of the UPDF and members of the Hema militias over control of the mining town of Bambou, in the Walendu Djatsi community in the Djugu region. The fighting allegedly led to the deaths of over 200 members of the civilian population. Numerous victims were mutilated and the town looted. Most of the victims' bodies were thrown into the River Chari<sup>614</sup>.

370. . . .

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- In January 2000, members of the Lendu militias from the Walendu Pitsi and Bahema-Nord communities attacked people living in the Blukwa *groupement*, killing several hundreds of Hema with edged weapons. The *groupement* had been the site of violent inter-ethnic confrontations since September 1999. The attack in January took place after the departure of APC troops, fleeing from the increasing violence<sup>617</sup>.
- On 26 April 2000, members of the Hema militias and UPDF troops attacked the Buba *groupement*, in the Walendu Pitsi community, causing around 10 deaths, the majority of whom were Lendu civilians<sup>618</sup>.
- Between 27 August and 12 September 2000, members of the Hema militias from Mangala, Ghele, Gele and Liko, sometimes acting with the support of the Hema APC soldiers, pillaged

and set fire to several villages in the Walendu Djatsi community including Mbau (27 August), Glakpa and Gobi (28 August), Logai (29 August), the villages in the Dz'na *groupement* (31 August) and Mayalibo (6-12 September)<sup>619</sup>.

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**10. Équateur**

381. In November 1998, a new rebellion, the Mouvement pour la libération du Congo (MLC) began with support from Uganda. Led by Jean-Pierre Bemba Gombo, in the early days the MLC had just one battalion consisting mainly of ex-FAZ soldiers supported by elements of the UPDF. In a few months, however, the MLC army, the Armée de libération du Congo (ALC) added numerous ex-FAZ to its ranks and took control of several urban areas in the north of Équateur province. The town of Bumba fell on 17 November, the town of Lisala on 10 December, the village of Businga, on the crossroads to the towns of Gemena and Gbadolite on 20 December, the town of Gemena on 24 December and the village of Libenge, in the far west of the province, on the border with the Central African Republic, on 4 January 1999. The FAC conducted very intense air bombardments in December 1998 to block the advance of the ALC/UPDF. In this context, the Mapping Team documented the following alleged incidents.

— On 22 December 1998, an FAC Antonov dropped 11 home-made bombs on the village of Businga, killing five civilians. On 24 December, an FAC Antonov plane bombed the village a second time, killing two civilians<sup>669</sup>.

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386. Taking advantage of the withdrawal of ANT troops and the arrival of reinforcements from the recruitment and training camps, ALC/UPDF soldiers launched a second major offensive in May 1999. In three months, ALC/UPDF troops regained control of the towns of Kateke (27 April 1999), Businga (14 May 1999) and Gbadolite (3 July 1999).

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387. In June 1999, the ALC/UPDF troops took control of Bongandanga, a town south of Lisala.

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402. During the period under consideration, the Bas-Uélé district remained under the control of ALC/UPDF soldiers. The latter allegedly committed serious violations against all those who dared to dispute their authority or criticised their involvement in pillaging the natural resources of the region. The case below is mentioned for illustrative purposes.

— From 2001 to January 2003, elements of the ALC/UPDF apparently tortured and killed an unknown number of civilians in the town of Buta. Most of the victims were held in muddy holes in conditions likely to cause death through disease or exhaustion. After a human rights activist had been tortured and held in one of the muddy holes by the soldiers, MONUC and United Nations organisations sent out an investigative mission and had these prisons shut down<sup>708</sup>.

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## B. Ituri

404. During the second half of 2000, the underlying conflict between the President of the RCD-ML, Wamba dia Wamba and his two principal lieutenants, the Nande Mbusa Nyamwisi<sup>714</sup> and the Hema John Tibasima<sup>715</sup> broke out in public. Wamba dia Wamba had long criticised Nyamwisi and Tibasima for trying to orchestrate the conflict between the Hema and Lendu communities<sup>716</sup> in order to establish a power base in the district and control the region's natural resources. In August, Wamba dia Wamba tried to regain control of the movement by dismissing Nyamwisi and Tibasima from their posts, but they resisted and the number of incidents on the ground between the different factions of the APC increased. After several unsuccessful attempts at mediation by Uganda and a series of confrontations in the centre of Bunia, Wamba dia Wamba was exiled to Kampala in December, leaving the leadership of the RCD-ML to Nyamwisi and Tibasima.

405. In January 2001, Ituri saw a resurgence of violence in the Djugu area. Between January and February, members of the Hema militias from Bogoro, generally accompanied by Hema soldiers from the APC and UPDF soldiers, led indiscriminate attacks in the Walendu Tatsi community, next to the Bahema-Nord community, killing an unknown number of civilians. In this context, the Mapping Team documented the following alleged incidents.

- On 4 January 2001, during a failed attack on Kpandroma, members of the Hema militias based in Fataki killed at least 35 Lendu civilians in the *Zabu groupement* in the Walendu Pitsi community, particularly in Aruda and Mola and the surrounding area<sup>717</sup>.
- In early 2001, members of the Hema militias killed at least 16 people and kidnapped two minors who have been since recorded as having disappeared in the Salimboko, Poli-Masumbuku and Penyi *groupements* in the Walendu Tatsi community<sup>718</sup>.

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- Also in early 2001, members of the Lendu militias killed an unknown number of civilians, including a majority of Hema and Alur in the villages alongside Lake Albert in the Bahema Banywagi and Bahema-Nord communities<sup>719</sup>.
- Between January and February 2001, UPDF soldiers attacked around 20 villages in the Walendu Tatsi community, killing around 100 people, including various Lendu civilians. During the attacks, the soldiers also committed rape, looted and caused an unknown number of people to disappear. Most of the victims were killed in villages located near the Zumbe power station, in the Bedu Ezekere *groupement*, where they had gathered under the protection of members of the Lendu militias<sup>720</sup>.
- On 3 February 2001, members of the Hema militias and UPDF troops killed 105 people, including numerous Lendu civilians, in the villages in the Bulu *groupement* in the Ndo Okebo community in the Djugu region. The victims often came from the Walendu Pitsi community. They had taken refuge in the Bulu *groupement* following recent attacks on their village<sup>721</sup>.

406. At the end of 2000, the conflict between the Hema and Lendu finally reached the Irumu region. The UPDF soldiers lent their support to the local Hema communities and violent incidents broke out on the ground.

- Between 9 and 18 January 2001, members of the Hema militias allegedly killed around 60 people, including numerous Lendu and Ngiti civilians<sup>722</sup>, in the village of Kotoni, in the Irumu region and the surrounding area<sup>723</sup>.

407. Following the bombardment of the Walendu Bindi community by a UPDF helicopter, Ngiti militiamen, originally in conjunction with the Djugu Lendu from the Walendu Bindi community, launched an attack on 19 January 2001 against UPDF positions at the airport in Bunia. During the attack, Ngiti militiamen tried to destroy the helicopter the UPDF had used to bomb their villages. The UPDF finally repelled the attack but at the cost of a significant loss of human life.

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- On 19 January 2001, Hema militiamen and civilians allegedly killed between 200 and 250 civilians from the Lendu, Ngiti, Nande and Bira ethnic groups in the Mudzipela neighbourhood in the town of Bunia. The victims, who included a large number of women and children, were killed with machetes, spears or studded batons. Most of them were subjected to mutilation. Some were decapitated and their heads carried through the town as trophies. The Hema militiamen and civilians also systematically looted the victims' property and set fire to several houses. Shortly before the massacre, UPDF officers and senior members of the Hema community in Bunia had held a meeting and called on Hema civilians to attack the Lendu population.<sup>724</sup>

408. In order to restore calm to Ituri and avoid new splinter groups developing within the RCD-ML, Uganda forced the RCD-ML and MLC to join forces within a new movement, the Front de libération du Congo (FLC), led by Jean-Pierre Bemba<sup>725</sup>. On 6 February 2001, the FLC organised consultations with the traditional chiefs in Ituri and on 17 February, the latter signed a memorandum of agreement, providing in particular for an immediate cessation of hostilities, the disarmament of the militiamen and the dismantling of the training camps<sup>726</sup>. During the months that followed, the number of violations decreased significantly. Inter-community tension on the ground nonetheless remained high and the militias continued to arm themselves. In this context, the Mapping Team documented the following alleged incidents.

- On 26 April 2001, armed men killed six members of the ICRC during an attack on a humanitarian convoy in the area around Fataki in the Walendu Djatsi community, in the Djugu region. Local sources indicate that the attack is thought to have been perpetrated by Ugandan soldiers and Hema militiamen. The attack was supposedly aimed at ending the presence of humanitarian personnel in areas where the displaced Lendu had taken refuge. During the period under consideration, numerous sources indicate that Hema militias and armed groups severely hampered the work of humanitarian organisations in areas populated principally by Lendu<sup>727</sup>.

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- In 2001, Hema soldiers from the APC killed 40 Lendu, a majority of them civilians, including women, children and elderly and disabled people, in the village of Gobu in the Bahema-Nord community. The victims were taken to a ditch and shot. Their bodies were then thrown into the ditch<sup>728</sup>.
- In January 2002, UPDF troops and Hema militiamen opened fire on the population of the village of Kobu in the Walendu Djatsi community in the Djugu region, killing 35 Lendu civilians. As they entered the village, Ugandan soldiers killed four civilians in the marketplace, including one disabled person. Almost all of the population fled and hid in the forest for nearly

two months. On their return to the village, the villagers found 35 decomposed bodies, which they buried in various places. Those responsible for the massacre were trying to remove Lendu populations from the Kobu area, close to the Kilomoto gold mines. Following the killing, the population of Kobu sent a petition to Governor Lopondo, who visited the area shortly afterwards accompanied by senior figures in the UPDF. Following the visit, UPDF soldiers left the area<sup>729</sup>.

- On 26 January 2002, members of the Hema militias killed around 100 Lendu in a forest a few kilometres from Datule, in the Bahema-Sud community in the Irumu region. The victims had been chased from the village of Datule the previous day by a UPC commander. They were killed with machetes, spears and studded batons. A young girl of 13 was the only person to survive the attack<sup>730</sup>.
- On 28 January 2002, Hema militiamen killed and mutilated around 50 Lendu civilians in Kasenyi in the Irumu region. Having been informed of the massacre that had taken place on 26 January, the victims had fled the village of Datule on 27 January in the hope of reaching the Lendu villages in the Walendu Bindi community. They were hiding behind a police station when they were surprised and killed<sup>731</sup>.
- Between January and May 2002, Hema militiamen in the region forcibly recruited all the men from the Alur ethnic group living in the village of Gobu in the Bahema-Nord community in the Djugu region<sup>732</sup>.
- Between February and April 2002, elements of the UPDF and Hema militiamen killed several hundred Lendu civilians in the Walendu Bindi community in the Irumu region. They also tortured and raped an unknown number of people. The villages of Aveba, Bukiringi, Nombe, Kaswara, Djino, Kagaba, Biro, Kapalayi, Gety étang, Tsubina, Kinyamubaya, Karach, Bolomo, Bachange, Tsede, Molangi, Tamara, Irura, Modiro, Mukiro and Anyange were all pillaged<sup>733</sup>.

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409. In February 2002, against a background of growing economic rivalry between Hema and Nande businessmen and disagreements on the new strategic directions taken by the Mouvement<sup>734</sup>, the Defence Minister of the RCD-ML, Thomas Lubanga, and the Hema soldiers of the APC broke away from the RCD-ML to form a political and military Hema group, the *Union des patriotes congolais* (UPC). In response, Mbusa Nyamwisi and Nande officers in the APC, supported by certain members of the UPDF, reduced Hema influence in the district<sup>735</sup>, intensified their cooperation with the FAC<sup>736</sup> and encouraged members of the Lendu and Ngiti militias to join forces in political military groups, namely the *Front National Intégrationiste* (FNI)<sup>737</sup> and the *Forces de résistance patriotique en Ituri* (FRPI)<sup>738</sup>. During the course of 2002, these various armed groups received significant supplies of weapons from Uganda and the Government in Kinshasa. In this context, the Mapping Team documented the following alleged incidents.

- Starting on 21 May 2002 and during the course of the next six months, elements of the UPC killed at least 46 civilians, most of them from the Bira ethnic group, in Walu in the Ngombe-Nyama *groupement*, in the Irumu region. The militiamen also raped an unknown number of women, looted and destroyed educational institutions and hospitals. These attacks were supposedly intended as retaliation for the help given to the Lendu by the Bira during the previous attacks against the Hema in the region<sup>739</sup>.
- In May 2002, Lendu militiamen accompanied by civilians killed at least 80 people, mainly Hema and Alur, in the village of Gobu in the Bahema-Nord community. The victims were civilians or soldiers who were no longer able to fight. Most were summarily executed with

edged weapons. According to several witness statements, the Hema militiamen in the area had fled before members of the Lendu militias arrived in the village<sup>740</sup>.

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- In early June 2002, elements of the UPDF and Hema militiamen indiscriminately killed members of the Lendu militias and an unknown number of civilians in the Lendu villages in the Walendu Pitsi community. By way of example, in June 2002, Hema militiamen and elements of the UPDF killed at least 27 people in Buba<sup>741</sup>.

410. In June 2002, faced with the advance of Lendu militiamen into the Banyali-Kilo community in the Djugu region, the local Security Council for the town of Mongwalu decided to chase away or eliminate any Lendu living in the town. In this context, the Mapping Team documented the following alleged incidents.

- On 10 June 2002, elements of the UPC supported by local youths, systematically attacked the houses of Lendu living in Mongwalu, killing around 20 civilians. The victims, who were long-term residents of Mongwalu, were either shot dead or killed with studded batons<sup>742</sup>.
- On 11 June 2002, in retaliation for a massacre carried out the day before, several hundred Lendu from the villages of Kobu, Bambou and Kpandroma killed tens of civilians with edged weapons, most of them from the Hema ethnic group, in the town of Mongwalu. The Hema left Mongwalu following the massacre<sup>743</sup>.

411. In early August 2002, elements of the UPC, with support from UPDF troops, are reported to have chased elements of the APC out of the town of Bunia. In this context, the Mapping Team documented the following alleged incidents.

- Between 7 and 10 August 2002, in Bunia, at least 300 civilians were killed on the basis of their ethnic origin, most of them by UPC militiamen. Between 7 and 8 August, elements of the UPC killed an unknown number of Bira, Lendu and Nande civilians during raids on the neighbourhoods of Mudzipela, Bigo and Saio. Lendu and Ngiti militiamen responded by killing an unknown number of Hema civilians in the districts of Mudzipela, Saio, Rwambuzi and Simbiliabo. At the same time, Lendu and Ngiti militiamen killed 32 Hema civilians and wounded and mutilated an unknown number of them at a farm in the village of Lengabo, a few kilometres from Bunia. Between 9 and 11 August, elements of the UPDF and the UPC killed at least 80 Lendu, Nande and Bira civilians at the Governor's residence, at the hospital in Bigo and at Bunia central prison. The bodies of the victims were then placed in mass graves<sup>744</sup>.

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412. Over the course of the following months, violent fighting broke out on several fronts, between elements of the UPC and UPDF on the one hand, and those of the APC and FNI-FRPI on the other. Both coalitions targeted civilian populations on the basis of their ethnic origins. Numerous civilians from non-belligerent tribes were also massacred on the basis of their actual or supposed support for one or other camp. Many of them were also victims of forced recruitment to the various armed groups. The mining regions north of Bunia, control of which was seen as strategic by the various groups involved, were the theatre for some particularly violent fighting.



413. On 9 August 2002, having had to leave Bunia quickly, Governor Lopondo, the APC troops and Lendu and Ngiti militiamen<sup>745</sup> established a base in Komanda for the purpose of preparing the counter-offensive. The UPC, meanwhile, consolidated its positions south of Bunia in order to prevent the counter-attack from elements of the APC and FNI-FRPI and to gain control of the area's mining resources. In this context, the Mapping Team documented the following alleged incidents.

- On 9 August 2002, elements of the APC and Lendu and Ngiti militiamen killed tens of civilians, mostly Hema, in the town of Komanda and the surrounding villages in the Basili-Basumu community, in the Irumu region. Guided by the Ngiti militiamen who had infiltrated the village and by local youths, elements of the APC and members of the militias moved from house to house, killing Hema civilians purely on the basis of their ethnic origin. Most of the victims were killed with edged weapons. Some were tied up and then killed with spears<sup>746</sup>.
- From 14 to 19 August 2002, elements of the UPC killed over 50 civilians from different ethnic groups during an attack on the village of Komanda. Most of the victims were shot or killed with edged weapons when they fled Komanda for Beni. Many of the victims had left Bunia a few days previously following the takeover of the town by the UPC and had taken refuge in Komanda. The aim of the UPC attack was to avenge the massacre committed in Komanda on 9 August<sup>747</sup>.

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- On 28 August 2002, Hema-Gegere militiamen associated with the UPC killed several tens of “non-native” inhabitants<sup>748</sup> in the gold-producing town of Mabanga in the Mambisa community, in the Djugu region. The victims were killed either with machetes or with studded batons. Sixteen of them were clubbed to death with planks of wood. The Hema-Gegere militiamen associated the “non-natives” with Governor Lopondo and APC soldiers. Whilst the Lendu militiamen were trying to take control of the region's mines, the Hema-Gegere militiamen feared that the “non-natives” were helping them. During previous fighting in Mabanga, the Lendu militiamen had systematically killed Hema civilians but had spared the “non-native” populations. After the massacre, UPDF troops intervened to provide cover for the flight of the non-natives to Bunia<sup>749</sup>.
- On 31 August 2002, elements of the UPC supported by Bira militiamen killed at least 14 civilians, including women and children, in several villages in Songolo in the Walendu Bindi community, in the Irumu region. They also carried out acts of pillaging and widespread destruction, setting fire to over 1,000 houses. Several victims were mutilated and killed in an extremely cruel fashion. At least three women were impaled. Songolo was considered to be one of the FRPI fiefdoms<sup>750</sup>.
- Between 5 and 15 September 2002, elements of the FRPI and APC systematically massacred over 1,000 Hema-Gegere and Bira civilians, including large numbers of children, in Nyakunde and the surrounding villages in the Andisoma community, in the Irumu region. They also carried out numerous acts of pillaging. The victims were killed purely on the basis of their ethnic origin, mostly using arrows or edged weapons. Elements of the APC and FRPI had set up road blocks so that no-one from the Hema or Bira ethnic groups was able to escape from Nyakunde. FRPI militiamen sorted civilians and the soldiers there who were no longer able to fight based on their ethnic origin in the Evangelical Medical Centre. They systematically killed Hema and Bira and spared the members of other ethnic groups. Numerous victims were detained in cruel, inhuman or degrading conditions for several days before they were finally executed. Most of the massacres took place once the fighting with the UPC militiamen present in Nyakunde had been over for several days<sup>751</sup>.

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- On 13 September 2002, elements of the FRPI from Gety killed around 150 people, including numerous civilians, most of them Hema, in the lakeside *groupement* of Bandikado in the Bahema–Sud community, in the Irumu region. They killed and mutilated an unknown number of people in Nyamavi, for example. They also looted the villages before leaving the *groupement*. These attacks also caused several thousand people to be displaced for several years<sup>752</sup>.
- On 11 October 2002, in the Djugu region, elements of the FNI from the Walendu Djatsi community killed an unknown number of Alur, Hema, Bira and Nyali civilians in the mining town of Nizi in the Mambisa community. They also killed 28 people and kidnapped 23 women in the mining area of Kilomoto. During these attacks, the militiamen mutilated numerous victims, carried out large-scale pillaging and set fire to numerous buildings, including the community offices, schools and a hospital. The victims' bodies were buried in nine mass graves. According to witnesses, the FNI militiamen accused inhabitants of the town from all ethnic groups of supporting the UPC<sup>753</sup>.

414. Between October and December 2002, confrontations between elements of the FNI-FPRI and UPC had spread throughout the Irumu region. The UPC troops led major military operations in the same region directed at the FRPI bases in the Walendu Bindi community and Lendu enclaves in the Bahema-Sud community. The Bira farmers living in Pinga, in Songo in the Irumu region were also attacked, with the UPC suspecting them of funding the FNI and FRPI. In this context, the Mapping Team documented the following alleged incidents.

- Between 15 and 16 October 2002, UPC militiamen killed at least 180 people, including civilians, in Zumbe in the Walendu Tatsi community. The militiamen also raped at least 50 women. Most of the victims were killed with machetes or spears. Some were shot dead. Some survived but were badly mutilated. Having looted large amounts of property and stolen 1,500 head of cattle, the UPC troops set fire to the village, destroying more than 500 buildings, including health centres and schools. Zumbe was an FRPI fiefdom<sup>754</sup>.
- On 20 October 2002, elements of the UPC from Bunia and Bogoro killed at least 10 Lendu civilians during attacks on several villages, including Nombe, Medhu, Pinga, Kagaba, Singo and Songolo in the Walendu Bindi community, in the Irumu region. A Bira woman married to a Lendu civilian was also killed. The militiamen systematically pillaged property and stole cattle belonging to Lendu in the villages they attacked<sup>755</sup>.

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- On 24 October 2002, elements of the UPC killed several dozen Lendu in the Walendu Bindi community, particularly in the villages of Nombe, Kagaba, Lakabo, Lokpa, Medhu, Songolo, Pinga, Androzo and Singo. Most of the victims were killed with edged weapons. The militiamen also kidnapped more than 20 people, including women. They also stole some 1,450 head of cattle and burned at least 351 houses, including schools and health centres<sup>756</sup>.
- On 5 November 2002, elements of the FRPI killed at least 14 civilians, including two women, in the village of Saliboko in the Mobala community, in the Irumu region. They also pillaged and set fire to the village. Most of the victims were Bira. They were attacked at night in their houses. First they were tied up and then killed with machetes. Some civilians managed to escape but were often severely mutilated. The militiamen were critical of the Bira in Saliboko for having given shelter to displaced Hema. The village has not been rebuilt since<sup>757</sup>.

415. The signing of a peace agreement in September 2002 between the DRC and Uganda offered new prospects for peace in Ituri. In addition to the withdrawal of UPDF troops from Gbadolite and Beni, the agreement provided for the creation of a Peacekeeping Commission in Ituri and the setting up of an Administration intérimaire de l'Ituri (AII) [Interim Administrative Authority for Ituri] responsible for managing the district after the departure of the Ugandan soldiers. On the ground, however, far from stabilising the region, the closer relationship between Kinshasa and Kampala prompted new patterns of alliances that made the situation even more volatile. As mentioned previously, in October 2002, the MLC army, the ALC, and its allies in the RCD-N launched a major operation east of Orientale Province, called "Clean the blackboard". This operation aimed to destroy the APC once and for all, so as to deprive the Government in Kinshasa of its ally in eastern Congo and get hold of the natural resources still under the control of the RCD-ML before the transition period began. The UPC, which was also trying to crush the APC, joined in with the operation.

416. On 12 October 2002, the ALC and its allies from the RCD-N entered the town of Mambasa. On 29 October, however, they were forced to withdraw, before regaining control of the town from the APC on 27 November. During the attacks, the ALC soldiers (MLC and RCD-N) committed numerous atrocities directed at civilians.

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— Between 12 and 29 October 2002, elements of the ALC and RCD-N taking part in the "Clean the blackboard" operation allegedly killed at least 173 Nande and Pygmy civilians in Mambasa and in the villages along the main road between Mambasa and Beni, particularly in Teturi, Mwemba and Byakato, in the Mambasa region. The soldiers also carried out acts of cannibalism, mutilated an unknown number of civilians, raped a large number of women and children and committed widespread pillaging. The victims were killed purely on the basis of their ethnic origin, with Nande and Pygmies accused of supporting the RCD-ML<sup>758</sup>.

417. Following their victory over the APC in Mambasa, elements of the ALC/RCD-N/UPC, with the help of UPDF soldiers, launched a major military operation in order to take control of the mining town of Mongwalu.

— On 20 November 2002, during their attack on Mongwalu, elements of the ALC/RCD-N/UPC are alleged to have killed at least 50 Lendu, including civilians and Lendu militiamen who were no longer able to fight. Most of the victims were shot dead or killed with edged weapons. Some were killed whilst they were hiding in a church. Some survived but were badly mutilated and tortured<sup>759</sup>.

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421. On 6 March 2003, after the UPC had attacked the UPDF base in Ndele, a few kilometres from Bunia, UPDF soldiers and elements of the FNI and FRPI set up a joint military operation and regained control of the town of Bunia.

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— On 6 March 2003, elements of the UPC and UPDF/FNI/FRPI fought each other with heavy weapons in Bunia, reportedly killing between 17 and 52 civilians. After the withdrawal of UPC troops from the town, elements of the FNI killed an unknown number of Hema civilians on the

basis of their ethnic origins. Elements of the UPDF/FNI/FRPI also looted and destroyed numerous buildings, private homes and premises used by local and international NGOs. UPDF soldiers sometimes intervened to ask elements of the FNI/FRPI to stop the atrocities and leave the town<sup>769</sup>.

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429. During the period under consideration, all the armed groups in Ituri (UPC, FNI, FRPI, FAPC and PUSIC) are alleged to have recruited thousands of children along ethnic lines.

- Between 2001 and 2003, thousands of Hema children recruited by the UPC had undergone military training in the Mandro, Katoto and Bule camps. During the training, they were often tortured, subjected to cruel, inhuman or degrading acts and raped. In 2000, at least 163 of these children were sent to Uganda to undergo military training at a UPDF camp in Kyankwanzi before finally being repatriated to Ituri by UNICEF in February 2001. Between 2002 and 2003, some children associated with the UPC were kidnapped and taken to Rwanda to undergo military training in the APR camps. An unknown number of Lendu children were taken to military training camps in North Kivu. Other communities were affected by the same phenomenon, primarily the Alur, largely in the Mahagi region<sup>782</sup>.

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## **2. Beni and Lubero regions (Grand-Nord)**

442. In the Beni and Lubero regions controlled by the RCD-ML, fighting continued between the troops from the APC (the armed wing of the RCD-ML) and the UPDF on the one hand and the various Mayi-Mayi groups on the other.

- In 2001, elements of the APC allegedly killed at least five civilians and set fire to houses in the village of Kiantsaba, 15 kilometres from Beni. APC soldiers and the Vurondo Mayi-Mayi had long been in dispute over control of the village<sup>808</sup>.

443. From 2001, Mayi-Mayi groups and UPDF soldiers, sometimes supported by elements of the APC, engaged in fierce fighting to gain control of the village of Irango, around 20 kilometres from Beni.

- In 2001, elements of the UPDF allegedly killed an unknown number of people in the village of Irango. The victims had been accused of supporting the Mayi-Mayi. The soldiers also raped numerous girls. During the attack, they set fire to and looted several houses<sup>809</sup>.

444. In the town of Beni, UPDF soldiers instituted a reign of terror for several years with complete impunity. They summarily executed civilians, tortured and arbitrarily detained an unknown number of people, several of them in muddy holes two or three metres deep.

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## ***Mouvement national de libération du Congo (MLC)***

697. The MLC's army, the ALC, with the backing of the Ugandan Army, the UPDF, allegedly also recruited children, primarily in Mbandaka, Équateur Province. In 2001, the MLC admitted to having 1,800 CAAFAG within its ranks<sup>1272</sup>. The child soldiers were involved in

ALC offensives during which serious violations of human rights and international humanitarian law were committed. This was particularly the case in the attacks carried out within the context of the “Erasing the Board” operation<sup>1273</sup>.

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**ANNEX 2.2**

**United Nations Commission on Human Rights, Fifty-sixth Session, *Report on the situation of human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Mr. Roberto Garretón, in accordance with Commission on Human Rights resolution 1999/56, document E/CN.4/2000/42, 18 January 2000***

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL  
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Report on the situation of human rights in the Democratic Republic of the Congo,  
submitted by the Special Rapporteur, Mr. Roberto Garretón, in accordance with  
Commission on Human Rights resolution 1999/56

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38. One of the key provisions of the Lusaka Agreement is that “the inter-Congolese political negotiations shall be under the aegis of a neutral facilitator to be agreed upon by the Congolese parties” (art. III, para. 19) and that the facilitator should be appointed within 15 days of signature. The dialogue itself was to be held within 45 to 90 days. All these deadlines passed without any agreement being reached, even though the international community has put forward eminent individuals with impeccable democratic credentials and acknowledged moral and intellectual prestige, credibility and experience. The RCD and MLC leaders have rejected all the names put forward, thereby delaying one of the key aspects of the Agreement. At a meeting of the parties in Lusaka on 19 November, there was agreement in principle on Father Mateo Zuppi and the former President of South Africa Nelson Mandela, but the Government continues to be opposed to the appointment of the latter.

39. The Government has also been criticized for establishing People’s Power Committees (CPPs) to replace the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), which brought Kabila to the Presidency. Their functions include organizing the people and establishing policy in all aspects of national life. All inhabitants, at their respective levels (neighbourhood, commune, town, city), are members. At their first congress, the President defined the Committees as the new democracy. They are financed by the State and their Executive Secretary is a former minister of President Kabila’s Government, Rafael Ghenda. The population likens them to a single party and complains that sometimes its members have acted as police informants to have opponents arrested. There have even been reports that its members have taken part in the arrest of opponents and that they are inclined to interfere in the administration of justice.<sup>5</sup>

40. Worse still, in a clearly provocative move against the civilian population, condemned by the Special Rapporteur for the huge risk it carries for the civilian population, on 14 November, the Government authorized the CPPs to carry weapons. For that purpose, it created the People’s Self-Defence Force (FAP), a private militia with 50 members per neighbourhood who will be given weapons to defend the homeland on the grounds that it is an extension of the army.

41. The army continues to have a very strong influence. According to reliable reports, there are 13 security, military and police forces, apparently all authorized to make arrests. One positive feature is the recent replacement of the former classification between commanders and troops by the establishment of ranks - lieutenant-general, brigadier-general, colonel, lieutenant-colonel, major, force commander and regional commander - which should prove useful in determining responsibility and ending impunity. However, that progress is cancelled out by the virtual incorporation into the army of the Mai-Mai and their criminal activities, which invites a reaction from RCD.

#### B. In territory controlled by RCD and MLC

42. In the territory controlled by RCD, there is no party but it and another small party called the Reformers’ Movement. In January, when confronted with the defection of its first president, RCD held a general assembly that established an assembly and a collegial presidency consisting of eight members as the only way of harmonizing its various civilian, military and Congolese components and those perceived as foreign by the population. In March, the rift was consolidated when its new president, Wamba dia Wamba, who is supported by Uganda, left for

Kisangani and, later, Bunia. In May, supporters of the Rwanda-backed Goma faction clashed with supporters of the Kisangani faction, leaving between three and eight people dead. In Goma, the assembly established in January was dissolved in June and a further defection in October was added to those in January and March, when the Katanga section rebelled against the majority, which was perceived as foreign.

43. The worst confrontations occurred between 15 and 18 August, when Ugandan soldiers clashed with Rwandan soldiers in Kisangani, resulting in the deaths of some 200 soldiers and 30 civilians, who, needless to say, were Congolese. The residence of the Congolese bishop Laurent Monsengwo, who has been critical of the Rwandan presence in his homeland, was attacked by the Rwandans. Other clashes between the factions have taken place in Beni, Butembo, Rutshuru and other towns.

44. In order to deal with the civilian population, most of which is hostile to it, RCD has established “self-defence groups”, trained by Rwandan soldiers. These groups have often been accused of arresting or kidnapping individuals. State radio has called on people to join them. The groups constitute a real paramilitary force, which has even been accused of the death of a priest.

45. Various measures adopted by RCD have increased hostility towards it: the flight of national wealth to Uganda and Rwanda; the introduction of a new flag for the region; the declaration of the “twinning” of Kigali and the South Kivu region; and, lastly, the formation of a so-called parliament (*baraza*), the members of which were appointed by the Governor of South Kivu. In November, a dispute within RCD/Goma introduced a further factor, the intention being to establish a sort of federal state in South Kivu, so as to be no longer dependent on Goma.

46. During his two visits to Goma and one to Bukavu, the Special Rapporteur was struck by the prevailing climate of terror and humiliation in RCD-controlled territory.

47. The Special Rapporteur has not been able to obtain information on the political situation in the territory controlled by MLC.

#### IV. SITUATION OF HUMAN RIGHTS

##### A. In the territory controlled by the Kinshasa Government (annex XII)

##### 1. Right to life

##### Death penalty

48. In his oral presentation to the Commission on Human Rights at its fifty-fifth session, the Special Rapporteur said that “in 1999, such sentences (by the Military Court) have not been carried out, which indicates progress with regard to what I stated in the report”. That same month, the practice of public executions was resumed and, during the year, a very large number of people – particularly members of the former Armed Forces of Zaire (FAZ) or civilians found guilty of armed robbery – were sentenced to death. Over 130 executions were reported, some for such petty reasons as refusing to eat the food served up, which was considered a “military

war and for “ideological education”. Unfortunately, RCD, citing reasons of security, is not prepared to participate in the pan-African conference on demobilization organized by Kinshasa that is due to be held in the third week of December.

107. There are many street children owing to the death of their parents during the war or in the massacres that have occurred in many villages. In South Kivu, 1,324 unaccompanied children whose parents were killed in massacres in the region have been registered. At least 13 of these survivors died as a result of neglect. It was reported that there are 400 children in Kisangani in danger of dying from malnutrition and lack of medical care.

## V. VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

### A. By the Kinshasa Government

108. The principal violations of the law on armed conflicts by the forces of the Kinshasa regime and their allies were as follows:

#### Attacks on the civilian population

109. Especially the bombing of Kisangani and pillaging in the city in January (17 dead); the bombing of Zongo (120), Libenge (200), Goma (between 30 and 65 dead) and Uvira (3) in May; and the atrocities perpetrated by Chadian soldiers in Bunga and Gemena. In addition, the Zimbabwean army's bombing of rebel-occupied towns claimed many victims.

#### Murders in the north-east

110. In Mobe, some 300 civilians were killed, apparently during an unsuccessful search for rebels (second week of January 1999).

#### Sexual violence against women

111. While many general charges have been made, the most specific information relates to the flight of FAC soldiers from Equateur at the beginning of the year, when, in addition to committing robberies, they raped women.

### B. By RCD and MLC forces

#### Attacks on the civilian population

112. The cruellest and most violent actions, committed without heed for the laws of war, were attacks on the civilian population, as reprisals for acts committed by Mai-Mai in Chipaho and Lemera (3 and 4 December 1998, around 70 dead); Makobola (end of 1998 and beginning of 1999, up to 800 or more dead according to some sources); Burhale and Musinga (12 January, 12 dead); Bashali (14 January, many Bahutu refugees killed); Lukweti, South Kivu (25 February, 45 dead); Budaha, South Kivu (17 March); Walungu, Mwenga (19-21 March); Mikondero (15 February, around 100 dead, including in the towns of Kyondo, Beni, North Kivu); Kamituga (around 100 dead between 14 and 17 March, in the towns of Kutunda,

Kenge, Lubila, Kabukungu); Budaha, Burhinyi, Ngweshe, Kigulube (31 May, around 90 dead, according to the sources); Kibizi, Buyankiri (similar incidents throughout the year, of varying intensity); Kasala (Katanga) (45 dead, many of them burned alive, on 28 July); Kalambi (Menga, 30 September); Kahungwe (23 October, around 100 dead); Kashambi (61 dead, on 31 October); Kalami (October); and Chifunze (South Kivu, over 60 dead). Many of these massacres were carried out using machetes, knives or guns, and houses were usually set on fire at the same time. RCD claims that these incidents were provoked by the Interahamwe or the Mai-Mai, but these groups have no reason to commit massacres against the Congolese population or Hutu refugees, who account for most of the victims. These incidents - like those in Kasika (1998) and Makobola - were denied by RCD, before finally being acknowledged as unfortunate mistakes. That is how they were described by both the Head of the Department of Security and Information, Bizima Karaha, and the Head of the Department of Justice, Institutional Reform and Human Rights, Jean Marie Emungu, in a report sent to the Governor of South Kivu. A feature common to all these incidents is the attempt to cover up all traces immediately. Ugandan troops carried out similar massacres in Beni on 14 November, with an unconfirmed death toll of 60 civilians.<sup>8</sup>

113. The attacks on the defenceless civilian population during the dispute between Ugandan and Rwandan soldiers in Kisangani in August, which claimed 30 civilian lives, and later attacks on Beni and Rutshuru were also a violation of the rules of international humanitarian law.

#### Arson and destruction

114. In incidents mostly, though not always, unconnected to the massacres, RCD forces have set fire to and destroyed many villages.

#### Deportations

115. Mai-Mai and other persons have been arrested during military operations and transported to Rwanda and Uganda, where they usually disappear without a trace.

#### Mutilation

116. The Special Rapporteur received many reports of mutilation and, in at least one case, was able to verify it. During his mission in February, he met an 18-year-old man, arrested along with another young man by Rwandan soldiers in a village in South Kivu on suspicion of collaborating with the Mai-Mai. The first man's genitals were cut off completely and he was abandoned in the jungle, from where he was later rescued, although he was left with irreparable physical damage. His comrade died when his heart was torn out.

#### Rape of women as a means of warfare

117. The Special Rapporteur received reports of rapes of women in Kabamba, Katana, Lwege, Karinsimbi and Kalehe. There were also reports of women being raped by Ugandan soldiers in towns in Orientale province.

## VI. CONCLUSIONS

### A. The armed conflict

118. Since 2 August 1998, the eastern part of the Democratic Republic of the Congo has been living through a war started by a movement known as the Congolese Rally for Democracy (RCD), which subsequently split in two and is supported by the armies of Rwanda, Uganda and Burundi (countries the Security Council calls “uninvited”). A new rebel movement, the Movement for the Liberation of the Congo (MLC), was formed later on. Faced with this situation, the Government of the Democratic Republic had to request help, in accordance with Article 51 of the Charter, from the armies of five other countries: Zimbabwe, Chad, the Sudan, Angola and Namibia. The presence of these armies, in addition to the involvement of various militias, i.e. the Interahamwe, the Mai Mai, the former Rwandan Armed Forces (FAR), the Front pour la Défense de la Démocratie (FDD) and the Lord’s Resistance Army, has created a climate of great insecurity. Conflicts which should be characterized as international are thus going on in the country at the same time as others which are internal in nature. The parties have all committed serious violations of international humanitarian law, such as murders and attacks on the civilian population, including the rape of non-combatant women.

### B. Violations of international humanitarian law committed by Government forces

119. The most serious acts have been the bombing of civilian populations by the Congolese Armed Forces and its Zimbabwean and Chadian allies (Kisangani, Gemena, Zongo, Libenge, Goma, Bunga) and reprisals against the civilian population in Bunga and Gemena.

### C. Violations of international humanitarian law committed by the rebel forces allied with the uninvited countries

120. In reprisal for attacks on those the Congolese population calls “aggressors” and “Rwandan soldiers”, RCD forces have retaliated by massacring defenceless civilian populations with machetes, knives and guns, causing thousands of victims, most notoriously in Chipaho, Lemera, Makobola, Burhale, Musinga, Bashali, Lukweti, Budaha, Walungu, Mwenga, Mikondero, Kamituga, Budaha, Burhinyi, Ngweshe, Kigulube, Kibizi, Buyankiri, Kasala, Kalambi, Kahungwe, Kashambi, Kalami and Chifunze.

### D. Human rights violations attributed to the Kinshasa Government

121. The continued application of the death penalty, which President Kabila justifies by the need to guarantee the population’s security, even though he describes himself as abolitionist; the existence of a Military Court (COM) which does not guarantee the rights of the accused; continuous attacks on the independent press (the arrest of journalists, raids on printers, summonses, the use of Mobutu-era freedom-killing legislation); the systematic use of torture; and the practice of enforced disappearance and summary executions appear to be the most serious violations. On the positive side, the Minister of Human Rights has tried to make improvements in some specific areas and a solution was found for “persons at risk” (those of Tutsi appearance, who had to be protected to prevent reprisals by the population); a national



human rights plan of action has been prepared with the participation of the main human rights organizations; and, in November, the Office of the High Commissioner for Human Rights was authorized to visit detention centres.

E. Human rights violations in RCD-controlled territory

122. The most striking thing in the territory occupied by the “rebel or aggressor” forces is the prevailing atmosphere of terror and an increasingly stronger feeling of rejection of those in power. The people of the area feel humiliated. The right to life is constantly being violated, but so are all the public liberties, such as the right to freedom of association, assembly, expression and opinion. There are no independent news media and the few that did exist, such as Radio Maendeleo, were banned. Any dissent or opposition is presented as “attempted genocide”. The deportation of prisoners to Rwanda and Uganda is a particularly serious matter. It is also symptomatic that the latest RCD/Goma structural adjustment eliminated all public human rights organizations. The one positive aspect is that the death penalty, which is provided for by law, is not being applied.

F. The situation of human rights advocates

123. In the two parts into which the country is divided, the situation of human rights advocates is particularly serious. The annexes contain several specific examples of violations of their rights to freedom of association, expression and assembly, as well as of their rights to life, physical integrity and liberty of person. In the opinion of President Kabila, NGOs should be regarded as “political parties”. For the Governor of South Kivu, civil society is a grouping of extremist political parties funded by the Kinshasa secret services.

G. The right to democracy in Government-controlled territory

124. An analysis of Commission on Human Rights resolution 1999/57 of 27 April 1999 on the promotion of the right to democracy, whose existence the Special Rapporteur has supported in all his reports since 1994, shows not only that this right does not exist in the Democratic Republic of the Congo, but that nothing has been done to guarantee it.

125. The rights to freedom of opinion and expression, thought, conscience and association and assembly are being violated and only the right to freedom of religion may be considered to be applicable. Political parties are banned (unless they are in conformity with a new law which does not meet democratic requirements) and, in their place, People’s Power Committees (CPPs) have been systematically set up with State funding and ideological support; they are no more than an extension of the State itself for the implementation of its policies and they have also been authorized to organize armed neighbourhood militias known as People’s Self-Defence Forces (FAPs).

126. The human right to receive and impart information and ideas is being violated and is subject to harsh penalties of arrest, trial (even by the Military Court), prohibition on leaving the country and torture.



127. The rule of law is applicable only to private individuals, not to the Head of State, who has arrogated to himself the most absolute discretionary powers, in accordance with Decree-Law No. 3 of 1997, which concentrates all executive and legislative powers and the majority of judicial powers in his hands. There are no effective remedies for the protection of the fundamental freedoms and security of citizens.

128. The right to vote has not been restored and nothing has come of any of the announcements made, even before the attack of 2 August 1998 in the eastern part of the country.

129. The right to political participation on terms of equality has also not been restored. According to the new law on political parties, only those which are authorized by the Ministry of the Interior may take part in politics. In the "national debate" called for by the Government, only the issues proposed by the President may be discussed.

130. The Government continues to have a stranglehold on government institutions. Even ministers of State, judges, soldiers of all ranks and senior public officials have been sent to prison, often without trial, thus showing that power is being exercised non-transparently, with the most absolute impunity.

131. The Congolese people does not enjoy the right to choose its system of government and the "national debate" proclaimed by the President is restricted to the issues he proposes.

132. The right of citizens to have access, on terms of equality, to public service is not recognized.

#### H. The right to democracy under RCD

133. In RCD-controlled territory, there are no parties, no freedom of expression, information, association, assembly or political participation and no right to vote. People do not even have the right to criticize what they see as "foreign aggression and occupation". Only RCD is authorized and it is effectively a party-State. The population has endured terrible political humiliations, such as the changing of the flag without consultation and the declaration of the "twinning" of the Rwandan capital, Kigali, and the territory of South Kivu, which is even seeking autonomy for itself.

#### I. The Lusaka Peace Agreement

134. Following many attempts at peace, the Lusaka Peace Agreement was signed on 10 July, but signed by RCD only on 31 August. It contains both military and political agreements and provides for observer participation by countries (Zambia) and organizations (OAU and the United Nations). The Ceasefire Agreements have not been observed, since fighting and troop mobilizations have continued, the militias have not been disarmed and the massacres have gone on. Worse still, the parties have continued to use warlike language, in increasingly louder tones every day, thereby undermining the participation of the so-called "international community", which, apart from civil society in the two parts of the territory, so far appears to be the only one interested in the Agreement's success. Since the date of signing, however, there have been no major changes in territorial positions.

135. The political commitments provided for in the Agreement have also not been implemented: the facilitator for the Congolese components of the Agreement has not yet been appointed and President Kabila's Government refuses to hold an all-inclusive "national dialogue" (inter-Congolese political negotiations) on the future of the country with the participation of widely recognized political parties and civil society, preferring instead a "national debate" limited to the issues it is prepared to discuss.

136. None of the agreements provided for in the Lusaka Agreement was implemented within the time limits set and most of them have still not been implemented.

137. The joint mission to investigate violations of human rights and international humanitarian law committed during the 1996-1997 war has still not been able to begin its activities, as the Commission on Human Rights requested, because the required security measures have not been taken.

## VII. RECOMMENDATIONS

### A. Respect for the peace process

138. The parties involved must fully implement the Peace Agreement, both in its military aspects (halt to warlike language; disarming of militias; withdrawal of all foreign troops, whether invited or "uninvited"; respect for the inviolability of borders; a proper ceasefire; and security for movements of United Nations and OAU observer and auxiliary staff; etc.) and in its political aspects.

139. With regard to the political agreements, the appointment of a facilitator cannot continue to be put off, especially as the Special Rapporteur found that there was broad consensus on the San Egidio community, which meets all the requirements of recognized moral and intellectual standing, credibility and experience provided for in the Agreement.

### B. Democracy

140. The restoration of democracy is essential and urgent. To this end, the political parties and NGOs organized in accordance with the law in force at the time of their establishment must be respected and must take part in any serious process of reconciliation and democratization. Democracy is built by peoples or by no one.

141. In the east, RCD must accept the fact that it is not popular with the Congolese people and must allow organizations in which the people is represented to operate. It cannot continue seeing every opponent as a perpetrator of genocide or as an instigator of ethnic hatred. It cannot go on adopting measures which anger the population, such as the twinning of Kigali and South Kivu and the change of flag.

142. Human rights, especially liberty of person and the freedoms of expression, opinion and association, must be restored in the two parts into which the war has divided the territory, since their enjoyment today seems more like a concession from the authorities than an enforceable

**ANNEX 2.3.A**

**United Nations Security Council, *Special report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*, document S/2002/1005,  
10 September 2002**



## Security Council

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### **Special report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo**

#### **I. Introduction**

1. The present report is submitted pursuant to the statement of the President of the Security Council of 15 August (S/PRST/2002/24), in which the Council requested me to put forward recommendations on how the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and, through the Mission's coordination, all relevant United Nations agencies can assist the parties in the fulfilment of their responsibilities to implement the Peace Agreement between the Governments of the Democratic Republic of the Congo and the Republic of Rwanda on the Withdrawal of the Rwandan Troops from the Territory of the Democratic Republic of the Congo and the Dismantling of the ex-FAR and Interahamwe Forces in the Democratic Republic of the Congo (S/2002/914, annex), signed in Pretoria on 30 July 2002.

2. The present report outlines the tasks associated with the Pretoria Agreement and contains recommendations on action that the United Nations could take to assist the parties in its implementation. It also contains an analysis of the Agreement between the Governments of the Democratic Republic of the Congo and the Republic of Uganda on the Withdrawal of Ugandan Troops from the Democratic Republic of the Congo, Cooperation and Normalization of Relations between the Two Countries, signed by the States concerned in Luanda on 6 September. In addition, the report describes the situation in the north-eastern Democratic Republic of the Congo and sets forth recommendations on action that the United Nations could take in this regard.

3. Other developments since the issuance of my eleventh report on MONUC (S/2002/621) will be reflected in a further report, which will be submitted to the Security Council in early October.

#### **II. Provisions of the Agreements and action taken to date**

##### **A. Pretoria Agreement**

4. In Pretoria on 30 July 2002, the Heads of State of the Democratic Republic of the Congo and Rwanda signed the Peace Agreement on the withdrawal of Rwandan troops from the Democratic Republic of the Congo and the dismantling of the former Rwandan Armed Forces (ex-FAR) and Interahamwe forces in the Democratic Republic of the Congo. The President of the Republic of South Africa and I signed the Agreement as witnesses.

5. Key provisions of the Agreement relate to the undertaking of the Democratic Republic of the Congo Government to continue the process of "tracking down and disarming" (S/2002/914, annex, para. 8.1) the Interahamwe and ex-FAR within the territory under its control. The Democratic Republic of the Congo Government has also agreed to collaborate with MONUC, the Joint Military Commission (JMC) and "any other force constituted by the third party, to assemble and disarm the ex-FAR and Interahamwe" (ibid., para. 7) in the whole of the territory of the Democratic Republic of the Congo. The Government of Rwanda, for its part, has committed itself to withdrawing its troops from the Democratic Republic

S/2002/1005

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of the Congo “as soon as effective measures that address its security concerns, in particular the dismantling of the ex-FAR and Interahamwe forces, have been agreed to” (ibid., para. 5). The Agreement stipulates that Rwanda’s withdrawal should start simultaneously with the implementation of these two measures, both of which will be verified by MONUC, JMC and the third party.

6. The third party — which is defined as “the Secretary-General of the United Nations and South Africa, in its dual capacity as Chairperson of the African Union and as facilitator” (ibid., p. 4) — is entrusted with a number of verification tasks, including the verification of information to be provided by the parties on the armed groups, and of the implementation of effective measures in regard to their dismantling. MONUC is specifically called on to immediately complete its phase III deployment and to operationalize and provide security at assembly points for ex-FAR/Interahamwe elements, as well as to facilitate their repatriation.

7. The Programme of Implementation of the Peace Agreement (ibid., pp. 4-6) envisages a 90-day timetable and includes the following elements:

(a) The establishment of a third-party verification mechanism;

(b) The finalization of MONUC phase III deployment;

(c) The establishment of assembly points for ex-FAR/Interahamwe elements;

(d) The tracking down, disarming and dismantling of those armed groups;

(e) Various monitoring and verification tasks;

(f) The complete withdrawal of Rwandan troops from Democratic Republic of the Congo territory.

Subsequently, the third party is to conduct the final verification of the completion of the 90-day Programme of Implementation and submit a report within 30 days thereafter.

#### **Action taken to date**

8. Following the signing of the Pretoria Agreement, the United Nations undertook consultations with the Governments of South Africa, the Democratic Republic

of the Congo and Rwanda in order to gain greater insight into the background to the Agreement and to seek the clarifications necessary for the Organization to plan its role in support of the Agreement. Several meetings were held with delegations from the three countries during the week of 5 August 2002. Additional clarifications were provided on 8 August at the meeting that the Security Council held with the Ministers for Foreign Affairs of South Africa and the Democratic Republic of the Congo and the Special Envoy of the President of Rwanda on the Great Lakes region. On 6 August, the Department of Peacekeeping Operations provided the Security Council with a preliminary analysis of the implications of the Pretoria Agreement.

9. On 9 August, following consultations with a South African Government delegation at United Nations Headquarters, a joint communiqué was issued in New York on the establishment of a secretariat of the third-party verification mechanism. That communiqué indicated the readiness of the United Nations and South Africa to work closely together to oversee and verify the implementation of the commitments made by both signatories. The communiqué also announced that the secretariat of the verification mechanism would comprise the following personnel, to be assisted as required by the necessary experts: for the United Nations, my Deputy Special Representative for the Democratic Republic of the Congo and the Deputy Force Commander of MONUC; and for South Africa, the Security Adviser to the President, the Foreign Affairs Adviser to the President, the Chief Director for Central Africa of the Department of Foreign Affairs and the Special Representative of the Department of Defence.

10. Subsequently, the secretariat of the third-party verification mechanism was established in Kinshasa. It will also have a liaison group in Kigali. MONUC intends to extend its fullest cooperation to the verification mechanism by, inter alia, assisting in carrying out the latter’s verification tasks. At the same time, MONUC will continue to discharge the mandate entrusted to it by the Security Council, in accordance with its established chain of command and procedures. The terms of reference for the verification mechanism are in the process of being finalized.

11. The third-party verification mechanism held its first meeting in Kinshasa on 21 August and discussed its programme of work and rules of procedure. It also

held initial meetings with the Governments of the Democratic Republic of the Congo and Rwanda on 26 and 27 August to discuss the way forward and to request that they appoint contact groups to serve as their primary interlocutors vis-à-vis the verification mechanism. The mechanism will determine in due course specific modalities for the various verification tasks envisaged in the Pretoria Agreement.

12. In the course of my recent visit to southern Africa, I conducted extensive consultations with regional leaders on the various practical modalities for the implementation of the Pretoria Agreement.

13. Since the signing of the Agreement, the Governments of the Democratic Republic of the Congo and Rwanda have maintained regular contacts to discuss its implementation. The Government of Rwanda has provided the third-party verification mechanism with initial information on its plan for the withdrawal of its troops from the Democratic Republic of the Congo, as well as information concerning the Rwandan armed groups operating in the Democratic Republic of the Congo. However, a preliminary assessment of these documents has indicated that much more information is required in these areas. The verification mechanism, in the meantime, is also awaiting the Democratic Republic of the Congo Government's submission of information concerning the ex-FAR/Interahamwe elements allegedly present in the western Democratic Republic of the Congo, including, in particular, information on the whereabouts of their known leaders.

## **B. Luanda Agreement**

14. On 6 September 2002, at Luanda, the Heads of State of the Democratic Republic of the Congo and the Republic of Uganda signed an Agreement on the withdrawal of Ugandan troops from the Democratic Republic of the Congo and cooperation and normalization of relations between the two countries. The Head of State of Angola signed the Agreement as a witness.

15. Under the Agreement, the Government of Uganda committed itself to the continued withdrawal of its forces from the Democratic Republic of the Congo in accordance with a jointly agreed calendar. In particular, the Ugandan troops are to immediately withdraw from Gbadolite, Beni and their vicinities. Uganda also

reaffirmed its readiness to withdraw its troops from Bunia following the establishment of an administrative authority in Ituri. The agreement also stipulates that Ugandan troops on the slopes of Mount Ruwenzori will remain until the parties put in place "security mechanisms guaranteeing Uganda's security", including coordinated patrols along the common border of the two countries.

16. With regard to the situation in Ituri, the two parties have agreed to establish, with the assistance of MONUC, a Joint Pacification Committee on Ituri comprising representatives of the Governments of the Democratic Republic of the Congo and Uganda and various leaders on the ground. According to the implementation calendar annexed to the Agreement, the Committee would be established within 20 days of the signing of the Agreement. Following a decision on a mechanism to maintain law and order in Ituri, an administrative authority would be set up. Subsequently, Uganda would develop a plan for withdrawal from Bunia that would envisage the completion of the withdrawal of the Ugandan People's Defence Force (UPDF) within 100 days.

17. Other provisions of the Agreement concern the normalization of relations between the Democratic Republic of the Congo and Uganda, including through the restoration of the sovereignty of the Democratic Republic of the Congo, while Uganda's security concerns are also addressed; by refraining from all types of military and logistical support to the armed groups; by expediting the pacification of the Democratic Republic of the Congo territories currently under Ugandan control and the normalization of the situation along the common border between the two countries; through exchanges of intelligence on all matters of security interest; by restoring full diplomatic relations; and by re-establishing the Joint Ministerial Commission for cooperation in various areas, including defence, security, trade, investment, infrastructure, transport, communications and cultural exchanges. The parties also agreed to resolve any future differences between them through dialogue and other peaceful means.

18. At the time of the preparation of this report, the Government of Uganda had withdrawn some 1,200 troops from Beni and 650 troops from Gbadolite since late August. MONUC has observed the return of these UPDF troops to Uganda. It is expected that the



withdrawal of Ugandan troops from those locations will be completed by the end of September.

### **III. Implementation challenges**

#### **A. Pretoria Agreement**

19. The signing of the Pretoria Agreement has been characterized by the parties and the facilitator as an effort to overcome the main obstacles to the implementation of the Lusaka Ceasefire Agreement (S/1999/815, annex), namely, the lack of progress in the withdrawal of Rwandan troops and in the disarmament, demobilization, repatriation, resettlement and reintegration of ex-FAR/Interahamwe elements operating in the Democratic Republic of the Congo. Hence, it provides a political framework within which the main issues of concern could be addressed, thus enabling the parties to resolve their long-standing conflict.

20. It is in this context that the MONUC concept of operations for phase III has been revised, as outlined in section IV below, to reflect the adjustments necessary to support the implementation of the Pretoria Agreement, including the various verification tasks envisaged for the third-party verification mechanism and voluntary, progressive disarmament, demobilization, repatriation, resettlement and reintegration of the armed groups in the Democratic Republic of the Congo, with an emphasis on the ex-FAR/Interahamwe elements.

21. The key to operationalizing the Pretoria Agreement will be the continued resolve of both parties to work closely with each other — with the assistance of the third party — in a climate of confidence. It is only in this context that a number of continuing differences — such as the divergence of views between the two Governments on the number and locations of the Rwandan armed groups and on the yet-to-be-defined “effective measures” (S/2002/914, annex, para. 5) regarding the dismantling of the ex-FAR/Interahamwe — can be overcome. It will also be important for the parties to reach — as soon as possible — a common understanding on their obligations under the Agreement. President Mbeki’s proposal of monthly, or at least regular, review meetings at the Head of State level should therefore be strongly supported, since such meetings would be an

essential instrument in maintaining the resolve of the parties and ensuring that the process remains on track.

22. The continuing contacts between the parties since the signing of the Pretoria Agreement are encouraging signs of their commitment to the peace process. At the same time, the reported intensification of military activity on the ground and a recent exchange of public accusations regarding non-compliance with the Agreement may not be conducive to the prompt implementation of the Agreement. While the cessation of hostilities between the Governments of the Democratic Republic of the Congo and Rwanda has largely held along the disengagement line for some time, it will be crucial for the parties to demonstrate their commitment to the Pretoria Agreement by ensuring that secure conditions are created both for MONUC’s deployment and for the voluntary disarmament of the armed groups. The parties will also need to exert influence over those concerned to lay down their arms and enter into a voluntary disarmament, demobilization, repatriation, resettlement and reintegration process.

23. Although not directly linked to the Pretoria Agreement, an overall political settlement among the parties to the inter-Congolese dialogue is also a critical element for ensuring its successful implementation. An all-inclusive transitional Government should be in a position to effectively extend its authority throughout the Democratic Republic of the Congo, following the withdrawal of foreign forces. Obviously, the ongoing efforts of my Special Envoy, Mustapha Niasse, require the strong support of all concerned, with a view to a timely, all-inclusive agreement among the Congolese parties on the transitional arrangements.

#### **B. Luanda Agreement**

24. The Agreement reached between the Governments of the Democratic Republic of the Congo and Uganda provides for the total withdrawal of the latter’s troops from the Democratic Republic of the Congo and the normalization of the relations between the two countries. As regards Bunia, a key town in the resource-rich Ituri region that was until recently a political hub for the Rassemblement congolais pour la démocratie-Kisangani/Mouvement de libération (RCD-K/ML) in an acutely contested territory, Uganda’s decision to withdraw its battalion from this area once

an administrative authority has been established in Ituri could have both positive and negative consequences.

25. As indicated in my previous reports to the Security Council, Ituri has for decades been afflicted by a series of violent clashes, particularly between the Lendu, the Hema and their affiliated groups. It should be noted, however, that the Lendu-Hema tension does not represent a typical majority-minority conflict as witnessed elsewhere. Since June 1999, the tension in Ituri has reached an unprecedented level, with — according to the Democratic Republic of the Congo Government — up to 20,000 people having lost their lives. Recently, in the whole of Ituri, which has a population of 4.6 million, some 500,000 people were newly displaced, with 60,000 displaced in Bunia alone. The precarious security situation was vividly illustrated by the assassination in April 2001 of six International Committee of the Red Cross workers by unidentified assailants some 30 kilometres from Bunia, which is speculated to have been an effort to keep the eyes and ears of the international community away from the situation there.

26. The ongoing extreme violence is often attributed to a lack of impartial administration; to the power struggle between the leaders of the RCD-K/ML; to rivalry between prominent business people over economic interests; to perceived or real interference by some UPDF elements on the ground; and to ongoing efforts to build up ethnically based militias by various sponsors who have different political, military and economic motivations.

27. The total number of killings in Ituri in recent weeks is impossible to ascertain. It is widely accepted that in Bunia itself there have been hundreds, but as the violence has increased and spread to villages as far as 90 kilometres from Bunia, figures provided by non-governmental organizations and other sources have suggested that thousands may have died in August alone, with tens of thousands displaced, although it has not been possible to confirm these figures independently. A recently well-supplied Hema/Gerere militia group, the Union des patriotes congolais (UPC), has reportedly captured important towns on the Mahagi-Bunia-Beni axis, establishing its control of the immediate environs of Bunia, thereby reducing the RCD-K/ML power base. The Lendu and Hema communities are now deeply suspicious of each other and have entered a deadly cycle of revenge killings. In recent months, individuals who have reportedly sought

to restore normalcy have received death threats, forcing them to flee the area.

28. On 29 August, the Human Rights Minister of the Democratic Republic of the Congo, Mr. Luaba Ntumba, and his associates, were abducted by a group of UPC militia members near the Bunia airport. The hostages were released three days later in exchange for the return to Bunia of nine associates of the UPC leader, Thomas Lubanga, who was formerly an RCD-K/ML leader in charge of the movement's "defence portfolio". MONUC assisted in this situation by providing good offices and appealing to all concerned to reach a peaceful solution.

29. While any long-term solution must be based on the withdrawal of all foreign troops from the area and the introduction of a legitimate national authority that will exercise impartially its civil administration responsibility, it is unlikely that such an administration — acceptable to all communities in Bunia — can be effectively installed at short notice. Despite a general perception that some UPDF troops have not acted even-handedly, for the time being they remain the only force in Bunia that can provide security, albeit limited and localized. It should also be noted that the situation in the north-east has been further destabilized by a military offensive conducted by RCD-National, reportedly backed by the Mouvement de libération du Congo (MLC), towards Isiro. RCD-National has reportedly advanced to within 200 kilometres of Bunia.

30. The need to address the deteriorating situation in Bunia is critical not only for the implementation of the Luanda Agreement, but also for the normalization of security conditions in the north-east and the furtherance of the peace process in the Democratic Republic of the Congo in general. The proposed MONUC role in this regard is outlined in paragraphs 57-63 below.

#### **IV. Role of the United Nations Organization Mission in the Democratic Republic of the Congo in support of the Agreements**

31. My ninth report to the Security Council (S/2001/970) presented the initial plan of MONUC for its phase III deployment, which indicated that the



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Mission would take a step-by-step approach to the implementation of disarmament, demobilization, repatriation, resettlement and reintegration of the armed groups while continuing with relevant phase II tasks, in particular monitoring the disengagement of the parties to new defensive positions, investigating alleged ceasefire violations and observing the withdrawal of foreign forces.

32. Over the past year, MONUC has made considerable strides in its phase II activities, but also in preparing for its phase III tasks, in particular by deploying civilian and military personnel in Kindu and Kisangani. In this regard, the preliminary information gathered on the armed groups was provided to the Security Council in the annex to my letter of 1 April 2002 (S/2002/341). However, in the absence of an overall political agreement on disarmament, demobilization, repatriation, resettlement and reintegration and without a cessation of hostilities in the eastern parts of the country, the Mission has not been able to achieve much with regard to disarmament, demobilization, repatriation, resettlement and reintegration beyond providing assistance in response to ad hoc requests for demobilization and repatriation of combatants such as those assembled in Kamina and Beni, and planning for the wider disarmament, demobilization, repatriation, resettlement and reintegration operation.

33. The Pretoria and Luanda Agreements, which support the principles laid down in the Lusaka Agreement, now provide a concrete opportunity to move forward with the disarmament, demobilization, repatriation, resettlement and reintegration of armed groups and the withdrawal of Rwandan and Ugandan forces.

## **A. Disarmament, demobilization, repatriation, resettlement and reintegration**

### **1. Principles involved in the disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups**

34. The main principles that will guide MONUC involvement in the disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups are as follows:

(a) The Democratic Republic of the Congo and Rwanda must provide all information they possess on the locations, numbers, and weaponry of the armed groups, to be verified by the third-party verification mechanism;

(b) Disarmament, demobilization, repatriation, resettlement and reintegration activities will take place in a permissive environment, which is to say, a cessation of all hostilities is necessary;

(c) The disarmament, demobilization and repatriation of armed groups will be undertaken on a voluntary basis. MONUC will in no way attempt to forcibly disarm combatants;

(d) The disarmament, demobilization, repatriation, resettlement and reintegration process will also address the voluntary repatriation of both ex-combatants and their family members. It is essential that the countries in question provide guarantees that ex-combatants and their dependants will be able to return in conditions of safety and security. In this respect, the necessary confidence-building measures, including international monitoring and reintegration assistance, will have to be put in place. Consideration should also be given to members of "mixed families" (such as Rwandan ex-combatants who have Congolese wives);

(e) The question of ex-combatants who may not wish to return to their home countries must be addressed prior to the commencement of the disarmament, demobilization, repatriation, resettlement and reintegration exercise. MONUC and the Office of the United Nations High Commissioner for Refugees (UNHCR) will undertake further consultations with the parties, as well as with other Governments, on the identification of various durable solutions, including asylum in the Democratic Republic of the Congo and resettlement to third countries, for those people who qualify as refugees and are unwilling to return to their home countries;

(f) MONUC and UNHCR will seek to work with the Governments of the Democratic Republic of the Congo and Rwanda, as well as with other countries concerned, to ensure that those two Governments make available to the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other

Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994 any persons sought by the Tribunal;

(g) In areas not under the control of the Democratic Republic of the Congo Government, MONUC will provide "point security" for the disarmament and demobilization sites, but the local authorities will continue to be responsible for providing overall "umbrella security". In areas controlled by the Government of the Democratic Republic of the Congo, the Government will be expected to provide security at the disarmament and demobilization sites;

(h) A clear understanding should be reached with the Governments of the Democratic Republic of the Congo and Rwanda on their respective roles and responsibilities, as well as those of MONUC, UNHCR and other relevant United Nations agencies, with regard to disarmament, demobilization, repatriation, resettlement and reintegration of ex-combatants and associated tasks.

## **2. Envisaged disarmament, demobilization, repatriation, resettlement and reintegration arrangements**

35. In areas controlled by the Government of the Democratic Republic of the Congo, any ex-FAR or Interahamwe members identified as operating alongside the Congolese armed forces would remain in their formations until they were, as was the case in Kamina, disarmed by the Democratic Republic of the Congo Government, where they would be screened, demobilized and repatriated by MONUC. The Congolese armed forces would be responsible for maintaining security during the disarmament, demobilization, repatriation, resettlement and reintegration exercise. MONUC would not be required to provide protection, beyond guard units necessary to protect United Nations personnel and equipment. Accordingly, it will be possible for MONUC to proceed with the initial stages of disarmament, demobilization, repatriation, resettlement and reintegration within its current resources in the areas under Government control as soon as the ex-FAR/Interahamwe are identified.

36. In the east, disarmament, demobilization, repatriation, resettlement and reintegration will continue to present a major political, security and

logistical challenge. As noted in my previous reports, the situation in the eastern Democratic Republic of the Congo remains highly volatile. The general environment of hostility and the lack of law and order are likely to remain, even with a formal cessation of hostilities. In this light, it is proposed that the disarmament, demobilization, repatriation, resettlement and reintegration process in the east would initially commence in areas of relative security.

37. The proposed disarmament, demobilization, repatriation, resettlement and reintegration plan envisages that MONUC will simultaneously operate two to four mobile reception centres for disarmament, demobilization and reintegration at any given time. It is estimated that a total of 10 to 12 mobile reception centres could be created during the entire process. These centres would be set up by MONUC in partnership with UNHCR, the World Food Programme (WFP), the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF). In addition to the military presence of MONUC, including military observers, a multidisciplinary civilian team would also be attached to each centre.

38. Following consultations with United Nations agencies, it has been agreed in principle that UNHCR will assist in the reception and repatriation of ex-combatants' dependants, who will be accommodated at a separate camp. WFP will provide and distribute food, UNICEF will assist with the child soldiers and WHO will support the provision of medical services. MONUC and the United Nations agencies will also work in close partnership with non-governmental organizations that may assist the process. In this connection, specialized training in child protection and gender issues will be provided to civilians and military personnel who will be involved in the disarmament, demobilization, repatriation, resettlement and reintegration process.

39. According to preliminary estimates, it could take about two months to establish one mobile centre, two months to process the combatants and their dependants there and one month to disassemble the camp. The total caseload, including dependants, could be as high as 90,000. MONUC estimates that, with the assistance of its implementation partners, it could repatriate up to 200 people per day from each reception centre and that up to 7,000 people would be processed at each centre over a two-month period, depending on location and logistical conditions.

40. The extensive use of the Mission's public information capacities will be essential in disseminating information on the disarmament, demobilization, repatriation, resettlement and reintegration process. MONUC will step up the use of Radio Okapi to broadcast information on Rwanda's policy on the issue of returning ex-combatants who have already been repatriated, in order to further encourage combatants to disarm and repatriate. In so doing, it will continue to broadcast from already established bases in Kindu and Kisangani and use its three mobile FM radio transmitters.

## **B. Overall framework for phase III activities**

41. As envisaged in the Pretoria Agreement, the third-party verification mechanism will verify the information provided by the parties on armed groups. Moreover, the verification mechanism will play a vital role in overcoming any potential stumbling blocks in the implementation of the Pretoria Agreement by making a final determination on the measures taken vis-à-vis the dismantling of armed groups. While MONUC is a separate entity, it is expected to serve as the main operational arm of the verification mechanism in regard to its verification tasks. Other bodies, such as the JMC, will be invited to participate in the activities of the verification mechanism, as appropriate, pursuant to the Pretoria Agreement.

42. The role of the third-party verification mechanism in verifying the cessation of support to armed groups will be particularly important, as this is understood to be an essential element of the "effective measures" aimed at dismantling the ex-FAR/Interahamwe. To assist in this endeavour, MONUC is expected to establish an observation presence at key points on the alleged supply routes, including at Ndjili airport and at Kamina and Lubumbashi airfields. The verification mechanism will also work with both the Democratic Republic of the Congo and Rwandan Governments to identify leaders of the ex-FAR/Interahamwe, with a view to establishing their whereabouts and handing them over to the International Criminal Tribunal for Rwanda (see also para. 34 (f) above).

43. The structure of MONUC — both civilian and military — would be adjusted in order to meet the challenges that the Mission will face in the coming

phase. A joint coordination committee for disarmament, demobilization, repatriation, resettlement and reintegration, of which the current disarmament, demobilization, repatriation, resettlement and reintegration division will form the core, would be set up directly under the responsibility of the Special Representative of the Secretary-General. The coordination committee would include the various components of MONUC and its principal partners — UNHCR, WFP, UNICEF, WHO, the Office for the Coordination of Humanitarian Affairs and the United Nations Development Programme.

44. Given the immense logistical challenges and the need for effective coordination with the multitude of players involved in the disarmament, demobilization, repatriation, resettlement and reintegration exercise, I intend to appoint to MONUC a second Deputy Special Representative to be responsible for operations and management, including all support aspects of the disarmament, demobilization, repatriation, resettlement and reintegration programme. My first Deputy Special Representative will, in addition to her other functions, retain responsibility for political guidance on disarmament, demobilization, repatriation, resettlement and reintegration. She will also, as noted in paragraph 9 above, be my senior representative in the third-party verification mechanism.

45. A forward Mission headquarters, to be directed by a senior civilian officer, will be established at Kisangani, in order to coordinate MONUC activities in the east and to spearhead disarmament, demobilization, repatriation, resettlement and reintegration in this region. The creation of such a forward Mission headquarters will enable MONUC to shift the "centre of gravity" of its activities gradually towards the eastern Democratic Republic of the Congo as the Mission embarks on its phase III activities.

46. In the meantime, MONUC offices in Kampala and Kigali will also be strengthened to support the work of the Mission, especially in the implementation of the Pretoria and Luanda Agreements, and to provide better political liaison and analysis of developments in Uganda and Rwanda. MONUC also expects to establish a field presence in Lubumbashi.

47. International monitoring of the returning ex-combatants and dependants in Rwanda is an essential confidence-building measure. It is envisaged that UNHCR will undertake its normal monitoring

functions in relation to returning refugees. At the same time, discussions are under way to identify the most effective way to monitor ex-combatants who are repatriated through “solidarity camps” before they are returned to their communities of origin. The experience in Kamina has demonstrated that confidence-building measures are necessary to ensure that ex-combatants can benefit from the security guarantees extended by the Rwandan Government.

### **Concept of operations**

48. In order to support the conduct of disarmament, demobilization, and repatriation of foreign armed groups in the Democratic Republic of the Congo, the military component of MONUC will need to be significantly strengthened by creating a forward force. The forward force will comprise two robust task forces, based in Kindu and Kisangani, as well as one reserve battalion, riverine units and specialized enabling units to enhance the Mission’s military logistics capacity.

49. Each task force will be an integrated (i.e., including command, combat and support elements) and flexible force of approximately 1,700 troops with in-built mobility, structured around a well-equipped infantry battalion. It will also be supported by integral utility (transport) aviation with a lift capability of 120 personnel, specialized logistics elements and two military engineer units, each with a limited demining and construction capability. Additionally, a single armed helicopter unit will be deployed in the east to support the forward force. While the two task forces will maintain their primary bases in Kindu and Kisangani, each one will have the capability to deploy forward up to three company groups to mobile disarmament and demobilization sites in the east.

50. The task forces will, inter alia, provide “point security” at disarmament and demobilization sites for the conduct of the disarmament, demobilization and reintegration process, support the engineering preparation of disarmament and demobilization sites, destroy weapons and munitions, and provide limited demining capability.

51. A force reserve battalion, provided by a single troop-contributing country, will comprise a headquarters and four infantry companies. This reserve battalion will be located at Kisangani and will provide flexibility and the ability to meet unexpected contingencies. It may also assist specialized civilian

and military teams with ad hoc disarmament, demobilization, repatriation, resettlement and reintegration operations carried out in the west of the country, as a prelude to the wider disarmament, demobilization, repatriation, resettlement and reintegration operation.

52. It is proposed that airfield services be provided by the military component, aimed at enabling MONUC to quickly expand its disarmament, demobilization and reintegration operations. These will include essential capabilities in areas such as meteorology, air traffic control, movement control and cargo-handling support that are necessary to ensure flexible, safe and reliable airfield operations.

53. The riverine units will be used to support the reopening of the Congo River for commercial traffic and the movement of United Nations transports, as well as to facilitate MONUC monitoring in the area south-east of Kisangani. Additional military observers are also envisaged to staff the military component of the forward Mission headquarters in Kisangani and to support broader phase III tasks, including by assisting in the screening of combatants in the disarmament, demobilization and reintegration exercise.

54. The current military deployment of MONUC comprises approximately 640 military observers and 3,600 troops. To undertake the tasks described above in the revised concept of operations, an additional 120 military observers and up to 4,340 troops will be necessary, bringing the total authorized strength to 8,700 military personnel. The overall troop requirement will be kept under close review, especially with regard to tasks undertaken under the earlier phase II deployment. As discussed in paragraph 48 above, the new military requirements for the Mission include essential military logistics capabilities. It should be noted, however, that in the past it has been extremely difficult for the United Nations to obtain such troops from Member States. If they are not made available, specialized civilian contracts will have to be sought. Such contracts are usually very costly and may be very slow to materialize.

### **C. Withdrawal of foreign troops**

55. MONUC will continue to monitor the withdrawal of foreign troops from the Democratic Republic of the Congo, which remains a key element of an overall

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settlement. The Mission has observed the recent withdrawal of Ugandan troops from Beni and Gbadolite and is also currently monitoring the redeployment of Zimbabwean troops to assembly areas, in preparation for their withdrawal from Democratic Republic of the Congo territory. MONUC has recently observed the repatriation of a number of Zimbabwe Defence Forces troops from the area of Mbandaka and Mbuji-Mayi. A MONUC military liaison officer is present in Zimbabwe to monitor the arrival of withdrawing Zimbabwean troops in the country.

56. MONUC will also be prepared to monitor the withdrawal of Rwandan troops, the largest foreign military presence in the Democratic Republic of the Congo, in accordance with Security Council resolution 1304 (2000) and subsequent resolutions. It is hoped that the third-party verification mechanism will be able to assist in this process. In the meantime, the initial withdrawal plan provided by the Rwandan Government lacks some specific information that is required, including information on the numbers, equipment and locations of the Rwandan Patriotic Army (RPA) units in the Democratic Republic of the Congo, as well as their exit routes. A timetable for the withdrawal of Rwandan troops should also be developed and promptly submitted to the third-party verification mechanism. Once the necessary information is made available, MONUC will develop its own plan to monitor the withdrawal of the RPA troops from the Democratic Republic of the Congo.

#### **D. Restoring security in the north-east**

57. The currently explosive situation in Bunia calls for intensified efforts by the parties and the international community to defuse the tension and to urgently inject a sense of normalcy. It is envisaged that the response of MONUC will be twofold: promoting accountability from the de facto authorities and launching measures to build confidence between the communities.

58. Given the prevailing volatile environment, security responsibilities should continue to be discharged by UPDF, in an impartial manner, until such time as it can be replaced by a capable police force representing a legitimate authority acceptable to the communities in Ituri. In due course, once an agreement on the installation of a new administration in Ituri is reached, further consideration could be given to

MONUC providing police training and monitoring assistance in this region. It is also important that external players refrain from exploiting the precarious situation in Ituri.

59. In view of the pervasive fear and mistrust that characterize relations between the Lendu and the Hema, it is essential that a dialogue between the two groups, as well as with the wider community of Ituri be initiated and maintained. In the past, the organization of forums and round tables involving community leaders and traditional chiefs has helped defuse tensions. However, the lack of follow-up or the non-implementation of agreed measures has impeded the furtherance of reconciliation efforts.

60. Pursuant to the Luanda Agreement, the Governments of the Democratic Republic of the Congo and Uganda are envisaged to establish a Joint Pacification Committee on Ituri (see para. 16 above). MONUC will work with the two Governments and with key personalities on the ground on the proposed initiative, with a view to assisting them in the search for a solution to the troubling situation in Ituri.

61. In the meantime, MONUC intends to increase its presence in Bunia, with a senior political adviser leading the team there. The team will collect and analyse information on trends that are likely to have an effect on the security environment. To this end, MONUC has already strengthened its office in the area by dispatching a political officer, a civil affairs officer and a humanitarian officer to Bunia. However, sustaining a large MONUC civilian presence in Ituri requires that all concerned urgently address the security situation.

62. An important factor contributing to the highly volatile environment in Ituri is the lack of access to objective and impartial information, making the population susceptible to manipulation and, sometimes, incitement by those who want to destabilize the situation. MONUC will do its best to intensify its public information efforts in Bunia, and has already made arrangements to install a Radio Okapi transmitter there.

63. It is widely felt that a small number of leaders are responsible for deliberately creating a confused situation in the Ituri region, pitting one community against another, to further their own interests. In order to end the cycle of violence in an environment of



impunity, these leaders should be held accountable for their actions.

### **E. Civilian police aspects**

64. It will be recalled that the idea of establishing a civilian police component in MONUC was first broached in my eighth report on MONUC (S/2001/572), in the context of assisting local authorities to enhance their capacity to maintain law and order in areas from which foreign forces would withdraw and disarmament, demobilization, repatriation, resettlement and reintegration would take place. Under resolution 1355 (2001) of 15 June 2001, the Security Council approved the establishment of a civilian police component in MONUC to conduct an in-depth assessment of policing institutions, needs and capabilities, and ultimately to prepare recommendations for an eventually expanded MONUC civilian police component. The task of the civilian police component was to advise and assist the local authorities in the discharge of their responsibilities to ensure the security of the local population, particularly in regard to the internal security situation following the withdrawal of the foreign forces.

65. With the signing of the Pretoria and Luanda Agreements, MONUC has been considering in more concrete terms the type of assistance the Mission could provide in areas from which RPA and UPDF troops would withdraw. As the situation in these areas becomes clearer in the coming months, I intend to return to the Security Council with recommendations regarding the assistance MONUC could provide in relation to capacity-building for local internal security mechanisms — including broader law and order issues, such as human rights and the judiciary.

### **V. Observations and recommendations**

66. The signing of two separate bilateral Agreements between the Government of the Democratic Republic of the Congo and the Governments of Rwanda and Uganda is an extremely important development in the Democratic Republic of the Congo peace process, and could be a major step forward in the continuing efforts to end a long-standing conflict. The highly commendable initiatives of the Governments of South Africa and Angola to introduce a new dynamic in the

Democratic Republic of the Congo peace process deserve our strong support. It is important that the parties on the ground now demonstrate their full commitment to these Agreements through concrete and decisive steps.

67. In this connection, the reports of intensified military activities in the east are a source of major concern. I call on the parties to do everything possible to achieve an immediate ceasefire and to end all support to the armed groups, as a sign of good will. I also call on all concerned — in particular RCD-National, supported by MLC, and RCD-K/ML — to cease all military activities in the north-east. The gap that still exists between the increasingly positive diplomatic efforts and the deteriorating situation on the ground must not be allowed to widen.

68. I am particularly concerned about the security conditions in the Ituri region. The tensions between the local communities have been aggravated by the dynamics affecting the larger Democratic Republic of the Congo conflict. I call on all concerned not to take any action that might exacerbate existing tensions. The developments in Ituri underscore the pressing need to arrive at an all-inclusive agreement on a transitional Government that could promptly extend its authority effectively throughout the territory of the Democratic Republic of the Congo.

69. In the framework of the Luanda Agreement, I urge the Governments of the Democratic Republic of the Congo and Uganda to continue their consultations, with a view to addressing the troubling situation in Ituri and, in particular, ensuring that there is no security vacuum in the region. In this connection, their decision to establish a Joint Pacification Committee on Ituri is a welcome development.

70. The efforts of humanitarian agencies to meet the vast needs in that region and elsewhere in the Democratic Republic of the Congo are vital. Humanitarian agencies have recently established a task force on the situation in Ituri in order to closely monitor developments and to coordinate an effective response. However, the needs are overwhelming and cannot be met with current resources alone. I strongly appeal to donors to provide generous funding to the humanitarian agencies operating in the area. Their work also requires adequate security arrangements, and all parties in the Ituri region are urged to allow the

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humanitarian agencies full and complete access to all those in need.

71. The Pretoria and Luanda Agreements have laid a foundation for building a lasting peace in the Democratic Republic of the Congo. They address the main aspects of the conflict by providing a framework for the disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups and for the orderly withdrawal of all foreign troops. The repatriation of UPDF from Beni and Gbadolite, which paves the way for Uganda's total withdrawal from Democratic Republic of the Congo territory, is an important step forward. While Zimbabwe is not a party to the Pretoria Agreement or the Luanda Agreement, the recent announcement of its intention to repatriate its troops from the Democratic Republic of the Congo is also a welcome step. I call on the Government of Zimbabwe to work closely with MONUC to ensure that its withdrawal is conducted in a transparent and orderly manner. Rwanda should also demonstrate its willingness to withdraw its troops from the Democratic Republic of the Congo, in accordance with relevant Security Council resolutions.

72. There should be no doubt that the ability of MONUC to implement its revised concept of operations will depend on the full cooperation of the parties, which includes the provision of all necessary information; a full cessation of hostilities throughout the territory of the Democratic Republic of the Congo, in particular of the fighting between the non-signatories to the Lusaka Agreement and the Rwandan/RCD-Goma forces; the cessation of support from the Government of the Democratic Republic of the Congo and its allies for ex-FAR/Interahamwe and other armed groups; and the parties' provision of security, access and freedom of movement to MONUC.

73. It is my sincere hope that the obstacles that have impeded the implementation of the Lusaka Ceasefire Agreement in the past will be overcome through the third-party verification mechanism. MONUC will extend its fullest cooperation to the verification mechanism, and will report on the possible financial implications.

74. The effective conduct of disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups will be imperative for the settling of the Democratic Republic of the Congo conflict. On the basis of lessons learned

in similar situations, the delays usually caused by a shortage of funds provided on a voluntary basis must be avoided. The international community cannot afford to miss the opportunity offered by the Pretoria Agreement to disarm, demobilize and repatriate foreign armed groups — a goal that has been pursued for several years now. It is therefore recommended that the costs of disarmament, demobilization and repatriation of members of armed groups be borne under the assessed budget. At the same time, I intend to do everything possible to encourage donors to mobilize funds for this process on a voluntary basis, with a view to reimbursing the assessed budget allocations. In addition, any costs related to reintegration would continue to be funded through voluntary contributions to Governments and agencies concerned. I call on the international community to support these efforts generously, particularly through assistance to the communities where the ex-combatants will resettle.

75. In this context, I would also like to recommend an extension of quick-impact project funding for MONUC, which is absolutely essential as the Mission enters a new phase of its mandate and expands its deployment and visibility. Such projects, while representing a very small percentage of the Mission's overall budget, can go a long way in helping the Mission to provide tangible benefits to the communities where it is deployed and in winning the support of the local population.

76. While it is clear that the implementation of the Agreements will depend primarily on the political will and determination of the parties to abide by their commitments, much remains to be done by the international community in assisting the parties to implement their undertakings. In this regard, an adjustment and reconfiguration of the MONUC structure and deployment has been carefully considered in order to determine how the Mission can most effectively play its role in support of the peace process. Consequently, it is proposed that MONUC shift the emphasis of its activity eastward, enhance its disarmament, demobilization, repatriation, resettlement and reintegration capacity and strengthen its presence considerably, essentially through the deployment of two task forces, as outlined in paragraphs 48 to 54 above.

77. Accordingly, I recommend that the authorized military strength of MONUC be increased up to 8,700 all ranks, bearing in mind that the troop level will be

kept under constant review as the process unfolds. In anticipation of a Security Council decision and in order to ensure an expeditious response by the United Nations, I have instructed the Department of Peacekeeping Operations to step up its efforts to consult potential troop contributors. In this connection, I particularly appeal to countries that have the capability to provide specialized military units, such as military aviation units, airfield services and engineers, to contribute to MONUC.

78. I strongly urge the Congolese parties to reach an all-inclusive agreement on a new political dispensation in the Democratic Republic of the Congo as soon as possible. My Special Envoy, Mr. Niasse, will continue to work closely with the Congolese leaders to reach this very important goal. Any delay in achieving such a political settlement could undermine the recent momentum created by the Pretoria and Luanda Agreements.

79. As noted in the Pretoria Agreement, the resolution of the Democratic Republic of the Congo conflict is a process, not an event. Therefore, the signing of the recent Agreements — while an important step towards peace — is only the beginning of a process, the progress of which will depend, first, on the commitment of the parties and, second, on the decisive support that the international community will be willing to provide.

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**ANNEX 2.3.B**

**United Nations Security Council, *Second special report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*, document S/2003/566,  
27 May 2003**



## Security Council

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### **Second special report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo**

#### **I. Introduction**

1. The present report is submitted pursuant to Security Council resolution 1417 (2002) of 14 June 2002, by which the Council decided to extend the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) until 30 June 2003, and Council resolution 1468 (2003) of 20 March 2003, by which the Council, *inter alia*, expressed its support to the broad orientations on the role of MONUC in support of the peace process set out in paragraph 59 of my report of 21 February 2003 (S/2003/211), and expressed its intention to consider my recommendations in this regard. This report also covers major developments since my last report, until 14 May 2003.

#### **II. Political and military developments**

##### **The Final Act of the inter-Congolese political negotiations**

2. On 2 April 2003 in Sun City, South Africa, the participants in the inter-Congolese dialogue signed the Final Act of the inter-Congolese political negotiations that had started in October 2001, by which they formally endorsed a package of agreements that constitute a comprehensive programme for the restoration of peace and national sovereignty during a transition period of two years. The agreements comprise the Global and All-Inclusive Agreement on the Transition in the Democratic Republic of the Congo, signed on 17 December 2002 in Pretoria, the Transitional Constitution, the memorandum on military and security issues of 6 March 2003, and the 36 resolutions adopted by the inter-Congolese dialogue in Sun City in March and April 2002. The signing of the Final Act marks a new and important chapter in the process of national reconciliation and peace in the Democratic Republic of the Congo and indeed in the history of the African continent.

##### **Latest developments**

3. Since the signing of the Final Act, the Congolese parties have taken a number of important first steps towards the establishment of the Transitional Government.

After promulgating the Transitional Constitution on 4 April, Joseph Kabila was formally sworn in as President for the transitional period on 7 April. This was followed by the promulgation of a decree granting amnesty for *faits de guerre* and *infractions politiques et d'opinion*, and the abolition of the Cour d'ordre militaire that had been widely criticized for disregarding basic international standards.

4. On 14 April, President Kabila convened in Kinshasa the first meeting of the Follow-up Commission (Commission de Suivi) whose purpose is to prepare for the installation of the new institutions. All of the members of the Commission attended except the Rassemblement congolais pour la démocratie-Goma (RCD-Goma), which did not participate because of concerns about its security in Kinshasa, and the political opposition, which had still not settled on its representatives. After extensive discussions in Goma on 19 April, my Special Representative, Amos Namanga Ngongi, developed a package of confidence-building measures — including MONUC air transport and the deployment of MONUC troops within a limited security zone in Kinshasa — which made possible the travel to Kinshasa of the RCD-Goma delegation on 27 April. Upon his arrival in Kinshasa, the Secretary-General of RCD-Goma publicly announced the end of the war and the lifting of restrictions on the free movement of goods and people throughout the territory of the Democratic Republic of the Congo.

5. The second meeting of the Follow-up Commission on 29 April was attended by its full membership. Two subcommittees were established, namely, the Committee on Political and Security Affairs, chaired by the Secretary-General of RCD-Goma, and the Committee on Logistics, chaired by the Secretary-General of the Mouvement pour la libération du Congo (MLC). During its third meeting, on 3 May, the Commission set 23 May as the date for the swearing-in of the Vice-Presidents, 28 May for the instalment of the Transitional Government, and 10 June for the inauguration of the Senate and the National Assembly.

6. The meeting of Chiefs of Staff also reconvened on 3 May, with a view to concluding the discussions begun in Pretoria on the structure of and distribution of posts within the High Command of the integrated Congolese army. According to the timetable adopted by the Follow-up Commission, the integrated High Command of the new army is to be established by mid-May. Despite the negotiations that have continued daily, the parties have not been able to make progress on this issue, however, as they continue to insist on the previous positions. It is expected that the Follow-up Commission will set a new deadline for the conclusion of the talks.

7. On 10 April, my Special Representative convened the first meeting of the International Committee in Support of the Transition in Kinshasa, which has since held regular meetings. The Committee comprises diplomatic representatives of the permanent members of the Security Council as well as the Troika of the African Union (Mozambique, South Africa and Zambia), Angola, Belgium, Canada, Gabon, the African Union and the European Union. The Committee met President Kabila on 17 April, with a view to establishing close relations with the Follow-up Commission. All parties agreed that the Congolese actors involved in the Transitional Government should own and drive the peace process, the Committee providing assistance and support.

8. Despite political progress at the national level, hostilities continued in the east, in particular between Lendu-based and Hema-based militias in Ituri, and between

RCD-Goma, Mai-Mai and other armed groups in the Kivus. These hostilities have been marked by widespread and gross violations of human rights.

### **Situation in Ituri**

9. MONUC multidisciplinary special investigation teams have confirmed that massacres of both Lendu and Hema have been perpetrated in Ituri since February 2003. From 17 January to 6 March, in an attempt to take over full control of the Ituri region, a militia group known as the Union of Congolese Patriots (UPC) engaged in large-scale military operations in four localities, resulting in killings, destruction of property and the displacement of a large number of people. Eyewitnesses stated that around 330 civilians were killed in Bogoro, which was completely destroyed, and reported 160 additional deaths in Mandro. In Drodoro, there were killings on a scale hitherto unknown in the area, hundreds of civilians being murdered in a series of well-coordinated summary executions near the parish and 16 neighbouring locations. Twenty mass graves have been identified by MONUC. MONUC, together with forensic experts from the Office of the United Nations High Commissioner for Human Rights, dispatched a second investigative mission to this area, but its work had to be cut short because of the deteriorating security conditions.

10. The humanitarian impact of the armed conflict for the 4.6 million inhabitants of Ituri has been catastrophic. According to the Office for the Coordination of Humanitarian Affairs, between 500,000 and 600,000 internally displaced persons — many of whom remain in hiding and cannot be accounted for — in addition to nearly 100,000 refugees from Uganda and the Sudan, are dispersed throughout the area. Since the first major onslaught of violence in June 1999, the death toll has been estimated at more than 60,000, and countless others have been left maimed or severely mutilated. Of the estimated 400 health centres, 212 have been closed, and not a single surgeon is present. It is estimated that 200 schools have been destroyed. Moreover, the prevailing atmosphere of insecurity has obstructed the humanitarian community's access to sizeable areas of the region, effectively denying the provision of aid to the most vulnerable populations.

11. On 6 March, Ugandan forces (UPDF) recaptured the town of Bunia, which had been under the control of UPC since August 2002. Subsequently, the UPDF presence in Ituri was significantly reinforced, and brought to the level of over 7,000 troops. The Ugandan troops were deployed to all strategic locations in the region. Their deployment did not stem the activities of armed militias, however. It should be recalled that the root causes of the Ituri conflict, which relate to a power struggle indigenous to the area over land and resources, have recently been exacerbated by the protagonists of the wider conflict in the Democratic Republic of the Congo. As a result of the proliferation of armed groups and their constantly shifting allegiances, the situation in the region has become extremely volatile and unpredictable.

12. In view of rising tensions between Rwanda and Uganda over the increased presence of the latter's forces in the region, my Special Representative proposed a trilateral meeting of the heads of State of the Democratic Republic of the Congo, Rwanda and Uganda. The President of South Africa, Thabo Mbeki, hosted such a summit on 9 April in Cape Town, South Africa, at which the Presidents confirmed the timetable for Ugandan withdrawal from Ituri, beginning on 24 April and ending on 14 May. This was followed up by a meeting of President Paul Kagame and President Yoweri Museveni, hosted by the United Kingdom Government on 8 May.

13. In an effort to broker a ceasefire on the ground, and establish a local political process by which the conflict could be addressed peacefully, MONUC also intensified its consultations with key players early in March. This led to the signing on 18 March, of a ceasefire agreement by the Governments of the Democratic Republic of the Congo and Uganda and six armed groups (except for UPC, which had lost virtually all of its territorial control), which paved the way for convening the much-awaited Ituri Pacification Commission. The Ituri Pacification Commission, comprising 177 delegates representing the main communities and groups in Ituri, including some representatives of UPC, met at Bunia from 4 to 14 April under the leadership of MONUC. At the final plenary meeting, which was attended by several Ambassadors of members of the Security Council, the delegates agreed to set up an interim administration, consisting of a 32-member Special Assembly, an 18-member Executive Organ, and three subcommissions — on security and the consolidation of the cessation of hostilities, the re-establishment of public services and the rule of law, and humanitarian assistance and rehabilitation. These bodies commenced their work on 25 April. It has been determined that the interim administration requires some \$300,000 for the initial three months of operation. The necessary funding has yet to be received, however. It is therefore essential that adequate resources be provided to the administration as soon as possible. MONUC continues to provide support to the Ituri Pacification Commission by whatever means possible. The UPC leader also recently voiced his support for the Commission, which was broadcast on Radio Okapi.

14. In order to provide security for an enhanced MONUC presence in Bunia aimed at assisting the political process initiated by the Ituri Pacification Commission, MONUC began deploying an Uruguayan guard contingent and its supporting elements to Bunia on 23 April. To date, 720 troops have been deployed, of the approximately 800 troops envisaged by the end of May. The tasks of the Uruguayan guard contingent are limited, and include a presence at the Bunia airfield and protection of United Nations personnel and facilities, as well as sites of meetings of the Ituri Pacification Commission in Bunia. MONUC also increased the number and strength of military observer teams in Ituri, which were deployed to Aru, Mahagi, Mongwalu, Kaseyni, Kpandroma and Komanda, in addition to Bunia and Mambasa, where MONUC had already established its presence. On 26 April at Komanda, however, one military observer was killed and another wounded in a landmine accident on a road that had previously been used by MONUC patrols. The team site at Komanda has been evacuated for the time being because of the high volatility of the situation and mine threats, but it will be reoccupied as soon as practicably possible. Moreover, owing to the security threats received, teams at Mahagi, Mongwalu, Kasenyi and Kpandroma are also being evacuated. They will be reinstalled as soon as security conditions permit.

15. On 25 April, UPDF began withdrawing troops from Ituri. To date, MONUC has observed the withdrawal of some 2,000 soldiers. Various supplies and equipment were apparently left behind, however. UPDF completed their withdrawal from Bunia on 6 May and plan to complete full withdrawal from Ituri by 19 May.

16. Immediately after the departure of UPDF from Bunia, Hema- and Lendu-based militia groups sought to establish control over the town, resulting in violent clashes, often near United Nations premises. The clashes were accompanied by widespread looting, including of the premises of the Office for the Coordination of Humanitarian Affairs. On 9 May, MONUC headquarters itself became a target of

attack and its guards were forced to return fire to repel the aggressors. Such fighting has panicked the population, several thousands of whom have sought refuge at the United Nations facilities and at the airfield. On 25 April, the Government of the Democratic Republic of the Congo started to deploy elements of its national police, including rapid intervention police, to Bunia. Concerns quickly emerged about their lack of equipment, particularly vehicles, communications and resupply, unclear command arrangements, precise role and relationship with the Ituri interim administration. Nonetheless, MONUC conducted some joint patrols with the rapid intervention police. When the violent clashes began, however, the 700-member police force disintegrated as a unit.

17. On 7 May, my Special Representative met with President Kabila, who agreed to take measures to enhance the leadership of the rapid intervention police and to provide it with sufficient equipment. President Kabila agreed to work closely with the local administration and accepted the responsibility for cantoning armed groups and feeding them for a limited period. At a later meeting with my Special Representative, on 10 May, President Kabila indicated his intention of deploying FAC troops to Bunia to respond to the “emergency situation”. Preliminary reactions from MLC and RCD-Goma indicated that they would support such a move if their own police and armed forces were integrated into the force, while the local Hema groups in Bunia have voiced their opposition to the FAC deployment. MONUC has stressed to the Government of the Democratic Republic of the Congo the need for such a deployment to be effected in the context of the transitional process, and in close coordination with all concerned.

#### **North Kivu and South Kivu**

18. Since my last report, RCD-Goma has continued to redeploy nearly all its military force (11 out of 12 brigades) away from positions on the disengagement line in order to conduct concurrent offensives in the Kivus and Maniema Province. The main areas of conflict are:

- To the west and north of Goma, where RCD-Goma forces have attacked northwards into the territory of RCD-Kisangani/Mouvement de libération (RCD-K/ML), apparently to establish control over the whole of North Kivu.
- To the north-east of Kindu, in the area of Kalima, where RCD-Goma forces have been engaged with Mai-Mai and are advancing west towards Shabunda.
- To the west and south of Bukavu where, early in April, RCD-Goma eliminated its former Mai-Mai ally — the Mudundu 40 group — from Walungu.
- Around Uvira, where RCD-Goma forces have been engaged with a Banyamulenge militia led by Commandant Masunzu and Mai-Mai.

Fighting also broke out between the Mai-Mai and the RCD-Goma at Uvira in the evening of 2 May, during which eight RCD-Goma soldiers were wounded. Though fighting ceased by morning of 3 May, it erupted again on 5 May. While RCD-Goma has claimed that it was trying to recapture territory lost upon the withdrawal of Rwandan troops in the autumn of 2002, it has actually made advances well beyond its former positions by encroaching on the area controlled by RCD-K/ML.

19. Consequently, the humanitarian situation in the Kivus has continued to deteriorate. The latest RCD-Goma offensives have resulted in serious human rights

violations and have triggered new waves of population displacement, forcing tens of thousands of people to take refuge in the forest or nearby villages. The ongoing fighting has disrupted the humanitarian community's regular activities and rendered it difficult to deliver assistance to the war-affected populations trapped between opposing forces. After heavy fighting broke out in Bukavu on 6 April, some humanitarian agencies were compelled to evacuate their non-essential staff and suspend all activities. There have been widespread reports of rape, looting, armed robberies and arbitrary executions by RCD-Goma troops, Interahamwe, ex-FAR (Forces armées rwandaises), Mai-Mai and unidentified armed groups. To mobilize assistance to the most vulnerable groups, MONUC conducted joint humanitarian assessment missions with the Office for the Coordination of Humanitarian Affairs, facilitated the delivery of emergency aid, and negotiated with local authorities on issues of access in many instances.

#### **Disarmament, demobilization, repatriation, resettlement and reintegration**

20. These persistent outbreaks of fighting in the eastern Democratic Republic of the Congo have continued to hamper, disrupt and delay the operations of MONUC to disarm, demobilize and repatriate foreign ex-combatants, the main focus of the mission to date. MONUC has repatriated more than 1,500 Rwandans, including both former combatants and their dependants, since October 2002, while, since the beginning of the year, the Office of the United Nations High Commissioner for Refugees (UNHCR) has repatriated 3,021 Rwandan refugees. Experience indicates that the MONUC voluntary disarmament, demobilization, repatriation, resettlement and reintegration programme can be completed successfully only in conditions of reasonable security, and with the full cooperation of all parties concerned, including the armed groups themselves. RCD-Goma has not offered its full cooperation, often limiting the freedom of movement of MONUC personnel. The Mission's Mai-Mai interlocutors — who were thought to be useful as contacts with the Rwandan combatants in hiding — proved to be unreliable, often demanding monetary compensation for their cooperation.

21. Since the opening of the Lubero disarmament, demobilization, repatriation, resettlement and reintegration reception centre in December 2002, MONUC has conducted intensive discussions with representatives of the Rwandan combatants and their dependants in the vicinity. MONUC estimates there are some 3,000 to 4,000 combatants and several thousand more dependants around Lubero. Although the rank and file are thought to be ready to enter the disarmament, demobilization, repatriation, resettlement and reintegration programme, their hard-line leaders continue to express misgivings, and have shown deep suspicion both of MONUC and of the Government of Rwanda, often propagating their views in radio programmes transmitted from abroad. Consequently, the leadership effectively influenced the combatants not to take part in the programme. The Government of the Democratic Republic of the Congo, which made some progress towards dismantling the leadership of ex-FAR/Interahamwe in accordance with its bilateral agreement with Rwanda of 30 July 2002, has done little in this regard during the period under review.

22. Nonetheless, through sustained personal contacts and a targeted public information campaign, MONUC managed to persuade some representatives of the combatants to agree to enter the disarmament, demobilization, repatriation, resettlement and reintegration process. Attempts were also made to persuade those

States hosting some of the leaders of the movement to approach them with a view to ending negative radio propaganda concerning the activities of MONUC relating to the process. At the end of March, an initial group of some 200 to 300 combatants and their dependants was gathering near Kasuo, in the vicinity of Lubero, preparing to enter the reception centre. However, the group scattered into the forest when RCD-Goma forces attacked and seized the nearby villages of Muhanga and Bunyatenge. Although MONUC is continuing its efforts to contact the combatants' representatives, the situation in the region remains insecure, and it has not been possible to reassemble that group.

#### **Reopening of the Congo River**

23. Significant progress has been made in reopening the Congo River. Building on the achievements of MONUC since July 2002, when regular river traffic was established between Government and MLC areas, the first private commercial traffic allowed by RCD-Goma arrived in Kisangani in February 2003. The entry into force of the All-Inclusive Agreement and its provisions for full freedom of movement, together with the statement made in Kinshasa on 27 April by the Secretary-General of RCD-Goma on the lifting of remaining restrictions, offered new opportunities for a complete reopening of the river. Early in May, MONUC facilitated a visit to Kisangani and Goma by a 20-member senior commercial delegation from the Fédération des Entreprises du Congo in Kinshasa to meet their local counterparts and the RCD-Goma leadership. As a result of the mission, the RCD-Goma authorities confirmed that they would accept commercial convoys to Kisangani immediately. Until the Transitional Government is officially installed in Kinshasa, the existing procedures for river transport will remain in place. A large commercial convoy to Kisangani is expected to depart in 10 days. It was also agreed that a business delegation to Kinshasa from key towns in the east (Kisangani, Goma and Bukavu) would be organized in the coming weeks.

#### **Adjustment of the deployment of the Mission**

24. MONUC has reviewed its deployment strategy with a view to a comprehensive readjustment of its structure, as appropriate, from that based on the Lusaka Agreement to one that meets the needs of the changing political and military situation. Two of the four MONUC coordination centres (Ilebo, Basankusu) are no longer in operation and the guard units assigned to them have been reallocated to other duties, including security arrangements in Kinshasa. The two remaining coordination centres, Boende and Manono, will be closed in the next few months, releasing the guards deployed there for reallocation to other priority areas. In view of the All-Inclusive Agreement that has reunified the territory of the Democratic Republic of the Congo, MONUC is also redeploying some 12 military observer teams from defensive positions along the Kampala/Harare disengagement line to more volatile areas in the east of the country. Consequently, by 30 August, MONUC will have redeployed almost 100 military observers and more than 1,400 troops from phase II to phase III functions. It is also closing 22 team sites in the western part of the country.



### **III. Implementing the transitional agreements**

25. During the two- to three-year transitional period, the Transitional Government will have to simultaneously address immediate challenges and long-term issues. First and foremost, it will have to put in place the transitional institutions and ensure their functioning. It will also have to lay the ground for the democratically elected government that will be established at the end of the transition by preparing for elections and drafting a new Constitution. At the same time, the Transitional Government will have to address security and military matters and respond to the population's expectation of economic improvement.

#### **The responsibility of the Congolese parties**

26. It is clear that the successful implementation of the various agreements reached in the course of the inter-Congolese dialogue depends directly on the political will of the Congolese parties. Years of protracted conflict have left a legacy of mistrust that has undermined international efforts to help the Congolese find lasting solutions to their problems. For the transition to succeed, the Congolese parties must, from the outset, provide strong signals of their intention to implement the agreements they have signed.

27. In the coming weeks and months, the parties must observe a number of key benchmarks to maintain momentum and demonstrate their commitment. These include:

- The immediate cessation of hostilities, including cessation of inflammatory rhetoric and propaganda
- The cessation of military support and supply to all armed groups
- The lifting of restrictions on the free movement of people and goods throughout the country
- The liberalization of political activity in the areas under their control
- The dismantling of armed groups or their transformation into political parties
- The steps to establish the high command of the national armed forces and to form the initial unit of the integrated police force.

28. At the same time, the neighbouring States have the important responsibility to play a positive and constructive role, and assist the Democratic Republic of the Congo in pursuing a path of peace and national reconciliation. They should respect the provisions of the All-Inclusive Agreement and the decision of the Congolese parties to establish a Transitional Government of national unity. Continuing interference in the internal affairs of the Democratic Republic of the Congo can no longer be tolerated. The legitimate security interests of neighbouring States should be taken up with the Transitional Government through peaceful means.

### **IV. The role of the United Nations and the Mission**

29. Since the adoption of Security Council resolution 1468 (2003), by which the Council endorsed the preliminary vision of the role of MONUC during the transition, as outlined in my thirteenth report (S/2003/211), there have been

extensive consultations with the Congolese parties and international partners, including consultations undertaken by a special planning team of the Department of Peacekeeping Operations sent to the country. As a result, a broad outline has emerged of the role MONUC could play and the assistance it could provide for the transitional period. Subject to the concurrence of the Security Council, the Mission's currently mandated priorities would be readjusted, and would consist of the following elements: (a) to provide political support to the transition by assisting the Congolese parties in the implementation of their commitments, leading to the holding of elections, which will be one of the important elements in the Mission's exit strategy; (b) to contribute to local conflict resolution and the maintenance of security in key areas of the country; (c) to continue with its mandated task of the disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups while contributing to the disarmament, demobilization and reintegration of Congolese combatants; (d) to serve as a catalyst for the coordination of international political and donor efforts concerning the core issues of the transition; and (e) to contribute to confidence-building between the Democratic Republic of the Congo and the neighbouring States. At the same time, ongoing MONUC activities in vital areas such as human rights, humanitarian affairs, child protection and gender affairs would continue.

#### **A. Immediate priorities**

30. In the coming weeks and months, the following immediate priorities require the attention of MONUC: helping the parties to establish the Transitional Government; contributing to the security arrangements in Kinshasa; assisting in sustaining the peace and reconciliation initiatives in Ituri; contributing to local-level conflict resolution; and continuing the disarmament, demobilization, repatriation, resettlement and reintegration of armed groups in the Kivus.

31. In order to assist in providing immediate support to the preparatory mechanisms of the transition, a Transition Support Unit has been created within MONUC from its existing resources to support my Special Representative in his capacity as convener of the International Committee. The Unit will also monitor the political process, liaise with the parties to the All-Inclusive Agreement and facilitate coordination with other national and international actors. As the transition proceeds, the capacity of MONUC will need to be strengthened accordingly, to include its possible presence and facilitation in important provincial capitals.

32. At the same time, in view of the additional responsibilities envisaged for MONUC, its leadership structure — both civilian and military — would need to be considerably strengthened. To this end, the position of second Deputy Special Representative has already been added, as have other important senior-level posts. The military leadership structure is still in need of enhancement, specifically the establishment of the forward mission headquarters in Kisangani to achieve the appropriate span of command and control; given the size of the country, the increased number of MONUC troops and the complexity of managing several politically sensitive and risky military operations require that the Force Commander and Deputy Force Commander positions be upgraded, and that a Forward Force Commander post be created.

### **Security arrangements in Kinshasa**

33. In the All-Inclusive Agreement, the Congolese parties requested the assistance of the international community in establishing a credible, confidence-building, security system in the initial stages of the formation of the Transitional Government, as some leaders of the transition do not feel confident that the existing structures can provide sufficient security. In particular, under the Agreement, the parties requested the assistance of the international community in providing a “neutral force” for the purpose of general security, while the parties would also provide their own bodyguards.

34. Given that the Congolese themselves are ultimately responsible for the security of the leaders and the institutions, the role of the international community should be limited to assisting them in crafting an effective and immediate means of dealing with the security concerns. With regard to the parties’ request for the deployment of a “neutral force”, it is considered that any international assistance provided by military units or police should come under the command of MONUC to avoid the presence of two separate peacekeeping missions operating in the same theatre under separate chains of command.

35. With these considerations in mind, and on the basis of the threat assessment conducted by MONUC and other international specialists, the following multi-layered confidence-building security system is being proposed:

(a) The existing Congolese police structures (national police, including rapid intervention police, traffic police and territorial police units), which would continue to carry out normal law and order functions in the city;

(b) The close protection corps, comprising personal bodyguards (who operate under the control of an integrated central command) for a limited number of political leaders, which would be reinforced by a newly formed integrated police unit;

(c) A MONUC military contingent consisting of some 740 personnel.

The activities of the proposed security system should be coordinated through a Joint Security Operations Centre, comprising senior-level representatives from all the entities that would be discharging security tasks. Any elements of the Congolese Armed Forces currently deployed in Kinshasa would be garrisoned, in accordance with the agreement reached at the meetings of the Chiefs of Staff in Pretoria in March 2003, and monitored by the military observers of MONUC.

36. It is crucial that the training of a newly formed integrated police unit of a future Congolese integrated police force is pursued at the same time, having in mind the need to make the unit operational within six months after the establishment of the Transitional Government. At that time, the unit is expected to be ready to take over the relevant security tasks from MONUC.

37. Before the formation of the Transitional Government, MONUC intends to use its guard company already present in Kinshasa and to redeploy, from elsewhere in the country, two guard units to the capital. These troops will be assisted by some 30 military police personnel, who will serve as an additional layer of confidence in a specially designated security zone in the capital. The security zone will be limited to the Ndjili airport, specified routes between the airport and the Gombe district, the city centre and the Gombe district itself. MONUC guard units would reassure the

parties with a visible presence in the security zone, both static positions and mobile patrols and armed escorts. MONUC will also have a limited capability to extract threatened persons from the zone. The United Nations activities in this regard will be facilitated by MONUC civilian police officers, who will provide liaison and technical advice to their Congolese interlocutors. In addition, MONUC civilian police officers will advise, monitor and report on the conduct of the various Congolese entities discharging security responsibilities. Such an arrangement is based on the present security assessment and the expectation that the requirement will last for six to nine months. While MONUC would be able to fulfil the requirement for military resources for these tasks by redeploying elements within its currently authorized strength, in the event that the threat level rises considerably or persists longer than envisaged, there will be a requirement to augment the United Nations presence by adding extra guard units and/or, possibly, formed police units.

38. To carry out the new tasks in support of security arrangements in Kinshasa described in paragraphs 35 to 37 above, MONUC would require the following civilian police personnel: 15 civilian police officers, including experts in administration, planning, strategic management and coordination; 55 personnel to serve as liaison officers, 24 hours a day, 7 days a week, to the Joint Security Operations Centre, Congolese police elements and close protection arrangements; and 34 officers to serve as security technical advisers to various Congolese police and security entities as well as the MONUC military contingent charged with security tasks in Kinshasa.

39. The modalities, mechanisms and funding for the creation and initiation of the integrated police unit must be set up without delay. The Government of the Democratic Republic of the Congo and other parties, and eventually the Transitional Government, are expected to provide offices for the Joint Security Operations Centre as well as salaries, accommodation and equipment for the close protection corps and the integrated police unit. The regular payment of salaries will be an essential prerequisite for the entire security structure, which the Congolese parties must address rapidly and as a matter of priority. At the same time, some bilateral donors have shown commendable interest and are assessing the possibility of training police personnel, providing a communications system in Kinshasa for the new security structure and rehabilitating the training centres for the integrated police unit.

#### *Training of an integrated police unit*

40. To quickly form and train the integrated police unit, the best option would be a project to be undertaken by one or more bilateral donors, directly with the Congolese, that would train and equip 1,200 officers for the unit within a period of six months, refurbish the necessary training facilities and provide the communications system to allow the unit to function within the overall Kinshasa security mechanisms. The MONUC civilian police component, together with other United Nations entities, could complement such efforts by providing training assistance on international policing standards in various thematic areas, with a special emphasis on the rule of law and fundamental rights. This option would require six additional MONUC civilian police trainers/coordinators.

41. Should this option be unavailable within the required time limit, a second option would be a combination of direct bilateral assistance to train and equip a

group of 600 integrated police unit officers in Kinshasa, while MONUC would support the training in Kisangani of another group of 600 officers, in a mentoring programme involving Congolese trainers. This mixed training option would require 24 civilian police trainers/mentors. If neither of these options is quickly available, the MONUC civilian police component would undertake the responsibility of training the 1,200 integrated police unit officers, in Kinshasa and in Kisangani, in a mentoring programme involving Congolese trainers. Forty-eight civilian police trainers/mentors would be required for this option. Refurbishment of the training centres, training equipment, further basic operational equipment and communications would be required in all options. The views of bilateral donors are urgently requested to determine the most viable option.

*Reconfiguration of the civilian police component*

42. In view of the new phase of the peace process in the Democratic Republic of the Congo, the MONUC civilian police component is being reconfigured. The current pilot training programme in Kisangani will be suspended, in anticipation of the formation of a future integrated police force. Instead, the focus of the civilian police component will be as follows: (a) assisting in the security arrangements in Kinshasa; (b) contributing to the training of an integrated police unit; and (c) continuing the assessment and planning of its future role in key strategic areas, such as Ituri and some locations in the Kivus. The following structure is envisaged: headquarters staff, including the newly created Kinshasa sector (35), civilian police advisers/liaison officers/monitors to assist the security arrangements in Kinshasa as noted in paragraph 38 above (89); and regional planners/liaison officers to be deployed to Bunia, Goma and Gbadolite (10). Hence, 134 police officers would be needed, 34 more than the currently authorized strength, to meet the basic requirements. From 6 to 48 additional officers will also be required, depending on the training option for the unit to be followed (see paras. 40 and 41 above).

**Peace initiative in Ituri**

43. Ituri has become one of the most volatile and lawless areas in the Democratic Republic of the Congo (see paras. 9-17 above). At this time of hope for comprehensive peace, Ituri continues to have the potential to derail progress made at the national level. It should be noted that the prevailing volatility and ongoing manipulation by various players, and the security risks from well armed, but unpaid, rival militias and from other elements are considerable.

44. The Ituri Pacification Commission process, which was facilitated by MONUC, offers a real chance of comprehensive peace and reconciliation in the area, which must be followed up vigorously. The immediate challenge is to create the conditions of security and confidence for members of the Commission and international personnel present in the region to assist this fledging and still fragile process. While the integration of Ituri within national government structures is the ultimate goal, achieving this will require sustained and determined international and national engagement.

45. To that end, and as security conditions permit, the overall MONUC presence in Ituri would be considerably enhanced by the establishment of the Ituri Pacification Commission Support Unit, which would be staffed by a United Nations multi-disciplinary team and provide comprehensive support to the Ituri interim

administration. All MONUC substantive components (political affairs, human rights, humanitarian affairs, child protection, public information and others) will be represented in the Unit. In view of the need to assist the people of Ituri in setting up temporary local administration — in anticipation of the extension of the authority of the Transitional Government — United Nations civilian affairs officers would also be deployed.

46. MONUC could also establish a small civilian police cell to begin planning assistance, which could be provided by the international community either through MONUC or bilaterally, in the formation of an integrated police element to be introduced to Ituri. A strong human rights presence would also be essential to ensure investigation of violations, to monitor and support the new human rights bodies and to help the judiciary fight the culture of impunity. Military observer teams would also be strengthened and deployed to monitor the withdrawal of UPDF troops, liaise with armed groups and observe their activities, and monitor key population centres and designated airstrips, where possible. That effort would be reinforced by the Mission's proactive public information programme, including the establishment of a radio studio in Bunia, as well as conflict resolution projects using media tools. In view of the massive proliferation of arms in the area, MONUC, in cooperation with the subcommittee on armed groups of the Ituri Pacification Commission, may assist the interim administration in developing a limited local disarmament initiative, for which donor support will be required.

47. MONUC would also work closely with the humanitarian and development community, which is designing a strategy for this long-inaccessible region. Immediate needs include the delivery of emergency humanitarian relief to areas affected by insecurity and fighting; assistance in housing repair in areas devastated by the war; restoration of health and medical services and social support in areas affected by recent massacres; income-generating activities such as road and infrastructure repair to be conducted by the estimated 25,000 militia members and other ex-combatants; assistance for the demobilization and reintegration of child soldiers; and quick-impact projects in areas where United Nations personnel would be deployed.

48. In order to provide protection to United Nations personnel and assets in various locations in Ituri and to establish a framework of security in support of the ongoing political process, it is assessed that, at a minimum, a brigade-size formation consisting of three infantry battalions with appropriate support (logistics, utility helicopters, engineering) and totalling up to 3,800 personnel would be necessary. Even a force of that strength would not be able to provide comprehensive security throughout Ituri or secure all major roads or the border with Uganda. In addition to protecting United Nations personnel and assets and other vital installations in Bunia, the brigade force will secure a United Nations logistical base at Bunia airfield and the immediate environs of the town, support the United Nations military observer teams in accessing the more remote areas, and provide limited support to humanitarian operations in selected locations. By extending its operations beyond Bunia, initially along an axis towards Djugu and Mahagi, the brigade force would expand its security framework and, as the situation further permits, gradually reach airfields, towns and other areas in Ituri.

49. The present deployment to Bunia of the Mission's reserve battalion (supplied by Uruguay) is a limited, interim and emergency measure to ensure that the

momentum of the Ituri Pacification Commission peace process can be maintained in the rapidly changing security situation in the area. The battalion will not be able to extend its presence outside Bunia to other areas of Ituri. By the end of May, the total strength of the Uruguayan contingent in Bunia will be close to 800, including the logistic support elements and engineers. This force will clearly be well below the minimum required to assume full security tasks in the town, and its deployment can only be temporary, as it comes at the expense of sacrificing the fundamental principle of maintaining a Mission reserve battalion for contingencies. The Uruguayan contingent will be needed to reconstitute that reserve as soon as possible.

50. It should be noted that the Uruguayan deployment is the minimum that is militarily acceptable to establish security for United Nations operations at the Bunia airfield, protect United Nations personnel and resources at locations in Bunia, support the Ituri Pacification Commission process and make necessary preparations for the follow-on deployments, as well as logistic sustainment. Of the nearly 800 Uruguayans, just under 450 are infantry troops whose primary roles are to provide a company reserve force to respond to contingencies in Bunia, 24 hours a day, to provide point security at up to eight United Nations and Commission locations in the town (including the airport entrance and sector headquarters), to guard military engineers (who are charged with making necessary road repairs, demining and building accommodations), to escort military observer teams in the vicinity of Bunia, to occasionally patrol Bunia itself and, as may be required, to provide a local escort for United Nations and humanitarian convoys within the town.

51. To provide anything beyond the current deployment in Bunia, and particularly to address the problems in Ituri more widely, the minimum requirement will be a brigade-size formation (Ituri Brigade Force). The Department of Peacekeeping Operations is examining how such a force could be structured and identifying potential contributors of the forces that could be assembled quickly to form the proposed force. The most immediately available element is the 1,700 strong multi-functional battalion group initially envisaged for Kisangani, which includes one infantry battalion, supported by transport helicopters, engineers, airfield service units, military police and an air medical evacuation team. Attack helicopter assets to be deployed to support phase III MONUC operations would support the Ituri Brigade Force as the main priority. Potential troop contributors for the initial elements of the Force have already indicated preliminary concurrence with such a deployment, and a reconnaissance mission was undertaken during the first two weeks of May. The Department of Peacekeeping Operations is also in touch with the potential troop contributors regarding offers for the two additional infantry battalions required to complete the force. These additional battalions (approximately 1,050 personnel each) will provide MONUC with the operational reach and responsiveness that it needs to be successful in this remote and extremely volatile region.

52. Once deployed, the battalion group must gradually assume the Bunia security tasks currently performed by the Uruguayan contingent, which will eventually be relieved and return to its normal duties. Even with a slightly enhanced ability to provide security in the town, the capacity of MONUC to support monitoring operations or respond to violence in the remote areas would remain very limited. Only once the security situation in Bunia improves can MONUC begin to extend its operations, primarily in the vicinity of Bunia. Only when the full Ituri Brigade Force



is formed will MONUC have the ability to gradually expand its operations to include a more comprehensive range of security framework tasks in Ituri.

53. The current lack of a sufficiently credible MONUC force in Ituri would likely result in MONUC operations being confined to Bunia, and an increased level of risk and the probability that the United Nations military presence would be exposed to provocations. Inevitably, this raises the prospect that such a force may not be sufficient to fulfil its limited objectives. This is a risk that will be present, in any case, until such time as the brigade force is deployed and operationally effective, but it is a risk that can be reduced considerably if all parties are aware that the initial deployments are part of a realistic longer-term approach.

54. The duration of the limited military deployment of MONUC in Bunia and of the larger military force proposed in paragraphs 48 to 53 will depend on how quickly and successfully the political process in the area can achieve normalization and reconciliation. It is hoped that a Congolese integrated police unit, once formed, could gradually take over security responsibilities from the MONUC brigade force. In view of the extremely volatile environment in the region, MONUC, together with the United Nations Security Coordinator, has developed an evacuation plan which covers both MONUC and United Nations agencies personnel. Non-governmental organizations that have concluded memoranda of understanding with the Office of the Security Coordinator would be included in the evacuation plan.

#### **The Kivus and disarmament, demobilization, repatriation, resettlement and reintegration**

55. Even in the face of numerous and competing priorities in the Democratic Republic of the Congo, the importance of the Kivus cannot be overlooked. Two recent wars in the country began there, and the region remains a pivotal ingredient of the overall peace process. The Kivus border three key eastern neighbours of the Democratic Republic of the Congo, Uganda, Rwanda and Burundi. The conflicts that have afflicted these neighbouring countries have had a direct impact on security in border communities in the Kivus, be it as a result of refugee movements or the cross-border activities of rebel groups fighting the Governments of their countries of origin. The region has also grappled with issues of ethnicity, inequitable land allocation and fighting over the control of natural resources. In this context, MONUC intends to pursue a two-pronged approach: (a) continuing the disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups operating out of North Kivu and South Kivu and (b) promoting local peace and reconciliation mechanisms.

#### *Disarmament, demobilization, repatriation, resettlement and reintegration*

56. As indicated above, MONUC activities related to disarmament, demobilization, repatriation, resettlement and reintegration have recently been obstructed by the operations of armed groups in the east. This notwithstanding, the reception centre at Lubero, the transit points at Goma and Bukavu and a number of austere temporary assembly areas will be maintained by the United Nations in anticipation of the resumption of large-scale disarmament, demobilization, repatriation, resettlement and reintegration in those areas, as circumstances permit. At the same time, MONUC experience so far with this process has permitted a further refinement of methods, an improvement in information-gathering and



analysis techniques, enhanced collaboration with the Multi-Country Demobilization and Reintegration Programme, led by the World Bank, and with concerned specialized agencies and United Nations entities, such as UNICEF. For its part, UNHCR will also continue to promote returns of Rwandan refugees to their country by taking a more proactive approach to reaching pockets of Rwandan refugees countrywide.

57. With the deployment of the first United Nations task force to the Kivus (the main base being in Kindu), MONUC would be able to establish a United Nations presence in vital locations — including those hitherto inaccessible to MONUC military observers — and provide necessary support to disarmament, demobilization, repatriation, resettlement and reintegration. The robust and mobile nature of the task force — which will be equipped with armoured personnel carriers and helicopters — will permit the simultaneous deployment of MONUC disarmament, demobilization, repatriation, resettlement and reintegration teams to some of the remote groups in the region. The mobility capabilities will also bring a quick response capacity that has been lacking to date. This outreach approach will be a joint effort of the various MONUC components, including vital military support. Most importantly, it is hoped that this credible United Nations presence will give the groups an increased level of confidence in the disarmament, demobilization, repatriation, resettlement and reintegration programme by offering protection from harassment, as well as speedy movement to the resettlement camps across the border.

*Local peace and reconciliation mechanisms*

58. While the establishment of the Transitional Government and the full implementation of the All-Inclusive Agreement should eventually bring unification and peace to the Democratic Republic of the Congo, it is likely that localized conflicts, particularly in the Kivus, will continue in the foreseeable future. Moreover, a transitional period may be rather tumultuous and could generate conflicts which, if uncontained, could destabilize the whole national process and could even provide a pretext for external intervention. It is therefore necessary for the international community to assist the Congolese people at the local level in developing interim mechanisms for peace and reconciliation.

59. The situation in the east is currently characterized by a patchwork of primarily local armed groups competing with each other and suspicious of one another's motives. The disintegrated governance structures, ethnic heterogeneity, economic mismanagement and illegal exploitation of natural resources, tensions between different generations of migrants and refugees, land disputes and proliferation of weapons contribute to the instability in the region. There is a clear need to address the root causes and trigger factors of existing conflicts, and to contain new ones. The international community can play a vital supporting role in creating peaceful solutions to local conflicts. To this end, MONUC has already produced policy guidelines for its personnel based on the following approach: (a) crisis management to address acute security concerns between different groups; (b) post-conflict measures aimed at building confidence; and (c) conflict prevention initiatives to avoid the recurrence of violence.

60. In pursuing that approach, MONUC would attempt to serve as a catalyst for international support and assist the initiatives undertaken by local religious

institutions, Congolese grass-roots organizations or international non-governmental organizations with a proven track record. MONUC intends to pursue these activities in the context of the transitional institutions that are being established under the All-Inclusive Agreement, in particular those aimed at promoting reconciliation. The Mission would work closely with the national transitional authorities and with its United Nations partners, especially UNDP, which is developing a strategy for rehabilitation, reconstruction and recovery at the community level. In order to play such a facilitating and mediating role, MONUC will enhance its civilian presence in the Kivus.

61. Finally, mechanisms aimed at normalizing cross-border relations should be developed. While this is among the priorities to be addressed by the Transitional Government and with the neighbouring countries, preliminary initiatives could begin on a pilot basis. Joint economic initiatives and cross-border community projects could be considered, for example. When the new national armed forces are formed, joint patrols — monitored by MONUC — could be undertaken with the armed forces of the neighbouring countries in specified zones along the borders. In due course, the Security Council will be provided with additional recommendations about the expanded role of MONUC in the Kivus. These border issues should also take centre stage in the envisaged international conference on peace and development in the Great Lakes region.

#### **Human rights and transitional justice in the Democratic Republic of the Congo**

62. It remains clear that without strong national human rights protection structures in place and an end to the widespread reign of impunity in the Democratic Republic of the Congo, there cannot be any real reconciliation or the building of the foundation of long-term, sustainable peace. MONUC, working closely with the Office of the United Nations High Commissioner for Human Rights, intends to strengthen its capacity to support the building up of national human rights infrastructures as well as the setting up of transitional justice arrangements. The added focus on human rights investigations will be accompanied by close attention to strengthening — and coordinating the international effort concerning — the ability of national institutions, including the National Truth and Reconciliation Commission and the National Observatory for Human Rights (the creation of which is envisaged under the terms of the All-Inclusive Agreement), to adequately address the concerns of the Congolese people. In this context, it would be important to ensure that attention is paid to child protection issues.

#### **Facilitating humanitarian assistance**

63. It is also vital to continue and indeed expand the delivery of humanitarian assistance. More than 3.5 million people are estimated to have died since 1998 directly or indirectly as a result of the conflict. Despite the need to plan for future recovery and development opportunities, there are still enormous unmet needs that require immediate life-saving assistance. The main obstacle to this assistance has been the lack of access to populations in need and the insecurity created by the acts of the parties to the conflict.

64. The humanitarian objectives of MONUC will continue to focus on facilitating and ensuring access to vulnerable populations for the delivery of much-needed assistance, in close coordination with the Office for the Coordination of

Humanitarian Affairs, United Nations agencies and non-governmental organizations. It will do this in three ways: (a) it will initiate and participate in joint humanitarian assessment missions with the intention of facilitating access to previously inaccessible areas and facilitating the delivery of target assistance where it is most needed; (b) it will systematically engage with belligerents to negotiate a safe and secure access for humanitarian workers, as has been the case in North Kivu where a forum for dialogue with a local Mai-Mai alliance is under way; and (c) it will actively engage non-governmental organization partners in linking demining efforts with planned humanitarian activities, especially in areas where the presence of mines has hindered humanitarian activity.

#### **Responding to mine threats**

65. The serious mine incident reported in paragraph 14, the second such incident since the inception of MONUC, illustrates the requirement for MONUC to maintain a capacity to provide mine risk education to Mission personnel and the communities in which they work, in collaboration with UNICEF and other local partners. The Mission also requires the capability to collect, analyse and disseminate information about mine and unexploded ordnance contamination, and to respond with a clearance capability when required. The Mission will also advocate that all parties stop the use of landmines and provide information on mined areas.

66. The Mine Action Coordination Centre is an integral part of the Mission, and manages a database on contaminated areas for the benefit of the Mission and humanitarian organizations. The Centre's personnel provide expert advice to the Mission and other components of the United Nations system, coordinate the deployment of mine action operators and conduct threat assessment missions in support of MONUC. The Government of the Democratic Republic of the Congo, which recently acceded to the Convention on the Prohibition of Anti-personnel Mines, has requested the Centre to also coordinate the provision of external support for mine action programmes throughout the country. Consequently, it is proposed that the Centre be strengthened by the provision of three additional experts and resources for its operations. At the same time, the Mine Action Service of the Department of Peacekeeping Operations is actively seeking voluntary contributions from donors to develop an operational capability in support of humanitarian requirements. Such a capability could also be provided, in part and in direct support of MONUC, through the deployment of appropriately qualified units from troop-contributing countries.

### **B. Long-term priorities**

67. Clearly, assisting the transition process in a country as large and as devastated as the Democratic Republic of the Congo will present a vast challenge to all concerned. It will require a comprehensive approach in which the United Nations system, the Bretton Woods institutions, and bilateral and multilateral donors plan and coordinate their activities to an almost unprecedented degree. The political arrangements underlying the transition process are complex, the country lacks a strong and efficient public administration, and many of the political actors have little direct experience in democratic practices. Basic mechanisms for the functioning of a modern State (such as a State-wide banking system) are often non-

existent. Consequently, support to the transitional process has to be extensive and imaginative.

68. As outlined in my last report, in addition to the immediate priorities identified in paragraphs 30 to 66 above, the United Nations — in cooperation with organizations of the United Nations system, Bretton Woods institutions and other international partners — will assist the Transitional Government in meeting longer-term goals with regard to elections, the establishment of the rule of law and security sector reform, in particular the disarmament and demobilization of Congolese groups. The transition period could also serve as a bridge between the ongoing humanitarian programmes and expanding development initiatives.

#### **Support for elections**

69. The holding of free, fair and transparent elections towards the end of the two-year transition period can become one of the key elements in the exit strategy of MONUC. Elections in the Democratic Republic of the Congo pose a monumental challenge. The country has never held democratic polls since gaining independence 43 years ago, and no legal framework for the electoral process currently exists. The conditions for organizing the referendum and presidential and legislative elections would therefore need to be specified in an electoral law adopted by the transitional parliament. In a country the size of the Democratic Republic of the Congo, with its relatively poor communication and logistical links, the elections will be very costly, and will require a major cooperative effort between the transitional authorities, the United Nations and bilateral donors.

70. Following preliminary discussions between the United Nations and international representatives in Kinshasa, it could be envisaged that MONUC could provide technical and logistics assistance to the Independent Electoral Commission and facilitate its work through coordination of international support to this end. The precise contribution of MONUC will however depend on the views of the Transitional Government when it is established. As soon as this occurs, a feasibility assessment mission will be dispatched. In the interim, MONUC will have to establish a small electoral cell to commence further planning and liaison.

#### **Rule of law**

71. The situation throughout the Democratic Republic of the Congo is characterized by a pervasive culture of impunity and extremely poor governance. The strengthening of the rule of law is one of the fundamental challenges to be overcome, to break the vicious circle of violence, eradicate impunity, combat the root causes of the conflict and lay the foundation of a democratic society. The responsibility and political will of the transitional authorities in the Democratic Republic of the Congo must be paramount in this regard. As I outlined initially in my thirteenth report to the Security Council (S/2003/211, para. 59), MONUC could assist in the sector of the rule of law by coordinating the overall international effort in the areas of civilian police, human rights, the judiciary and correctional facilities. To enable it to do so, and ensure the harmonization of initiatives, the close support and collaboration of bilateral donors and multilateral and other agencies will be required. My Special Representative intends to establish a multi-disciplinary task force on the rule of law to ensure internal and external coordination of effort. While emphasizing Congolese ownership in all steps of the transition, MONUC is well

placed to provide facilitation and coordination, technical and training advice and structures that could contribute to the establishment of a functional police and to respect for human rights, and to assist in the reform of the judiciary and correctional services.

72. To achieve such goals, a detailed assessment of the rule of law sector will be necessary. Towards this end, representatives of the Department of Peacekeeping Operations, MONUC, the Office of the United Nations High Commissioner for Human Rights and UNDP met for preliminary consultations, at Geneva on 6 May, with other United Nations and international actors in this field. Such consultations will be actively followed up, and will also include the Transitional Government of the Democratic Republic of the Congo, in particular, the Ministries of Justice, the Interior and Human Rights, once such a government is installed, as well as those bilateral donors interested in actively providing assistance in this vital sector. Subsequently, a multidisciplinary team will have to conduct a comprehensive assessment of this sector and recommend a framework in which each actor interested in providing assistance can be identified, taking into account the wishes of the new Government and the advice of various national players in the Democratic Republic of the Congo, including civil society.

73. At the United Nations country team level, a thematic group on human rights and justice has also commenced preparations for a comprehensive programme of support to the Transitional Government. The main areas of United Nations system assistance, in close collaboration with and in support of other actors, have been identified as: reform and strengthening of the legal framework and judicial system; reform, rehabilitation and development of an integrated national police service with particular emphasis on the rule of law and human rights issues; reform and strengthening of the correctional system; training the armed forces on the rule of law and human rights issues; support to the national human rights institutions; support to the establishment of the Truth and Reconciliation Commission; and introduction of measures to promote democratic and participatory governance. Measures to monitor, address and redress violations of human rights will need to be given top priority.

74. As regards the support that may be required for the creation of a national integrated police force, in addition to assisting the formation of the integrated police unit in Kinshasa, and possibly in Ituri, the objectives for the international community and MONUC would include contributing to improvements in professional competence, organizational capacity and institutional integrity; public awareness of the role of the police in a democratic society; and the cooperation between the police, the judiciary and the correctional system. These objectives can be achieved through advisory, training and development roles supported by the provision of some material and financial assistance for equipment and facilities including the possible rehabilitation of former training facilities, in five regional centres — Kinshasa, Lubumbashi, Kisangani, Gbadolite and Bukavu. While some Member States have already offered bilateral assistance in equipping and training the national police, a special multi-donor mission should be dispatched to further study this vital area of activities and provide recommendations to the international community.

75. International assistance in police training will however need to be linked to a number of benchmarks to be implemented by the Congolese authorities, including regular payment of adequate salaries, transparency in recruitment, promotion and

discipline, deployment of personnel based on the type of training received, development and implementation of internal accountability mechanisms, and a maintenance programme financed by the authorities for buildings refurbished by the international community. All efforts in support of the police must include concurrent efforts in support of the judiciary and the correctional services, and the necessary budgetary appropriations should be well coordinated with the Bretton Woods institutions.

**Security sector reform/disarmament, demobilization and reintegration of Congolese combatants**

76. A main objective during the transition period will be security sector reform. It will be vital for new national, integrated security institutions to be established in a transparent manner if they are to play a legitimate and democratically accountable role in providing security for all Congolese people. As indicated above, the creation of an integrated police force that will be responsible for internal security is an immediate priority. The earliest possible formation of the professional national armed forces is also essential. Some bilateral donors have indicated preliminary interest in a possible role in assisting the Transitional Government in these areas.

77. The establishment of a national army and the disarmament, demobilization and reintegration of combatants will be a vital aspect of any security sector reform. MONUC has explored with UNDP, the World Bank-led Multi-Country Demobilization and Reintegration Programme and United Nations agencies the possible follow-up to the proposal in my last report (S/2003/211, para. 60) that the expertise of MONUC in disarmament, demobilization, repatriation, resettlement and reintegration could be extended to the disarmament of Congolese combatants and the coordination of the activities of bilateral donors.

78. Any action MONUC would take in this respect, subject to the agreement of the Security Council, would support the process of creating unified national Congolese armed forces. MONUC activities in the disarmament, demobilization and reintegration of Congolese combatants could include (a) providing information on Congolese armed groups, using its already established database; (b) building on its already established contacts to sensitize non-signatory Congolese armed groups, as well as Mai-Mai, about disarmament, demobilization and reintegration; (c) assisting in the public information campaign; and (d) providing the necessary technical assistance to the national disarmament, demobilization and reintegration programme to be developed. Additional recommendations concerning a possible role for MONUC in the disarmament of Congolese combatants would be provided to the Security Council at a later stage.

79. In response to a formal request from President Kabila in September 2002, and following consultations within the United Nations country task force, UNDP was designated as the lead agency for the coordination of international efforts for the disarmament, demobilization and reintegration of the Congolese forces. This decision was endorsed by the Multi-Country Demobilization and Reintegration Programme in February 2003. UNDP has developed an interim strategy for the development of a national disarmament, demobilization and reintegration programme for the next three to six months, which was discussed during a recent meeting of the Multi-Country Programme in Paris in April. This interim strategy is based on four simultaneous approaches, namely, (a) a dialogue between the principal

political actors in the Democratic Republic of the Congo on the structure and management of a national disarmament, demobilization and reintegration programme which should have the active support of all components of the Transitional Government; (b) the planning of a large and logistically complex national disarmament, demobilization and reintegration programme; (c) the development of a rapid response mechanism to address these issues pending the full establishment of a national programme; and (d) current efforts led by UNICEF for the disarmament, demobilization and reintegration of child soldiers, as well as UNDP support for disabled ex-combatants, which will continue and be incorporated into a national programme.

#### **Child protection and gender affairs**

80. Many of the Mission's currently mandated tasks, in particular those that it has been unable to fulfil completely because of fighting and insecurity, will be even more relevant in the transition period. During this period, MONUC will monitor the integration of child protection issues into new or reformed institutions and legislation to ensure that needs are fully addressed. The disarmament, demobilization and reintegration of child soldiers is likely to increase tremendously once the national programme is implemented and conditions are favourable. The challenge remains enormous given the high numbers of child soldiers still on the front lines or in military camps throughout the country, and the precarious security conditions in some areas, which make reintegration difficult and the risks of re-recruitment high. MONUC will also continue to monitor violations of children's rights in order to evaluate the impact of the transition on children. The already robust involvement of the MONUC gender affairs component with civil society and political parties will also be instrumental in capacity-building to allow women leaders and women's organizations to play a greater role in the democratic process.

#### **Towards a comprehensive approach to support the peace process**

81. The work of MONUC, as outlined above, is designed to be carried out in the framework of its partnerships within the United Nations system and the wider international community. Even so, its work will be limited and the needs of the transition will be great. The immediate priorities are the rehabilitation of infrastructure and the provision of technical support for the efficient functioning of the new governmental structures. Even at this early phase, however, there is a need for a comprehensive package aimed at setting the stage for good governance and consisting of both short-term and long-term activities. With respect to infrastructure, the immediate need is for office space for the additional institutions and positions created. The Government has requested the help of UNDP, the World Bank and the European Union to mobilize the necessary resources for the rehabilitation of existing governmental buildings. An assessment of needs is under way, and once finalized will be presented to the donor community. The presentation should be made by the Follow-up Commission and could well be cast as the first phase of donor support for governance in the transition, which would culminate in support for the preparation and organization of the elections.

82. To complement the support in the rehabilitation of the existing infrastructure, other needs will be addressed, namely the need for training and provision of technical support for the efficient functioning of the new structures, taking into consideration the time limitation of their mandate. The role to be played by the



United Nations system should be catalytic. UNDP and other partners have started work on a public service reform programme and on an interim capacity-building strategy. The support of the United Nations system will be further extended to include the administrations in the provinces, with a view to promoting the unity of the national administration and laying the ground for the organization of the elections at the end of the transitional period.

83. In the medium term, the unification of the territory and complete freedom of movement is a priority for humanitarian and development actors. Insecurity is the major constraint at present; the wider deployment of MONUC in the eastern Democratic Republic of the Congo could help to alleviate the situation, although the onus clearly rests with the parties to cease all military activities. At the same time, enhanced mobility will require significant improvements to the country's transportation infrastructure, which is virtually non-existent. Discussions are already under way to join efforts with bilateral donors in the rehabilitation of roads and other transport links and facilities. In the meantime, the United Nations system and implementing parties will continue to rely on the Mission's transportation capabilities.

84. With regard to the effective management of natural resources, new legislative and regulatory frameworks have already been established with the assistance of the World Bank and the Food and Agriculture Organization of the United Nations. A process of validation of existing titles and concessions is foreseen as part of the transition process, pursuant to a decision to this effect of the Economic Working Group of the inter-Congolese dialogue. It would be important to start the process of validation quickly, as the current uncertainty over many titles and concessions will delay all productive investments in this important sector. At the same time, it is essential that the different parties start cooperating urgently on enforcement of legislation, to prevent a sudden burst of uncontrolled exploitation — especially of the forest — with potentially very negative environmental consequences. UNDP and the Global Environment Facility are involved in the environmental management of a number of sites throughout the country. The international community could provide valuable assistance, via the Congo Basin initiative, as well as by involving reputable non-governmental organizations in the monitoring of logging activities.

85. On the issue of longer-term reconstruction and rehabilitation, the Emergency Humanitarian, Social and Cultural Programme adopted during the inter-Congolese dialogue at Sun City provides a viable framework. The Congolese parties should develop a mechanism for strategy formulation and donor coordination, so as to maximize donor involvement and the speed of implementation. The key process in this context is that of the poverty reduction strategy paper, which was endorsed at Sun City. In addition, it is important to follow up on the decisions made at the meeting of the Consultative Group for the Democratic Republic of the Congo in Paris in December 2002. Those include the acceptance by the Government and all donors of the Emergency Multi-Sector Rehabilitation and Reconstruction Programme as the framework for financing public investment and reconstruction, and the decision that, as soon as feasible, a multi-donor effort would work to extend the framework to cover the entire country. It is essential that the extension of that Programme be harmonized with the important humanitarian programme coordinated by the United Nations system, so as to ensure a smooth transition from humanitarian assistance (especially in the east) to recovery and reconstruction and longer-term



development. In addition, it is important that the work be focused not only on physical reconstruction but also on governance and reconciliation.

86. A first step to achieving this could be the constitution of technical-level national working groups on a few issues which are universally viewed as urgent. Experience in other post-conflict situations shows that such technical-level cooperation can be an important element in confidence-building. To this end, coordination should be well established between the political and technical decision-making institutions — the Follow-up Commission and the International Committee on one side and the United Nations agencies and Bretton Woods institutions on another. MONUC, which is involved in the political process, could serve as a link. The success of the activities of the United Nations and Bretton Woods institutions would very much depend on the establishment of reliable coordination mechanisms (the above-mentioned technical-level national working groups) and the efficient use of existing ones (United Nations regional coordinator and country team, regional initiatives and others). Three initial topics could be disarmament, demobilization and reintegration, currency and HIV/AIDS. As a second step, a multi-donor mission in June could serve to render more visible the efforts of the international community to translate the transition into concrete results for the population. This could be followed by a high-level multi-donor mission late in the summer, which would lead to important resource mobilization at the next Consultative Group meeting in the autumn.

## **V. Financial and administrative aspects**

87. The General Assembly, by its resolution 56/252 C of 27 June 2002, appropriated an amount of \$581.9 million for the maintenance of MONUC for the period from 1 July 2002 to 30 June 2003. As at 30 April 2003, unpaid assessed contributions to the MONUC special account amounted to \$108,752,465. The total outstanding assessed contributions for all peacekeeping operations at that date amounted to \$1,375,914,354. Since its establishment in October 1999, the Trust Fund to support the peace process in the Democratic Republic of the Congo has received voluntary contributions amounting to \$1,124,980, with expenditures authorized to date in the full amount.

88. So far, the Mission's logistics resources, including aviation, have been planned for disarmament, demobilization, repatriation, resettlement and reintegration operations, primarily in the areas of Kindu and Kisangani. Owing to the poor internal infrastructure throughout the country, the Mission continues to rely heavily on air assets and has requested the deployment of the second Mi-26 helicopter. A military airfield service unit has been identified for the deployment, and an ICAO airfield rehabilitation project is expected to be under way shortly, focusing on important airfields in the east. The deployment to Ituri and the sustainment of the force there will pose a considerable unforeseen logistical challenge. MONUC will have to develop a supportable logistics infrastructure to sustain a military and civilian force of up to 3,800 in Ituri. The main costs will arise from the requirement for additional medium and heavy transport aircraft, repairs to the Bunia airstrip and the rehabilitation of the surface transport infrastructure for long-term support. This will require considerable investment.

89. In view of the limited accessibility to the Ituri region, it is envisaged that logistics support will be provided using a combination of sea, road, rail and air transport through Uganda for the deployment of the forces and the sustainment of the MONUC military and civilian presence. Uganda has useable airports and a reasonably good road infrastructure leading to the border with the Democratic Republic of the Congo. The road network in the Democratic Republic of the Congo leading to Bunia is in poor condition and will require extensive rehabilitation. As this will take some time, resupply of the military contingents will primarily be conducted by air for the foreseeable future.

## **VI. Observations**

90. After nearly five years of continuous fighting, the Democratic Republic of the Congo finds itself at an intersection of peace and war. The definitive and successful conclusion of the inter-Congolese dialogue is a crucial milestone that constitutes the commitment by the Congolese parties to finally pursue a path of peace and reconciliation. The Congolese leaders must fulfil their obligations to the Congolese people, who have been waiting too long for their suffering to end. I wish to congratulate the Congolese parties in taking this step and to thank Sir Ketumile Masire, the neutral facilitator, and my Special Envoy for the inter-Congolese dialogue, Moustapha Niasse, for their tireless and determined efforts to complete this process. I would also congratulate the African Union, in particular its current Chairman, President Thabo Mbeki of South Africa, for the extensive support and assistance rendered throughout the peace process in the Democratic Republic of the Congo.

91. This is also a milestone for the United Nations. Since August 1999, the primary role of MONUC has been to facilitate the implementation of the Lusaka Ceasefire Agreement and supplementary bilateral agreements that provided the framework for addressing the military dimension of the conflict. Despite slow and partial compliance by the parties, there have been major achievements, including the disengagement of foreign armed forces and their allies to defensive positions, the withdrawal of the majority of foreign troops from the Democratic Republic of the Congo and initial progress in the ad hoc disarmament, demobilization and repatriation of Rwandan armed groups. I wish to pay special tribute to the men and women of MONUC, especially my Special Representative, Amos Namanga Ngongi, and the Force Commander, General Mountaga Diallo, for their courageous and indispensable efforts in advancing the peace process.

92. The peace process has now moved beyond the Lusaka framework and begun a new chapter that, more than ever, will require the comprehensive engagement and assistance of the United Nations and the international community at large. The magnitude of the challenges should not be underestimated: the country is still divided, military hostilities continue in the east, the population is traumatized by years of conflict, the country is poverty stricken and State services and infrastructure are non-existent.

93. MONUC is well, if not uniquely, placed to play a central catalytic role in assisting the parties through the transition period. For this reason I believe that the main focus of MONUC should now shift to facilitating and assisting the transitional process, and that the Mission should be reconfigured and augmented accordingly.

The immediate priority is to assist in the establishment of the Transitional Government. In the All-Inclusive Agreement, and in a letter dated 4 May from President Kabila, the United Nations has been requested to deploy a force to participate in the proposed multi-layered confidence-building security system to give confidence to transitional leaders in Kinshasa, outlined in paragraphs 33 to 38 of this report. I recommend that the Council agree to these requests by approving the proposed involvement of MONUC.

94. With respect to the institutions of the transition, I welcome the initial positive steps such as the formation of the Follow-up Commission and the participation of all its members, and the establishment of the International Committee in Support of the Transition that is convened by my Special Representative. The new Transition Support Unit in MONUC has already been instrumental in facilitating the preparatory phase of the implementation of the All-Inclusive Agreement. I intend to supplement it by establishing a small electoral assistance cell to commence planning the possible United Nations role in support of elections.

95. Many other challenges, especially the brutal conflicts in Ituri and in the Kivus, stand on the path to the transition. The ongoing strife in Ituri is a humanitarian catastrophe that threatens to derail the overall peace process. Supporting the representative, interim administration that was established on 14 April by the Ituri Pacification Commission is the only viable strategy for achieving peace in this troubled area. Uganda's withdrawal from Ituri is welcome, but it and all other external actors must recognize their accountability for the actions of those armed groups they helped create and must cease to supply them or give them succour.

96. In the current situation of instability and violence, and in the context of the Ituri Pacification Commission and the All-Inclusive Agreement, there can be no justification for supplying weapons to any group. I therefore recommend that the possibility of imposing an arms embargo be considered in Ituri as well as in the Kivus, with an exemption for the equipment of members of the future integrated armed and police units.

97. MONUC, through its enhanced presence backed up by the deployment of a brigade-size force as described in paragraphs 45 to 54, has a vital role to play in support of the still fragile Ituri political process. I am extremely concerned about the Mission's current limited presence in Ituri, especially in view of the immense gap between its capabilities and the high expectations of the population. The international community has a collective responsibility to address the rapidly deteriorating security situation in Bunia. I appeal to the Security Council to urgently approve the deployment of a task force to Bunia, as well as the concept of operations for a MONUC brigade-size force as described in paragraphs 51 to 54 above.

98. At the same time, the deployment of such a force would not be possible before the end of July even under the best of circumstances, leaving a dangerous interim gap in this highly volatile area. I therefore call on the Security Council to urgently consider the rapid deployment to Bunia of a highly trained and well equipped force, under the lead of a Member State, to provide security at the airport as well as other vital installations in that town and protect the civilian population, as a temporary bridging arrangement before the possible deployment of a reinforced United Nations presence. Such a deployment — for a limited period of time — should be authorized by the Security Council under Chapter VII of the Charter of the United Nations.

Neighbouring States and any other actors concerned should refrain from interfering in the ongoing developments in Ituri.

99. The ongoing military offensives in the Kivus continue to cause widespread suffering and undermine disarmament, demobilization, repatriation, resettlement and reintegration activities, and entail the risk of the direct re-engagement of neighbouring States. I call on all those involved in the fighting — RCD-Goma, various Mai-Mai groups and other local militias — to cease hostilities immediately. Arms supplies and other military support to all groups should also cease without delay. But these measures alone would not be enough. MONUC has a role to play in encouraging and assisting local and international partners in conflict resolution efforts by expanding the presence of its civilian personnel and military observers in the Kivus. I call on donors to contribute to a special fund for local peacemaking to be used by my Special Representative. Resources provided to such a fund could be used as seed money to supplement MONUC quick-impact projects in support of local grass-roots initiatives.

100. The disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups must remain an important goal of the international community, as that process lies at the heart of the Great Lakes conflict. There is growing recognition, however, that a successful disarmament, demobilization, repatriation, resettlement and reintegration programme is not the prerequisite to a lasting peace process, but its by-product. The work of the Third Party Verification Mechanism established pursuant to the agreement of 30 July 2002 between the Democratic Republic of the Congo and Rwanda, has been a useful instrument for accelerating the withdrawal of Rwandan troops and the disarmament, demobilization, repatriation, resettlement and reintegration of Rwandan armed groups. Having accomplished its overall mission, the Mechanism is expected to conclude its work shortly. The full deployment during this month of the first task force in the Kivus will put the current ad hoc disarmament, demobilization, repatriation, resettlement and reintegration activities of MONUC on a firmer footing. I call on all concerned to cooperate with MONUC so that it can carry out this important task. I also encourage the Transitional Government of Burundi, together with all armed groups, to establish a disarmament, demobilization and reintegration programme there, so that those Burundian armed groups identified by MONUC in the eastern Democratic Republic of the Congo may be repatriated to their country of origin within an established structure.

101. Equally important for the transition process in the Democratic Republic of the Congo is the disarmament, demobilization and reintegration of Congolese armed and irregular forces. Further to the suggestion I made in my last report, I propose to the Security Council that the mandate of MONUC be expanded to assist the Transitional Government, at its request, to plan the disarmament, demobilization and reintegration of Congolese combatants. This should be done in the context of the creation of unified national Congolese armed forces, and in close collaboration with the Multi-Country Demobilization and Reintegration Programme, bilateral donors and United Nations agencies. I shall revert to the Council in due course with any operational recommendations that may be necessary in this regard.

102. I am appalled by the egregious level of gross human rights violations that continue to be committed throughout the Democratic Republic of the Congo, some of which have been documented extensively by MONUC. I appeal to the transitional

Congolese leaders to make the protection of human rights one of the highest priorities of the new Transitional Government. MONUC and the Office of the United Nations High Commissioner for Human Rights will work closely with the transitional institutions in this regard.

103. The immediate priorities, especially those related to the security arrangements in Kinshasa and peace initiatives in Ituri, clearly require further resources for MONUC. Taking into account the major operational readjustments that have been undertaken, I recommend that the mandate of MONUC be extended for another year, until 30 June 2004, and that the authorized military strength of MONUC be increased to 10,800 all ranks. I also recommend that the number of civilian police personnel be increased from the current level of 100 to 134 police officers. It should be noted that 6 to 48 additional officers will also be required, depending on the training option for the integrated police unit to be followed (see paras. 41 and 42 above). Other specialized personnel to support the immediate priorities of MONUC (see sect. IV.A) will also have to be augmented. While the troop level will be kept under constant review, it should be noted that the current requirements are based on the present threat assessments and that, should the situation deteriorate, additional resources may be required. I shall revert to the Security Council with specific recommendations for longer-term objectives, which are described in paragraphs 67 to 86 of the report.

104. A United Nations peacekeeping operation relies on cooperation with other partners to consolidate a hard-won peace. I call on all concerned to coordinate their efforts to harmonize initiatives, aimed at maximizing results in the Democratic Republic of the Congo. I am pleased to note that the World Bank and other donors are already increasing their assistance to the country.

105. Despite the best will of the United Nations and its partners, the peace process cannot move forward without the demonstrated commitment of the Congolese leaders. There are a number of key benchmarks that the parties must observe in the coming weeks to maintain momentum and demonstrate their commitment. They include the immediate cessation of hostilities and of inflammatory rhetoric and propaganda; the lifting of restrictions on the free movement of goods and people throughout the country; the liberalization of political activity in the areas under their control; the disbandment of armed groups or their transformation into political parties; and taking steps to establish the high command of the integrated national armed forces and to form an initial unit of integrated police.

106. The illicit exploitation of natural resources has criminalized the conflict in some areas, making it all the more difficult to stop, as well as depriving the Congolese people of their heritage and livelihood. The Transitional Government must produce, in a transparent manner, a budget with provisions for key State services. To this end, the Government should be held accountable for the effective management of the natural resources of the Democratic Republic of the Congo and necessary assistance should be provided towards this end.

107. The challenge at hand is enormous. It is up to the Congolese themselves to keep the peace process vibrant, dynamic and successful. The international community, including MONUC, will follow their lead and provide the necessary assistance in translating the vision of peace into a reality.

**ANNEX 2.3.C**

**United Nations Security Council, *Sixth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*, document S/2001/128,  
12 February 2001**

**(Excerpts)**





## Security Council

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12 February 2001

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### **Sixth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo**

#### **I. Introduction**

1. By its resolution 1332 (2000) of 14 December 2000, the Security Council decided to extend the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) until 15 June 2001, and endorsed the Secretary-General's proposal to deploy additional United Nations military observers to monitor and verify the implementation of the ceasefire and disengagement plans adopted by the parties to the Lusaka Ceasefire Agreement (S/1999/815, annex).

2. In the same resolution, the Security Council invited the Secretary-General to consult with the Organization of African Unity (OAU) and the parties concerned on the possibility of organizing in February 2001 a follow-up meeting between the signatories of the Lusaka Agreement and members of the Council. In addition, the Council requested the Secretary-General to:

(a) Present a review of the implementation of the current mandate of MONUC, including elements for an updated concept of operations;

(b) Submit proposals on ways to address the situation in the eastern provinces of the Democratic Republic of the Congo;

(c) Submit proposals for a mechanism to follow up on the withdrawal of foreign forces, the disarmament and demobilization of armed groups, the security of the borders of the Democratic Republic of the Congo with Rwanda, Uganda and Burundi, and related issues.

3. The present report is submitted in accordance with these requests and reflects developments since the Secretary-General's fifth report on MONUC of 6 December 2000 (S/2000/1156).

#### **II. Political developments**

4. President Laurent-Désiré Kabila was shot and fatally injured by a member of the presidential bodyguard in Kinshasa on 16 January. I condemn assassination and the use of force as a means of settling political differences. It is gratifying that the other parties concerned have refrained from taking advantage of the situation.

5. On 17 January, Major General Joseph Kabila was entrusted with the powers and responsibilities of Head of State and Commander-in-Chief of the Forces armées congolaises (FAC) by a joint meeting of ministers and senior military officers. After the State funeral of President Laurent-Désiré Kabila, members of the Congolese transitional parliament approved unanimously the Government's nomination of Major General Joseph Kabila as President of the Democratic Republic of the Congo. However, both the rebel groups and some elements of the Congolese political class have rejected the emergence of Major General Kabila as Head of State.

6. On 21 January, the Heads of State of Angola, Namibia and Zimbabwe issued a communiqué in which they undertook to maintain their respective military forces in the Democratic Republic of the Congo and reinforce the security of the population, the Government and foreign citizens, including personnel



government side. The current president of FLC is Mr. Jean-Pierre Bemba, the former leader of MLC. Although Mr. Wamba dia Wamba was said to have been appointed as vice-president, reports suggest that he has been excluded from the FLC leadership following his denouncement of the merger as an agreement of military convenience.

14. Further consolidation on the rebel side has been indicated by a senior member of RCD, Mr. Bizima Karaha, who has announced that RCD and FLC share a common vision on political issues which may lead to the formation of a common front under the same political and military leadership. He predicted that unification would take place within the near future. These developments represent the latest of many efforts on the part of the rebel groups to achieve unification.

### **Inter-Congolese dialogue**

15. During the reporting period, Sir Ketumile Masire has remained committed to fulfilling his responsibilities as neutral facilitator of the inter-Congolese dialogue. He has continued to enjoy the explicit support of the Congolese rebel movements and main political parties and civil society.

16. On 16 December, at the request of the Government of the Democratic Republic of the Congo, President Bongo sponsored a meeting between President Laurent-Désiré Kabila and Congolese opposition groups. Although President Kabila travelled to Libreville, the meeting did not take place owing to the non-attendance of the opposition invitees.

17. While the Government of the Democratic Republic of the Congo has not formally withdrawn its rejection of Sir Ketumile Masire as the neutral facilitator, there have been increasing indications that it is prepared to accept the appointment of a francophone co-facilitator to work with Sir Ketumile. President Joseph Kabila appeared to endorse the arrangement and, in his inaugural speech, requested OAU to help revive the peace process, particularly with regard to the designation of a co-facilitator. However, the leader of RCD later described the President's reference to co-facilitation as a violation of the Lusaka Agreement, which does not provide for such a function.

18. Political parties in the Democratic Republic of the Congo, which have hitherto been silent owing to

the continuing ban on their activities, are becoming vocal in calling for implementation of the Lusaka Agreement, and specifically for the convening of the inter-Congolese dialogue. They generally support the appointment of a francophone co-facilitator. On 29 January, President Joseph Kabila met with representatives of four principal political parties in Kinshasa.

### **III. Military developments**

19. Though much of the country has remained quiet during the reporting period, particularly over the past three weeks, military action was observed in both Equateur province and Katanga in December and early January 2001. Scattered fighting, often involving armed groups, has been reported from the Kivus.

#### **Situation in Katanga**

20. In late November, following attacks by government forces (FAC) in Katanga, RCD and the Rwandan People's Army (RPA) launched a counter-attack which culminated in their capture of Pweto on 6 December. Thousands of combatants and refugees fled into Zambia to escape the fighting. Figures from the Zambian authorities indicate that over 5,000 combatants crossed the border. Subsequently, some 3,000 FAC and 200 Zimbabwean soldiers were disarmed and escorted back into the Democratic Republic of the Congo. Approximately 1,925 combatants, belonging to the Burundian Front pour la Défence de la Démocratie (FDD), evaded disarmament by using barges to cross Lake Mweru and enter the Democratic Republic of the Congo. At present, some 144 disarmed soldiers remain in northern Zambia; 115 are seeking refugee status; and 29 are under investigation for membership of the former Rwandan Armed Forces (ex-FAR), Interahamwe or FDD.

21. Following a meeting in Kinshasa on 22 December between President Laurent-Désiré Kabila, President Mugabe and President Nujoma, President Mugabe warned that the rebels would be forced out of Pweto if they did not leave voluntarily. Subsequently, there was a build-up of Government and allied forces with reports of over 2,000 Angolan, 600 Zimbabwean and 3,000 FAC troops deployed between Kasenga and



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Pweto. On the rebel side, six RCD battalions are said to be holding Pweto with two RPA brigades in support.

22. During December and early January, there were numerous claims of ceasefire violations and allegations from both sides that the other was preparing for an offensive. On 28 December, the Permanent Representative of Rwanda to the United Nations, claiming his country had acted in self-defence, wrote to the President of the Security Council to complain of an ongoing campaign of misinformation directed against his country (S/2000/1244). The Permanent Representative reiterated his Government's offer of a 200-kilometre disengagement and its preparedness to withdraw from Pweto if MONUC deployed there. On the same day, the Chargé d'affaires a.i. of the Permanent Mission of the Democratic Republic of the Congo to the United Nations wrote to the President of the Council to inform him that a brigade of RPA, supported by members of the União Nacional para a Independência Total de Angola (UNITA), had launched attacks on Katanga from Zambian territory (S/2000/1245).

23. Since early January, the MONUC Force Commander, General Mountaga Diallo, has been discussing with the Governments and military authorities of the Democratic Republic of the Congo and Rwanda, and with RCD, the Rwandan offer to withdraw from Pweto if MONUC deployed a military observer team to the town. MONUC has in fact prepared a team to be deployed to Pweto. However, despite encouraging signals from the Governments of both the Democratic Republic of the Congo and Rwanda, discussions on the specific modalities of the agreement are still continuing with the military authorities of both sides. RCD has insisted that its concerns should be addressed separately from those of Rwanda.

### **Fighting in Equateur province**

24. In mid-December, MLC began a military offensive across a broad front in northern Equateur, capturing Imese and Befale. Government and allied forces reinforced their positions around Mbandaka. In mid-January, MLC forces attacking Bolomba were repulsed after heavy fighting. Since 18 January, the military situation has become static, with no reports of significant fighting.

### **Eastern provinces**

25. The security situation in parts of the eastern Democratic Republic of the Congo remains highly volatile. RCD has complained that armed groups continue to launch numerous attacks in the Kivus. Although the armed groups responsible for these attacks are not signatories to the Lusaka Ceasefire Agreement, there are persistent reports of their receiving arms and training from FAC. (The situation in the eastern provinces is explored in more detail in paras. 85-88 below.)

26. In the Ituri area, ethnic tension between the Lendu and Hema communities increased dramatically on 19 January when Lendu tribesmen attacked a Ugandan People's Defence Force (UPDF) and an RCD-ML position at Bunia airfield. The fighting resulted in serious casualties and was followed by attacks mounted by the Hema population on Lendu civilians (see paras. 56-57 below).

27. MONUC dispatched a military and humanitarian team to Kampala and Bunia on 24 January. In Kampala, the Ugandan Army Commander accepted that UPDF was responsible for the security of the civilian population in the Bunia area and undertook to make every effort to contain the violence. Since 22 January, MONUC military observers in Bunia have reported the situation in the town to be tense but with UPDF in effective control. MONUC is discussing with the humanitarian agencies follow-up action aimed at improving relations between the two communities.

28. Concern has also been expressed over repeated attacks on the Banyamulenge population in South Kivu. This matter is dealt with in more detail in paragraph 59 below.

### **Kisangani**

29. Pursuant to Security Council resolution 1304 (2000), Rwanda and Uganda have continued to keep their forces at a distance of some 100 kilometres from Kisangani. However, RCD military elements have remained in the city, with its leaders maintaining that security concerns do not allow them to withdraw their forces before the arrival of United Nations troops. The area around Kisangani has been de facto divided into quadrants: RCD occupies the south and west; MLC and UPDF the north-west and the north; and UPDF solely

the east. This dispersal is generally respected, except for isolated skirmishes usually between RCD and MLC/RCD-N in the diamond mining area to the north of the city.

### **Implementation of disengagement plans**

30. The military chiefs of staff of the parties, with the exception of MLC, ratified the detailed sub-plans for disengagement and redeployment in Harare on 6 December. The MLC delegate had received instructions not to sign the document, as it did not contain a reference to the inter-Congolese dialogue. Subsequently, a spokesman for RCD indicated that its forces, too, would not comply with the disengagement plans unless President Laurent-Désiré Kabila opened talks on the formation of a transitional government and disarmed pro-government militias in the eastern Democratic Republic of the Congo.

31. Pursuant to the Harare disengagement plan, MONUC received notification from Angola, the Democratic Republic of the Congo, Namibia, Rwanda, Uganda and Zimbabwe that executive orders had been issued to their military forces to begin the disengagement process. No notification has yet been received from the rebel movements.

32. The Harare disengagement plan stipulated that the military forces of the parties would undertake a 15-kilometre disengagement over a two-week period starting 21 January. None of the parties has yet complied. There are indications that the implementation of the disengagement plans has become dependent on progress in convening the inter-Congolese dialogue envisaged by the Lusaka Agreement, as the Congolese rebel movements insist that the two processes — military and political — are inextricably linked. Nonetheless, MONUC is proceeding on the assumption that the parties will indeed carry out their disengagement plan.

### **Withdrawal of foreign forces**

33. On 9 January, President Laurent-Désiré Kabila brokered talks in Libreville between President Buyoya and Jean-Bosco Ndayikengurukiye, the leader of FDD, the main Burundian rebel group. Subsequently, Leonard She Okintundu, Foreign Minister of the

Democratic Republic of the Congo, informed the Kinshasa diplomatic corps that both parties had agreed to withdraw their forces from the Democratic Republic of the Congo. On 23 January, FDD made it known that the death of President Laurent-Désiré Kabila had not affected its willingness to continue talks with the Burundian Government. In a statement, the Burundian Government confirmed that its meetings with FDD had been successful and would be pursued.

34. Resolutions 1304 (2000) and 1332 (2000), in which the Security Council demanded the withdrawal of Rwandan and Ugandan forces from the territory of the Democratic Republic of the Congo without further delay, in conformity with the timetable of the Lusaka Agreement and the Kampala disengagement plan, have yet to be implemented in full. Reports indicate the presence of approximately 20,000 RPA and 10,000 UPDF troops in the Democratic Republic of the Congo and there has been no clear indication of any significant reduction in force levels. Senior Rwandan officials have continued to emphasize their country's security concerns, and to demand that measures be taken to disarm and demobilize the armed groups in the eastern provinces of the Democratic Republic of the Congo before the withdrawal of RPA proceeds. Ugandan officials, including President Museveni, have recently indicated that, following the defeat of Allied Democratic Forces (ADF) rebels, the underlying objective of their intervention has been achieved.

35. On the government side, it is estimated that there are approximately 12,000 Zimbabwean, 7,000 Angolan and 2,000 Namibian troops deployed in the Democratic Republic of the Congo. Since my last report, the force levels of the Southern African Development Community (SADC) allies have increased in response to the military reversals in Katanga and the security concerns in Kinshasa and Lubumbashi following the assassination of President Laurent-Désiré Kabila. There are persistent allegations from Rwanda that FAC contains large numbers of ex-FAR and Interahamwe fighters.

### **IV. Cooperation with the Joint Military Commission (JMC)**

36. The operations of JMC have continued to be hindered by a lack of resources. OAU has advised JMC



Resident Representative/Resident Coordinator in the Democratic Republic of the Congo would also be the Humanitarian Coordinator for the country in order to ensure the most effective response to the situation. At the subnational level, the Office for the Coordination of Humanitarian Affairs of the United Nations Secretariat (OCHA) will continue to maintain a Coordinator for the eastern Democratic Republic of the Congo based in Goma. In a related development, the Office for the Coordination of Humanitarian Affairs of the United Nations Secretariat will be opening an office in Lubumbashi.

52. In South Kivu, the National Immunization Days 2001 are being prepared, following the United Nations Children's Fund (UNICEF)/WHO workshop on national planning which was held in Goma in mid-December. The workshop planned by the Office for the Coordination of Humanitarian Affairs of the United Nations Secretariat to take place in Kisangani from 9 to 12 December was postponed owing to lack of governmental participation.

53. The Governments of the Republic of Congo and the Central African Republic have continued to express concern that the fighting in Equateur, especially in the immediate border areas, is affecting their stability. In particular, refugees continue to enter both countries and maritime traffic on the Ubangui River has been interrupted causing heavy economic losses. There have also been persistent rumours of MLC elements infiltrating down the Ubangui on the west bank towards the confluence of the Congo and Ubangui rivers.

## VII. Human rights

54. The human rights situation in the Democratic Republic of the Congo remains a cause of serious concern. Numerous human rights violations have been continuing with impunity, compounded by renewed outbreaks of political and ethnic tensions. Some of these take the form of clashes between various armed groups and ethnic groups, including the Hema and Lendu in the Ituri district, and the Banyamulenge in South Kivu. The creation by the Government of armed self-defence groups (Forces d'Auto-défense Populaire (FAP)) has also caused unease.

55. Widespread killings and the destruction of property, extrajudiciary executions and forced disappearances, arbitrary arrests and illegal detention

of local staff members of international organizations, civil society, business leaders and foreigners living in the Democratic Republic of the Congo, as well as serious restrictions on the freedom of the press and of movement, have characterized the situation recently.

56. From 29 to 31 January, a delegation of the Field Office of the United Nations High Commissioner for Human Rights undertook a mission to Bunia. The delegation was able to collect first-hand information and interview eyewitnesses. On the basis of these preliminary findings, the Office of the United Nations High Commissioner for Human Rights team confirmed that a massacre of ethnic Lendu had been carried out by ethnic Hema militias in Bunia on 19 January. At least 200 people were killed and some 40 wounded. The majority of the victims were civilians, including women and children. Some of them were killed with machetes and some decapitated. Some of the bodies were thrown into open latrines. UPDF troops stood by during the killings and failed to protect the civilians.

57. The Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, Mr. Roberto Garretón, issued on 26 January a press release condemning the massacre in Bunia. He called on the Government of Uganda and FLC to order their troops immediately to protect non-combatants and civilians and to launch investigations of the above-mentioned incident with a view to identifying those responsible and bringing them to justice.

58. In addition, serious human rights violations were also reported in the Kivus following the repeated attacks and retaliation by various armed groups. In Bukavu, the local authorities have arrested representatives of civil society and other civilians. Reports have been received that some of the arrested persons have been tortured.

59. Serious inter-ethnic tensions have also been reported in South Kivu Province. According to some reports, massacres of the Banyamulenge population have taken place. Human rights staff from MONUC intend to visit the area to evaluate the situation on the ground, sensitize the local authorities on the alarming reports received and propose further action to be taken to resolve the crisis.

60. In the Government-controlled areas, the representatives of civil society are also subjected to harassment, arbitrary arrest and illegal detention. Recently in Kinshasa, four leaders of the civil society,

and members of a political party and of business were arrested and detained without cause. Journalists working for private media can no longer carry out their functions freely. A recent decision of the Minister of Communications has prohibited the publication of more than 100 local newspapers for non-compliance with government legislation.

61. Cases of arbitrary arrests, summary and extrajudiciary executions are still frequently reported. A recent example is the case of Commander Masasu, a senior army officer arrested for allegedly planning a coup against the late President. The Government has continued to deny reports that Commander Masasu was executed in December. Several other military personnel and civilians from the Kivus and others close to Masasu have also been arrested and detained. These included a local staff member of the Office of the United Nations High Commissioner for Human Rights in the Congo who was arrested in Kinshasa on 3 January and held by DEMIAP (Détection militaire des activités anti-patrie) until his release on 10 January, with serious restrictions on his freedom of movement.

62. The Military Court continues to apply the death penalty. Many defendants are being arbitrarily condemned to death. Recently, on 11 December, the bodyguard of the Chief of Staff of the Police, was condemned to death by this special court. He was accused of having broken into the residence of the Governor of the Central Bank of the Congo even though he insisted that he was innocent. He was executed the following day with seven others from the Central Prison of Kinshasa without having been given a chance to appeal according to conventional international human rights norms. However, in January another suspect was arrested for the same offence.

63. Continuing human rights violations, coupled with the absence of democratic reforms, have brought the country to a political standstill. Even as many members of the opposition are being freed from detention centres, many leaders of the political parties live abroad to avoid harassment and restrictions.

64. Against this background, there have been two positive developments since the visit in October 2000 of the United Nations High Commissioner for Human Rights, Mrs. Robinson, and the commitment made then by the Government of the Democratic Republic of the Congo to improving the human rights situation. Firstly, the Government released 900 detainees, including over

200 political prisoners and journalists. Secondly, the new President has announced that respect for human rights, the security of the individual and of property, the reform of military justice and the constitutionality of governmental action will be the priorities of his Administration. Effective immediately, the jurisdiction of the military courts will be restricted to matters falling under the code of military justice.

## VIII. Child protection

65. The situation relating to the recruitment of children into armed forces and various warring groups has not improved significantly during the reporting period. Owing to the growing protest of non-governmental organizations, UNICEF and MONUC, RCD has halted its military recruitment campaign in urban areas. However, RCD has contested the allegation that it was recruiting child soldiers and indicated that the young people had joined the movement of their own accord. They were not deployed to the front lines. However, information received from other sources indicates that recruitment is continuing in rural areas of Kivu, including Kafele, Idjwi Island, Musongati and Rugano. It has also been reported that all newly recruited children are transported to camps in Masisi for military training. The Mushaki camp is believed to have received over 3,000 newly recruited young soldiers, more than 60 per cent of whom are under age 18. MONUC has sought and received from RCD permission to visit the camps. It is hoped that better RCD cooperation with MONUC and UNICEF can lead to the implementation of RCD's 15 May decision to start demobilizing child soldiers.

66. As indicated in my 6 December 2000 report, a considerable number of Congolese children were taken from the Bunia, Beni and Butembo region, apparently for military training in Uganda (para. 75). Concern has been expressed at the possibility that these children will be deployed back to the Democratic Republic of the Congo as soldiers. As the present report was being finalized, information was received that 600 children would be transferred to the custody of humanitarian organizations next week.

67. The late President Kabila had granted access to the military camps for the initiation of the disarmament, demobilization and reintegration process. This is a first step towards the implementation of the 9 June decree on demobilization. UNICEF has



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established a working agreement with the local branch of an international NGO, the Bureau International Catholique de l'Enfance (BICE), as the major partner for the process, which will be undertaken in collaboration with the Government.

## **IX. Financial aspects**

68. The General Assembly, by its resolution 54/260 A of 7 April 2000, granted me commitment authority, with assessment, in the amount of \$200 million to cover the Mission's immediate requirements and to enable it to initiate logistic preparations for the phased deployment of the formed military personnel. By its subsequent resolution 54/260 B of 15 June 2000, the Assembly, taking into account the amount of \$58.7 million committed for MONUC during the period ending 30 June 2000, authorized me to use during the period beginning 1 July 2000 the amount of \$141.3 million representing the balance of the commitment authority provided for MONUC in its resolution 54/260 A.

69. Should the Security Council adopt the draft revised concept of operations for MONUC contained in paragraphs 71 to 84 below, the related immediate costs will be met from within resources already approved by the General Assembly for the current financial period. With regard to the financial period 2001-2002 beginning on 1 July 2001, I shall seek the necessary resources for MONUC from the Assembly during its resumed fifty-fifth session.

70. As at 31 January 2001, unpaid assessed contributions to the MONUC special account amounted to \$79.7 million. The total outstanding assessed contributions for all peacekeeping operations at that date amounted to \$2,652.4 million.

## **X. Next steps**

### **Updated concept of operations**

71. On the basis of the experience gained since September 1999, when MONUC was first deployed to the Democratic Republic of the Congo, the Secretariat has developed a revised draft concept of operations for a deployment of military personnel to monitor and verify actions taken by the parties in compliance with the disengagement and redeployment plan they signed

at Harare on 6 December. The updated draft concept was elaborated during a visit of Department of Peacekeeping Operations planners to MONUC between 8 and 19 January.

72. Given the fragile ceasefire, the size of the country and the difficulties of access and mobility beyond major towns, the concept of operations is based upon a gradual build-up of capability that encourages the parties to cease hostilities, positions MONUC to respond in a timely and effective manner once the parties begin the disengagement and redeployment process, and minimizes risks to United Nations personnel.

73. Simultaneously, the measures proposed to be taken by MONUC can set in place the conditions for subsequent expansion of the mission for possible later tasks in the eastern provinces.

74. The revised concept of operations has four phases. During the preparatory phase, which is now under way, MONUC will make maximum use of its existing resources to build on its presence in the Democratic Republic of the Congo by deploying further military observer teams and redeploying others to establish sector headquarters at Kisangani, Mbandaka, Kananga and Kalemie.

75. These sector headquarters are an integral part of the command, control and communications infrastructure that will enable MONUC to coordinate the additional military observer teams required for verification and monitoring of the disengagement and redeployment. The four regional joint military commissions (currently located at Lisala, Boende, Kabinda and Kabalo) will be relocated with the MONUC sector headquarters to facilitate the close liaison, coordination and confidence-building required to effect the verification and monitoring process. The regional joint military commissions have requested that MONUC provide them with limited logistic support to enable them to fulfil their functions.

76. The draft concept proposed in the present report envisages the deployment of up to 550 military observers. It will also be necessary to deploy up to 1,900 armed personnel to guard equipment, facilities and supplies located at the sector headquarters and support bases. Two riverine units totalling some 400 troops are also envisaged, as well as the necessary rotary and fixed-wing air assets. At least initially, all deployment and sustainment are expected to take place

**ANNEX 2.4.A**

**IRIN, *Special Report on the Ituri clashes — [part one]*, Nairobi, 3 March 2000**

*[Original English: not reproduced]*

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**ANNEX 2.4.B**

**MONUC, *Special report on the events in Ituri, January 2002-December 2003*,  
document S/2004/573, 16 July 2004**

United Nations

S/2004/573



## Security Council

Distr.: General  
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### **Letter dated 16 July 2004 from the Secretary-General addressed to the President of the Security Council**

I have the honour to transmit to you a report from the United Nations Organization Mission in the Democratic Republic of the Congo, regarding the events which occurred in Ituri, in the north-eastern part of the country, from January 2002 to December 2003.

I would like to take this opportunity to reiterate my grave concern about the continuing human rights abuses in the Democratic Republic of the Congo, in particular the impunity with regard to crimes committed against the citizens of that country. As the Security Council has noted in several of its resolutions and presidential statements pertaining to the Democratic Republic of the Congo, impunity must be brought to an end, and perpetrators of crimes such as those highlighted in the attached report brought to justice.

I should be grateful if you would make this letter and the report available to the members of the Security Council.

*(Signed)* Kofi A. Annan





**Special report on the events in Ituri,  
January 2002-December 2003**

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## Abbreviations

AFDL	Alliance des forces démocratiques pour la libération du Congo
APC	Armée populaire congolaise
ASADHO	Association africaine de défense des droits de l'homme
FAC	Forces armées congolaises
FAPC	Forces armées du peuple congolais
FIPI	Front pour l'intégration et la paix en Ituri
FLC	Front de libération du Congo
FNI	Front nationaliste intégrationniste
FPDC	Forces populaires pour la démocratie au Congo
FRPI	Front de résistance patriotique de l'Ituri
ICRC	International Committee of the Red Cross
IRIN	Integrated Regional Information Network
MLC	Mouvement de libération du Congo
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
MSF	Médecins sans frontières (Doctors without Borders)
PRA	People's Redemption Army
PUSIC	Parti pour l'unité et la sauvegarde de l'intégrité du Congo
RCD	Rassemblement congolais pour la démocratie
RCD-K/ML	RCD-Kisangani/Mouvement de libération
RCD-N	RCD-National
UPC	Union des patriotes congolais
UPDF	Ugandan People's Defence Forces

## I. Summary

1. The Ituri district, located in the Orientale Province of the Democratic Republic of the Congo, currently has one of the world's worst — and for a long time largely ignored — human rights records. Based on the investigations carried out by MONUC and other human rights entities, it is estimated that 8,000 civilians, probably more, were deliberately killed or were the victims of indiscriminate use of force from January 2002 to December 2003. The exact number of female victims of rape or sexual slavery is impossible to estimate at this time. Countless women were abducted and became "war wives", while others were raped or sexually abused before being released. More than 600,000 civilians have been forced to flee their homes. Thousands of children aged from 7 to 17 were drawn forcibly or voluntarily into armed groups, placing their very lives at risk and depriving them of a childhood. In addition, entire villages — belonging to all the different ethnic groups — were destroyed, including health and education facilities, housing and other infrastructure.

2. These abuses have been carried out with total impunity by all Ituri armed groups and several non-Ituri groups (MLC, RCD, RCD-ML, RCD-N). In addition, the pre-transition Government in Kinshasa and the Governments of Rwanda and Uganda all contributed to the massive abuses by arming, training and advising local armed groups at different times.

3. The European Union-led Interim Emergency Multinational Force (Operation Artemis), and then the MONUC Ituri Brigade with a mandate from the Security Council under Chapter VII of the Charter of the United Nations, have been instrumental in reducing the intensity of the conflict and the capacity of the local groups to operate. However, ending the violence and abuses, bridging the gaps between communities to install and extend a lasting peace, and establishing structures to strengthen human rights protection and reduce the total impunity enjoyed by the perpetrators remain major challenges, which the international community must assist the Government of the Democratic Republic of the Congo to address. Though there have been timid attempts to restore some kind of State presence in Ituri through the deployment of a small group of judges and police, neither currently has the capacity to maintain law and order in the district. It is therefore of vital importance that MONUC continues to have a Chapter VII mandate to ensure security.

4. There have long been tensions and conflict between the Hema and Lendu communities in the district, fuelled by bad governance. The latest conflict — which has provoked so many of the abuses — was sparked off by a particular land dispute in 1998 when some Hema *cessionnaires*<sup>1</sup> took advantage of the weakened State apparatus to illegally enlarge their estates to the detriment of neighbouring mostly Lendu agriculturalists.<sup>2</sup> The agriculturalists revolted when law enforcement agents came to evict them and in response they tried to destroy the land of the Hema *cessionnaires*. Initially starting to the north of Bunia, this violence gradually

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<sup>1</sup> The *cessionnaire* is the person who rents a concession from the State. The concession is defined by law as a contract by which the State recognizes the right of an individual or organization, under conditions defined by law, to use a piece of land or a building belonging to the State. In the Democratic Republic of the Congo, all land belongs to the State.

<sup>2</sup> The first conflict erupted in the *collectivité* of Walendu Pitsi, located in Djugu territory.



extended to the whole of Ituri district. Moreover, while spreading through the district, the conflict quickly turned into a confrontation opposing the two communities, the Hema and the Lendu. This conflict would not have reached such a level of violence without the involvement of national Congolese players, as well as of foreign Governments. The Ugandan army, already present in Ituri since late 1998, fuelled the conflict by initially supporting some Hema notables and allegedly bombed hundreds of Lendu villages. Some Lendu traditional authorities created self-defence units. Believing that a Hema conspiracy existed against them, the Lendu militias began attacking Hema villages solely on account of their ethnicity. They also benefited from external support to organize themselves, from either the Congolese (pre-transition Government, rebel movements) or individual Ugandan officers.

5. The conflict entered a new phase of violence at the end of 2001 with the intensification of ethnically targeted attacks on villages, including killings, torture, rape of civilians, looting of homes, and destruction of social infrastructure. When the Hema militia UPC took over Bunia, first in August 2002 and again in May 2003, they adopted an ethnic cleansing policy, to empty the town of its Lendu and Bira populations, as well as the "non-Iturian" Nande community, which was a commercial rival to the Hema businessmen. Hundreds of Lendu villages were completely destroyed during attacks by Ugandan army helicopters together with Hema militia on the ground.

6. Different rebel faction leaders struggling for political power in Ituri have continued to profit from the ethnic resentment originally created by the land dispute. A series of splits, from 1999 to mid-2003, have in fact resulted in Bunia, the capital of Ituri, being the stage for repeated power struggles and skirmishes. At each stage in the fragmentation of the rebel groups, new militias were recruited loyal to one or another commander or faction leader. Often half of the militias were children. They were deployed not only to fight each other but also to whip up insecurity in the countryside and seize strategic localities and commercial opportunities. Ugandan army commanders already present in Ituri, instead of trying to calm the situation, preferred to benefit from the situation and support alternately one side or the other<sup>3</sup> according to their political and financial interests.

7. The chiefs of armed groups took over the roles traditionally held by administrators, businessmen, traditional chiefs and law enforcement officers. They appointed "public officers", collected local taxes, sold the natural resources of their area of control, arrested civilians, judged them and in some cases executed them. The competition for the control of natural resources by combatant forces, exacerbated by an almost constant political vacuum in the region, has been a major factor in prolonging the crisis in Ituri. Those resources have also been of continued interest to foreign business networks in the region. One source of revenue for rebel groups has been the sale of concessions to foreign businesses.

8. By the end of March 2004, at the time of finalization of this report, MONUC had been able to lessen the inter-ethnic conflict of Ituri, acting to enforce peace and to restore the rule of law. Since taking over from Operation Artemis on 1 September 2003, the MONUC Ituri Brigade has implemented its Chapter VII mandate by consolidating its positions in Bunia, carrying out search operations which resulted in

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<sup>3</sup> Ugandan authorities alternately supported and provided weapons to RCD-ML, MLC, RCD-N, UPC, PUSIC, FNI and FAPC.

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the declaration of Bunia as a weapon-free zone, and establishing seven outposts, north, north-east, south and south-east of Bunia (Iga Barrière, Bogoro, Mongbwalu, Marabo, Tchomia, Mahagi and Kpandroma). MONUC continues to implement security measures such as patrolling and launching military operations in different parts of Ituri.

9. To reinforce the rule of law and ensure public order, MONUC has detained suspects including the Chief of Staff of FNI, Mathieu Ngudjolo, and several senior military personnel of UPC, including Aimable Saba Rafiki and Etienne Nembe. Those actions were taken given the lack of local judicial and security structures, including a functioning judiciary and prison facility. On 14 January, MONUC transported to Bunia 12 out of 20 judicial personnel appointed by the Transitional Government. The judges took their oath of office on 28 January 2004, thereby allowing them to work legally in Bunia. A minimum judicial capacity has thus been restored in Bunia.

10. However, since mid-January 2004, FNI and UPC, as well as FAPC, a militia located along the Ugandan border in Aru, have become increasingly aggressive towards MONUC and the civilian population. In mid-January 2004, as many as 200 civilians were killed in Gobu, located on the edge of Lake Albert. By the end of March 2004, MONUC was still investigating the incident with the aim of ascertaining the identity and affiliation of the perpetrators. This was the most serious mass killing since the events of Kachele in October 2003. After the incidents in Gobu, militias conducted several attacks on MONUC aircraft and patrols, the most serious being the killing on 12 February of a MONUC military observer in an ambush by unidentified militia elements on a convoy of vehicles returning from a multidisciplinary investigation 20 km north-east of Bunia.

11. This report has been drafted by the MONUC Human Rights and Child Protection Sections. It examines more closely the background to the conflict and gives details of many cases of massacres and other abuses often committed during attacks on villages. It includes information about political killings, harassment of political opponents, and the recruitment and use of children in armed groups from January 2002 to December 2003. The report also highlights the total impunity with which the armed groups have committed these atrocities. It is not intended as a political analysis of the situation, and is by no means a complete record of abuses in the area, given the scale of violations and also the constraints on carrying out such investigations, including continuing security concerns.

## **II. Introduction: the Ituri district**

12. The region of Ituri is a district of the Orientale Province, bordering Uganda, with a population of 3.5 million to 5.5 million - - no census has been carried out for years. The population is made up of 18 ethnic groups, including the Lendu and its southern sub-clan, the Ngiti; the Hema and its northern sub-clan, the Hema/Gegere; the Bira, the Alur, the Ndo Okebo, the Lugbara, the Mambissa and the Nyali. Population figures vary greatly, but the Alur consider themselves the largest ethnic group, which would represent up to 25 per cent of the Ituri population, followed by the Lendu. No reliable population census by ethnic grouping is available at this



time. The city of Bunia, which had approximately 100,000 inhabitants before the conflict,<sup>4</sup> is said to have doubled, owing to displacement created by the conflict.

13. Ituri district, with its capital at Bunia, is composed of five territories: Aru, Mahagi, Mambasa, Djugu and Irumu. Each territory is divided into several *collectivités*.<sup>5</sup> The Hema/Gegere and Lendu groups are concentrated in Djugu territory, while the Hema and Ngiti groups are found in Irumu territory. The territory of Djugu, where the conflict erupted, is composed of 10 *collectivités*<sup>6</sup> — three Lendu, three Hema and four of other ethnic groups — plus the city of Mongbwalu, which has a special administrative status. Djugu territory is the richest and most densely populated territory, with around 700,000 persons. The territory of Irumu, embroiled in the conflict by the end of 2001, is composed of 12 *collectivités* — one Ngiti (Walendu Bindi), and four Hema (Bahema Sud, Bahema Boga, Bahema Mitego and Bahema d'Irumu); the remainder are of other ethnic groups.<sup>7</sup> The Administrator of a territory is appointed by the Government, but works very closely with the traditional chieftains of each *collectivité*. The Administrator reports to the Governor of the province, based in Kisangani, who is the only one with the power to remove the Chief of the *collectivité*.

14. The population of Ituri is for the most part agriculturalist, with a significant minority engaged in livestock raising, fishing and commerce. Generally speaking, the Hema are perceived to be associated with livestock raising, while the Lendu are perceived to be associated with agriculture. The Hema population of Bahema Boga, in Irumu territory, is agriculturalist, however. During the Belgian colonial era, some Hema were favoured, notably through access to either the religious hierarchy or the education system, and given much wider access to managerial functions, while the Lendu were overwhelmingly treated as manual labour. In fact, the colonial administration accentuated social inequalities between the ethnic groups in the region through its ethnic "favouritism" in almost all fields, including the administration and the Catholic clergy. As a result, some Hema remained as the elite in Ituri upon the collapse of the colonial State.

15. The power struggles and ethnic prejudices became entangled with the land issue. Most of the land of the Lendu *collectivités* of Walendu Pitsi and Walendu Djatsi are divided into concessions belonging to a select few Hema community members who employed Lendu manual labour. However, in the poorer and rural areas, both Hema and Lendu communities generally coexisted peacefully, and intermarriage was common.<sup>8</sup> The concessions belonging to the colonialists but

<sup>4</sup> This figure is given by the former Mayor of Bunia town, Gilbert Sugabo Ngulabo, who was in office until May 2003.

<sup>5</sup> The *collectivités* are administrative sub-districts with a traditional chieftain, who exercises authority over the population in his area on the basis of tribal/ethnic allegiances. Chieftains are hereditary among the Hema, Bira and Alur groups but elected among Lendu and Ndo Okebo groups. The *collectivités* are divided into *groupements*, and *groupements* into *localités*.

<sup>6</sup> Walendu Pitsi, Walendu Djatsi, Walendu Tatsi, Banyari Kilo, Mambisa, Mabendi, Ndo Okebo, Bahema Banywagi, Bahema Nord and Bahema Badjere.

<sup>7</sup> Other *collectivités* are Andisoma (Bira population), Baboa-Bokoe, Babelebe, Banyari-Tchabi, Basili, Mobala and Wales Vonkutu.

<sup>8</sup> A statement of a Hema woman quoted by IRIN and reported by Jacques Depelchin, a rebel official involved in reconciliation efforts in 1999, summarizes the situation: "War is not between Hema and Lendu, but between the rich Hema and the rest of us".



located in Lendu *collectivités*, mostly in the territory of Djugu,<sup>9</sup> were utilized according to an agreement between the two parties, where the foreign *cessionnaires* would have access to the land in return for special fee paid to the traditional Chief of the *collectivité*.<sup>10</sup> In 1973, when the foreign *cessionnaires* were forced to leave, they entrusted their Hema managers with the task of taking care of their land, hoping to come back once the "Zairianization" was over.<sup>11</sup> After a while, since the foreign *cessionnaires* were not authorized to come back, the managers registered the concessions in their own names. This phenomenon was accelerated after President Mobutu's appointment as Minister of Agriculture in 1969 of Zbo Kalogi, a Hema, who had considerable influence on the distribution of Iturian concessions to Hema. This succession of events led to a common Lendu perception that the Hema population was the rich, educated class that not only had unjustly accumulated land and control of commerce, but also constituted the administrative class, with greater access to wealth, education and political power.

16. Ituri's natural wealth has driven the conflict in the district. Apart from the region's farmland and forests, most notably coffee plantations, and valuable cross-border trade, Ituri is the home of the Kilo Moto gold field, one of the world's largest. Of added interest are potential large oil reserves in the Lake Albert basin. The competition for control of resource-rich centres such as Mongbwalu, Gety and Mabanga (gold fields) and Aru, Mahagi, Tchomia and Kasenyi (wood, fishing, customs revenues) by the combatant forces and their allies — Uganda, Rwanda and the Kinshasa authorities — has been a major factor in the prolongation of the crisis since they provide those who control production and export with very considerable profits.

### III. Background to the conflict

17. During the year 1997, several Hema/Gegere *cessionnaires* extended the limits of their territory by bribing the land authorities and getting the registration certificates without obtaining the *attestation de vacance* delivered after a vacancy investigation carried out by the local land authorities as requested by law. This illegal act was given a legal patina by being secretly lodged with the court. In 1999, after the two-year statute of limitations on the appeal against the *attestation* had run out, the petitioner went to the Tribunal de Grande Instance in Bunia and obtained an enforcement order to evict the population living on that illegally acquired territory, if necessary using military force. Had these evictions been executed, they would have resulted in a total of 200,000 Lendu inhabitants having to leave their land and homes. Evictions were never fully carried out by law enforcement forces because the Lendu revolted and destroyed and occupied many estates as a result.

18. These local problems would not have turned into massive slaughter without the involvement of national and foreign players. In 1998, the Ituri district was taken over by the RCD rebel movement, supported by the Ugandan and Rwandan armies.

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<sup>9</sup> Djugu is by far the richest agricultural area of Ituri.

<sup>10</sup> Obligations included the paying of special taxes to the local authorities, paying for local labour and taking care of social infrastructures.

<sup>11</sup> The Zairianization was a policy based on the appropriation of all goods belonging to foreign nationals and their transfer to Congolese nationals as administrators of the goods in the name of the State.



When RCD split into RCD-Goma, backed by Rwanda, and RCD-ML, backed by Uganda, Ituri came under the control of RCD-ML. Since then, Ituri has been at the crossroads of all the eastern players, both Congolese and foreigners: RCD-ML, MLC and its proxy RCD-N, as well as the Ugandan army. In 2002, RCD-Goma made an alliance with UPC, following contacts between this militia and Kigali. Simultaneously, the pre-transition Government supported some rival militias through Beni. Moreover, at the end of 2002, MLC and RCD-N coordinated part of their offensive against RCD-ML with UPC. The lasting involvement of national and foreign players has enabled the various Ituri militias to obtain supplies and to increase the number of combatants. This interaction has led to a regularly increasing level of violence against the civilian populations of Ituri since 1999.

19. In 1999, when the land dispute erupted, Ituri was under the control of the rebel RCD-ML movement and its ally UPDF. In May 1999 six land disputes emerged, one after the other, in the *collectivité* of Walendu Pitsi.<sup>12</sup> Witnesses interviewed by MONUC stated that, under the leadership of the Savo family, the *cessionnaires* began to organize militias around Fataki. They imposed a fund-raising system on the Hema/Gegere businessmen. Two prominent Hema/Gegere businessmen who were opposing the fund-raising were murdered. As the collegial leadership of this militia was expecting violence, all of the Hema *cessionnaires*, by the end of May 1999, contracted squads of UPDF soldiers to protect their land. On 29 May 1999, important Hema families reportedly paid Captain Kyakabale, the UPDF sector commander,<sup>13</sup> the alleged amount of \$12,000 for a punitive action to be undertaken against the populations occupying their concessions and surrounding areas in the *collectivité* Walendu Pitsi, and to arrest the Administrator of Djugu territory, Christian Dhedonga Nganga-Lolo, because of his refusal to sign the *attestation de vacance* a posteriori.<sup>14</sup> Christian Dhedonga Nganga-Lolo was arrested by UPDF the same day together with Longbe Chabi, the traditional Chief of Walendu Pitsi, the President of the *Conseil de collectivité* and five other local notables, and they were kept in a container in Bunia airport. Apart from the Administrator, who was accompanied by Congolese police, they were all reportedly tortured because of their refusal to sign the *attestation de vacance*. They were subsequently released. Later, the Lendu Chief of the *groupement* of Pitsi, Chief Djiba, was allegedly executed on the orders of one of the Hema *cessionnaires*. UPDF carried out its first attacks on the village of Loda, located between Fataki and Libi, in the night of 29 to 30 May 1999, burning it down and burning alive several elderly persons and women locked in their houses. Later, the villages of Lubea, Buba, Giba, Linga, Ladejo, Petro and Arr were reportedly all destroyed by UPDF forces under the command of Captain Kyakabale, who was reportedly paid by Lobo Tasoro, and several Hema *cessionnaires*. UPDF, together with Hema militias, continued their punitive

<sup>12</sup> On 12 April 1999, land dispute between Kadjo Singa and the population of Gonsenge in the concession of Leyina; on 14 May 1999, land dispute in the Leyina concession, where witnesses interviewed by MONUC alleged that the Singa family paid UPDF to attack the Lendu on its land, as a result of which 20 civilians were killed; May 1999, land dispute between the *cessionnaire* Abisayi (Hema) and the population of the locality of Londju (Lendu); May 1999, land dispute among the *cessionnaire* Yasona (Hema) and the Lendu population of Laudjo; 1 May 1999, land dispute between the Savo family (Hema) and the Lendu population of Sanduku in the concession of Bidha; 28 May 1999, land dispute between the *cessionnaire* Ugaro and the population of Lomba, in the locality of Tsupu Libi, *chef lieu* of Walendu Pitsi.

<sup>13</sup> Captain Kyakabale subsequently left UPDF and took refuge in Rwanda.

<sup>14</sup> In spite of the fact that he was a Hema like the estate owners.



actions, burning down villages of first the *collectivité* of Walendu of Pitsi, then of Walendu Djatsi, from 1999 to the end of 2001.

20. The new administrative authorities paid little attention to the deteriorating situation and the Governor of the time, Adele Lotsove, a Hema/Gegere installed by General Kazini of UPDF in June 1999, took action to put down the Lendu revolt using UPDF soldiers. Some Lendu tried to request justice by legal means, as the tribunals in Bunia found in favour of the *cessionnaires* who had bribed them generously. Subsequent efforts to contain the increasing inter-community violence were frustrated by individuals from both communities interested in the continuation of the conflict. Moreover, several *cessionnaires* were able to profit from the conflict to increase their land, since the Lendu living close to their estates were evicted and their villages destroyed.

21. The *collectivité* of Walendu Tatsi where the Hema and Lendu communities were living in peace became involved in the conflict only late in 2001.<sup>15</sup> In 2002, important Hema South families were reportedly involved in financing the involvement of UPDF in attacking the *collectivité* of Walendu Bindi, the only Ngibi *collectivité* located in Irumu territory. Hundreds of localities were destroyed by UPDF and the Hema South militias. Meanwhile, the Lendu were organizing themselves into armed groups to take revenge. The Ugandan military trained thousands of Hema youth in Ituri and in Uganda. After 2002, others were reportedly trained in Rwanda. However, the Hema militiamen were not the only ones to carry weapons; in some Hema localities such as Mandro and Bogoro each family was reportedly given weapons to defend itself. This was one of the reasons given by Lendu combatants to justify the massacre of civilians suspected of carrying weapons.

22. The Institut supérieur pédagogique and the Catholic Church of Bunia had been the locus of the power struggle between the Hema intellectual elite and other ethnic groups for some time. For example, while the Institute was under the direction of Tharcisse Pilo Kamaragi, from 1993 to 1997 until the arrival of AFDL, most of the non-Iturians, who constituted the majority of the teaching staff, were forced to leave and all new posts were allocated to Hema/Gegere professors to the detriment of other groups. According to testimony offered by several intellectuals living in the Mudzipela area of Bunia, some well known Hema/Gegere professors at the Institute were reportedly holding regular secret meetings, sometimes together with Hema/Gegere militia members, in order to decide strategies to create ethnic hatred. The same sources indicated that the killing of some 200 Lendu inhabitants of Mudzipela on 19 January 2001 was organized and even directed by the same group with the

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<sup>15</sup> According to sources in the administration of Walendu Tatsi, a total of 257 localities were burned down from 2000 to the end of 2002 alone. It appears that virtually all localities of Walendu Pitsi were already burned down in 1999.

complicity of UPDF under the command of Edison Muzora.<sup>16</sup> The Catholic Church is often named by the inhabitants of Bunia as "pro-Hema". This perception dates to the period of Leonard Dhejju, the Hema Bishop of Bunia,<sup>17</sup> who not only favoured his own ethnic group within the Church but who had also reportedly been in close contact with Hema militia commanders.<sup>18</sup> His activities allegedly included transferring money collected from members of the Hema community to their own bank accounts in a private bank in Kigali and negotiating with the Rwandan authorities to buy weapons and obtain military training for Hema militia members in Rwanda. Bishop Dhejju was reportedly present at the first meeting between Chief Kawa and the Rwandan military authorities in June 2002. Bishop Dhejju was asked to resign by the Vatican in 2002, and he is now living in Kigali. Following the decision to remove Bishop Dhejju, Monseigneur Mosengwa Basinya arrived in Bunia on 7 April 2002 with a newly named Apostolic Administrator of Nande ethnicity, Janvier Kataka. While the Church was preparing to officially announce the leadership change, the largely Hema audience became aggressive and the installation of the Apostolic Administrator was forcibly delayed. On 11 April, Archbishop Mosengwa, together with a group of priests, were taken hostage by a group of Hema youth including some brought from Katoto village by the businessman Liripa Savo. The day after, the Archbishop left together with the new appointee.

23. Having fled to the bush after the destruction of their villages between 1999 and 2001, the Lendu people of Djugu, and later those of Irumu, chose to take justice into their own hands. Their reprisals resulted in the massacre of thousands of innocent Hema civilians. They replaced their arrows and machetes from the first period of the conflict with modern weapons that they were able to buy mostly from Uganda, using the illegal mining revenues of the Mongbwalu gold field. They also received weapons from the Kinshasa government via some members of RCD-ML hailing from Ituri, and some Ugandan authorities. One well known Ugandan supporter and reputed weapon-provider of Lendu combatants was Colonel Peter

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<sup>16</sup> On 19 January 2001, the day after an attack launched by Lendu militia on UPDF forces based in Bunia airport reportedly to destroy the helicopter bombing their villages, an organized massacre of Lendu inhabitants was carried out in Mudzipela. Each Lendu family was visited, house by house, by Hema of Bunia and approximately 250 persons were killed, mostly by sticks with nails distributed before the attack, and their houses set on fire. Several witnesses from Mudzipela gave the names of Hema professors of the Institut supérieur pédagogique of Bunia as the organizers, and the chief of the operations was reportedly also a professor. Among the victims were also several Lendu professors and students of the Institute. Since this incident, all Lendu have left Mudzipela: there are neither Lendu students nor teachers at the Institute. Just before the massacre, Colonel Muzora reportedly said in a public speech: "From now on, we can start killing Lendu".

<sup>17</sup> Monseigneur Dhejju, a Hema/Gegere, was the Bishop of Bunia from 1976 to 2002. He was accused of having favoured his own ethnic group, giving the Church land of Mudzipela to members of the Hema/Gegere tribe from the villages and nominating only Hema or Hema/Gegere priests. It is as a result of his action that Mudzipela, originally inhabited by Bira, began to be a Hema neighbourhood. Also, several students of theology who had successfully finished their studies were never appointed, apparently because they were not Hema. When he was forced to resign by the Catholic hierarchy, there were only 6 Lendu and 2 Bira priests out of 49 priests appointed by him. Among the priests that he appointed there were also sons of the Hema militia chiefs.

<sup>18</sup> The Bishop of Goma has reportedly very close links with the Rwandan authorities. He was the one who introduced Bishop Dhejju to them.



Karim, an Alur official of UPDF. Otherwise, most of the UPDF officers continued to support UPC.

24. In August 2002, UPDF forced the RCD-ML military forces out of Bunia. As UPC was temporarily in a position to benefit from supply from both Uganda and Rwanda, it was able to attack and to take control of the Mahagi territory. UPC then benefited from its alliance with the Aru-based militia of Commander Jérôme Kakwavu, a former RCD-ML officer. The Mahagi territory then suffered from massive human rights abuses, included destruction of villages, forced recruitment of child soldiers by UPC and Jérôme's militia, as well as sexual violence that UPC notably resorted to in order to terrorize the local elite and population. As a consequence of this spillover into Mahagi territory, some Alur notables tried to create a militia, FPDC. The plan failed, however, because of the reluctance of the business community to fund it and, above all, the active opposition of the Mahagi bishop, himself an Alur. Unlike the Catholic clergy in Bunia, throughout the conflict the diocese of Mahagi was instrumental in conflict management initiatives as well as preventing armed mobilization within the Mahagi territory.

25. The Lendu attacks became more cruel and destructive after March 2003, when the support of UPDF for the Hema was terminated. Moreover, after UPDF expelled UPC from Bunia, the Lendu militias took over stocks of ammunitions and weapons from UPC. The Lendu youth created self-defence militia groups to protect their villages, which often lacked any organized hierarchical structure. Even after the creation of FNI, several Lendu or Ngiti militia groups kept their independence and often refused to obey the orders of their supposed FNI hierarchy to cease the hostilities. The combatants forced everybody to be part of the militia, including women and children. Some community leaders tried to resist while others became part of the armed groups. Some Lendu elderly advised reviving the old methods of taking special drugs, wearing amulets and eating some parts of the human body to give supernatural forces to the combatants. These methods rendered the militia members more cruel and inhuman.

26. The other ethnic communities such as the Bira, Alur, Nyali, Lugbara, Kakwa, Ndo Okebo and Lese, who were not directly involved in the conflict, were forced to take sides and/or were attacked by both parties, who accused them of sheltering the enemy. This polarization reduced the possibility of continuing to implement local conflict management initiatives. The various militias were not only terrorizing and abusing the populations, they were also intentionally preventing local initiatives from defusing tensions or containing violence. The Bira community, whose territory includes Bunia, lost the chief of their *Andisoma collectivité*, Chief Dieudonné Bulamuzi. Several hundred civilians, including the intellectual elites, were killed, and health structures, including the largest one at Nyankunde, were destroyed. The Nyali community, whose territory includes the Kilo Moto gold field, were attacked by both sides. They lost most of their social infrastructures and many were forced to leave their villages to go into hiding in the bush.

27. **Role of Uganda.** Uganda claimed on several occasions to be in Ituri to defend "its legitimate security concerns" and to be acting for reconciliation and the protection of civilians. However, although in some cases UPDF did intervene to halt fighting between opposing forces, its commanders were responsible for the creation of almost all of the armed groups, training their militias — sometimes even in Uganda -- selling weapons and even lending their soldiers to rich Hema to



massacre Lendu civilians and destroy villages in Walendu Tatsi in 1999. UPDF also carried out widespread bombing and destruction of hundreds of villages from 2000 to 2002 in the Lendu/Ngiti *collectivités* of Walendu Pitsi and Walendu Bindi. The same UPDF commanders also became businessmen who traded in the resources of Ituri. In four years, seven Ugandan sector commanders were sent to Ituri: Captain Kyakabale, Lieutenant Colonel Arocha, Colonel Charles Angina, Lieutenant Colonel Edison Muzora, Colonel Fred Seka Mwenge, Major Muhozi and Kale Kayura. Only Charles Angina and Kale Kayura left without serious allegations being levied against them. Uganda supported first RCD,<sup>19</sup> then MLC and RCD-ML. It was also directly involved in the creation of UPC and in the training and arming of its militia.

28. Uganda reconsidered its support to UPC because of close ties between UPC and Rwanda, around December 2002. To counter that alliance, Uganda supported several other Ituri armed groups. UPDF was involved in the creation of FIPI, a platform including PUSIC, FPDC and FNI/FRPI. However, that Front did not last long and de facto came to an end in February 2003 after the attack on Bogoro by FNI. In March 2003, FAPC was created with direct Ugandan support. In March 2003 UPDF commanders also supported FNI/FRPI, which assisted them in removing UPC from Bunia. Following its commitment to the Luanda Agreement, UPDF withdrew from Ituri in May 2003. Since then, it has continued to give open support to PUSIC and FAPC, both spun off from UPC in order to weaken it.

29. **Role of Rwanda.** On 6 January 2003, RCD-Goma, a Congolese rebel movement supported by Rwanda, announced an alliance with UPC. Rwanda had become involved in the Ituri crisis much earlier, however. The Chief of Staff of the Rwandan army, James Kabarebe Kagunda, was reportedly the biggest advocate of Rwandan support to Hema militia and was in contact with Chief Kawa, who negotiated the arms supplies in June 2002. Rwanda reportedly supplied arms by airdrop to the UPC camps located in Mandro, Tchomia, Bule, Bulukwa and Dhego and sent military experts to train Hema militias, including child soldiers. Moreover, some UPC elements (estimated at 150) went for training in Rwanda from September to December 2002. On 31 December 2002, Thomas Lubanga visited Kigali for the first time. Kigali also facilitated the transport to Ituri of PRA elements, earlier trained in Rwanda, and used some Kinyarwanda-speaking Congolese to organize this support. One ex-UPDF sector Commander of Ituri, Colonel Muzora, who had left the Ugandan army to join the Rwandan forces, was seen by several witnesses in the UPC camps, mainly to orient the newcomers from Rwanda. Practically all witnesses interviewed by MONUC believe that Rwandan nationals occupied posts in UPC military commands. MONUC obtained testimonies about adults and children being trained in Rwanda and being sent through Goma, in 2002 and 2003, to fight in Ituri with UPC.<sup>20</sup> It also appears that, when Thomas Lubanga and other high-ranking UPC officers fled from Ituri in March 2003, they were evacuated by air to

<sup>19</sup> Both Uganda and Rwanda initially supported RCD (1998-1999) before it began to splinter into different factions, a phenomenon reflecting the end of the Uganda-Rwanda alliance in the conflict.

<sup>20</sup> In September 2002, 107 children and adults were allegedly airlifted from Tchomia to Kigali airport and driven to the Gabiro training centre. They were reportedly trained in artillery skills and returned to Ituri in November of the same year. On their way back, they landed in an Antonov (often based in Goma) at Bunia airport. Each of the trained combatants was given a sub-machine gun. An officer known as "Safari" led this operation.



Rwanda. Arms and ammunition were then supplied from Rwanda to UPC by air before UPC retook Bunia in May 2003. On 11 and 12 May 2003, two aircraft landed at Dhego — not far from Mongbwalu — from Rwanda, with grenades, rocket-propelled grenades, mortars and ammunition. The first of the aircraft was also carrying back Lubanga and Bosco from Kigali.

30. **Role of the Kinshasa Government.** Until 2002, the pre-transition Government in Kinshasa was hardly involved in Ituri. Its first delegation arrived in Bunia in August 2002, after a visit to Kampala. During a second visit, on 29 August 2002, the Minister for Human Rights, Ntumba Lwaba, was abducted by Hema militia and freed only after three days in exchange for the release of Lubanga and several UPC members who had been arrested in Kampala and transferred to Kinshasa. Early in 2002, the involvement of the Kinshasa Government centred on military assistance that it provided to RCD-ML in Beni. Kinshasa sent trainers, weapons and also some military elements, allegedly amounting to four battalions, in support of APC, which reportedly was sending weapon supplies from Beni to Lendu militia. FAC and APC were also named by eyewitnesses and victims as parties in some attacks on Hema villages. It is alleged that, in the last three months of 2002, some military supplies may also have been sent directly to the Lendu militia, notably to Rethy, in Djugu territory.

31. The political initiative of the Transitional Government to calm the tension in Ituri has focused on the deployment of some judicial and police personnel and sending official delegations. There have also been a number of press statements. Apart from the delivery of a humanitarian aid shipment early in 2004, humanitarian aid from the Government to the Ituri victims has been negligible. More concrete actions and active engagement would be needed to find a solution to the ongoing crisis. It was planned that the first brigade of the new national army would be deployed in Ituri before June 2004. However, there are no guarantees that these troops will receive regular payments and supplies.

#### **IV. Methodology of the investigation**

32. For the special report on Ituri, MONUC carried out a total of nine investigations. More than 1,600 persons were interviewed, including victims, eyewitnesses, community leaders, intellectuals, health workers and children associated with armed groups. Additional written testimonies were received from eyewitnesses and victims through local non-governmental organizations. Witnesses and other sources were heard in private interviews, so as to keep their accounts confidential and not expose them to risks of retaliation. Whenever possible, alleged perpetrators and chiefs of armed groups were confronted with allegations raised against them. Several field visits were made, to Bunia, Nyankunde, Mambasa, Bogoro, Mandro, Lipri, Bambu, Kobu, Drodro, Kasenyi, Tchomia, Mahagi, Aru, Ariwara, Zumbe, Boga, Koga, Katoto, Fataki, Kachele, Kilo and Marabo, all located in Ituri. MONUC travelled twice to the Beni area and three times to border areas in western Uganda. In Beni, they received testimonies of displaced persons from Ituri located in Oicha, Erengeti, Butembo and Beni; the first visit took place after the Mambasa events of late 2002, the second after the Bunia events of May 2003. In Uganda, MONUC travelled to the areas of Rwebisengo, Ntoroko and Paidha and interviewed hundreds of Iturian refugees. Several military and political leaders were also met in Kinshasa.

33. Until the arrival of the Interim Emergency Multinational Force in June 2003, MONUC personnel had very limited access to Ituri. Therefore the information on the human rights situation was gathered through short-term investigation missions to a limited number of localities. After the opening of a MONUC office at Bunia in June 2003, the human rights and child protection presence facilitated the investigations but security restrictions did not allow them to cover each incident of gross human rights violations that occurred in Ituri. Even after the deployment of the Ituri Brigade in different parts of Ituri allowed greater access, some areas are still inaccessible. However, MONUC investigated most of the ethnically targeted attacks on villages, acts of mass killing and mass destruction of property and social services that occurred in different parts of Ituri, as well as extrajudicial executions, abductions of or threats against selected persons such as administrators, non-governmental organization workers, journalists, teachers and businessmen that occurred in Bunia, Aru and their surroundings. The Child Protection Section of MONUC has been focusing on the recruitment and use of children associated to armed groups.

34. To cover the reporting period as thoroughly as possible, MONUC has also made use of reports written by national and international non-governmental organizations and United Nations agencies on the issue of gross human rights violations and their analysis. When an incident has not been investigated directly by MONUC, the source of the information will accordingly be noted.

## **V. Most serious human rights abuses committed in Ituri district from January 2002 to 31 December 2003**

35. All of the armed groups have committed war crimes, crimes against humanity and violations of human rights law on a massive scale in Ituri. Unarmed civilians have been deliberately killed, contrary to article 3 common to the Geneva Conventions, often solely on the basis of their ethnicity. Attacks on villages have been accompanied by the killing of several thousands of civilians, widespread looting and destruction of housing and social structures, abduction of civilians, including women for sexual slavery, rape and torture (see section A below).

36. Lendu combatants engaged in inhumane acts such as mutilation and cannibalism, often under the effect of drugs prepared by their traditional healers. They abducted children and women for forced labour and sexual slavery. According to two eyewitnesses who were released, Lendu combatants told them that they were not killing Hema children but giving drugs to "transform them into Lendu". Hundreds of Hema women were sexually abused and forced into working for the combatants. Many children and women of Hema origin were never released (see section A).

37. UPC forces shelled hundreds of Lendu villages without making any distinction between armed combatants and civilians. Some villages in Djugu territory were the object of repeated attacks when the inhabitants returned and rebuilt during calmer periods. Each time that they took control of Bunia — August 2002 and May 2003 — UPC forces conducted a manhunt for Lendu, Bira, Nande and non-Iturians whom they considered opponents: many persons were killed and many others disappeared or chose to leave Bunia. UPC soldiers also committed large-scale rape in the



different areas of the town, sometimes abusing girls as young as 12 (see sections A and C).

38. Both Hema and Lendu militias repeatedly attacked localities belonging to other ethnic groups, often bordering their own *collectivités*, for different reasons: in the Nyali territory of Banyari Kilo to have access to the gold mines; in Mahagi and Aru for the customs taxes; and, in other localities, just to punish them for having agreed to host the party considered to be the enemy (see section B).

39. All of the armed groups have recruited and trained children to turn them into combatants. According to some estimates, 40 per cent of each militia force could be composed of children under 18 years of age. Given the uncertain figures for the total strength of the armed groups, it is impossible to give accurate figures for children. Current estimates suggest 6,000 children in armed groups, with several thousand others possibly involved in local defence groups. Children have been used as combatants but also as labour in the illegal exploitation of natural resources. Girls have been forced into domestic labour and sexual slavery. Throughout the Ituri conflict, there have been a number of allegations that Uganda and Rwanda have been involved in aiding and abetting Ituri armed groups to recruit and train children (see section D).

40. Some 8,000 civilians lost their lives as a result of deliberate killing or indiscriminate use of force from January 2002 to December 2003. More than 600,000 have been forced to flee from their homes. The area bordering Uganda and North Kivu hosted thousands of extremely vulnerable refugees and internally displaced persons.

#### **A. Ethnically targeted attacks**

41. During attacks on localities occupied by the ethnic groups of the opposite side and often hosting a UPC battalion or a local Lendu militia group deployed for the "protection" of civilians, fighting between the armed groups would most often be intense and of short duration. Attackers often ended up killing civilians, destroying homes and social infrastructures, abducting women for sexual abuse and looting the entire village. Lendu militias and UPC justified their actions, stating that all civilians were part of the armed groups since most of them were given weapons for self-protection. The attacks described below illustrate some of the most serious incidents, but the list is not exhaustive. Several other attacks were orchestrated by both sides, with hundreds of civilian victims, for example in Mahagi, Komanda, Dungu, Ambé, Gety, Mitega and Fataki.

##### ***Collectivité* of Walendu Bindi: mass killing and destruction of hundreds of localities**

42. From 9 February to 24 April 2002, UPDF based in Gety, together with Hema and Bira militia groups, carried out large-scale operations against the Lendu villages of the Boloma, Bukiringi, Zadhu, Baviba and Bamuko *groupements*, all located in the *collectivité* of Walendu Bindi, in the territory of Irumu. Mass killings continued for another two weeks after the visit on 4 April of the then Governor of Ituri, Jean-Pierre Lompondo Molondo, with Colonel Peter Karim, from UPDF, who was sent by Kampala to investigate abuses committed by UPDF soldiers. Both called upon UPDF to end the hostilities. A local non-governmental organization reported a total

of 2,867 civilians killed,<sup>21</sup> and 77 localities completely destroyed, together with all social infrastructures, resulting in the displacement of 40,000 civilians. The *collectivité* of Walendu Bindi, located in the southern part of Ituri, had not been involved in the conflict until late 2001.<sup>22</sup>

43. Early in 2002, UPDF was deployed in Gety, the main town of the *collectivité*, reportedly at the request of the Hema South families accusing the Lendu of allegiance with the Ugandan rebellion. The military operations were not carried out by the UPDF command based in Bunia, however, but by military who came directly from Uganda and who were under the command of Colonel Arocha, now appointed to Bundibujjo, in western Uganda bordering Ituri district.<sup>23</sup> The sector Commander Fred Seka Mwenge, based in Bunia, was reportedly not involved in the operation. The operations on Lendu villages were carried out by UPDF based in Gety together with Hema militia members from Bogoro, Kagoro, Boga, Mitego, Kyakurundu and Bukiringi and Bira militias from Talolo. One eyewitness from Gety named a certain Madilu as one of the UPDF commanders.

#### **Mabanga: ethnic cleansing of a mining town**

44. Mabanga, in the *collectivité* of Mambisa, territory of Djugu, was a multi-ethnic town because of its gold fields, which attracted non-Iturian gold traders and workers. On 28 August 2002, after an attack by Lendu militias, the local Hema/Gegere militia forced the non-Iturians to fight with them to repulse the attackers. Witnesses interviewed by MONUC stated that, when the reinforcements came from Iga Barrière, their Commander, T'Sirba Rene, stated that he had seen non-Iturians among the Lendu forces and gave the order to eliminate the non-Iturian population.

45. MONUC obtained a number of first-hand witness accounts of the attack. The father of one victim reported how his son was killed, his body mutilated and his head and arms brandished around the town. It appears that as many as 150 people may have been deliberately killed. The chief of operations, T'Sirba Rene, originally from Mabanga, was living in Iga Barrière.<sup>24</sup> UPDF had a military camp in Mabanga; the Ugandan army did not intervene to stop the killing of civilians but gave refuge to those who were able to reach the camp. Some 2,000 civilians, who sought refuge in the Ugandan camp, were escorted to Bunia the day after the event.

<sup>21</sup> The most serious mass killings were the following: on 10 February 2002, attack on the localities of Isarukaka, Nombe, Tsubina and Kagaba with 173 civilians killed; on 15 February 2002, attack and destruction of the localities of Kagaba, Rudjoko, Biro, Kapalayi and Kinyamubaya with 120 civilians killed; on 21 February 2002, attack on Bukiringi with 220 civilians killed; on 14 March 2002, attack on the locality of Sadjji/Kaguma A with 146 civilians killed; on 29 March 2002, massacre of the population of Gety by UPDF based there with 109 civilians killed.

<sup>22</sup> In January 2001, several attacks were carried out on localities of Walendu Bindi by APC forces together with UPDF when Lubanga was Minister of Defence, mostly to destroy the localities and their social infrastructures. One UPDF helicopter based in Bunia was used to bomb the localities. The *collectivité* had a calm period from February 2001 to February 2002.

<sup>23</sup> Colonel Arocha was Chief UPDF Sector Commander of Ituri from August 1999 to June 2000, when he was replaced by Colonel Charles Angina.

<sup>24</sup> T'Sirba Rene was condemned to death in 2002 by the Tribunal de Grande Instance of Bunia for the assassination of the Director of the Mabanga gold field, Lodju Niro.



**Bunia: ethnically targeted massacres for the control of the capital city**

46. Early in August 2002, the hostilities between RCD-ML and UPC that had begun in March 2002 with the arrival of Governor Jean-Pierre Lompondo reached the point of direct confrontation for the control of the town. Jean-Pierre Lompondo had been sent to Bunia by Mbusa Nyamwisi of RCD-ML as chief of military operations and Governor of Ituri, to thwart the UPC leader, Thomas Lubanga. The refusal by Mbusa of the nomination of Bosco by Lubanga as deputy chief of operations had created further tension. The fighting between the two forces ended with the withdrawal of RCD-ML from Bunia to Beni after UPDF and UPC on 9 August, shelled the residence of Governor Lompondo. UPC and its ally UPDF and the Ngiti/Lendu militias both killed civilians, many of them targeted only because of their ethnicity.

47. On 7 and 8 August, UPC militias and civilian vigilante groups under the command of Bosco roamed mostly the neighbourhoods of Mudzipela, Bigo I, II and III and Saio, killing those suspected of belonging to "opposing" ethnic groups. In Mudzipela, they completely destroyed all houses belonging to Bira, Lendu and Nande community members. Around 110 civilians, mostly Bira, Lendu and Nande were killed. According to several witnesses who testified to MONUC, UPC killed selected individuals according to a pre-established list. They also attacked Lendu civilians from Lipri market, located at 15 km from Bunia. The Lendu militias counter-attacked Mudzipela and killed dozens of Hema civilians as an act of revenge. UPC continued the killing of Bira, Lendu and Nande in Kolomani and the centre of Bunia until 10 August 2002.

48. While the fighting was going on for the control of Bunia town, Lendu militias attacked the farm of John Tibasima Ateenyi, the Hema Vice-President of RCD-ML, located in Lengabo, approximately 20 km from Bunia. According to Human Rights Watch, they killed 32 Hema workers and their families who were on the farm, mostly with machetes.<sup>25</sup>

49. On 9 August, UPDF and UPC attacked Governor Lompondo's residence using heavy weapons. The day before, all ethnic groups of Bunia, including a large number of Lendu, had fled to the Governor's residence hoping that APC forces based there would protect them. Jean-Pierre Lompondo and APC troops fled on foot towards Beni, while UPC massacred the civilian population around the Governor's house, as well as near the main hospital in the Bigo neighbourhood and near the central prison. Around 80 persons were killed at the Governor's house alone. Several mass graves were discovered later by MONUC, including two near the Governor's house and others near the prison and the hospital. UPC and UPDF, taking advantage of the chaos in the town, also conducted large-scale looting operations. UPC closed all the roads out of Bunia erecting roadblocks and summarily executing several civilians who were trying to flee the town. On 9 August 2002, UPC took complete control of Bunia and established an ethnically based government with very few non-Hema members. From the first day of its

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<sup>25</sup> See Human Rights Watch, *Ituri: "Covered in Blood": Ethnically Targeted Violence in North-eastern Democratic Republic of the Congo*. July 2003. Available from <http://www.hrw.org>. Path: Publications/by country/Democratic Republic of the Congo.

reign, UPC launched a manhunt in the town, looking for Lendu, Bira and non-Iturians.<sup>26</sup> The total number of victims of the fighting for the control of Bunia was never known exactly. However, taking into consideration the accounts of eyewitnesses, at least 300 persons lost their lives, killed mostly by UPC, but also by Lendu militias. The fighting also displaced 10,000 families, according to the humanitarian agencies present in Bunia. Most of the Nande community left Bunia for Beni in the following weeks. UPC extended its control in all directions, stabilizing its forces in Nyankunde, and taking the Mahagi-Aru area in the north.

**Songolo: massacre of mostly women and children**

50. Songolo, located in the *collectivité* of Walendu Bindi, hosted an important number of Ngiti from Nyankunde who were targeted and eventually driven out by the Chief of the *collectivité* of Andisoma, throughout 2001 and early 2002. In August 2002, UPC troops came to relieve UPDF in Nyankunde. The aim of this move was apparently to launch attacks on the bordering Ngiti localities. UPC reportedly requested the assistance of the Bira community in attacking the Ngiti.

51. On 31 August 2002, at 7 a.m., a group of some 500 UPC soldiers together with around 50 Bira attacked Songolo. According to a witness, most of the males were not in the village. The attackers used mortars and rockets before entering the village. After a short fight with Lendu forces, the attackers went into houses, reportedly guided by Bira civilians, to kill the inhabitants. Many civilians, mostly women, children and the elderly, were killed in their sleep. The attack lasted nine hours. According to witness statements collected by MONUC, the attackers looted the village and the health centre of Songolo and left with hundreds of cattle. It is difficult to estimate the number of victims killed. According to Human Rights Watch, around 140 persons were killed, mostly women and children.<sup>27</sup> Survivors who returned to Songolo after the attack to bury the bodies did a survey among the population and found that 787 people were missing. Up to now, it has not been possible to establish how many were killed and how many simply ran away. According to a Congolese non-governmental organization, UPC abducted 12 civilians.

**Nyankunde: "ethnic cleansing" of Bira, Hema and Hema/Gegere groups**

52. During and after an attack on Nyankunde and its neighbouring towns and villages carried out jointly by Ngiti, APC and Mai-Mai on 5 September 2002, more than 1,000 people may have been victims of deliberate killing because they belonged to the Hema, Hema/Gegere and Bira ethnic groups. Nyankunde and apparently many of the 45 localities making up the three *groupements* (Loy-Banigaga, Chini Ya Kilima/Sedzabo and Sidabo/Bagabela) of the *collectivité* of Andisoma suffered destruction, looting and massive displacement.

53. Before the devastating attack of 5 September 2002, Nyankunde, the main town of Andisoma, mostly populated by Bira, was a major centre because of its commercial activities and its well-equipped hospital, the Centre médical évangélique, which hosted several international staff and provided high-quality and specialized care in the region. According to a census done by the local administration between 2001 and 2002, around 21,000 people were living in the

<sup>26</sup> For specific killings, see section B.

<sup>27</sup> See Human Rights Watch, *Ituri: "Covered in Blood" ...*



*collectivité*, 14,000 of whom were in Nyankunde. Since September 2002, several thousand have been displaced to camps in North Kivu and the premises of the hospital, the Institut d'enseignement médical and the Institut supérieur des techniques médicales, as well as several other educational and religious institutions, have been looted and abandoned.

54. Tension had been high between the Ngiti population and the Bira and Hema of Nyankunde. Throughout 2001 and 2002, the Ngiti were targeted with acts of intimidation and other abuses. They were eventually forced out of Nyankunde. Ngiti attacks on Nyankunde and other Bira villages in the *collectivité* of Andisoma during the same period further fuelled hatred between the three ethnic groups and were followed by bloody reprisals, such as the alleged indiscriminate bombing by UPDF of Ngiti positions after the Ngiti attack on Nyankunde of January 2001. It is reported that the Chief of the *collectivité*, Dieudonné Bulamuzi, accused of being pro-Hema, boarded a UPDF gunship during those reprisal attacks. The attack of 5 September 2002 followed the bloody aggression by UPC forces, reportedly assisted by Bira elements, on 31 August 2002 on neighbouring Songolo, mostly populated by Ngiti (see paras. 50 and 51).

55. A few days before the attack of 5 September, a five-member high-level delegation from Nyankunde, composed of Chief Bulamuzi, the Medical Director of the Centre médical évangélique and others, had travelled to Bunia to alert MONUC about the risk of a bloodbath in Nyankunde. MONUC did not have the means or the mandate to take any preventive action at the time.

56. The attack was apparently launched from three different directions, Singo, Songolo and Atele. From 5 September to mid-month, Ngiti combatants — many of whom were former inhabitants of Nyankunde — systematically sought and killed Bira, Hema and Gegere individuals, mostly with machetes, spears and arrows. The combatants were wearing civilian clothes, appeared overexcited by drugs and were wearing vials and *fétiches* on their chest. MONUC obtained several accounts of mutilation of victims' bodies (notably the throat and the heart were removed) by Ngiti combatants. Apparently these parts of the bodies are used for *fétiches*.

57. The hospital of Nyankunde, the Centre médical évangélique, was not spared. Killings and looting were carried out in the hospital compound from the very first day of the attack. On 10 September, Colonel Kandro Ndekote, the Ngiti commander, led a search and arrest operation in the hospital. That operation resulted in the detention in inhumane conditions of some 100 people who were hospital staff or had sought refuge there. According to some sources, the number of people arrested at the hospital could be higher. It is alleged that many of the detainees were subsequently executed extrajudicially or disappeared after being forcibly taken to Bavi, located between Singo and Olongba, and other Ngiti bases. The fate of the others is unknown, but there are fears that they were executed extrajudicially.

58. From 80 survivors' statements gathered by MONUC, it appears that mainly Ngiti forces were responsible for the killings. APC committed widespread looting and extortion, but according to witness accounts intervened at least on a number of occasions to prevent killings or allow the evacuation of survivors. According to a high-ranking APC officer and other reliable sources, APC Commander Faustin Kakule negotiated and agreed on the details of the attack on Nyankunde with the Ngiti Commander, Colonel Kandro. There is no certain information about the terms of the agreement. However, Commander Faustin claimed to some hospital staff that



he had requested that the hospital not be attacked. APC Commander Bisima from Komanda reportedly visited Nyankunde, including the Centre médical évangélique, on 10 September, but left on the same day. APC Commander Hilaire is also reported to have been involved in the attack.

59. MONUC conducted separate interviews with more than 15 people who had collected corpses for burial in Nyankunde. The few burials, conducted very much in a hurry given the prevailing insecurity, were limited to some parts of Nyankunde and were not completed by 12 September, when hundreds of the inhabitants of Nyankunde who had sought refuge at the hospital were eventually allowed to leave the town. According to witness accounts, it appears that several hundred bodies were found lying in the streets and in the houses. Most of them appeared to be civilians and many of them had died of machete wounds. In most cases, no graves were dug and most of the bodies were thrown into latrines. In some cases, bodies were burned. Individuals from Ngiti villages, including Gety, Songolo and Aveba and wearing Red Cross aprons also carried out burial of bodies. Their leader was heard saying that they had to bury the bodies quickly so that nobody could claim that there had been "genocide" in Nyankunde. According to reports, the Ngiti Red Cross may have buried or burned hundreds of bodies.

60. MONUC has obtained some 800 names of victims of alleged deliberate killings or forced disappearance in Nyankunde and neighbouring villages. At the time of the attack on 5 September, Nyankunde was under the control of UPC forces, which had entered Nyankunde after the departure of UPDF troops in July 2002. According to consistent reports, the Ngiti attackers quickly overwhelmed UPC and the fighting in the streets did not last long. This reduced the number of civilians who might have been victims of stray bullets. Scores of civilians were also apparently abducted and forced to carry the loot to Ngiti villages, including Songolo, Singo, Bavi, Bolo, Gety, Kagaba and Atele. Their exact number is unknown. It appears that at least 100 of them were killed in Singo. More than 10 people from Nyankunde who had sought refuge in nearby Marabo allegedly disappeared after being captured on the orders of Colonel Kandro in the aftermath of the attack. Some 70 people were allegedly killed in villages of the *groupement* of Musedzo and in Mambesu (*groupement* of Mayarabu), both in the *collectivité* of Mobala, which were attacked on the same days.

61. To date, none of those alleged to be responsible for the mass killings in the *collectivité* of Andisoma in September 2002 has been brought to justice. After September 2002, APC Commander Faustin was reportedly arrested in Beni and detained by APC for letting his troops desert. He was subsequently released and he is reportedly still a member of APC. The Ngiti Colonel Kandro was allegedly killed during the sharing of the loot that followed the attack on Nyankunde. However, other commanders such as Commander Matata are reportedly still leading Ngiti militias in Irumu.

#### **Bedu-Ezekele: scorched earth operation in 24 villages**

62. Bedu-Ezekele, a Lendu *groupement*, located in the *collectivité* of Walendu Tatsi, was attacked several times from January 2001 to March 2003. Several persons were killed and all of its 24 localities were destroyed at each attack. Zumbe, well known as one of the headquarters of the Lendu militia, is part of this *collectivité*, which may explain the repetition and intensity of the attacks. The attackers were

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reportedly UPDF forces under the command of Muzora, together with Hema militias from Bogoro, Mandro, Tchomia, Kasenyi and Bunia under the command of Chief Kawa.

63. In 2002 and 2003, the *groupement* experienced a total of 11 attacks with 445 civilian victims of killing, according to a Lendu teacher who took notes of each event. The most serious attacks occurred on 15 and 16 October 2002, when Hema militias, together with UPDF from Bogoro, attacked Zombe and stayed there for 48 hours. From Zombe, the attackers burned all the surrounding villages, killed around 125 civilians and planted several anti-personnel mines.

**Bogoro: mass killing of civilians and destruction of the entire village**

64. Bogoro, a Hema village, was a strategic place for UPC who had a military camp in the middle of the town. Bogoro is located on the Bunia-Kasenyi main road. The presence of UPC therefore prevented the Lendu communities of Walendu Bindi from using the road to reach Bunia. The Lendu (FNI) Chief of Staff at the time, Mathieu Ngudjolo, who admitted to having organized the attack on Bogoro and Mandro, told MONUC human rights investigators that his forces carried out the military operations in order to dislocate UPC military forces, which had been shelling the Lendu villages around Bogoro for several months.<sup>28</sup> According to MONUC investigations, however, the Lendu attack was not confined to military targets but also appeared to be a reprisal operation against the Hema civilian population.

65. On 24 February 2003, Bogoro was attacked by Lendu and Ngiti militias at 5.30 a.m. The aggressors came from four directions: Kasenyi, Gety, Nyankunde and Mission. They were reportedly wearing green military combat clothes and civilian clothes, and used machetes, spears and arrows but also heavy weapons, such as mortars, rocket-propelled grenades, light machine guns and rocket launchers. UPC soldiers had their camp around the school and called the civilian population to seek refuge inside it. Some people were able to reach the camp, others were killed while fleeing. When UPC forces ran out of ammunition, they opened a corridor through which they fled, together with some civilians; others left in the direction of Kasenyi. The Lendu/Ngiti militias reportedly continued killing and looting after UPC abandoned the village. According to the testimony of 100 survivors, around 260 persons were killed and another 70 are missing. Among the victims, 173 were under the age of 18.

66. MONUC human rights investigators who travelled to Bogoro on 26 March 2003 saw that most of the buildings and houses on the main road had been destroyed or burned. They also had a discussion with the Lendu chief of operations still in control of the town, Commander Dark from FNI, who refused to grant permission for a thorough visit of Bogoro including the place where the killings allegedly occurred. According to the Ugandan officials, the reason for his refusal was the existence of unburied bodies in the vicinity of the local school. Commander Dark

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<sup>28</sup> This information was confirmed later, during a visit to Zombe on 23 December 2003, by the inhabitants of Zombe and Zekele, two Lendu localities that were attacked and completely destroyed by Hema militia from Bogoro.



informed the team that he was under the order of Commander Germain Katanga, the officer in charge of military operations in the south of Bunia.<sup>29</sup>

67. According to child soldiers who took part in the operation on the UPC side, the aggressors were Lendu North, Ngiti from the south, APC and some Ugandan soldiers. Two of the children claimed to have heard Ugandan Swahili through a radio communication and to have witnessed the killing of Ugandan military. Other victims reported having heard soldiers speaking Portuguese. These elements were thought by some to be FAC special forces who had been trained in Angola.

**Lipri, Bambu, Kobu: operation *Chikana Namukono***

68. On 13 January 2003, around two UPC battalions coming from Mongbwalu arrived in Nyangaraye at around 5.00 a.m. They forced the population out of their homes and forced 15 to go into the chapel. They reportedly chopped all of them to death with machetes and burned their bodies. Eyewitnesses were able to identify two victims, one of them a child. From Nyangaraye, UPC began carrying out its military operation called *Chikana Namukono*<sup>30</sup> under the command of Salumu Mulenda. UPC first took control of Lipri and Kobu on 18 February 2003.

69. From 18 February to 3 March 2003, UPC militias carried out a large-scale military operation against the villages located between Lipri and Nyangaraye. The first attack lasted until 23 February; 15 villages were destroyed and most of their inhabitants killed.<sup>31</sup> Witnesses reported that, on 24 February, the UPC Commander, Salumu Mulenda, sent a written message — a copy of which was provided to MONUC — to Lendu notables in the area and Lendu militia leaders, including traditional Chief Djatsi, and the militia commander Kabuli, inviting them to a pacification meeting. On 25 February when the Lendu leaders, accompanied by 50 persons, came to attend the meeting in Bule, they were all arrested and brought to Kobu during the night. The prisoners were then taken behind the UPC camp in Kobu with their hands tied and were attacked with machetes, knives and wooden sticks. Only two persons, one of them met by MONUC, were able to run away; all of the others were confirmed killed. According to the persons who buried the bodies, there were 47 victims. They reportedly found another 53 corpses in the bush around Kobu and buried them in two other mass graves. In the following days, UPC continued its manhunt in the Jicho forest. Another 92 persons were reportedly killed in the forest, most of them dismembered with machetes. During the last days of February, UPC attacked another eight villages<sup>32</sup> using the same methods of killing civilians, looting and burning all the houses. During this operation, Bambu, the headquarters of the Kilo Moto gold mining company, was attacked several times: all the offices of the company, the main hospital of the region, all religious structures, the orphanage and the schools were looted and all electronic devices, archives and medical equipment destroyed.

70. MONUC human rights investigators were able to visit Lipri, Bambu and Kobu on 3 April 2003. The team saw several villages on the way that were burned and deserted, visited the place where 47 persons were killed in Kobu and interviewed

<sup>29</sup> Commandant Germain is the current Chief of Staff of FNI/FRPI.

<sup>30</sup> In Lingala this means "to take with hands".

<sup>31</sup> Lipri, Ndrè Chupka, Dhepka, Tsili, Ndjaza, Mbidjo, Ngbachulu, Kpaki, Bukpa, Djuba, Bemu, Nduy, Ngaru, Ndalua and Thali.

<sup>32</sup> Jicho, Buli, Ngabuli, Pili, Athe, Bakpa, Lambi and Widde.

around 90 victims of abuse or eyewitnesses of killings. The interviewees gave the team the names of 250 victims, but more victims were identified by another investigation team in May 2003, and still more during the investigations in the Beni area in November 2003. Operation *Chikana Namukono* resulted in the killing of at least 350 persons and the complete destruction of 26 localities.<sup>33</sup> Around 60,000 civilians were forced to flee to the relative safety of the surrounding bush, and the number of those who died of hunger and sickness remains unknown.

**Mandro: attack and mass killing in a stronghold of UPC**

71. Mandro, located in the *collectivité* of Bahema Banywagi, is the birthplace of Chief Kawa. The village was known from the first period of the conflict as a stronghold of UPC and was the location of a military and training camp for newly recruited children. The Lendu population suspected several attacks on their villages as coming from Mandro. According to corroborating testimonies, Mandro was attacked several times by Lendu since the beginning of 2003 but the UPC forces were able to push them back and hold the town.

72. On 4 March 2003, early in the morning, the Lendu and Ngiti attack on UPC military positions in Mandro lasted for no more than a few hours. The armed groups succeeded in overrunning Mandro and attacked civilians, killing some 168 persons according to the testimonies received by MONUC in Mandro and Bunia. According to the Chief of the *groupement*, the attackers kidnapped several young men and girls, who were forced to carry the looted goods. Since the attack did not last long, few houses were looted but the UPC military camp was completely destroyed. The aggressors were reportedly Lendu militias from Zumbe and Loga. Interviewed later in Bunia, the former FNI Chief of Staff, Mathieu Ngudjolo, acknowledged having organized the attack with the Ngiti in order to stop UPC operations against Lendu villages. According to him, each person in Mandro was a combatant in possession of a weapon.

**Bunia: chasing of UPC by UPDF and Lendu militias**

73. On 6 March 2003, reportedly responding to an attack by UPC on their forces based in Ndele, UPDF drove UPC out of Bunia and took control of the town with the assistance of Lendu armed groups.<sup>34</sup> On 6 and 7 March 2003, during and after fighting between UPC and UPDF in Bunia, several civilians were killed, houses and shops were looted and civilians were wounded by gunshots. According to the inhabitants of Bunia, fighting between UPC and UPDF began around 6 a.m. and lasted until the end of the same day. Stray bullets reportedly killed several civilians; others had their houses shelled. There were also selected killings of Hema civilians who were known to have financed UPC and selected looting of shops belonging to Hema businessmen in the market area of Bunia.

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<sup>33</sup> According to a reliable local non-governmental organization, the number of civilians killed during the operation is much higher.

<sup>34</sup> On 6 January 2003, UPC signed a military alliance with RCD-Goma. In the following weeks, RCD-Goma started airlifting troops and weapons to UPC territory. On 23 January, UPC formally requested Uganda to withdraw from Ituri. Chief Kawa, who had already defected from UPC in November 2002 and moved to Uganda, expressed a desire for Uganda to remain in Ituri. He became the new ally of Uganda and he was supported by Uganda as leader of the newly created FIP1.



74. The local Red Cross buried a total of 54 soldiers and 17 civilians but informed MONUC that Ugandan forces had buried their nationals. Local non-governmental organizations carried out investigations into the events on 12 March 2003 and compiled a list of 52 civilians killed, 30 others injured, 15 houses completely destroyed, 60 others including offices of the non-governmental organizations Coopi, Aciar, J-plus, Hellenique and Cemif were completely looted. Eyewitnesses accused UPDF of being directly involved in the looting of the town. The situation was brought under control by UPDF on 8 March. Hema community members who had fled started to come back. The local Red Cross buried the bodies from 6 to 12 March 2003.

**Drodro: killing of hundreds of civilians**

75. Drodro, well known for its parish and its well built social infrastructure, is part of the territory of Djugu, *collectivité* of Bahema Nord, approximately 80 km from Bunia. After its forced withdrawal from Bunia, UPC and its leader Thomas Lubanga relocated first in Bule, then in Blukwa and Drodro. On 3 April 2003, because of this presence and also as part of a revenge operation, Drodro parish (located in Duma village) and the surrounding villages of Dhassa (Largu), Nyali, Dzathi, Kiza, Ngazba, Jissa, Kpatiz, Koli, Lera, Ndjala and Kpaluma were attacked between 5.45 a.m. and 8 a.m. by Lendu militias. The attackers killed both military and civilians using AK-47 and Kalashnikov rifles but also machetes, spears and arrows. A team composed of personnel of MONUC and personnel of the Office of the United Nations High Commissioner for Human Rights travelled to the affected areas, and received testimonies of survivors, eyewitnesses, family members and church and administrative authorities, who reported the killing of 408 civilians, the serious injury of 80 others, 48 of them still in the local hospital at the time of the investigation, and the destruction by fire of 150 houses and shops. Two forensic experts who accompanied MONUC and examined one of the several mass graves in Largu confirmed that killings had happened. The team saw other mass graves in Largu, Nyali and Jissa.

76. The attackers were reportedly Lendu combatants from the surrounding Lendu villages of Andu, Jukr, Masumbuko, Tsoro, Ango and Asso. Some eyewitnesses reported that they saw also soldiers wearing green uniforms and camouflage uniforms. According to a Congolese human rights organization, the presence of Lubanga and Edison Muzora, a former UPDF commander who had joined the rebellion, during the second half of March 2003 in Drodro would explain the alliance between Lendu militias and UPDF. This version was rejected by UPDF, who stated that at that date UPDF troops were in Bule, 30 km from Drodro, and was not responsible for the Drodro killings.

**Bunia, return in strength of UPC and mass flight of the population**

77. On 6 May 2003, under pressure from the international community, the last UPDF soldier left Bunia, after a long presence of four and a half years.<sup>35</sup> Approximately 20,000 civilians, mostly Hema and a few from other ethnic groups, followed them towards Uganda fearing an attack by Lendu combatants. From the first day of their departure, the city was the scene of fierce fights between UPC and the Lendu militias, which lasted until MONUC was able to broker a ceasefire

<sup>35</sup> UPDF entered Bunia in November 1998.



agreement, on 17 May. Fighting in various neighbourhoods caused hundreds of civilian casualties, systematic looting of buildings and destruction by fire of around 1,000 dwellings. Following the ceasefire, the two parties agreed to withdraw their forces to their respective military headquarters in the town. This situation lasted until 27 May, when UPC drove the Lendu combatants out of Bunia. Thereafter, human rights abuses continued to be committed on a smaller scale.

78. Two investigations were carried out into the events by two different MONUC teams, one in Bunia at the beginning of June 2003 and the second in the camps of internally displaced persons in the Beni area in November 2003.<sup>36</sup> The team interviewed 311 eyewitnesses and family members of victims. A total of 563 cases of deliberate killings have been reported to MONUC, 260 of them by UPC and 303 by Lendu combatants. Other victims were killed by non-identified perpetrators. The Lendu combatants reportedly committed several ethnically motivated killings of Hema and other ethnic groups somehow associated with them, while UPC apparently killed at random, although possibly targeting non-natives and some professions like police officers and taxi drivers. According to a source, UPC killed several dozen Lendu civilians in Simbilyabo and buried them secretly.

79. Particularly heavy casualties were reported in the Mudzipela area of Bunia, considered to be a safe heaven for Hema civilians, and the Lumumba area, which is the city centre. The killing of around 16 Hema civilians and two Hema priests on 10 May 2003 by the Lendu militia in the compound of Nyakasanza church is an example of ethnically motivated killing. According to corroborating testimonies of Lendu and Hema survivors of the massacre, some hundreds of Lendu combatants arrived at 10 a.m. and penetrated the compound after a short fight with the national police. Both Hema and Lendu internally displaced persons had sought refuge in the church and were housed in two different halls. After killing two Hema priests in their rooms, the combatants penetrated the hall containing Hema civilians and one of them massacred 12 adults and 4 children. The combatants visited the room containing the Lendu but only took their money. The reason for this particular massacre was apparently to take revenge for the killing of the Ngiti priest Father Boniface Bwanalongo by UPC in November 2002 in Mongbwalu. Furthermore, Father Aimé, one of the Hema priests killed, was publicly known to be a UPC supporter and had been seen several times driving UPC officials in the church vehicle.

80. The team received reports of 18 cases of rape, some of the victims being as young as 11, committed by UPC soldiers, after the ceasefire was signed. Most of the victims were abducted while they were out to look for food or water, and were taken to military places or private houses for sexual abuse.

81. Looting started in the town as soon as the Ugandan forces left, carried out first by Lendu combatants then by UPC elements. They were later joined by civilians who profited from the situation, resulting in systematic looting of private houses and business premises with no distinction of ethnic affiliation. The market place was completely devastated. During visits to the neighbourhoods, in addition to the looted dwellings, the MONUC team saw a considerable number of shops and houses destroyed by fire. Some thousand houses were set on fire.

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<sup>36</sup> Investigations were carried out in camps in Erengeti, Oicha, Butembo and Beni.

82. The MONUC team received reports of numerous cases of threats or intimidation committed by UPC elements once they had total control of the town. This is one of the main reasons behind the reported fleeing of around 200,000 people from Bunia and the surrounding villages from 8 to 14 May 2003. The inhabitants left Bunia mainly using two roads. One group took the road to Beni via Komanda and another took the route Medu-Bole-Beni, passing through the forest. One group of Lendu fled to Gety and another to Zumbe. According to humanitarian agencies, around 74,000 civilians reached the Beni area, passing through Komanda, at the beginning of June 2003. The total of the new internally displaced persons as a result of the May events in Bunia was reportedly 180,000 persons.

83. On their way, the group that took the road towards Komanda was attacked in Chayi by UPC, all their belongings were looted and an unknown number of civilians were killed. The group that took the road towards Medu and Bole was stopped by Ngiti combatants who killed the Hema civilians who were part of the group. A Nande survivor met by MONUC reported the summary execution at Longba on the basis of ethnic origin, of 13 civilians, mostly Hema and those thought to be Hema, because of their facial type, by the combatants and their Commander, Matata Banaloki Justin, known as Cobra. The same witness added that the bodies of the victims were mutilated and certain organs extracted and eaten by the combatants. An important number of Hema were reportedly killed also near Olongbo and Masini.

**Tchomia: mass killings and abduction of civilians in two different attacks**

84. Tchomia used to be a big trading centre of around 12,000 persons, located in the *collectivité* of Bahema Banywagi in the territory of Djugu on the shore of Lake Albert. The locality was also host to an important PUSIC military camp.<sup>37</sup> According to the Hema authorities, the area around Kasenyi and Tchomia, both located by Lake Albert, became subject to insecurity after the capture of Bogoro by Lendu militia at the end of February 2003.

85. On 31 May 2003, Tchomia was attacked around 5 a.m. and the operation lasted until 1 p.m. The attackers, allegedly from Zumbe and Loga, approached the town from three directions and attacked first the military camp and then the civilian population using rocket-propelled grenades, rifles, mortars, spears, machetes and axes. They spoke Kiswahili, Kilendu and Lingala. The attackers openly asked victims about their ethnic origin, which suggests that their objective was to kill only men from the Hema ethnic group. The majority of the victims identified the attackers as being Lendu combatants, with some APC and FAC soldiers. The MONUC human rights investigators who travelled to Uganda to interview witnesses drew up a list of 96 victims, mostly of summary executions, including 30 patients who were killed in the hospital beds and 6 victims of abduction. The assistant to the Administrator of the territory of Kasenyi, who came to Tchomia with Chief Kawa on the day of the attack, stated that they buried a total of 250 corpses. Chief Kiseambo of Kasenyi stated that a militiaman called Naydo affiliated with the Lendu militia of Zumbe carried out the operation.

86. According to corroborating information received by MONUC later, in Beni and Kinshasa, after UPDF left Bunia they based themselves in Tchomia with the

<sup>37</sup> PUSIC was formed only in October/November 2002. The militia was previously under UPC.



intention of organizing a new attack on Zumbe together with PUSIC. UPDF was still reportedly in Tchomia on the day of the attack, contrary to their previous statement according to which they left around 20 May, and a large number of UPDF soldiers were reportedly killed as a result of the attack.

87. On 15 July 2003, Tchomia was attacked for the second time around 5 a.m. by the same attackers, coming from Zumbe. The attackers killed some 11 civilians, since the town was almost emptied after the first attack.

**Katoto: killing of civilians during several attacks**

88. Katoto, a Hema village, is located some 25 km north of Bunia, in the *collectivité* of Bahema Nord, in the territory of Djugu. The village suffered from two severe Lendu attacks in June 2003. On 7 June, 104 people were killed, according to local authorities and eyewitnesses. On 20 June, a new attack reportedly left 32 more people killed and an undetermined number of displaced people. It appears that Katoto had a population of 17,000 before the attacks and was afterwards reduced to around 7,000. The attacks came from FNI militias led by commanders Ngakpa, Nyanya, Ngerey, Kame and Lonu, among others, principally from the locality of Loga, some 10 km north-west of Katoto.

**Kasenyi: mass killing and abduction of civilians**

89. Kasenyi, a fishing town of around 8,000 inhabitants according to the traditional chief of the place, located on the shores of Lake Albert in the *collectivité* of Bahema Sud, in the territory of Irumu, was the site of an important PUSIC military camp. The town was attacked twice, on 11 June and 23 July 2003, by Ngiti combatants seeking to dislodge the PUSIC soldiers there.

90. On 11 June 2003, Kasenyi was attacked around 6 a.m. by Ngiti militias, reportedly together with some APC and FAC elements. The attackers first dislodged PUSIC forces and subsequently attacked the civilians in the town. MONUC received testimonies on the killing of more than 80 civilians and the abduction of 30 others. A victim, who was abducted and taken to Zumbe, reported that the chief of the operations was called Mumbere, a Lendu who had taken a Nande name. On the road to Zumbe, the victim witnessed the execution by machete of six persons because they were not able to continue walking. The victim was kept in Zumbe for one week. He later moved with two Alur hostages to Beni, accompanied by 200 persons, both Lendu militia and APC soldiers. According to the witness, the journey from Zumbe to Beni had been organized with the aim of bringing ammunition given by RCD-ML. The father of the two Alur hostages came to Beni to take his children away together with the witness and brought them to Ntoroko, Uganda. On 23 July 2003, Kasenyi was attacked for the second time by Lendu combatants. MONUC received testimonies on the killing of 16 civilians and the abduction of 4 others.

**Fataki: killing and abduction of civilians in two attacks**

91. Fataki, the administrative centre of Djugu territory, was inhabited by around 16,000 persons of mostly Hema origin before the conflict. Fataki was the target of two serious attacks during July 2003, the first on 19 July and the second on 31 July. The attack of 19 July resulted in the killing of 51 civilians, the abduction of 50 others, the displacement of hundreds more and the destruction of many buildings, including the orphanage, two convents, the hospital and the school buildings. The

attack of 31 July was more deadly: around 71 people were identified as having been killed, including seven survivors of the first attack who were in the hospital.<sup>38</sup> As a result of the two attacks, around 10,000 civilians fled the area.

92. The attackers were identified by the survivors as being Lendu combatants alone, in the first attack, and Lendu combatants with FAPC members in the second one. After the second attack, the Lendu militia stayed in the town for a while and killed a few survivors who came to look for their belongings. The combatants and FAPC reportedly continued to abduct civilians during August 2003.

#### **Kachele: mass killing of civilians**

93. Kachele is a small Hema village located in the *collectivité* of Bahema Badjere, in the territory of Djugu. On 6 October 2003, between 5 and 10 a.m., Kachele and the surrounding villages of Lôkô, Bû, Luguba and Lutsiko were attacked by Lendu militias from the nearby villages of Laudju and Petro. A total of 65 civilians were killed, 42 of them children, and another 26 injured.

94. A MONUC investigation team arrived at the scene of the incident the day it occurred to verify facts, gather evidence and comfort and assist the population. The following day, a new mission, including human rights observers, continued the inquiry, drew up lists of victims, gathered new evidence, interviewed survivors and visited a number of mass graves. Immediately after the attack, the Ituri Brigade was deployed to Bule and has been conducting several foot patrols in the area from which the attackers allegedly came. They have already found evidence of the existence of armed elements and weapons; they also found traces of the withdrawal from Kachele to the Petro area, which confirms the origin of the attack.

### **B. Other mass killings**

95. Both Hema and Lendu combatants attacked territories belonging to other ethnic communities for different reasons: in some cases to punish them for having hosted enemy combatants, in others, because they took one side or the other in the conflict. Some towns, such as Mongbwalu, Mahagi and Aru, were attacked for control of their natural or financial resources. Regardless of the reasons for the attack, both Lendu and Hema militia parties committed similar types of exactions: mass killing of civilians, destruction of social infrastructures, looting of goods, abduction of women for sexual slavery and forced labour.

96. The only attack that can be considered different from the rest is the one named *Opération effacer le tableau* carried out by MLC and RCD-N forces with the direct assistance of UPC in the area of Mambasa (see paras. 105 ff. below).

#### **Walu: killing of civilians, destruction of social infrastructure**

97. On 11 May 2002, the village of Walu, located in the *collectivité* of Babelebe in the territory of Irumu, was attacked by Hema militias from 5 a.m. to 1 p.m. The attackers completely burned social infrastructures, including two schools and three health centres. They killed civilians who were not able to flee. Once the attack was

<sup>38</sup> The real number of deaths may be higher but, owing to the displacement caused by the attack, the investigators were able to reach only some of the survivors.



over, the population came out of hiding to bury the bodies. One of the eyewitnesses, who was present at the burials, reported having counted 42 bodies, including that of the Chief of the village. The village was attacked a second time a few days later by the same militia, who killed four more civilians. The militia reportedly came from Mazangina, Kabarole and Sota and was under the command of Kisémbó, the Chief of Kabarole.

**Mongbwalu: a town to conquer for its natural resources**

98. Mongbwalu, an important gold mining centre, was the second most populated town in Ituri after Bunia, with around 80.000 inhabitants before the conflict. Though located in the Nyali *collectivité* of Banyari Kilo, the majority of its inhabitants were of Lendu origin. Lendu moved to Mongbwalu to work for the Kilo Moto gold mining company as labourers beginning in the 1980s. The Lendu families were concentrated on the outskirts of the town, in the Camp Sayo area, where the workers compounds were located, while the Hema were living in the *cité* (town centre). The town changed hands frequently in a series of attacks and counter-attacks. During the attack of June 2002 by Hema militia and some bribed APC elements, RCD-ML was still in control of the town.

99. On 11 June 2002, Lendu workers left the workers camp and sought safety on the hill where an armed camp of Lendu was located, as they had been informed that "something" would happen. The same day, the Chief of the *cité*, Taga Mpigwa Atenyi, a Hema, reportedly made a speech in which he stated: "tomorrow we'll have our coffee in the Lendu area of the town."

100. On 12 June 2002, the Lendu quarters of Mongbwalu were attacked by APC soldiers based there, together with Hema inhabitants of the town. APC had been bribed by rich Hema with the aim of emptying Mongbwalu of its Lendu population. The attack lasted from 3 a.m. to 7 a.m. The attackers killed an unknown number of Lendu civilians, threw them into the roadside ditches and set fire to Lendu homes. The chief of the Hema militia was Bakambu, called *le maître* because he had been a teacher in the nearby Bambu mines. Towards the end of the attack, the Lendu combatants arrived from their encampment. They destroyed Hema homes and killed approximately 100 Hema civilians in an act of revenge. The majority of the Hema had enough time to flee to hide in the APC camp and so were saved. The Governor of the time, Jean-Pierre Lompondo, sent a new APC commander, Papi Yani, to replace his bribed former one, Commander Alemi. Meanwhile, the notables of the Nyali community, the traditional rulers of the *collectivité*, went to see the Lendu combatants to propose a peace plan. The Lendu accepted their proposal on condition that the Hema population leave Mongbwalu for Watsa and Ariwara. The Hema left and the Nyali population stayed with APC and Lendu civilians and militia members. This first Hema operation to recover Mongbwalu and its gold mines was reportedly financed by Lombe, who had a gold board in Bunia, and by Mandefu, Kazana and Labomba, all businessmen. Mongbwalu was attacked again in August 2002 by UPC forces, but they were pushed back by Lendu combatants and APC. However, UPC was determined to gain control of the town and went to look for stronger allies such as MLC, present in the Watsa area.

101. On 8 November 2002, UPC began its operation by shelling Mongbwalu with heavy weapons. An eyewitness met by MONUC went to the Lendu camp to seek protection at that time. While there, the witness saw a wounded Lendu combatant



returning from Watsa who said that UPC was advancing under the command of Bosco. Lendu combatants were able to repulse this first attack and succeeded in capturing a young UPC militia boy. According to the boy, UPC had prepared a big operation after receiving assurance of MLC assistance to take Mongbwalu and to make it the headquarters of Lubanga. From 9 to 17 November 2002, APC went to fight on the road to Watsa to stop the advance of MLC forces.

102. On 20 November 2002, UPC and MLC jointly attacked Mongbwalu, using heavy mortars and other explosive devices. The fighting lasted for two days and resulted in the killing of around 200 civilians and the destruction of infrastructures. UPC took control of the town on 24 November 2002. According to Human Rights Watch, an unknown number of civilians, who tried to hide in a church called *Mungu Samaki* located in Sayo, were followed by UPC and MLC soldiers.<sup>39</sup> The UPC soldiers found them in the church and slaughtered them. Other civilians were captured and imprisoned in a military camp, where they were later killed. During its stay, UPC tried to exploit the gold mines. They called on the Lendu to return because they had the expertise in gold digging. Since the Lendu refused to go back, they forced the remaining Nyali population and the Hema who went back to work for them. Mongbwalu was then occupied by Lendu militias of FNI, when UPC lost the backing of Uganda in March 2003.

#### **Nizi: mass killing of civilians**

103. Nizi, located in the *collectivité* of Mambisa in the territory of Djugu, was a wealthy mining village with 20,000 inhabitants before the conflict. On 11 October 2002, Lendu combatants from Bambu and Mabanga attacked Nizi. UPC had a military camp in Nizi and the Lendu were accusing the inhabitants of Mambisa of being pro-Hema. According to a local non-governmental organization, a total of 320 bodies were buried. The persons who buried them were able to identify 69 of them.

104. The village was attacked again on 20 July 2003 around 10 a.m. by Lendu combatants of FNI from Bambu. The attackers killed 22 civilians and abducted 15 others. The number of victims was limited, owing to the arrival of the Multinational Force, which was able to stop the aggression and arrest four Lendu combatants. On 23 August, Nizi was attacked again by combatants from Zanzi mountain, who abducted 12 persons and killed 2 of them on their way to their military camp of Mbao.

#### **Mambasa: *Opération effacer le tableau***

105. Mambasa is a medium-sized town on the road to Beni, located in the territory of Mambasa, inhabited by approximately 25,000 people. As Mambasa was not affected by the conflict raging in the territories of Djugu and Irumu, its inhabitants had maintained a fairly decent standard of living. Thousands of internally displaced persons from Ituri had moved to Mambasa, which was then considered safer than the rest of the Ituri district.

106. On 12 October 2002, the forces of MLC and RCD-N, with the assistance of UPC, attacked the town for the first time. The aim of the operation, called *Opération effacer le tableau*<sup>40</sup> was apparently the control of the whole RCD-ML

<sup>39</sup> See Human Rights Watch, *Ituri: "Covered in Blood"...*

<sup>40</sup> Operation "Clean the blackboard"

area, notably the Beni airport and the economically active area of Beni-Butembo. With the Mambasa attack, the region witnessed a new scale of violence characterized by a premeditated operation and the use of looting, rape and summary execution as tools of warfare.

107. The MLC and RCD-N forces remained in Mambasa, after taking it for the first time, from 12 to 29 October 2002, after which the RCD-ML forces were able to push them out. They were able to retake the town again on 27 November 2002 and stayed until 5 February 2003; a month later, on 30 December 2002, a ceasefire agreement was brokered by MONUC in Gbadolite.

108. During those two periods, the MLC and RCD-N forces, although under different command, committed serious human rights abuses such as summary executions, systematic rape, systematic looting and acts of cannibalism. After Mambasa, similar abuses were also systematically carried out in the villages south of the town and between Komanda and Eringeti, with the involvement of UPC. The number of rape cases — mainly young girls or women between 12 and 25 years old — also rose to an alarming level.

109. MONUC interviewed a total of 502 eyewitnesses and family members of victims from 3 January to 20 January 2003; they reported the killing of 173 civilians, both adults and children, in Mambasa, Komanda and on the two roads to Beni. The reported cases included 12 incidents of cannibalism. Most of the victims from Mambasa and neighbouring areas were reportedly killed by MLC or RCD-N soldiers, whereas the majority of victims from Komanda were reportedly killed by UPC elements. The incidents targeted mainly the Nande population to which Mbusa Nyamwisi, President of RCD-ML, belongs, and later also Pygmy populations, who were accused of assisting APC.

110. The first operation, which lasted from 12 to 29 October 2002, was carried out under the MLC command of Colonel Freddy Ngalimu, alias Grand Mopao. The second operation was carried out under the MLC command of Colonel Widdy Ramses Masamba, alias *Roi des imbeciles*,<sup>41</sup> and lasted from 27 November 2002 to the end of January 2003, when the last MLC elements left Mambasa. Both commanders were under the command of General Constant Ndima, located in Isiro.<sup>42</sup> General Ndima reported directly to the MLC Chief of Staff, General Amuli. He reportedly took the order from General Amuli to replace Freddy Ngalimu with Colonel Ramses. According to an MLC informer, Colonel Ramses is very close to General Amuli, a Hema from Ituri.

111. Just after the preliminary findings were made public by MONUC, the MLC authorities agreed to conduct an inquiry into the events. The report of the team was the basis for the trial of 27 suspects from the MLC forces. The trial of the 27 individuals accused by MLC of involvement in the atrocities in and around Mambasa began on 18 February and lasted until 25 February. The United Nations

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<sup>41</sup> Widdy Ramses Masamba was appointed in November 2003 as the chief of the Kindu-based seventh military region.

<sup>42</sup> Several sources reportedly stated that General Ndima's nickname was *effacer le tableau* and they reported that he was part of a group known as *effacer le tableau* established in 2001 during the existence of FLC. The battalion called *effacer le tableau* was well known for its tough personnel and the way it behaved in war time. After the break-up of FLC six months later, the battalion reportedly remained in Isiro, and some of its companies were sent on tough missions like the invasion of territories lost in Mambasa.



High Commissioner for Human Rights stated clearly that the trial was both illegal and illegitimate.

112. Beyond the constitutional issue of its legitimacy, four additional issues about this trial need to be pointed out. First, the admission as evidence of self-incriminating statements made by defendants held incommunicado during police or military questioning. Second, the obvious disparity between the charges and the sentences handed down. For instance, the charge of rape carried a maximum prison sentence of 13 months. The charge for deserting the armed forces, which routinely is punishable by death, most surprisingly carried 39 months in this "court martial". Third, no one was charged with any of the horrendous crimes against humanity and war crimes, such as murder, group rape and cannibalism, referred to in the MONUC report on the events in Mambasa (see S/2003/674). Fourth and finally, since the sentencing, a wave of arrests of defence witnesses who had testified on behalf of the accused has begun.

***Collectivité of Banyari Kilo: constant insecurity and summary executions***

113. The *collectivité* of Banyari Kilo, in Djugu territory, has been changing hands between Hema and Lendu militias because of the attraction of its Kilo gold mines. UPC entered the area around January 2002 and stayed there until March 2003. While there, UPC organized several attacks on Lendu localities. When they were chased away by UPDF and Lendu militias in March 2003, Nyali inhabitants, considered by Lendu as having hosted UPC, were harassed and killed.

114. On 15, 17 and 23 May 2003, Lendu combatants from Nyangaraye and Ngotochu attacked the localities of Batata, Kilo, Itende and Lisey. They killed around 50 civilians and abducted 28 girls. All the villages on the routes Sindoni-Kilo and Kilo-Mongbwalu were destroyed and deserted by their inhabitants after several Lendu militia attacks. At least half of the population of Banyari Kilo, around 40,000 according to the Chief of the *collectivité*, went into hiding in the forest of Madombo and Kirongazi during May and June 2003. Five health centres located in Kilo, Itende, Kabakaba, Kilo-Etat and Kilo-Mission and one maternity centre in Kilo-Mission were forced to close because they were almost completely looted.

***Nioka: mass killing and rape of civilians, serious destruction of social infrastructure***

115. Nioka, a small town of 20,000 persons of mostly Alur origin, is located in the *collectivité* of Pandoro, in the territory of Mahagi. Nioka was first occupied by UPC, then by FAPC under Commander Jérôme Kakwavu following the split with the former in September 2002. According to a witness, the Alur community had been paying FAPC to protect them by giving them livestock. However, most of the FAPC soldiers left on 28 May 2003. A certain Dilo from Nioka decided to gather together all the inhabitants who had received some military training and organized an armed group of 15 militia members. On the day of the attack, it was reportedly FAPC that fired first with rocket-propelled grenades into the barracks housing the new militia members, probably with the aim of fighting a newly created armed group.

116. On 10 June 2003, Nioka was attacked from 5.30 a.m. until around 2 p.m. by Lendu militias from Kpandroma and Livo. The militia killed around 55 civilians according to the testimonies provided to MONUC by victims. Another 60 civilians were abducted to carry the loot first to Livo, then to Kpandroma. According to an

abducted girl, several girls were forced into sexual slavery. Only 56 of the hostages were released, most of them after payment by their family members. Three days later, the inhabitants went back escorted by FAPC to bury the dead. They reportedly buried 70 bodies, several of them in one mass grave in Nioka. The Lendu militia visited Nioka several times after this first attack to finish looting and burning all of the buildings.

117. A certain Lego was reportedly the chief of the operations. Floribert Ndjabu, the leader of FNI at that time, confirmed that the operation was conducted by Lego and his 40 followers, without the consent of the FNI authorities of Kpandroma. He added that Lego and 20 of his men were executed after this operation by FNI in Kpandroma.

### **C. Political killings, abduction and forced displacement of suspected opponents**

118. The militia groups of Ituri executed, abducted, arrested or forced to flee persons they thought to be political opponents, as well as judges, intellectuals of enemy ethnic groups, journalists and members of non-governmental organizations. MONUC was able to carry out investigations into such abuses only in Bunia and Aru, while they were under the authority of UPC and FAPC, respectively. This does not mean that the other armed groups did not also commit political killings, abductions and forced displacement of opponents.

#### **1. Political killings, enforced disappearances, illegal arrest and forced displacement of selected persons by UPC**

119. Soon after taking power in August 2002 in Bunia and later in other parts of Ituri, UPC launched a campaign of manhunts, with summary executions, arbitrary arrests and forced disappearances. According to several witnesses, UPC had a pre-established list of persons to eliminate in Bunia.<sup>43</sup> UPC Commanders Bagonza, Kisembo, Chief of Staff, and Aimable Saba Rafiki, Chief of Security, reportedly directed the operation in Bunia. Those who were informed in time and were able to go into hiding had their houses destroyed by fire and their belongings looted, which suggests a desire to chase them for good. Among the victims were political opponents, intellectuals, businessmen, religious leaders, journalists and administrators of mainly Bira, Lendu and Nande origin, non-Iturians but also a few moderate Hema. In August and September 2002 alone, more than 100 people reportedly became victims, in Bunia town, of this campaign.<sup>44</sup> A new campaign was launched in May 2003, with the return of UPC to Bunia. This time, the victims were mostly non-Iturians. Some professions such as taxi drivers and police officers were specifically targeted.

120. Among the victims of the UPC manhunt campaign in August 2003 were Ileri Kuba, a 70-year-old Lendu, retired parliamentarian; Nasser Nbuna, 65-year-old non-Iturian, a former member of parliament; M. Ngura, Alur, *Chef des Travaux* of the Institut supérieur pédagogique together with his daughter; M. Mateso, Lendu

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<sup>43</sup> The list was reportedly drawn up by the Hema extremists of Bunia town, including the extremist intellectuals of the Institut supérieur pédagogique.

<sup>44</sup> The number was given by Human Rights Watch in *Ituri: "Covered in Blood" ...*



director of discipline of the high school of Kigonze; Reverend Basimaki Byabasaija, an Anglican church minister; Eric Duandro Akobi, a 38-year-old Protestant minister and theology student; Monaco Mbaduale, a 25-year-old Lendu student of the Institut supérieur pédagogique; Ngure Gabriel Ukumu, a 45-year-old Alur administrative secretary of Radio Candip; Selian, a Bira journalist of the same radio; Malili, a police officer from Isiro; Giselaïne Bofende, a Topoke worker of the non-governmental organization ABC. Several Lendu were also abducted, and taken to the houses of Bosco, Bagonza or Lubanga. Their fate is unknown to date.<sup>45</sup>

121. Several traditional chiefs and administrators were killed in the interior of the district mostly for not collaborating with UPC: Nobamuzi, Chief of the *collectivité* of Babelebe, killed in December 2002; Matata, Chief of the *collectivité* of Basili, killed in July 2002; Mundukukuwe, Chief of the *collectivité* of Baboa Bokowe, killed in December 2002; Bulabato Aloise, Chief of the *groupement* of Chendabo, killed in mid-2002; Fundi Kusu, Administrator of Bambu, killed in June 2002; Richard Bokalala Elanga, RCD-ML Administrator of Djugu territory, killed on 11 May 2002.<sup>46</sup>

122. **Chief Dieudonné Bulamuzi Binmangili**, the 52-year-old traditional Chief of the *collectivité* of Andisoma, was forcibly abducted in Bunia on 5 September 2002. Earlier that same day, when Nyankunde was attacked by a coalition of Ngiti and APC, Chief Bulamuzi was able to escape with a member of the judiciary police. The two were able to reach Bunia by passing through Sota, Masabo and Badiya. In each place, they informed the UPC elements of the attack and requested military assistance. Witnesses interviewed by MONUC stated that, when he reached Bunia, Chief Bulamuzi was taken to the UPC headquarters; he was interrogated by Commander Kisémbó and apparently tortured; Kisémbó accused him of being aware of the Ngiti attack on Nyankunde. Chief Bulamuzi's condition was very serious when he was taken home. Witnesses further stated that, around 6 p.m., six UPC elements, including Jaguar from the Senga family, arrived and took Bulamuzi away again. A few minutes after they left, the family heard a gun shot. When they went out, they saw blood just outside the gate but no body. The same day, the UPDF commander, who had been informed, went to see UPC commanders Kisémbó and Bagonza for some explanation. They told him that Chief Bulamuzi had been beaten because of his complicity with the Ngiti and sent to hospital. The body has never been returned to the family. Instead, the whole Bulamuzi family, being under constant threat, decided to leave Bunia.

123. **Adriko Johnson**, a 33-year-old Lubara, assistant Mayor of Bunia and member of UPC, disappeared on 29 September 2002. It appears that Mr. Johnson left his home on 29 September 2002 in the afternoon and never returned. The following day, his brother-in-law found out that he had last been seen on his motorcycle near the UPC military camp. All the efforts of the family members to have UPC launch an investigation were frustrated. His body has never been found. It appears that one possible reason for his disappearance could be the fact that he had given refuge in his house, in August 2002, to Lendu civilians when UPC troops were searching for

<sup>45</sup> Some names listed by local non-governmental organizations are: Claude, 30, son of Valéry; Zakayo, 24; Claudine, 22; Loba, 48; Ndalo, 29; Justin, 28; Edward Wamba, 54; and Pierre Minzi Kakado, 30.

<sup>46</sup> Reportedly by UPDF soldiers under the command of the Hema political elite.



Lendu. Adriko Johnson had also apparently publicly criticized the targeting and killing of Lendu and Ngiti.

124. **Abbé Boniface Bwanalonga**, the Ngiti Roman Catholic priest of Mongbwalu parish, was arrested shortly after UPC captured Mongbwalu, on 20 November 2002, together with two nuns. The nuns were later released. When they went back to bring food to the Abbé, the UPC combatants refused to give them permission to see him and chased them away. Abbé Bwanalonga has not been seen since. The disappearance of the Abbé was very badly received by the Lendu/Ngiti community who held him in high esteem. They later justified the killing of Abbé Ngona of Nyakasanza as an act of revenge for the killing of Abbé Bwanalonga.

125. **Joseph Eneko Nguaza**, 47-year-old Alur Governor of Ituri, appointed by UPC with the aim of gaining wider support using his well-respected personality, was killed on 21 November 2002. The Governor was based in Aru and was delaying his departure for Bunia. Meanwhile, he announced that he was dissociating himself from UPC and initiated peace talks with different groups. UPC sent a delegation headed by Floribert Kisembo, then Chief of Staff of UPC, to bring the Governor to Bunia. On 21 November, before leaving for Bunia, the Governor set out for Mahagi to install a new territorial administrator. Just before his departure, the then UPC Commander in Aru, Jérôme Kakwavu, changed the Governor's bodyguards and driver. The delegation was ambushed 8 km from Mahagi. Except for two bodyguards who managed to escape, all the passengers were killed: Governor Eneko, his driver, his secretary, the Chief of the Public Office and five other guards. According to the testimony of local residents, obtained by Human Rights Watch, the attackers were UPC soldiers.<sup>47</sup> According to the testimony provided to MONUC by two witnesses who lived in Aru at the time of the event and who had met the two survivors, the operation was organized by Commander Jérôme, who received a considerable sum for his services.

126. **Jacques Kabasele**, the 43-year-old President of the Tribunal de Grande Instance of Bunia, from Kasai, was arrested on 11 November 2002 by UPC, accused of having contacts with their enemies. The judge was arrested by two persons from the *Direction générale de migration*, which was under the command of Rafiki, and taken to the prison of that unit. He was kept there for two days without any formal charges. On the third day, a team came to interrogate him, mainly on his contacts with Beni, Kinshasa and the outside world. They also told him that the order to arrest him came from Lubanga himself. He was not physically threatened but was kept there for 18 days and then released without charge. After his release, he was threatened and left Bunia in April 2003.<sup>47</sup>

127. **Honoré Musoko**, a lawyer and president of the Bunia-based human rights non-governmental organization Justice Plus, tried to defend several victims abused by UPC authorities. He also worked for a short period as Minister of Justice under Jean-Pierre Bemba. He was accused of working with former Governor Jean-Pierre Lompondo and of being an enemy of UPC. Honoré Musoko was forced to flee the region in November 2002, but UPC authorities raided his organization, Justice Plus, on 5 February 2003, after he gave an interview to an international radio network on the human rights situation in Ituri. The UPC authorities then went to the office of Bunia Business Communications, owned by Musoko, arrested two workers and

<sup>47</sup> See Human Rights Watch, *Ituri: "Covered in Blood"...*



seized the equipment. One of the members of Justice Plus who was also an officer of Bunia Business Communications was given refuge in the MONUC offices until UPC sent a letter stating that he had freedom of movement. The offices of Justice Plus were visited again by UPC in May 2003, all documents and materials looted and its members forced to go into hiding.<sup>47</sup>

128. MONUC also received testimony from eight victims of harassment, five Bira, one Nande, one Ngiti and one Topoke, who were forced to leave Bunia. These victims are mostly intellectuals, journalists, teachers and civil servants. All were reportedly on a list of persons to be eliminated and six of them had their houses set on fire by UPC elements; the parents of the Ngiti victim were killed after he left Bunia. They all left Bunia between May and September 2003 and have not come back since.

129. There have also been several cases of harassment of humanitarian workers and church members, with the aim of halting the delivery of humanitarian assistance to members of "rival" ethnic groups. According to Human Rights Watch, there have been more than 30 cases where humanitarian workers have been arrested, threatened, beaten, or expelled from the area.<sup>47</sup> In some cases, UPC soldiers have arrested aid workers who have refused to provide them with food and medicines. UPC expelled even the representative of the Office for the Coordination of Humanitarian Affairs of the United Nations Secretariat from Bunia in November 2003, for protesting against the illegal arrest of humanitarian workers. Priests also came under threat when they tried to assist Lendu civilians. On 15 January 2003, the parish of Nioka, where a centre for malnourished children had been set up with the assistance of an international non-governmental organization, was attacked by four UPC elements and one Hema called Jabu. The foreign priests working in the centre were arrested and beaten and the centre completely looted.

130. **Mark Deneckere**, a Belgian priest of the congregation Missionnaires d'Afrique, was expelled in early 2003 for having helped a group of displaced Lendu. In his testimony to Human Rights Watch,<sup>47</sup> Father Mark stated that the Lendu came to seek refuge in August when UPC was attacking Lendu inhabitants of Bunia. UPC got angry when the international press picked up the story. They said they had not been informed that 120 Lendu had been given refuge by the Missionnaires d'Afrique. On 11 February 2003, the priest was called in for interrogation. UPC accused him of helping the Lendu and of giving them weapons. On 14 February, Father Mark was given 48 hours to leave Ituri.

131. MONUC received reports of numerous cases of summary executions, threats or intimidation committed by UPC elements when they again took total control of Bunia in May 2003. The intimidations targeted mainly the non-natives, the Bira, the Nande, the few Lendu left in town, some businessmen, journalists, taxi drivers and police officers. UPC also attacked the non-Iturian civil servants, accusing them of being pro-Lendu. Even after the installation of the Ituri Brigade, the selected killings continued, committed by UPC elements dressed in civilian clothes during the night. The level of violence created the biggest mass exodus in the history of Bunia, forcing around 200,000 persons from Bunia and the surrounding villages nearby to flee their homes.

132. A number of members of the national police and taxi drivers stated to MONUC that the members of their profession were victims of targeted summary executions by UPC soldiers. The taxi drivers, in majority non-Iturians, were indeed accused of



having driven Lendu out of the town, while the national police officers, most of them non-Iturians, were considered to be pro-Lendu. From 6 May 2003 to the end of the month, 11 police officers and 12 taxi drivers were apparently victims of summary executions by UPC.

**2. Political killings, illegal arrest and forced displacement of selected persons by FAPC**

133. After September 2002, a former RCD-ML commander, Jérôme Kakwavu, took over Aru in the name of UPC.<sup>48</sup> Disagreements between UPC and Jérôme appeared at an early stage, regarding control of the significant financial benefits of the territory, where there is an important market at Ariwara where gold, diamonds and timber can be traded and there are two tobacco companies and the Aru Customs, the last safe exit point from Ituri. Finally Jérôme left UPC, created FAPC on 6 September 2002 and extended his area of influence to Mahagi after reaching an agreement with FNI.

134. In the territory under FAPC control, Aru and also Mahagi, since UPC was driven out in March 2003, mass violence appears to have been limited. However, there were allegations of killing either to get rid of potential opponents or to maintain control over part of the economic activities.

135. In August 2003, MONUC human rights investigators were able to visit first Aru and Ariwara and, the day after, Mahagi, all under the control of Commander Jérôme. They spoke to a few victims but they were always followed by the civilian intelligence officers and told not to ask questions about security. In Uganda, investigators met with well-informed sources from Aru who reported the illegal arrest of two civilians by Jérôme. According to their testimony, which corroborates information received from other independent sources, the population under the control of Jérôme is living under serious psychological threat, with no way of showing opposition; the few who tried to oppose him were all executed.

136. On 22 May 2003, a group of FAPC elements under Commander Raymond Isala tried to overthrow Jérôme. The coup failed reportedly thanks to the assistance of UPDF Commander Justus Basisira, based in Arua, Uganda, who intervened with one platoon. On the same day, the commander of the airport, Jean Ngoyi Mwanawasa, was arrested by Jérôme, brought before a so-called tribunal and killed in the presence of Commander Justus. After this attempt, Jérôme declared that he would kill anybody who had been close to Raymond Isala. Two civilian victims who were close to the commander decided to leave Aru on the same day for Arua, together with Commander Idris Bobale. During the days that followed, the two victims, Commander Idris and his two body guards were all abducted in Ugandan territory on different days by a group composed of Jérôme's militia and elements of Ugandan military intelligence and put in a military jail under the command of Justus Basisira. They were kept in jail for 18 days without interrogation until 10 June, when they were told they would be set free. However, on the same day, Commander Ali, Jérôme's chief of military intelligence, arrived, accompanied by a Ugandan intelligence officer called Chris, and took them by force back to Aru to be put in a container with other detainees. The container that was used as a detention facility had also housed the former Administrator of Aru, Kanyi Lubara, for a period of two

<sup>48</sup> Commander Jérôme claims to be Banyamulenge but it is more likely that he is a Banyarwanda from North Kivu, in Rutshuru territory.



months. The Administrator was released after paying enough money to appease Jérôme. The two civilian victims and Commander Idris were called the day after by Jérôme, stripped naked and flogged. After being tortured, the three men were put back in the container and given no food or water for four days. On the fifth day, the Ugandan Commander Justus came back and took the two civilian detainees back to Arua. The victims were kept another two days in jail in Arua and released with no explanation. The bodyguards of Commander Idris who were taken out of the jail in Arua by Commander Justus to be brought back to Aru never reappeared and Commander Idris stayed in the container. As of December 2003, Idris was still in custody.

137. According to credible sources, Commander Justus of UPDF is paid by Jérôme to serve his interests. He is also policing Arua and catching military defectors from FAPC to take them back to Aru. MONUC has obtained the names of three such ex-FAPC who were reportedly brought back by Commander Justus and killed by Jérôme.

#### **D. Children associated with armed groups**

138. The information on children associated with armed groups was gathered during special investigations, as part of MONUC regular monitoring and advocacy work, through preliminary interviews with more than 200 children associated with armed groups, with partner organizations, during field visits, including to a small number of military camps, and interviews with military and other authorities. It is far from being a complete picture of the presence and use of children given the very limited, uneven and at times complete lack of access to children in the different groups and to their communities, both to obtain and to corroborate information. Taking testimony from children is also particularly sensitive. Nevertheless, as has been reported and witnessed many times, there can be no doubt that all of the armed groups have systematically recruited, used and abused children — ranging from 7 to 17 years old — throughout the district of Ituri.<sup>49</sup>

139. The Democratic Republic of the Congo has ratified both the Convention on the Rights of the Child and the Optional Protocol thereto on the involvement of children in armed conflict. Obligations under those international instruments, further defined under the terms of the African Charter on the Rights and Welfare of the Child and ILO Convention 182 on the Worst Forms of Child Labour, ban the recruitment of anyone under 18 years of age into the military forces of a State party. The Protocol also bans any armed group found within the national territory of the Democratic Republic of the Congo from recruiting any child below the age of 18. The Rome Statute of the International Criminal Court, ratified by the Democratic Republic of the Congo on 30 March 2002, defines as a war crime the conscription or enlistment of children under the age of 15 into national armed forces or armed groups and their active participation in hostilities.

140. Presidential Decree Law 66 of December 2000 and article 184 of the Interim Constitution of the Democratic Republic of the Congo brought these international obligations into the realm of domestic law, although recruitment has yet to be

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<sup>49</sup> The youngest child associated with an armed group interviewed by the Child Protection Section of MONUC, in Tchomia in September 2003, was a 7-year-old boy who claimed that he had served for some time with PUSIC.

criminalized. The Luanda Agreement of 6 September 2002, concerning the resolution of the Ituri conflict and establishing the Ituri Pacification Commission, expressly recognized these international and national obligations to children associated with the armed groups in Ituri, including minimum protection measures for children found among the various armed groups. In April 2003, the Ituri Pacification Commission, within its peace agreement, made a solemn appeal to respect those national and international obligations through the creation of conditions for an environment facilitating the demobilization of those children.

**1. A profile of children associated with armed groups in Ituri: fighting for survival**

*Children became soldiers because they were orphaned, sought vengeance or did not have anyone to care for them.* Etienne Nembe, Chief of Intelligence, UPC (interview, 2003)

*If I had to give a weapon to a two-year-old [to defend his community] I would do so.* Chief Kawa, PUSIC (interview, 2003)

*Many children decide to enrol because they lost their parents after the massacres. Everyone was obliged to resist, even women and children.* Commander Banga, FNI/FRPI (interview, 2003)

*[Children] were looking for protection or support when they joined [my] troops.* Commander Jérôme Kakwavu Bukande, FAPC (interview, 2003)

141. As already indicated, all of the armed groups in Ituri have recruited children into their ranks over the past few years. Although the exact number of children is unknown, child protection partners believe that, as a conservative estimate, at least 40 per cent of each militia force are children below the age of 18, with a significant minority below the age of 15. Contacts and requests for information on the number of minors in each armed group have been made on a systematic basis since March 2003 but have not so far yielded accurate information, including in the context of the Comité de concertation des groupes armés. Groups that have recruited children into their ranks are often hesitant to give child protection agents reliable information on the full extent of child participation in their forces, and indeed at times have clearly given blatantly false information. For example, FAPC insisted to the MONUC Child Protection Section in an interview on 28 December 2003 that they had gathered all of their children at Aru. When the team travelled later that day to another FAPC-controlled area 100 km to the south at Kandoy, it was presented with four child members of the platoon stationed there. In addition, obtaining a fixed number of children associated with Ituri armed groups proves a difficult task, as the armed groups have divided and regrouped around the shifting political and military exigencies of the region throughout the conflict. A number of the children interviewed recounted how they had passed from one group to another at different times, some even alleging that they were first recruited by AFDL in 1998. Others claimed they started with FLC or APC before moving on to other groups.

142. The presence first of the multinational force (Operation Artemis) in June 2003 and its subsequent replacement by the MONUC Ituri Brigade had an impact on the number of children in armed groups by reducing the level of conflict and facilitating the release of children. It is difficult to know how many have been released by the armed groups as not all went through any kind of process, but some progress has been made (see paras. 156-158 below). Few new reports of recruitment have been



received over the past few months. Nevertheless, current estimates suggest that there are still several thousand children — possibly around 6,000 — in UPC, FAPC, FNI, FRPI, FPDC and PUSIC, with many more attached to loosely formed local defence forces or militia. In addition, the former APC also has numerous children in its ranks, though most are not in Ituri. In December 2003, MONUC interviewed several mothers who said that their children had joined APC in Ituri after the massacres of September 2002 in Nyankunde and remained in APC ranks in and around Beni.

143. Recruitment into all armed groups has been both “voluntary” and through abduction, often as the children were in the markets or in the streets where they were forced to get into trucks and taken away. UPC recruitment drives took place regularly throughout 2002 and early 2003. FAPC was reportedly recruiting as late as July 2003 around Aru and Mahagi. PUSIC also recruited in 2003, including in September according to some reports. During the frequent attacks on civilian settlements perpetrated by militia of one ethnicity against another, children and families were thrown into the logic of survival at any cost. FNI/FRPI Commander Augustin Ngabo-Tchepo stated that, in the Bambu area of Djugu territory, almost all the children of Bambu were recruited during the series of attacks on Bambu (in January/February 2003). Furthermore, the massive recruitment and utilization of children of all ethnicities on the part of RCD-K/ML in Ituri prior to the Hema-Lendu schism left large numbers of children at risk of re-recruitment by the forces that controlled their home areas at the time.

144. The scope of this report does not include examining in detail the (often complex) reasons why children joined armed groups in Ituri. As stated in interviews with children who have been released they include basic survival, the desire for revenge, especially for the killing of family members, adventure, and ethnic-based reasons. Whatever the reasons, the term “voluntary” must be treated with caution given the extremely limited options available. Whether “volunteer” or forced recruits, most children interviewed said they soon became disillusioned with the extreme conditions in the training camps and on the battlefield. The child’s choices to remain or leave at that moment were even more restricted. Even for children released from an armed group, the risk of re-recruitment remains, although for the time being there has been a reduction in the level of conflict.

145. When renewed fighting broke out in Ituri in 2003, most of a group of 163 children who had been repatriated from a Ugandan training camp and reintegrated into their families were cut off from protection agencies. According to the testimony of SOS-Grand Lacs at the time, 130 were reportedly re-recruited by UPC and sent into fighting units.<sup>50</sup> The Child Protection Section spoke with one of the children who returned from the UPDF camp at Chakwanzi in 2003. According to the child, “... in 2003, after the attacks on the [South Hema] town of Bogoro, I went back into the UPC under Commander Germain”. He was 12 years old at the time.

146. FNI/FRPI, although based in village units and having apparently demobilized a large majority of their child recruits into their home villages with the help of aid agencies, are not immune to the practice of re-recruitment of children. A child protection agency official alleged that FNI may still be using former FNI children in local defence forces, designed to protect their home villages from attack. The

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<sup>50</sup> See Human Rights Watch, *Ituri: “Covered in Blood”* ...



official further stated that FNI/FRPI know very well that, if the security situation deteriorates, they will be able to call up these child ex-combatants and reintegrate them into their militia.

## **2. Training of children**

147. Once recruited, whether forcibly or voluntarily, children were either trained in organized camps or in ad hoc sites in villages and towns. The attached map shows the locations of 28 training camps and 9 military bases, used by FNI/FPRI, UPC, APC, PUSIC and FAPC, where children were either seen being trained or themselves claimed to have been trained over the past two years. The training lasted from several days to several months depending on the capability of the armed group and/or its foreign backers. As a rule, the Lendu/Ngiti militias (FNI/FRPI) seem to have been offered a summary training either in their home villages or nearby, given that recruitment tended to be community-based and according to operational needs. Kpandroma and Zumbe were, however, known to be regular training sites for FNI/FRPI. UPC, PUSIC and FAPC were provided with military advisers and undertook the establishment of more stable camps. By all accounts, training conditions were generally physically gruelling and extremely hard, in terms of food rations and punishment regimes (children cited death threats, beatings and in one case an execution). At times trainers were minors themselves.

148. Rwandan and Ugandan trainers were also said to have been present in some of the camps, such as those at Mandro, Rwanpara and Montawa. In a number of cases, children were reportedly transferred to Uganda or Rwanda for specialist training with adults, the first such large-scale training (of APC child recruits) by Uganda occurring in 1999. The best known case is that of some 163 UPC children, cited above, who were located undergoing training in Uganda and returned and reintegrated into their families in Ituri by UNICEF in 2001. As late as July 2003, there were allegations of PUSIC transferring more than 200 children from Tchomia to UPDF training camps in Rwebisengo County and at Kibuku in Uganda. While PUSIC claimed that the children were taken for security and/or educational purposes, several boys and a girl interviewed subsequently alleged that they had received military training before being returned to the Democratic Republic of the Congo to fight in September 2003. Likewise, allegations that children were taken to Rwanda, for example in September 2002, for training in artillery have also been received from different sources. This is in clear violation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which condemns recruitment, training and use across national borders.

## **3. Use of children in combat and attacks**

149. On completion of training, children were frequently used in hostilities, depending on the military of the time. Sending children into battle constitutes potential violation of their right to life, survival and development. There is little precise or complete verified information so far regarding the names and numbers of children who have died or suffered injuries as a result of taking part in hostilities in Ituri. Most children interviewed told of having been sent to fight in various battles in 2002 and 2003. Testimonies of individual children report losses of other children, for example in Dele and Nyankunde (September 2002); Irumu (November 2002) including a 10-year-old; Kasenyi (2003); Marabo, Tchai (December 2002/January 2003); Bambu (February 2003); Bule (March 2003); Bogoro (March 2003); Drodoro



(April 2003); and Linga (September 2003). Once conditions allow, further research needs to be done on this issue to document individual cases in detail, if only so that the families can be informed, but also as part of the documenting of violations committed by those who recruited the children in the first place.

150. In some cases, children did not necessarily take part in the fighting itself but in subsequent pillaging. This was particularly true in the case of attacks by Lendu/Ngiti groups; examples include an FNI attack on Tchomia on 31 May 2003 where women and children carried loot back to their bases in Zumbe and Loga; and in April 2003, when Lendu militia, accompanied by women and children, completely pillaged houses and other buildings and took away many items, as well as cows, goats and other animals.

#### **4. Presence and use of girls in armed groups**

151. All of the armed groups in Ituri recruited girls (very often forcibly) into their ranks, although few have been brought forward for official separation. Once released, a climate of denial, shame and fear prevents many of them from seeking assistance. Tenuous links with military commanders sometimes persist even after release. The girls have played a range of roles. Trained to handle weapons they have taken part in combat and worked as escorts and domestics.

152. For many, however, entry into an armed group meant being subjected to sexual abuse. A number of accounts indicate that the sexual abuse started in the training camps, with instructors being responsible, and persisted throughout the training. It should be noted that two girls interviewed by MONUC said that the presence of women officers in the respective training camps protected them from sexual abuses at the time. In some cases, sexual abuse, when it did occur, was of limited duration or was carried out in a sporadic manner, with different perpetrators depending on the situation at hand. Other girls were subjected to a more regular pattern of sexual abuse, effectively repeated rape, over longer periods, assigned to one military officer for example. These girls are commonly referred to as "war wives". In many ways the girls suffer a double jeopardy, many reportedly serving both as fighting elements in active combat and concomitantly being used to satisfy the sexual appetites of their commanders. Some, however, were reportedly abducted solely for use as sexual slaves.<sup>51</sup>

153. One witness stated that girls as young as 14 were abducted, apparently for sexual purposes, by members of FNI at Lalu, Goda, Vissa and Kakro villages in Djugu territory beginning in September 2003. One commander reportedly told the villagers that it was on his orders that the girls were taken, stating "... the soldier who takes a girl, that's his pleasure; the girl is his ... he will come to pay the dowry later ...". There is little information about the current whereabouts of these girls. A 15-year-old girl allegedly abducted in April 2002 in Luguba by UPC described how she was handed over to a commander "as his wife" as soon as she arrived at Bule training camp. In October and November 2003, the Child Protection Section received information that UPC forcibly abducted girls in another part of Djugu territory. On one occasion, a witness reported that a woman was beaten to death trying to prevent her 15-year-old daughter from being forcibly taken. In the same

<sup>51</sup> The Cape Town Principles of 1997 identify any girls used as sexual slaves or "war wives" as child soldiers for identification purposes, whether or not they received previous training of a military nature.



community, on 30 November, two girls, aged 14 and 15, were reportedly taken from their homes by military of the same unit, to be used as sexual slaves. One of the kidnapers was reportedly an adolescent of Bira ethnicity, aged 18. On 10 June, Lendu militias reportedly abducted at least seven girls as war wives during an attack on Nioka, where an FAPC group was based.

154. The deployment of international troops in Ituri in mid-2003 facilitated the release of some adolescent girls and access to support programmes to help them deal with some of the consequences. Even while members of armed groups, some of them had required medical and even hospital treatment for the consequences of violent abuse. Others are now child-mothers. But it is likely that many still remain within the groups. The question of the status of the undoubtedly numerous war wives is a serious one, as many traditional beliefs dictate that once a girl is sexually "taken" by a man, she is his property. The issue simply becomes one of payment to the family of a dowry. An FAPC colonel stated in an interview with the Child Protection Section on 9 November 2003, referring to these girl victims of abduction and sexual abuse within his ranks, that there would be "... difficulties in taking these girls out of these forced 'marriages'".

**5. Use of children by armed groups in the exploitation of natural resources: a vicious circle**

155. In December 2003, the Child Protection Section visited the Kilo-Etat and Iga Barrière/Nizi areas, where there are gold fields, the latter controlled by UPC militia and the former by FNI. In the UPC-controlled Iga Barrière area, the former headquarters of the Kilo Moto Mining Company, the Section staff saw that three quarters of a mine pit team were under 18 years of age, most being between 11 and 15. Sources at the site alleged that the children present in the mine were all active or former child soldiers who worked on behalf of their UPC commanders. At Kilo-Etat, an FNI commander acknowledged that he had 12 children in his armed group, the youngest of whom was 11 years old, and also that there were "a lot of child soldiers" at Bambumines (nearby). These preliminary reports merit further investigation to assess the extent of the use of children associated with armed groups in exploiting minerals, the profits of which are subsequently used to purchase weapons, some of which almost certainly end up in the hands of children.

**6. Prospects for separating children from armed groups**

156. Child protection partners and UNICEF have been actively participating in the planning for disarmament and reinsertion programmes for the Ituri armed groups. Since the start of the Ituri pacification process, the installation of the Ituri Interim Administration and the arrival of the multinational force in June 2003, representatives of armed groups have been changing their attitudes with regard to children. UPC and later FAPC began unilateral separation of minors from the camps without prior arrangements with child protection partners. FNI have sent many children directly back into their home communities, where a measure of school access has been provided to the children. Sixteen UPC commanders, without following procedures, reportedly released scores of children in November, telling them to go to Bunia where they were led to believe that a "school for child soldiers" had been set up. Many of them turned up at MONUC offices or one of the Transit and Orientation Centres. The PUSIC leadership even established a transit facility for former child combatants in the vicinity of Chief Kawa's residence in Tchomia.



Identification of local partners for child protection and reintegration work in the different communities is ongoing.

157. The first formal family reunifications from transit care facilities in Ituri started in September/October 2003. With improved access and communications, contacts between community networks have facilitated family-tracing activities. MONUC and the Comité de concertation des groupes armés have carried out verification missions to proposed *regroupement* sites, sometimes with child protection partners. Official figures of minors received are however far short of the real situation, owing perhaps to the deterrent factor of possible future criminal proceedings. In many instances, children have been demobilized and sent back to school by the communities who mobilized them in the first place. UPC commanders released children without letting them go through any formal process or transit facilities.

158. Prospects for the children still associated with armed groups in Ituri, and even those already released, will depend very much on the development of security, access to all parts of the district, and to the start of a viable disarmament, demobilization and reintegration plan for adults. This is important, as the investigation team spoke to a number of children demobilized from armed groups in Ituri who expressed extreme reluctance to return to their home villages for fear of re-recruitment by armed groups who still exercise control over the local population, often through intimidation and terror. A child protection worker in Ituri stated the situation plainly to the Child Protection Section in Bunia: "Even where disarmament, demobilization and reintegration of children is going well, such as in the FNI areas, it is clear that, should the situation turn bad, these armed groups know exactly where these children are and will certainly use them".

## VI. Conclusion and recommendations

159. Despite the disengagement of foreign forces from the Democratic Republic of the Congo, the establishment of the Transitional Government and the integration of all of the armed groups into the new Congolese national army, Ituri remains a battlefield for the proxies of Rwanda, Uganda and Kinshasa. The security conditions improved by the end of 2003 only thanks to the Operation Artemis, the subsequent deployment of the Ituri Brigade under Chapter VII, and progress towards restoration of the rule of law resulting from the efforts of MONUC in cooperation with members of the international community. For security to stabilize and become sustainable it is now time for the Government of the Democratic Republic of the Congo to assume its responsibilities and assert its authority.

160. As a result of the robust action of the Ituri Brigade, some of the local warlords revised their policies, and created new alliances to actively resist the pacification efforts of MONUC. This volatile situation does not encourage the large number of internally displaced persons who are still in camps in Bunia and elsewhere in Ituri, as well as in North Kivu and Uganda, to return to their places of origin, where their homes and social structures are often completely destroyed or occupied by military elements.

161. To bring real peace to the region and end human rights abuses several issues need to be addressed together by the Government of the Democratic Republic of the Congo and the international community, including:

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- (a) Continuation of a robust implementation of the MONUC mandate under Chapter VII of the Charter;
- (b) State control over natural resources to end their exploitation;
- (c) Full restoration of State authority, with adequate police, competent and impartial administration and military capabilities;
- (d) Intervention of the State to revise the land law and all existing land certificates;
- (e) Full implementation of the disarmament, demobilization and reintegration programme, beginning with the children;
- (f) Rebuilding of public infrastructure and repair of private housing;
- (g) Information campaigns to encourage the return of communities to their places of origin;
- (h) Restoration of local conflict management initiatives with the aim of rebuilding trust and reconciliation among all the inhabitants of Ituri.



## Annex I

### Armed and political groups involved in the Ituri conflict

#### A. Ituri armed groups

None of the Ituri armed groups can be considered an armed wing of a political movement, as they were originally created as military movements. The political wings were an afterthought, created to facilitate their integration into the local and national structures and negotiations, and to be used as an interface with the international community.

##### **Union des patriotes congolais (UPC)**

Initial leader: Thomas Lubanga

Current leaders: Lubanga for UPC-Lubanga group  
Floribert Kisembo for UPC-Kisembo group

Ethnic composition: Predominately Hema North/Gegere

UPC was created as an embryo in January 2001, with funding from a large Gegere business community and the support of Uganda. Later, it enlarged its influence to some Hema South, notably Chief Kawa Panga Mandro. However, personal rivalries, as well as the Hema North monopoly of key positions, led to a split in September 2002. UPC began existing officially only in mid-2002, when Lubanga left RCD-K/ML and initiated the battle for control of Bunia. UPC eventually took control of Bunia in August 2002 with the help of the Ugandan army. It turned to Rwanda for support and formed an alliance with RCD-Goma in January 2003. Having turned from Uganda politically, it was ousted from Bunia by the Ugandan army in March 2003 but fought its way back into the town in May. After the departure of Lubanga for Kinshasa in August 2003, the Chief of Staff, Commander Kisembo, announced early in December 2003 that he was the new leader of UPC. This resulted in a split: those responding to Kisembo and located in Bunia and those responding to Lubanga represented in Ituri by his new Chief of Staff, Bosco.

##### **Parti pour l'unité et la sauvegarde de l'intégrité du Congo (PUSIC)**

Initial leader: Chief Kawa Panga Mandro

Current leader: Chief Kisembo Bitamara\*

Ethnic composition: Predominantly Hema South

PUSIC was created in October/November 2002 by the former UPC member Chief Kawa. Its militia receives its supplies mainly from Uganda, as part of its proxy strategy. Uganda tried to merge it with FNI and FPDC, under the umbrella of FIPI. That has totally failed. PUSIC allied itself with UPC against the Lendu in Bunia in May 2003, but that alliance of convenience lasted only a few days. During June 2003, Chief Kawa spent two weeks in the Libyan Arab Jamahiriya, having been introduced to Colonel Al-Qadhafi by President Museveni, during which time he converted to Islam and is now reported to be receiving large monetary

\* At the time of writing of the present report.

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contributions from the Libyan Arab Jamahiriya. PUSIC is reportedly increasingly involved in arms trafficking across Lake Albert.

**Forces populaires pour la démocratie au Congo (FPDC)**

Current leader: Thomas Unencan (a Member of Parliament during the Mobutu era)

Ethnic composition: Predominantly Alur

FPDC was created in October 2002 by Uganda. It comprises mostly Alur from Mahagi with the support of Alur exiled in Paidha, Uganda, to counter UPC. Around 500 Congolese Alur received a brief military training in Uganda, close to Mahagi territory. It was supported by Uganda as part of the FIPI coalition, which did not last long. The military branch of the movement was dislocated by FAPC, which took the control of the Mahagi area with the support of FNI at the end of June 2003.

**Forces armées du peuple congolais (FAPC)**

Current leader: Commander Jérôme Kakwavu Bukande (a Banyarwanda from North Kivu)

Ethnic composition: Mostly non-Iturians

FAPC was created in March 2003 as the political umbrella for Commander Jérôme's battalion in control of Aru territory. Commander Jérôme has changed alliances several times, moving from FAC to RCD-K/ML, to RCD-N, to UPC, before creating his own group with the support of Uganda. Following an arrangement to share security and income in Mahagi together with FPDC and FNI, FAPC attacked its "partners" and claimed control over the town and the territory at the end of June 2003. Commander Jérôme remains in touch with Ugandans while claiming to be loyal to the Government of the Democratic Republic of the Congo.

**Front nationaliste intégrationniste (FNI)**

Initial/current leader: Floribert Ndjabu

Ethnic composition: Predominantly Lendu North

FNI was created at the beginning of 2003 as the political umbrella of the Lendu armed groups located mainly in Kpandroma and Rethy. The party claims broad support from the Lendu community in its efforts to oppose UPC. FNI has benefited from military training and support from RCD-K/ML and, through it, from Kinshasa. During 2001-2002, one of the Ugandan factions is likely to have supplied this group with light automatic weapons on an irregular basis. FNI established alliances with the Lendu militia groups based in Lipri and Zumbe as well as with the Ngiti FRPI and participated in the political negotiations of the Ituri Pacification Commission as the Lendu party representing the entire Lendu community. In the field different geographical armed groups seem to keep their independence, however. Supported by Uganda as part of the FIPI coalition, it joined the Ugandan army in driving UPC from Bunia in March 2003.



**Front de résistance patriotique de l'Ituri (FRPI)**

Current leader: Commander Germain Katanga

Ethnic composition: Predominantly Ngiti/Lendu South

FRPI was launched in November 2002 as the political umbrella of Ngiti armed groups mainly from Gety, Bogoro and Songolo. Ngiti militia initially benefited from the support of Ngiti defectors from APC. They have also received occasional support from one faction of the RCD-K/ML. FRPI joined the Ugandans in driving UPC from Bunia in March 2003 and, together with FNI, briefly controlled Bunia in May 2003. Since then, FRPI has created an alliance with FNI and one of its commanders, Germain, was appointed Chief of Staff of the united militia.

**Front pour l'intégration et la paix en Ituri (FIPI)**

Composition: Platform of three ethnic-based parties

A coalition of three parties, PUSIC, FNI and FPDC, created in December 2002 with Ugandan support. Its main objective was getting rid of UPC, with no apparent programme. After the attack on Bogoro by FNI, the coalition collapsed.

**B. Regional political groups**

**Mouvement de libération du Congo (MLC)**

Current leader: Jean-Pierre Bemba

Ethnic composition: Mixed ethnic groups

MLC, originally backed by Uganda, was based in Gbadolite. The movement tried twice to enter Ituri: in 2001 Jean-Pierre Bemba moved to Bunia as the President of the short-lived FLC coalition of Ugandan-backed rebel groups, and in 2002 MLC attacked Mambasa in western Ituri with the aim of taking control of Beni, but was forced to withdraw after a ceasefire agreement signed under the auspices of MONUC. MLC has an alliance with RCD-N and has occasionally fought alongside UPC. MLC was part of the inter-Congolese dialogue and its leader, Jean-Pierre Bemba, has one of the posts of Vice-President.

**Rassemblement congolais pour la démocratie-Kisangani/Mouvement de libération (RCD-K/ML)**

Current leader: Mbusa Nyamwisi

Ethnic composition: Predominantly Nande

RCD-K/ML was launched in September 1999 in Kampala when Wamba dia Wamba split from RCD-Goma. After several splits, and a short-lived alliance with MLC, because of leadership struggles, Mbusa Nyamwisi eventually took control of the movement. The RCD-K/ML military wing is the Congolese People's Army (APC). RCD-K/ML was part of the inter-Congolese dialogue and its leader is now Minister for Regional Cooperation. RCD-K/ML was involved directly in the Ituri conflict via MLC, then on its own and also providing a link for the pre-transition Government. It left Bunia in August 2002 after it was defeated by UPC and UPDF. After that date, it continued its support to Lendu militia groups.

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**Rassemblement congolais pour la démocratie-National (RCD-N)**

Current leader: Roger Lumbala

Ethnic composition: Mixed ethnic groups

Based currently in Isiro and Watsa, in the neighbouring Haut-Uele, RCD-N was initially supported by the Ugandans in exploiting the diamond riches of Bafwasende. In 2001 and 2002, RCD-N became a political movement with the assistance of Jean-Pierre Bemba to act as a politico-military front and provide a second support group (proxy) for MLC during the inter-Congolese dialogue. It has never had a military capacity of its own.



## Annex II

### Chronology of main political events and incidents of gross violations of human rights in Ituri, 1998 to 2003

#### 1998

- 30 January 1998 Report on the situation of human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Roberto Garretón (E/CN.4/1998/65 and Corr.1).
- 2 August 1998 RCD rebels launch armed rebellion against the President of the Democratic Republic of the Congo, Laurent-Désiré Kabila. Uganda and Rwanda back the rebels. The movement rapidly takes control of much of the eastern part of the country.
- November 1998 UPDF establish a base in Bunia.
- November 1998 Another rebel movement, MLC, is created in Equateur Province under Jean-Pierre Bemba with Ugandan backing.

#### 1999

- 8 February 1999 Report on the situation of human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Roberto Garretón (E/CN.4/1999/31).
- April 1999 Ernest Wamba dia Wamba, the first President of RCD, moves to Kisangani as the movement starts a series of splits.
- May 1999 UPDF Captain Kyakabale appointed Bunia sector commander.
- 16 May 1999 A new RCD (Goma faction) leader is named: Emile Ilunga. The Goma and Kisangani factions of RCD ally themselves with Rwanda and Uganda, respectively.
- June 1999 Following abusive and illegal extension of the concessions, the Lendu revolt against the Hema estate owners and attack their estates. UPDF supports the estate owners. The collectivity of Walendu Pitsi is completely destroyed by UPDF. Bombardment of hundreds of Lendu villages by UPDF in the three Lendu communities of Djugu. Local non-governmental organizations denounce indiscriminate and disproportionate bombing, of which between 5,000 and 7,000 people are victims.
- 18 June 1999 Adèle Lotsove, a Hema, appointed Governor of Ituri and Haut-Uele (two districts in the vast Orientale Province) by UPDF. She is later widely criticized for inflaming the situation and for her partisan handling of subsequent peace talks.
- 5 July 1999 Lotsove announces the formation of the "province" of Kibali-Ituri.
- 10 July 1999 Lusaka Ceasefire Agreement is signed in Zambia by the six States involved in the conflict. The rebel MLC signs on 1 August. RCD rebels sign on 31 August.

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- 6 August 1999 The Security Council authorizes the deployment of United Nations liaison personnel in support of the Lusaka Agreement.
- September 1999 Military operation in Ame, *collectivité* of Walendu Pitsi, by UPDF under Captain Kyakabale. Lendu civilians are killed on the bridge over the River Aruda.
- 14 September 1999 Major attack by Lendu forces on Dhendro, a Hema village located in the *collectivité* of Bahema Nord; 416 Hema reported killed.
- 18 September 1999 The RCD-Kisangani faction is renamed RCD-ML. Wamba is confirmed President, with Bunia as his stronghold. Mbusa Nyamwisi and Jacques Depelchin are appointed prime minister and local administration minister, respectively.
- 18 October 1999 "Province" of Ituri splits from Haut-Uele district.
- October 1999 A United Nations assessment mission declares the human rights and humanitarian situation in Ituri "catastrophic", estimating over 100,000 internally displaced persons and scores of villages burned to the ground. Estimates of deaths range from 5,000 to 7,000.
- October 1999 RCD-ML appoints Jacques Depelchin as the chairman of a peace and security commission with the aim of promoting dialogue and reconciliation among the parties.
- 21 October 1999 First mission of United Nations liaison personnel to Bunia.
- November 1999 Divisions between Wamba and Nyamwisi become more serious. Nyamwisi takes control of Beni.
- 28 November 1999 Slaughter by UPDF soldiers of 10 Lendu peasants who come to sell their food products at the market of Bambumines, *collectivité* of Banyari Kilo.
- End of November 1999 Confrontations between Lendu combatants and UPDF soldiers based in Bambumines, the shopping centre of Kobu. Thousands of Lendu peasants leave their villages to take refuge in Bambumines, which they regard as a secure refuge because of the presence of the office of the gold mines of Kilo Moto.
- 1 December 1999 Killings of Lendu at Bambu, *collectivité* of Banyari Kilo; 300 civilian deaths reported.
- 13 December 1999 According to ICRC, up to 150,000 people are displaced as a result of fighting in Ituri.
- December 1999 According to Wamba, Captain Kyakabale of UPDF is dismissed for "hiring out soldiers to Hema leaders". He is replaced by UPDF Lieutenant Colonel Arocha.
- 16 December 1999 Wamba dismisses Lotsove and replaces her with Ernest Uringi Padolo, an Alur.
- 20 December 1999 The Depelchin Commission publishes its report and a draft treaty for the pacification of the region.



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December 1999	The human rights organization of the DRC, ASADHO, in <i>Rapport de l'Asadho sur le conflit inter-ethnique Hema-Lendu en territoire de Djugu dans la Province Orientale</i> , accuses Captain Kyakabale of massive human rights violations.
December 1999	The former President of Botswana, Ketumile Masire, is appointed to serve as facilitator of the inter-Congolese dialogue provided for in the Lusaka Agreement.
<b>2000</b>	
January 2000	MSF reports 180,000 internally displaced persons in Ituri. Humanitarian organizations attempt to gear up in a period of relative calm.
18 January 2000	Report on the situation of human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Roberto Garretón (E/CN.4/2000/42).
24 January 2000	MONUC announces first phase of deployment of liaison officers to Bunia.
29 January 2000	MSF-Holland suspends all operations in Ituri and says that growing distrust among the population towards MSF with regard to its neutrality has led to a violent attack on an MSF team.
End of January 2000	The entire community of Walendu Djatsi is engulfed in inter-ethnic war. Many Lendu villages are set on fire by Ugandan soldiers. More than 1,000 Lendu are allegedly killed. The Lendu organize and create a military camp in Mbau.
February 2000	A report by the human rights group ASADHO says the conflict was sparked off in April 1999 when Hema landowners evicted Lendu farmers from land adjoining theirs, with the support of RCD-ML and the Ugandan authorities. ASADHO claims that Ugandan soldiers were actively involved in the killing of Lendu.
24 February 2000	The Security Council expands MONUC mandate in resolution 1291 (2000).
March 2000	MONUC deploys liaison officers to Bunia.
24 March 2000	A United Nations inter-agency assessment mission finds humanitarian situation "close to catastrophic".
April 2000	Ugandan authorities replace Colonel Arocha with Colonel Charles Angina.
4-10 June 2000	Heavy fighting breaks out between Ugandan and Rwandan forces in Kisangani.
August 2000	Training of Hema militia members in Uganda, in the camp of Kyakwanzi. In six months, 750 militia members are trained. Thomas Lubanga and Chief Kawa are reportedly among the trainees.
August 2000	The conflict gradually reaches the <i>collectivité</i> of Walendu Tatsi where several villages are burned, including the main town of Masumbuko.
September 2000	A group of Lendu seek refuge in the church of Lita located in Walendu Tatsi because of military operations in the region. Hema militiamen, accompanied by UPDF based in Katoto, enter the church and massacre the civilians.

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- 5 November 2000 UPDF appoints a new sector commander. Colonel Angina is replaced with Colonel Edison Muzora.
- 20 November 2000 Divisions in RCD-ML come to a head. Nyamwisi and Tibasima remove Wamba from power in the "November putsch". Uganda appears to give up protecting Wamba. Meanwhile splits in RCD-ML produce several militias and two new factions: RCD-ML dissident Roger Lumbala starts a movement called RCD-National and, in Beni, Governor Bwanakawa Nyonyi sets up the short-lived RCD-Populaire.
- 2001**
- December 2000-January 2001 Hema dignitaries of Irumu travel to Kampala to convince President Museveni to deploy three battalions in the *collectivité* of Walendu Bindi. Once on the ground, UPDF battalions target hundreds of villages, schools, dispensaries and parishes. Many die as a result of indiscriminate and disproportionate attacks.
- 6 January 2001 Lendu Ngiti militias attack Nyankunde town, killing some 50 persons, mostly Hema civilians, and displacing thousands.
- January 2001 The RCD-ML power struggle results in Governor Uringi and Depelchin being expelled from Bunia. Wamba remains in Kampala.
- 15 January 2001 At least 3,500 people, mainly Hema, in the territories affected by the conflict seek refuge over the border in Uganda.
- 16 January 2001 President Laurent-Désiré Kabila is shot dead. Joseph Kabila succeeds him.
- 18 January 2001 Ngiti militias from Irumu attack the UPDF base at Bunia airport in order to destroy the Ugandan helicopters, which they believe took part in the bombardment of Ngiti villages in Walendu Bindi. Several Ugandans are allegedly killed during the operation.
- 19-21 January 2001 An organized massacre of Lendu inhabitants is carried out in the Mudzipela area of Bunia. Each Lendu family is visited house by house by Hema of Bunia, and approximately 250 persons are killed, mostly by nail-studded sticks distributed before the attack, and their houses are set on fire.
- 16 January 2001 A new rebel alliance, FLC, is formed after weeks of talks in Kampala. It combines Bemba's MLC, RCD-ML and Lumbala's RCD-National. Bemba is to lead the group while Nyamwisi is appointed Vice-President and Tibasima Minister for Mines and Energy. Wamba rejects the deal.
- 1 February 2001 Report on the situation of human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Roberto Garretón (E/CN.4/2001/40).
- February 2001 A major peace meeting is held in Bunia. A peace agreement is signed by Hema and Lendu community leaders. Bemba, now the most senior rebel leader in the region, states: "The militia will have to be disarmed and dispersed." A follow-up commission is to monitor and move the process forward.



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20 February 2001	The United Nations estimates 140,000 displaced in Ituri.
27 February 2001	Dual Hema and Lendu deputy governors are appointed by FLC.
March 2001	Human Rights Watch publishes a 50-page report entitled <i>Uganda in Eastern DRC: Fuelling Political and Ethnic Strife</i> , alleging that Ugandan soldiers had involved themselves in the conflict and had “blatantly exploited Congolese wealth for their own benefit and that of their superiors at home”.
29 March 2001	Bemba announces an agreement reached with the Mai-Mai militia and arrangements for the demobilization of the Ugandan rebels of ADF and NALU.
12 April 2001	The United Nations Panel of Experts issues its first report on the exploitation of resources in the Democratic Republic of the Congo, concluding that the Governments of Burundi, Rwanda and Uganda profited from the conflict by looting gold and other precious minerals, diamonds, timber, ivory and tax revenues.
26 April 2001	Six ICRC workers, four Congolese, one Colombian and one Swiss, are killed on the road between Djugu and Fataki. All international humanitarian agencies halt their activities. A group of Hema professors from the Institut supérieur pédagogique are alleged to have been among the organizers. Hema militias are alleged to have executed the killing.
9 May 2001	Colonel Mohammed Buli Bangolo, from Equateur Province, is appointed Governor of Ituri by FLC.
4 June 2001	Fighting between Bemba’s and Nyamwisi’s troops breaks out in Beni. Nyamwisi’s forces appear to win. FLC starts to disintegrate, and Nyamwisi and Bemba part company by August, dividing the territory into spheres of influence in August. The Nyamwisi faction becomes known as RCD-Kisangani/ML, and Wamba continues to claim legitimacy as leader of the original RCD-ML.
11 June 2001	Uganda establishes a judicial commission of inquiry, which later becomes known as the Porter Commission, into allegations of the exploitation of natural resources in the Democratic Republic of the Congo.
27 June 2001	Humanitarian agencies resume work in Ituri.
27 June 2001	Nyamwisi and RCD-National of Lumbala announce an alliance. Lumbala is named as part of Nyamwisi’s delegation to the inter-Congolese dialogue but remains allied to Bemba.
July 2001	UPC is created with Thomas Lubanga as leader. Lotsove is reportedly a co-founder. The party comes to prominence only a year later.
18 August 2001	Wamba’s rump factions of RCD-ML ally themselves with Bemba’s alliance, FLC, possibly to secure participation in the upcoming inter-Congolese dialogue.

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- November 2001 Colonel Fred Seka Mwenge is appointed new UPDF commander.
- 11 November 2001 RCD-K/ML sets up as a separate party under Nyamwisi with Tibasima as Vice-President.
- 21 November 2001 Bemba's MLC withdraws troops from Bunia, citing "confusion" in RCD-ML and RCD-K/ML.
- 28 November 2001 Appointment of Iulia Motoc as Special Rapporteur on the human rights situation in the Democratic Republic of the Congo by the Commission on Human Rights.
- December 2001 RCD-K/ML attempts to broaden its base by including Thomas Lubanga as Minister for Defence and bringing back Wamba and Uringi.
- December 2001 Joseph Eneko Nguaza, from Aru, is appointed Governor of Ituri.
- 2002**
- January 2002 Bemba and Lumbala make territorial gains against the RCD-K/ML, taking Isiro, Watsa and Bafwasende.
- January 2002 Clashes reported for the first time between Alur and Lendu in Nioka, to the north of Bunia. Ugandan media report 50 deaths. The Alur and Lendu had previously been regarded as not hostile to one another.
- 1 February 2002 Ugandan Defence Minister Amama Mbabazi remarks that the situation in Bunia is explosive and calls on the United Nations to send troops to take control of the area.
- 2 February 2002 Jean-Pierre Lompondo Molondo from the Kasai is appointed Governor of Ituri by Nyamwisi. Lubanga is sidelined from the military control of RCD-K/ML.
- 9 February 2002 Hema militias and UPDF attack Gety. They destroy houses and allegedly kill 35 civilians.
- 19 April 2002 ICD Sun City peace meetings adjourn after reaching a wide agreement, but defer key provisions on power sharing. Both Wamba and Nyamwisi attend as representatives of RCD-ML. Lubanga starts to split from RCD-K/ML and initiates the creation of UPC.
- 17 May 02 Attack by Hema militia on Walu, *collectivité* of Babalebe, Irumu territory. A witness reports to MONUC having buried 42 bodies.
- 19 May 2002 A delegation from Kinshasa, including the Ministers of the Interior and Human Rights, visits Ituri. The Minister for Human Rights, Ntumba Lwaba, says that three years of fighting have led to 20,000 deaths.
- May 2002 Humanitarian agencies estimate 500,000 people are displaced in Ituri.



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June 2002	The first UPC delegation, including Chief Kawa, meets Rwandan authorities.
7 June 2002	Lendu militia attack Hema militia training camp at Mandro and claim to have killed Rwandan trainers.
10 June 2002	Heritage Oil Corporation announces it has signed an agreement with the Government of the Democratic Republic of the Congo to explore oil opportunities in a vast swathe of the north-eastern Democratic Republic of the Congo, including eastern Ituri.
9-12 June 2002	Following an attack by APC and Hema militias, Lendu forces agree not to attack Nyali provided that the Hema population leaves.
12 June 2002	The former Prime Minister of Senegal, Moustapha Niasse, appointed United Nations Special Envoy to help to advance the inter-Congolese dialogue.
13 June 2002	Lubanga and others arrested in Kampala and transferred to Kinshasa. At the same time, UPDF officers maintain close contact with the UPC movement in Bunia.
Early July 2002	Scores of people die in fighting in Bunia between RCD-K/ML and a militia supporting Lubanga. UPDF allegedly back Lubanga.
28 July 2002	The Institut supérieur pédagogique is empty, most of the Hema students having left for the military training camp in Mandro. They will stay there for two weeks. The students will then be organized, formed in patrols, and some of them will be given weapons.
30 July 2002	Peace agreement between Rwanda and the Democratic Republic of the Congo signed in Pretoria.
Beginning of August 2002	Deployment of UPC in Nyankunde.
6-9 August 2002	Fighting starts between UPC and APC in Bunia. UPDF supports UPC. Some 300 civilians are killed.
9 August 2002	Governor Lompondo and APC are chased out of Bunia, and UPC takes control of the city. UPC and UPDF continue to kill, plunder and destroy houses belonging to the ethnic group they wish to remove.
9-28 August 2002	Several military operations carried out by UPC against Lendu localities of Lipri, Zumbe, Penyi, Loga, Za and Ezekere. Villages are burned down and a large number of civilians killed, including Chief Pilo of Ezekere.
14 August 2002	Mbusa Nyamwisi agrees to withdraw his troops from Irumu in order to facilitate a negotiated approach, and states that there will be no counter-attack against Bunia.
18 August 2002	Cross-roads between Beni, Bunia and Komanda taken by UPC.
23 August 2002	Fighting between Ngiti and UPC in Komanda. High numbers of civilians are reportedly killed.

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- 23 August 2002 Mission report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, the Special Rapporteur on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances: note by the Secretary-General (A/57/349).
- August 2002 Kidnapping and summary execution of Lendu and Bira civilians in Bunia and its surroundings. Other Bira and Lendu intellectuals have their houses burned but succeed in escaping to North Kivu.
- 31 August 2002 Military operation of UPC, from Nyankunde, against the Lendu locality of Songolo. The group finds mostly children and women and reportedly massacres around 140 of them.
- 27-29 August 2002 UPC attack is launched against the non-Iturian population in the gold mine of Mabanga, 32 km from Bunia. Around 150 civilians are killed.
- 29 August 2002 Human Rights Minister Ntumba Lwaba visits Bunia to bolster peace talks under way in Kinshasa. He is taken hostage by Chief Kawa in Mandro. The kidnapping is resolved with the release of nine UPC prisoners, including Lubanga, from Kinshasa's custody.
- August 2002 In Boga, a Hema militia is organized in the city, with a majority of youths including minors.
- 1 September 2002 Community leaders at the Kinshasa peace talks demand the departure of the Ugandans and their replacement by a police force. Ntumba Lwaba alleges Rwanda is moving forces into Ituri in preparation for the departure of UPDF.
- 2 September 2002 A UPC government is formed in Bunia with Lotsove as Finance Minister, Jean-Baptiste Dhetchuvi as Foreign Minister and Eneko as Governor.
- 5 September 2002 A coalition of APC, Lendu, Ngiti and Mai-Mai militias attack Nyankunde, target Hema and Bira ethnic groups, and allegedly kill more than 1,000 people in the town and neighbouring villages.
- 6 September 2002 Luanda Agreement signed between Uganda and the Democratic Republic of the Congo. A 100-day timetable is set for UPDF withdrawal after the establishment of the Ituri Pacification Commission.
- 10 September 2002 Special report of the Secretary-General notes that, in the Ituri district, 200,000 people have been killed since June 1999, 500,000 newly displaced, and that 60,000 of those displaced are in Bunia; UPC have captured important towns on the Mahagi-Bunia-Beni axis and reduced the RCD-K/ML power base.
- 16 September 2002 APC and Lendu militia from Kpandroma, *collectivité* of Djugu, launch an attack against Mahagi, 53 km from Bunia.



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29 September 2002	Interim report on the situation of human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Iulia Motoc (A/57/437).
7 October 2002	UPC elements occupy Mahagi.
15 October 2002	The second report of the Panel of Experts on the illegal exploitation of natural resources in the Democratic Republic of the Congo accuses UPDF of continuing to provoke ethnic conflict for economic gain, particularly in Ituri.
October 2002	Humanitarian agencies encounter difficulties in securing permission to land flights in Bunia from UPC which controls it. Relations between UPC and humanitarian agencies remain strained.
20 October-10 November 2002	UPC launches several military operations against the Lendu localities of Nombe, Kagabe, Songolo, Androzo, Pinga, Singo, Mongbwalu and Tseletsele. Hundreds of localities are burned down and an unknown number of civilians massacred.
22 November 2002	The former Governor of Ituri, Joseph Eneko Nguaza, is killed in an ambush 20 km from Mahagi, together with eight representatives of Iturian <i>collectivités</i> .
November 2002	Stalemate with regard to the Ituri Pacification Commission due to insistence of Lubanga that Ituri be recognized as a province, not a district. Kinshasa refuses.
End November-end December 2002	MLC together with RCD-N and UPC attack Mambasa, conduct systematic looting, rape and killing of hundreds of civilians. The operation is known to the population as " <i>effacer le tableau</i> ".
December 2002	UPC reportedly organizes a sizeable military operation in Mongbwalu with the assistance of MLC and finally succeeds in seizing Mongbwalu.
17 December 2002	Comprehensive peace deal signed at inter-Congolese dialogue talks in Pretoria.
20 December 2002	Creation of FIPI; including PUSIC, FPDC and FNI/FRPI in Ariwara.
31 December 2002	MLC, RCD-N and RCD-MI sign a ceasefire agreement under the auspices of MONUC in Gbadolite.
<b>2003</b>	
6 January 2003	RCD-Goma announces that it has formed an alliance with UPC.
6 January 2003	Rethy and Kpandroma captured by RCD-K/ML and Lendu militia during operations against UPC.
15 January 2003	UPC attacks Nioka and destroys the nutritional centre for children established by an international non-governmental organization. They arrest and beat priests accused of assisting the Lendu population.

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- 17 February-6 March 2003 UPC attacks the Lendu localities of Lipri, Bambu and Kobu, in the *collectivité* of Banyari Kilo, and burns down all surrounding villages.
- 21 February 2003 The Secretary-General, in his thirteenth Report on the Democratic Republic of the Congo (S/2003/211), notes widespread insecurity, massive displacement and severely restricted humanitarian access in Ituri; displacement of 100,000 persons in the north-east since October 2002; ongoing human rights violations; ongoing fighting between Hema and Lendu aligned groups; and difficulties in monitoring by MONUC due to security conditions.
- 24 February 2003 Ngiti attack Bogoro, *collectivité* of Bahema Sud. Execution of around 350 civilians.
- 4 March 2003 Jérôme Kakwavu creates a new rebel group, FAPC.
- 6 March 2003 Fighting breaks out between UPDF and UPC in Bunia. UPC is chased out of Bunia.
- 17 March 2003 Attack on Drodro Catholic compound results in deaths of 17 students.
- 20 March 2003 The Security Council in resolution 1468 (2003) requests Secretary-General to increase presence of MONUC in the Ituri district and to monitor developments on the ground.
- 2 April 2003 Final Act of the inter-Congolese dialogue is signed in Sun City.
- 3 April 2003 Lendu attack on Drodro results in killing of some 400 civilians.
- 4-14 April 2003 First meeting of the Ituri Pacification Commission in Bunia.
- 7 April 2003 Joseph Kabila is formally sworn in as President for the transitional period.
- 15 April 2003 Report on the situation of human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Iulia Motoc (E/CN.4/2003/43).
- 6 May 2003 UPDF troops leave Bunia.
- 10 May 2003 Killing of 2 priests and 16 civilians in Nyakasanza church, Bunia, by Lendu militia.
- 14 May 2003 Two MONUC military observers reported missing at Mongbwalu (bodies recovered on 18 May).
- 6-16 May 2003 Fighting breaks out between Lendu militias and UPC. Some 500 civilians are reportedly killed. Most of the population of Bunia flees the city.
- 17 May 2003 Ceasefire is negotiated by MONUC between UPC and FNI.
- 23 May 2003 Kilo, Itende and Lisey, in the *collectivité* of Banyari Kilo, are attacked by Lendu combatants from Nyangaraye; 35 villages are reportedly set on fire.



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24 May 2003	Signature of a ceasefire agreement between FNI and UPC under the patronage of Joseph Kabila and Amos Namanga Ngongi, Special Representative of the Secretary-General.
27 May 2003	UPC drives FNI troops out of Bunia.
30 May 2003	The Security Council by resolution 1484 (2003) authorizes the deployment of an Interim Emergency Multinational Force in Bunia until 1 September 2003 to provide protection and security to civilians.
31 May 2003	Attack against Tchomia by Lendu and Ngiti militias with the alleged support of APC and FAC. Some 90 civilians are killed.
5 June 2003	The European Union Council by decision 2003/432/CFSP authorizes Operation Artemis in accordance with the mandate set out in resolution 1484 (2003) and establishes the logistics (France is the framework nation, Major General Neveux is appointed Commander).
10 June 2003	Following a Lendu attack on Nioka, the town is destroyed; according to investigations carried out by MONUC, some 60 civilians are killed.
11 June 2003	Lendu and Ngiti militias attack Kasenyi and kill at least 80 civilians.
12 June 2003	Operation Artemis begins; 400 soldiers deployed in Bunia and 500 in Entebbe for logistical support.
19 June 2003	Ceasefire agreement signed in Burundi.
1 July 2003	Transitional Government installed.
6-7 July 2003	Attack against Ambe and its surroundings by Lendu and Ngiti militias. At least 30 civilians are allegedly killed.
15 July 2003	Attack on Tchomia by Lendu and Ngiti militia results in 10 civilians killed.
19 July 2003	Attack on Fataki by FNI and FAPC; 22 civilians are allegedly killed.
23 July 2003	Attack on Kaseyni by Ngiti militia results in 16 civilians killed.
28 July 2003	By resolution 1493 (2003) the Security Council places the mandate of MONUC under Chapter VII and authorizes the Mission to take the necessary measures to protect civilians in Ituri and the Kivus.
5 August 2003	Attack on Fataki by FNI and FAPC. Perhaps as many as 100 civilians killed.
22 August 2003	Reports of massacre in the locality of Gobu, located between Mandro and Katoto. At least 23 people appear to have been killed.
End August-beginning September 2003	Reports of new attacks against the population of Fataki and Bule. First reports of the existence of forced labour camps near Fataki (Habo, Libi, Bali, Aleda, Ali and Beau Marché) run by Lendu combatants.
15 September 2003	The Multinational Force leaves Bunia and is replaced by the military elements of MONUC under the name Ituri Brigade.

S/2004/573

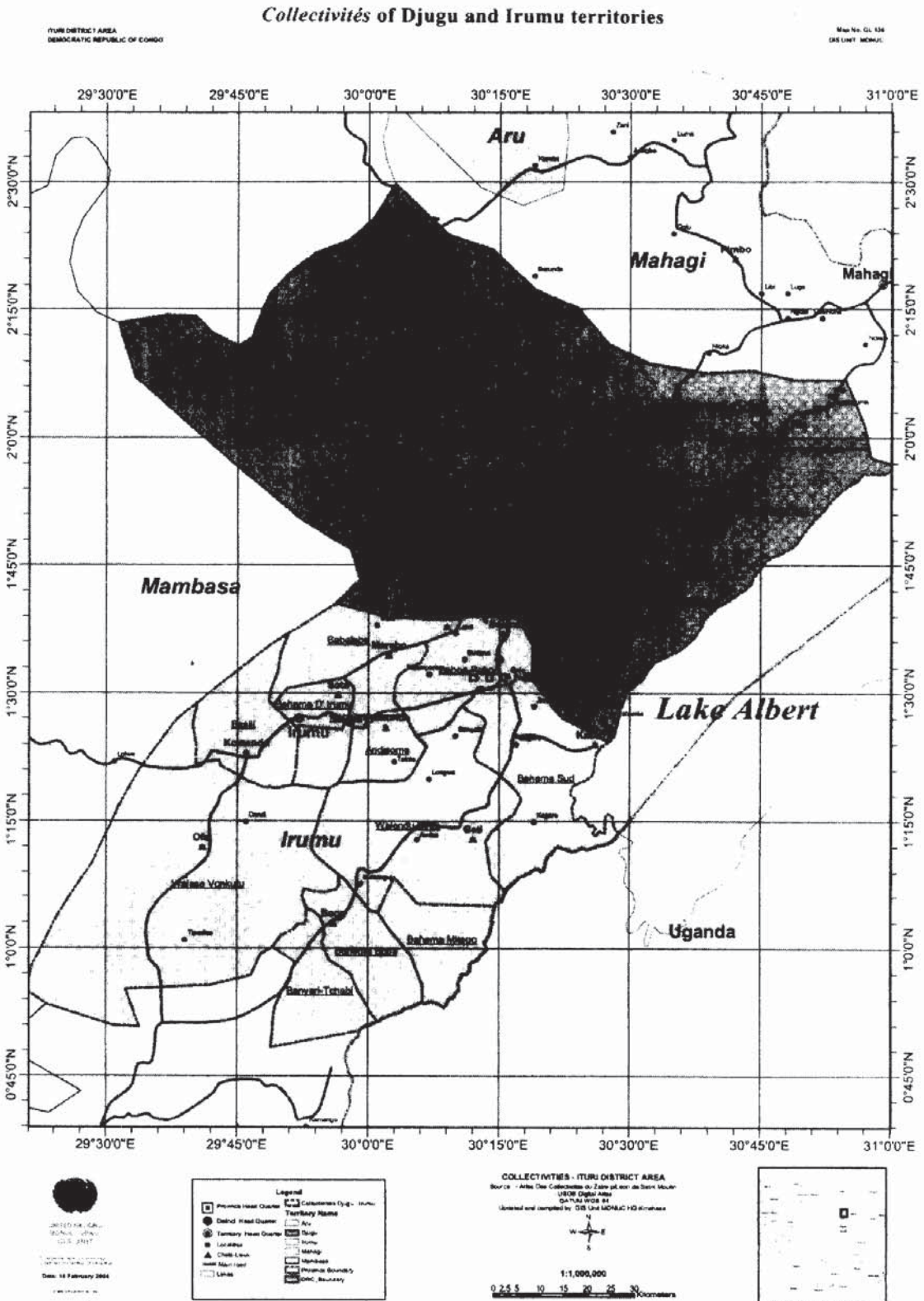
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- 15 September 2003            UPC organizes demonstrations in Bunia to celebrate its anniversary and demands that leaders arrested by MONUC be released. The demonstrations provoke incidents that result in the arrest of 74 people, and 28 the following day. Kisembo, Rafiki and Lobo are kept under house arrest for a few days, the rest are released the following day. During the incidents caused by UPC, at least 12 people are injured.
- 29 September 2003        Eight police officers arrested in May 2003 are released. Kisembo, Rafiki and Lobo organize the handover to MONUC. The police officers are transferred back to Kinshasa.
- 6 October 2003            Lendu forces attack Kachele, near Bule, in the *collectivité* of Bahema Badjere, leaving 65 people dead.
- 17 October 2003          MONUC arrests Matthieu Ngudjolo, Chief of Staff of FNI.
- 9 November 2003         MONUC arrests Aimable Saba Rafiki, Chief of Security of UPC.
- 2004**
- January                    Magistrates and members of the Prosecutor's Office of the Tribunal de Grande Instance of Bunia return to Bunia with the assistance of MONUC, the European Union and French Cooperation. Victims of human rights violations start lodging complaints.





S/2004/573

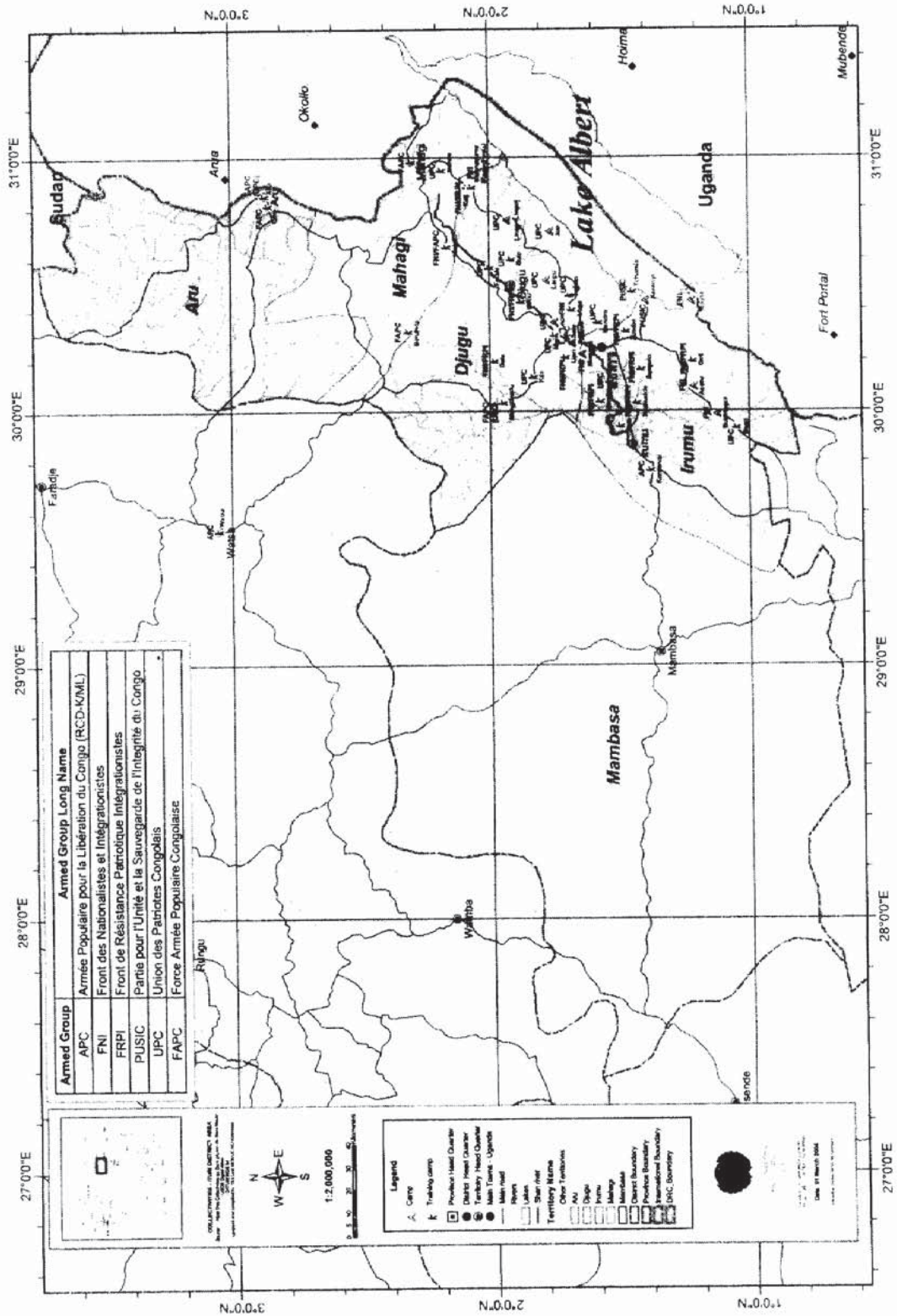




Map No. SP 124  
G.S. UNIT, MD/NGC

Main military camps where children were trained or present

ITURI DISTRICT AREA  
DEMOCRATIC REPUBLIC OF CONGO



**ANNEX 2.4.C**

**Human Rights Watch, *Ituri: “Covered in Blood”. Ethnically Targeted Violence in  
Northeastern DR Congo*, Vol. 15, No. 11 (A), July 2003**

*[Original English: not reproduced]*

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**ANNEX 4.1.A**

**Groupe Justice et Libération, “La guerre du Congo à Kisangani et les violations des droits de l’homme du 2 août au 17 septembre 1998”,  
Kisangani, 18 September 1998**

*[Annex not translated]*

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**ANNEX 4.1.B**

**Groupe Justice et Libération, “La guerre des alliés à Kisangani et le droit international humanitaire”, 12 May 1999**

*[Annex not translated]*

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**ANNEX 4.1.C**

**Groupe Justice et Libération, “La guerre des alliés en R.D.C. et le droit à l’autodétermination du peuple congolais”, 31 August 1999**

*[Annex not translated]*

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**ANNEX 4.1.D**

**Groupe Justice et Libération, “La guerre des Alliés à Kisangani (du 5 mai au 10 juin 2000) et le droit à la paix”, 30 June 2000**

*[Annex not translated]*

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**ANNEX 4.2**

**Cost of repair of buildings in Ituri by BCeCo**

**Cost of repair of buildings in Ituri by BCeCo**

*[Translation]*

**Letter to the Minister of Justice and Keeper of the Seals, dated 17 October 2018,  
from the Managing Director of BCeCo**

**Re: Your letter 1924/BNS673/KN/CAB/ME/MIN/J&GS/2018**

We have the honour to acknowledge receipt of your above-referenced letter of 12 October 2018 relating to the gathering of information requested by the International Court of Justice in The Hague, for which we thank you.

As Delegated Project Manager, BCeCo has indeed signed building contracts with local implementing agencies following transparent procurement procedures in order to achieve the objectives of the Project Owner, in this instance the Ministry of Primary, Secondary and Occupational Education, as part of the scheme to rebuild and repair educational infrastructure throughout the Democratic Republic of the Congo.

With regard to Ituri Province, 25 schools were identified, 18 of which have been rebuilt and partially equipped with classroom furniture and 7 of which are awaiting funding to begin work. These 25 schools are located throughout the territories of Aru, Bunia, Djugu, Irumu, Mahagi and Mambasa.

The average unit cost of rebuilding a school and equipping it with classroom furniture is assessed at US\$154,150, excluding management fees and the cost of supervising and monitoring the work, which is estimated at US\$22,000 on average.

Appended to this letter is a detailed assessment of the average unit cost, based on a significant sample representing 20 per cent of the schools to be rebuilt in Ituri Province.

COSTS												
Province	Territory	Qty	Primary schools	Building 1	Building 2	Administrative building	Sanitary facilities	Total works per school	Management fees	Furniture	Site engineer	Total cost
ITURI	DJUGU	1	PS1 KILO	60,002.67	60,002.67	17,560.55	10,445.08	148,010.97	17,761.32	25,000.00	3,550.00	194,322.29
	DJUGU	1	PS2 BWA	60,002.67	60,002.67	17,560.55	10,445.08	148,010.97	17,761.32	25,000.00	3,550.00	194,322.29
	MAMBASA	1	PS NYANYA 1	65,095.12	65,095.12	19,308.23	10,774.13	160,272.60	19,232.71	25,000.00	3,550.00	208,055.31
	MAMBASA	1	PS NYAMOVE	65,095.12	65,095.12	19,308.23	10,774.13	160,272.60	19,232.71	25,000.00	3,550.00	208,055.31
	IRUMU	1	PS IRUMU	60,002.67	60,002.67	17,560.55	10,445.08	148,010.97	17,761.32	25,000.00	3,550.00	194,322.29
		5		310,198.25	310,198.25	91,298.11	52,883.50	764,578.11	91,749.37	125,000.00	17,750.00	999,077.48



**ANNEX 4.3**

**Cost of repairs to buildings belonging to the Catholic church by BDOM,  
Archdiocese of Kisangani**

*[Relevant extracts only]*

**Cost of repairs to buildings belonging to the Catholic church by BDOM,  
Archdiocese of Kisangani**

*[Translation]*

[Cover letter]

**Archdiocese of Kisangani  
Works to repair the damage caused by the war  
of 5-10 June 2000**

No.	Site	Amount
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[List of 17 items]

Total (excluding taxes):

US\$4,811,713.19

[Detailed breakdown of each item]

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**ANNEX 5.1**

**Map of mining concessions in the Congo, 30 June 1960**

*[Annex not translated]*

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**ANNEX 5.2**

**United Nations Security Council, *Addendum to the report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo*, document S/2001/1072, 13 November 2001**

**(Excerpts)**





## Security Council

Distr.: General  
13 November 2001

Original: English

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### **Letter dated 10 November 2001 from the Secretary-General to the President of the Security Council**

I wish to refer to the presidential statement dated 3 May 2001 (S/PRST/2001/13), in which the Security Council extended the mandate of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo for a final period of three months. I also wish to refer to the President's letter, by which the Panel's mandate was extended until 30 November 2001 (S/2001/951), and the Panel was requested to submit, through me, an addendum to its final report.

I have the honour to transmit to you the addendum to the report of the Panel, submitted to me by the Chairperson of the Panel. I should be grateful if you would bring the report to the attention of the members of the Security Council.

*(Signed)* Kofi A. Annan



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## **Addendum to the report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo**

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## I. Introduction

1. By the statement of its President of 2 June 2000 (S/PRST/2000/20), the Security Council requested the Secretary-General to establish a Panel of Experts on the illegal exploitation of the natural resources and other forms of wealth of the Democratic Republic of the Congo with the following mandate:

(a) To follow up on reports and collect information on all activities of illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo, including in violation of the sovereignty of that country;

(b) To research and analyse the links between the exploitation of the natural resources and other forms of wealth in the Democratic Republic of Congo and the continuation of the conflict.

2. By his letter dated 12 April 2001 (S/2001/357), the Secretary-General transmitted the report of the Panel. The Security Council, in the statement of its President of 3 May 2001 (S/PRST/2001/13), requested the Secretary-General to extend the mandate of the Panel for a final period of three months, at the end of which the Panel would present an addendum to the report which would include the following:

(a) An update on the relevant data and analysis of further information, including as pointed out in the action plan submitted by the Panel to the Security Council;

(b) Relevant information on the activities of countries and other actors for which necessary quantity and quality of data were not made available earlier;

(c) A response, based as far as possible on corroborated evidence, to the comments and reactions of the States and actors cited in the report of the Panel;

(d) An evaluation of the situation at the end of the extension of the mandate of the Panel, and of its conclusions, assessing whether progress has been made on the issues, which come under the responsibility of the Panel.

3. The new Panel was composed as follows:

Ambassador Mahmoud Kassem (Egypt),  
Chairman;

Brigadier General (Ret.) Mujahid Alam  
(Pakistan);

Mel Holt (United States of America);

Henri Maire (Switzerland);

Moustapha Tall (Senegal).

4. The Panel was assisted by a technical adviser, Gilbert Barthe, two political officers, as well as an administrator and a secretary.

5. Following a brief period of consultations in New York, the Panel began its work in Nairobi on 30 July 2001. Panel members, together or individually, because of time constraints, visited Angola, Belgium, Botswana, Burundi, Central African Republic, the Democratic Republic of the Congo, France, Kenya, Namibia, the Republic of the Congo, Rwanda, South Africa, Uganda, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, the United States of America, Zambia and Zimbabwe.

6. In acquiring and updating its information, the Panel relied on meetings with heads of State, government officials, non-governmental organizations and stakeholders, business people, academics, members of the press, individuals and others. Meetings were also held with parties cited in the report, representatives of Governments, entities, private companies and individuals who had submitted written reactions to the report.

7. The Panel did not have the power to compel testimony and thus relied on information voluntarily provided by States and other sources. Information was not forthcoming from South Africa, the United Republic of Tanzania, Zambia and Zimbabwe. Information was finally received, but with considerable delay, from Angola. This factor, as well as the constraints of its short mandate, limited the Panel's ability to present a more complete addendum.

8. Throughout its consultations and work, the Panel was mindful of the progress being achieved in the ongoing peace process in the Democratic Republic of the Congo, regarding the implementation of the Ceasefire Agreement signed at Lusaka on 10 July 1999 (S/1999/815) and, in particular, the inter-Congolese dialogue.

9. The Panel tried its best to address the complaints and reactions as a consequence of the report and succeeded in meeting most of the parties. However, owing to severe time constraints, it was not possible to address this issue in its totality.



## II. Historical perspective

10. The Panel wishes to emphasize that the history of the Democratic Republic of the Congo, regardless of the political system or governing authority in place, has been one of systematic abuse of its natural and human resources. This exploitation has almost always been backed by the brutal use of force and directed to the benefit of a powerful few. As the country's precious resources were plundered and mismanaged, an informal economy based on barter, smuggling and fraudulent trade in commodities thrived, becoming the sole means of survival for much of the population. This commerce reinforced pre-existing ties based on ethnicity, kinship and colonial structures between the Kivu regions and neighbouring States such as Burundi and Rwanda, as well as Kenya, Uganda and the United Republic of Tanzania. Similar patterns of informal trade closely linked Katanga Province with Zambia and Angola.

11. The result was that a country renowned for its vast natural wealth was reduced to one of the poorest and debt-ridden States by the early 1990s. From the early days of the rebellion of the Alliance of Democratic Forces for the Liberation of Congo-Zaire, President Laurent-Désiré Kabila perpetuated many of the practices of his predecessors. He wielded a highly personalized control over State resources, avoiding any semblance of transparency and accountability. Management control over public enterprises was virtually non-existent and deals granting concessions were made indiscriminately in order to generate quickly needed revenues and to satisfy the most pressing political or financial exigencies. Familiar patterns of unaccountability, corruption and patronage re-emerged rapidly. This is the setting in which the war of August 1998 began.

## III. Situation in the Great Lakes region

12. Since 12 April 2001, the ceasefire has held along the confrontation line among the parties. Uganda began pulling out some troops and Namibia withdrew almost all its troops. Disengagement to new defensive positions, in accordance with the Lusaka Ceasefire Agreement, appears to have been completed. Sporadic fighting nonetheless continued, shifting the conflict towards the east along the borders with Rwanda and Burundi and the shores of Lake Tanganyika. Much of this fighting has pitted the Rwandan and Burundi

armed groups or "negative forces" and the Congolese Mayi-Mayi militias against the Rwandan Patriotic Army, the Burundi Army and the RCD-Goma rebel forces. ALIR I, regrouping ex-FAR and Interahamwe, moved through the Kivus and crossed the border to attack RPA. The attack was repelled by RPA. The most recent armed activity has centred on the town of Fizi in South Kivu near Lake Tanganyika. There have also been reports of sporadic clashes between Mayi-Mayi fighters and different forces in the north-eastern regions of Orientale Province and North Kivu. Some fighting was also reported to have broken out among different factions of the Ugandan-backed rebel groups.

13. Efforts towards reconciliation and reunification moved forward. In August 2001, the preparatory meeting for the inter-Congolese dialogue, the negotiations among the Congolese parties on a post-conflict political transition, was held at Gaborone. A sense of compromise and cooperation reigned and one result was the signing of a Declaration of Commitment by all the participants. Among the many issues on which the participants committed themselves to start taking action was the protection of natural resources from illegal exploitation. The dialogue itself began at Addis Ababa in September; the talks, which adjourned prematurely, in part because of funding problems, will reportedly resume in December in South Africa. The Kinshasa Government continued to push for the participation of the Mayi-Mayi groups in the negotiations. Talks aimed at building confidence were held between President Joseph Kabila and the heads of State of the signatories to the Lusaka Ceasefire Agreement. As a gesture of good will, intended to encourage the withdrawal of Rwandan troops, President Kabila announced that 3,000 soldiers in Katanga Province, identified as ex-FAR and Interahamwe, would be disarmed and demobilized under the supervision of the United Nations.

14. As regards the exploitation of natural resources, Zimbabwe is the most active of the allies. Many of its joint ventures are in the development stage and likely to mature with the help of badly needed capital from outside investors. While many of the investors are offshore companies, Zimbabwe also appeared to be considering a less active role for its army in these commercial activities and more involvement by government ministries. On the side of the uninvited forces, the commercial networks put in place by UPDF commanders have allowed them to continue their

exploitation activities despite the withdrawal of a significant number of troops. RPA continued to collect and channel profits from trade in natural resources through a sophisticated internal mechanism.

#### **IV. Exploitation of the natural resources**

15. Investigations conducted by the Panel, which focused on evaluating whether changes in trends had occurred since the release of the report, confirmed a pattern of continued exploitation. The exploitation is carried out by numerous State and non-State actors, including the rebel forces and armed groups, and is conducted behind various facades in order to conceal the true nature of the activities. While some of these activities may be conducted under the umbrella of joint ventures, other activities are carried out by the de facto authority in the area, which purports to exercise the same authority and responsibilities as the legitimate Government. Still others take different forms, which will subsequently be highlighted. Given its mandate, the Panel limited its examination of specific material resources to coltan, gold, copper and cobalt, diamonds and timber, since they best illustrate the current patterns of exploitation. Selecting these resources also permitted the Panel to examine some of the reactions presented to the report.

16. The Panel would also like to emphasize another very important aspect of the exploitation that previously was not given sufficient importance. This relates to the exploitation of human resources by all parties to the conflict, a far graver phenomenon than the exploitation of material resources. This form of exploitation has resulted in flagrant and systematic violations of the fundamental human rights of the Congolese people. Human resources constitute the most important wealth of a nation, and the Panel strongly feels the need to reinforce the international community's attention to this situation so that urgent measures are taken.

##### **Coltan (columbo-tantalite)**

17. An excellent conductor, this metal ore occurs throughout the eastern region of the Democratic Republic of the Congo. After increased demand from the hi-tech, communications and aerospace industries

drove coltan prices to an all-time high of more than \$300 per pound in 2000, prices plummeted during the first six months of 2001, levelling off at the current \$20 to \$30 per pound. This price fluctuation, due to an increase in world production — in particular in Australia — and diminished demand, coincided with the publication of the Panel's report. There have been some accounts that part of the decrease in demand resulted from manufacturers' desire to disassociate themselves with what became known, following release of the report, as "blood tantalum".

18. The fluctuation in the price, as well as the Panel's report, have had a number of effects on the coltan trade from the eastern region of the Democratic Republic of the Congo. In response to the recommendations of the Panel, a bill was introduced in September 2001 in the United States House of Representatives to prohibit temporarily coltan imports from certain countries involved in the conflict in the Democratic Republic of the Congo. Some United States corporations that process and use tantalum, such as Kemet and Cabot Corporation, cancelled orders for coltan originating from the region. The Panel also confirmed that the Belgian company Sogem, a subsidiary of Umicore (formerly Union Minière), which was cited in the report, ended its partnership with its coltan supplier, MDM, in Bukavu in November 2000. Sogem, it should be added, had been operating and was established in the area long before the outbreak of hostilities.

19. These factors have also led to a change in tactics by the Rwandan army. Congolese operators were selected as partners to handle the coltan trade. In addition, the Rwandans relocated some of their *comptoirs*, which had operated in Bukavu and Goma, back to the Rwandan border towns of Cyangugu and Gsenyi. In addition, the decrease in coltan prices has meant a sharp reduction in revenues for the Congolese rebel groups such as RCD-Goma. For example, the Panel received reports that only one of the six remaining *comptoirs d'achat* has been able to pay its mandatory contribution to RCD-Goma. The rebel group has, as a result, resorted to other means of collecting revenue. RCD-Goma officials are now retroactively demanding higher taxes from local businesses and have imposed much higher customs tariffs. Desperately short of funds, RCD-Goma has even begun imposing customs duties on relief material brought in by humanitarian organizations.

covered in the early 1990s for economic losses incurred because of the wars in the east of the Democratic Republic of the Congo". The Government of Germany has emphasized that it does not offer "trade promotion measures" to SOMIKIVU or any other company named in the report.

## Gold

26. Gold deposits can be found in the north-east and eastern regions, in the Kivus and Maniema and Ituri Provinces. During the last days of the Mobutu era, this was the only mineral that was recording increases in sales. Following an initial attempt at privatizing the gold mines through joint ventures, industrial gold mining practically came to a halt as a result of the civil war that began in 1996. However, artisanal gold mining continued and continues to this date on a large scale.

27. The Panel's report sheds light on the gold mining activities carried out by the Ugandan army, which assumed control of this gold-rich area. The sharp rise in Ugandan gold exports, which also exceeded national production, was given as further evidence that this gold is transported by UPDF elements to Kampala, from where it is exported. The Government of Uganda contested the findings of the Panel in its report, attributing the increase in its exports to 1993 policies liberalizing gold sales and exports, where the revamped policies permitted artisanal miners in Uganda to keep hard currency earned from sales. Officials claimed that as a result of the ease with which gold can be smuggled, Uganda became the preferred destination for gold produced by artisanal miners in the surrounding region.

28. The discrepancy between the gold export figures registered by the Ministry of Energy and Mineral Development and those recorded by the Uganda Revenue Service was attributed to the fact that the Ministry's figures reflect the quotas set for the production of the Ugandan export permit holders. These permit holders can buy from artisanal miners, the total of which appears on the export permits. While small-scale smuggling may in part explain the discrepancy in Uganda's production and export figures, the Panel has evidence that artisanal gold mining activities in the north-east by UPDF and RCD-ML, as well as the short-lived rebel coalition FLC, have continued. In the Kilo-moto area for example, operations at the Gorumbwa and Durba sites are under

the control of UPDF and RCD-ML. The Malaka site reportedly employs 10,000 diggers and generates amounts of gold valued at \$10,000 per day. Gold produced is still being sold through the Victoria *comptoir* in Kampala.

29. Another destination for the gold originating in the Democratic Republic of the Congo is Bujumbura. The Panel has learned from official and business sources in Bujumbura that gold smuggling into Burundi from Bukavu, Fizi Baraka and Uvira is a traditional activity because of the porous borders and Bujumbura airport's capacity to handle large cargo planes. In Bujumbura, gold dealers from countries such as Senegal, Pakistan and Greece buy this smuggled gold, which they subsequently transport personally to Europe and other destinations.

## Copper and cobalt

30. Gécamines, the largest mining operation in the Democratic Republic of the Congo and once wholly State-owned, has holdings in government-controlled Katanga Province, which contain one of the largest concentrations of high-grade copper and cobalt in the world. Embezzlement, theft and pilfering, mismanagement and a lack of re-investment transformed it from the pillar of the Congolese economy, once earning 70 per cent of the country's hard currency in exports, into a dilapidated enterprise with production now at only one tenth of its former capacity.

31. Although Australian, United States, Canadian, Belgian and South African companies have established joint ventures in Gécamines' concession areas, the Government of the Democratic Republic of the Congo has primarily relied on it as a means to ensure the continued support of Zimbabwe. Zimbabwean Billy Rautenbach was named the Managing Director of Gécamines in November 1998 during a visit to Harare by President Laurent-Désiré Kabila. According to this deal, some of Gécamines' best cobalt-producing areas were also transferred to a joint venture between Mr. Rautenbach's Ridgepoint Overseas Development Ltd. and the Central Mining Group, a Congolese company controlled by Pierre-Victor Mpoyo, then Minister of State. Mr. Rautenbach also acted as Managing Director of the joint venture, a blatant conflict of interest. The Panel has information that President Kabila's decision to appoint Mr. Rautenbach — a man with no mining

experience but with close ties to the ruling ZANU-PF party in Zimbabwe — was made at the request of President Robert Mugabe during that visit.

32. However, President Kabila replaced Mr. Rautenbach with Georges Forrest, a Belgian businessman, in March 1999, reportedly after the former failed to pay the Government's share of the profits from the joint venture. President Kabila accused him of transferring profits to a shell company, as well as stockpiling cobalt in South Africa. Shipments of cobalt had allegedly been seized in Durban to pay Gécamines' South African creditors. Mr. Rautenbach has since taken legal action against the Government of the Democratic Republic of the Congo.

33. Under Zimbabwean pressure, in January 2001 John Bredenkamp's Tremalt Ltd. formed a joint venture with Gécamines, the Kababancola Mining Company (KMC). In a 25-year agreement, KMC acquired rights to a concession representing the richest Gécamines holdings. Mr. Bredenkamp, who pledged to invest \$50 million in the mining operations, controls 80 per cent of this venture. Profits from his company's share will be split between the Government of the Democratic Republic of the Congo (68 per cent) and Tremalt (32 per cent).

34. The management of Gécamines changed hands again following an audit of all State-owned enterprises. The Minister to the Presidency, who has oversight for all public enterprises through his other post as Minister of the Portfolio, supervised an audit of these enterprises early in 2001. The audit reportedly revealed gross mismanagement and led to the firing of senior management officials at these enterprises in August 2001. A relative of the Minister was subsequently appointed to an influential post in the new management committee of Gécamines.

35. As in the past, Gécamines still continues to serve as a source of revenue for the Government of the Democratic Republic of the Congo. However, Gécamines' revenue-generating capacity no longer stems primarily from actual production, as it did during the early years of President Mobutu's regime. Instead, revenue mainly flows from the initial payments pledged by potential foreign joint-venture partners in return for the granting of concessions. The Panel has established that the amount of the payment is one of the primary considerations for the cash-strapped Government in granting concessions. As a result,

unsustainable and environmentally hazardous mining operations currently characterize Gécamines' copper and cobalt mining activities. The future of what was once the giant of the country's economy appears bleak.

## Diamonds

36. Owing to the size of the industry and the relatively stable price of diamonds, it is now an established fact that diamonds have had a significant effect on conflicts in Africa. In Angola and Sierra Leone, "conflict diamonds" mined in rebel-held areas<sup>1</sup> have served as a motivation for and a means by which some of the longest and bloodiest civil wars in Africa have been and are still being fought. The Democratic Republic of the Congo is not an exception. In this respect, the Panel would like to emphasize the importance of efforts by those involved in the "Kimberley process" in developing an international regulatory framework that will prevent conflict diamonds from being marketed and traded through legitimate industry channels. The Government of the Democratic Republic of the Congo has recently begun participating in these efforts.

37. In 1998, the former Governor of Kasai Oriental Province, Jean Charles Okoto, was named Managing Director of Société minière de Bakwanga (MIBA). Statistics obtained by the Panel show that while industrial and lower grades of diamonds have consistently accounted for over 90 per cent of MIBA production over the past decade, the small proportion of gem and near-gem quality stones, which averaged around 4 per cent of production, has shrunk progressively since 1999. By 2001, they represented barely 1.8 per cent of total production. The data, together with information provided by highly reliable sources, suggest that much of the company's most valuable diamond production is being embezzled and sold for personal profit by high-level MIBA and possibly other Government officials. The Panel believes, on the basis of credible, independent reports, that a portion of these embezzled gems are being smuggled through South Africa for sale in third countries. Credible information also suggests that

<sup>1</sup> Diamonds that originate in areas controlled by forces or factions opposed to legitimate and internationally recognized Governments, and are used to fund military action in opposition to those Governments or in contravention of the decisions of the Security Council.



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Congolese authorities regularly skim millions of dollars from the proceeds of MIBA sales. In some cases, the funds are directly transferred from the company's Brussels account at the Banque Belgoise. There are also widespread allegations, which the Panel was not able to substantiate, that diamonds from the Angolan rebel force UNITA are being laundered through MIBA in its tenders.

38. One of the largest joint ventures involving the Zimbabwe Defence Forces is the Sengamines diamond concession. The 25-year concession clearly represents the richest diamond deposits of MIBA holdings, with a potential production value estimated at over several billion dollars.

39. The joint venture originally featured a partnership between the ZDF-owned OSLEG (Operation Sovereign Legitimacy) and the Congolese company COMIEX-Congo. COMIEX-Congo is a State-private venture that acts as the Government's main platform for commercial deals and is reportedly linked to the Presidency and senior government ministers. The resulting joint venture, COSLEG, had neither the capital nor the expertise to develop the full potential of the concession. In a pattern that has developed in all of Zimbabwe's commercial investments in the Democratic Republic of the Congo, technical and financial support was sought from a third party. In this case, the party was Oryx Natural Resources, a British-Omani company.<sup>2</sup>

40. The exact capital structure of Sengamines remains somewhat unclear. Information obtained from Sengamines representatives and COMIEX in the Democratic Republic of the Congo indicated that Oryx retained 49 per cent of the shares, COMIEX 33.8 per cent and MIBA 16 per cent. The remaining 1.2 per cent is divided among several individuals, including the Minister for Public Security. Sengamines representatives also told the Panel that COMIEX would soon be dissolved and the government share in the venture would be controlled by the Ministry of the Portfolio. In a document concerning a planned reverse takeover of Oryx Natural Resources in 2000, reference is made, however, to dividing the "distributable profits" from the concession on the following basis: 40 per cent to the Oryx group, 20 per cent to OSLEG and 20 per cent to COMIEX-COSLEG. In this scenario, the

Congolese partners would be considerably marginalized, especially MIBA. The separate Oryx Zimcon joint venture, involving yet another ZDF-owned company, is described as holding 90 per cent of the concession mining rights. Many well-informed sources emphasized to the Panel that the concession granted to Sengamines was the last strategic diamond reserve of MIBA and that MIBA has been irreparably weakened by the loss of this concession. Some sources even alleged that the granting of the concession is the prelude to liquidating MIBA, with Sengamines replacing it as the new premier diamond producer in the Democratic Republic of the Congo.

41. While the Congolese partner provides the resources to be exploited, Oryx furnishes the necessary capital and expertise. Through Abadiam, its agent in Antwerp, Oryx is also directly involved in the marketing process. Although sharing substantially in the profits, the Zimbabwean side in this complex joint venture has no apparent role, apart from its strategic troop deployment in the diamond-rich Kasai region. This area is known for its secessionist tendencies and being the stronghold of popular opposition politician Etienne Tshisekedi of the Union pour la démocratie et le progrès social (UPDS).

42. An estimated one third of the total rough diamond production of the Democratic Republic of the Congo, valued at \$300 million a year, is smuggled to the Central African Republic and the Republic of the Congo because the export duties are much lower in those countries. A significant percentage of these diamonds also find their way to South Africa. The Panel believes that the stones are mostly exported from these transit points, to the major diamond trading centres in Belgium, the Netherlands, Israel and the United Kingdom. The smaller diamond centres in Mauritius, India and the United Arab Emirates (Dubai), reportedly receive a lesser share. The new mining code of the Government of the Democratic Republic of the Congo, being drafted with assistance from the World Bank and advice from the World Diamond Council, is expected to redress the issue of the heavy taxes levied by the revenue-starved Government on diamond exports, which helps spur this illicit trade.

43. In following the trail of diamond exports from the Zimbabwean ventures in the Democratic Republic of the Congo, the Panel learned from the Ministry of Mines of Zimbabwe that the import of rough diamonds into Zimbabwe is prohibited. This information was

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<sup>2</sup> The company, directed by an Omani entrepreneur, is registered in the Cayman Islands.

corroborated by data provided by other credible sources, which showed no diamond imports originating from Zimbabwe. The Panel has been able to establish that these diamonds are handled by the South African-based Petra Diamonds Ltd.,<sup>3</sup> which now owns Oryx Natural Resources, following a reverse takeover in 2000.

44. Diamonds from artisanal mining in the northern Kisangani area have provided a source of revenue for the rebels, RPA and UPDF for the continuation of the conflict. The high combined taxes imposed by the RCD-Goma rebel group and RPA ultimately resulted in diamonds mined in this area being redirected to Kampala, where lower tax rates prevail. Data on Ugandan diamond exports confirm this. From 1987 to 1996, no diamond exports from Uganda were recorded for this market. From 1997 to 2000, exports from Uganda ranged from 2,000 to 11,000 carats, with values of up to \$1.7 million per year. Figures for 2001, extrapolated from the sales for the first eight months, show an estimated 35,000 carats, valued at \$3.8 million, in Ugandan diamond exports to Antwerp.

45. To gain a better understanding of the diamond exploitation activities carried out in the rebel-held and occupied territories, the Panel has taken a closer look at the activities of the Belco-Diamant *comptoir* in Kisangani. Following the rebel administration's cancellation of the monopoly on diamond exports granted to Mr. Nassour in Kisangani, the Belco *comptoir* was established. This *comptoir* is owned by Mr. Lukasa, a former minister under President Mobutu, as well as Emile Serphati, and was licensed to export diamonds by the rebel administration. Although Belco pays a 5 per cent export tax to the RCD-controlled Ministry of Mines, the Panel has information that a 10 per cent tax is also levied on the *comptoir* by the "Congo desk" in Kigali. Buyers, such as Arslanian Frères, purchase diamonds from Belco, which are then shipped directly to Antwerp in Belgium. As there is no sanctions regime in effect against diamonds originating in the Democratic Republic of the Congo, the Diamond High Council in Antwerp inspected and approved

Arslanian Frères' imports of diamonds originating in the rebel-controlled region of Kisangani. The owner, Raffi Arslanian, told the Panel that Arslanian Frères had ceased all imports from Belco in May 2001 and furnished purchase receipts to substantiate this.

46. Statistics from credible sources also showed that diamond exports from Rwanda to Antwerp, in contrast to Uganda, have not increased. They informed the Panel that the reason behind this is the Rwandan Congo desk's relatively high tax (10 per cent) levied on the export of diamonds from the Democratic Republic of the Congo, added to the 5 per cent tax charged by the Congolese rebel administration. These taxes have driven many of the artisanal miners from the Kisangani area to smuggle their production through the Central African Republic and the Republic of the Congo. Diamonds are also reportedly transported personally by Asian and Lebanese traders operating in the eastern region, to South Africa and to Belgium and other European countries.

47. Belgium, along with the Diamond High Council in Antwerp, has taken serious steps to halt imports of conflict diamonds, for example from Angola and Sierra Leone, by instituting strict controls and by playing a leading role in the design and adoption of an international diamond certification system. However, it still remains an important destination for those tainted diamonds owing to the lack of similar controls in other European Union countries. Another related issue raised in the Kimberley process is the difficulty of adapting a certification and inspection regime to the customs and other trade procedures of a single integrated trade market such as the European Union.

## Timber

48. The Democratic Republic of the Congo is endowed with some of the finest hard woods in the world. Most timber products from the eastern region have traditionally been shipped via the Congo River for export in Kinshasa. The Panel learned, however, that since the beginning of the 1998 war, logging companies in the eastern region have used the port of Mombasa in Kenya for exports. Although the Panel has evidence to show that timber from the eastern Democratic Republic of the Congo is exported both from the port of Dar es Salaam and through Kampala to the port of Mombasa, the Governments of both the United Republic of Tanzania and Uganda denied that

<sup>3</sup> Petra Diamonds Ltd. is actually registered in Bermuda although most of its operations and holdings are in South Africa. The company also has subsidiaries or concessions, some active and other not, in Namibia, Botswana and Angola. Its directors include a former United States diplomat, an Omani government official and a Commonwealth Secretariat official.

any transited through either country. Information provided to the Panel proves however that timber processed at Mangina (North Kivu) transits through Uganda on its way to Mombasa, transported by the freight company TMK. With regard to the United Republic of Tanzania, the Panel has obtained documents that clearly indicate that, during the period from December 2000 to March 2001, at least two shipments of timber originating in the Democratic Republic of the Congo were transported across the United Republic of Tanzania by railway from Kigoma to the port of Dar es Salaam. The documents also show that both shipments were intended for transit through the port. These shipments were consigned to companies in Greece and Belgium.

49. The exploitation of timber is also occurring in the Government-held territories. In 2000 COSLEG, the joint venture between the ZDF-owned OSLEG and COMIEX, established a subsidiary, Société congolaise d'exploitation du bois (SOCEBO), for the exploitation and commercialization of timber in the Democratic Republic of the Congo. It was set up with the aim to "contribute in the war effort in the framework of South-South cooperation".

50. The Panel has gathered contradictory information about the exact size of the concessions granted to the joint venture, as well as its operational status and investment strategies. SOCEBO representatives told the Panel that six concessions had been applied for in the Bandundu, Bas-Congo, Kasai and Katanga Provinces, totalling 1.1 million hectares. However, the United Kingdom non-governmental organization Global Witness reports that four concessions totalling 33 million hectares were granted, making it the largest timber exploitation operation in the world. According to Global Witness, these concessions cover 15 per cent of the national territory. The by-laws show COSLEG as holding 98.8 per cent of the shares in the joint venture, with the remaining 1.2 per cent of shares divided between Mawapanga Mwana Nanga, Abdoulaye Yerodia Ndombasi, Godefroid Tchamlesso, Charles Dauramanzi, Collins Phiri and Francis Zvinavashe.

51. According to some sources, timber from the Kasai and Katanga concessions would be transported by train from Lubumbashi, through Zambia to the port of Durban in South Africa, where it would be exported to Asia, Europe and the United States. The Panel also received very credible information that SOCEBO target markets would include South Africa.

52. President Mugabe told the Panel at a meeting in Harare that, although SOCEBO was supposed to commence logging activities in May 2001, it had been delayed owing to an inability to pay the customs duties to the Zimbabwe Revenue Service on machinery imported for the project. The SOCEBO Directors in Kinshasa emphasized, however, that a lack of sufficient capital had been the main obstacle to making SOCEBO fully operational. The Panel also received credible reports that the initial start-up capital of \$600,000 intended for SOCEBO operations had been embezzled by representatives of the diamond buying office, Minerals Business Company, another COSLEG subsidiary. The Panel learned that a police inquiry into the disappearance of those funds had been suspended.

53. Heavy investment will still be required in order for the company to realize its objectives, over \$5 million according to the company's own business plan. The Panel has not been able to substantiate reports that ZDF have contacted Malaysian, Lebanese and French investors to explore the possibility of forming joint ventures to develop these concessions.

54. According to information provided by SOCEBO, however, in July 2001 a joint venture was established with Western Hemisphere Capital Management (WHCM), described by some as a United Kingdom company based in Harare. The venture, SAB-Congo, was formed to develop one of the concessions in Katanga Province. WHCM, which is providing the needed capital and equipment, currently owns 60 per cent of the shares. SOCEBO holds 35 per cent, while the Institut National pour l'étude et la recherche agronomique (INERA), a Congolese State-run institute for agriculture, holds 5 per cent. The duration of the agreement is 10 years. The first timber sales from the venture are expected in November 2001. The Panel was unable to determine if WHCM is in any way linked to Western Hemisphere Resource Exploration (WHRE),<sup>4</sup> which recently formed a diamond mining joint venture with COSLEG, the Société congolaise d'exploitation minière. SOCEBO is also currently conducting negotiations with Assetfin, a Zimbabwean company owned by Time Bank, in a similar arrangement for another concession.

55. The Directors of SOCEBO told the Panel during an interview in September in Kinshasa that, while it

<sup>4</sup> WHRE is registered in the Isle of Man and according to the by-laws is owned by Elki Pianim.

continues to seek investors, it is currently exporting timber bought from local small-scale loggers. It is also in the process of annulling a partnership deal with a private Congolese logging company for its concession in the Bas-Congo, which it described as “unprofitable”. While SOCEBO directors painted a picture of a company still struggling to get operations under way and burdened by debts and back-tax bills, the Panel has received credible reports that Zimbabwean military personnel have been carrying out intensive logging operations in the SOCEBO concession in Katanga, apparently in conjunction with SAB-Congo.

## **V. The link between exploitation of resources and the continuation of the conflict**

### **Overview**

56. Through its fact-finding, the Panel attempted to analyse to what degree the exploitation of natural resources and other forms of wealth constitutes the motivation behind each party’s activities in the Democratic Republic of the Congo, and to what extent the exploitation provides the means for sustaining the conflict. In doing so, it assessed the recent developments in the conflict area and their implications for the exploitation activities. The Panel then evaluated, on an individual basis, the activities of the different States involved in the exploitation process.

### **Recent developments and their implications**

57. There are indications that clashes during the past seven months in the Oriental and Kivu regions between the Mayi-Mayi, who appear to be better equipped and coordinated than before, and UPDF and the MLC rebel group have been directly related to control of coltan and gold. Similar short-lived battles have been fought by the Mayi-Mayi with RPA over access to coltan throughout the Kivus. The Panel also believes that the infighting among the Congolese rebel groups in recent months, which has caused them to splinter and led to occasional violence, has been related to control over coltan, gold and diamonds in the Beni and Bafwasende areas.

58. The Panel received credible information, corroborating reports from independent sources, that Zimbabwe is supporting the Burundian FDD rebel

forces by supplying them with weapons and expertise. Many reliable sources have informed the Panel in this regard that the Zimbabwe Defence Forces are training FDD in Lubumbashi, where the FDD leadership is based and where Zimbabwean copper and cobalt investments are located. Another sign of their loosely structured coordination with the Burundian rebels is that the ALIR II forces are based near FDD in South Kivu and also have a command and liaison presence in Lubumbashi. The Panel concluded that the arming of these irregular groups is contributing to sustaining what could be viewed as a war by proxy in the east. It allows the ceasefire to remain intact, while creating a “controllable” conflict in the occupied zone that satisfies the interests of many parties. With this sporadic, low-intensity conflict dragging on, a certain status quo is being maintained in this region where many precious resources are extracted, traded and routed for export. Zimbabwe and Rwanda have the most important commercial presence in the Democratic Republic of the Congo as a result of their involvement in the war. The role that Zimbabwe plays in regard to continuing the conflict may well be shared with the Government of the Democratic of the Republic of the Congo, or at least some elements in it, as well as others. This armed activity can continue to feed Rwandan and Burundian security concerns, becoming an added justification for those two countries to maintain their military positions. In the case of Rwanda, control can then be legitimately deepened over a considerable expanse of territory, as well as its population and resources. As Zimbabwe’s joint ventures in mining and timber begin to mature and become profitable, it may be tempted to retain a sizeable military presence in the Democratic Republic of the Congo. The profiteering of private businesses of all kinds in illicit and criminal activities gives them vested interests in seeing the conflict continuing, in particular businesses in South Africa, Kenya and the United Republic of Tanzania.

59. The link to the control and commercialization of the resources of the Democratic Republic of the Congo is more implicit than explicit. The Fizi Baraka region, where the most recent and intense fighting has occurred, is strategic for many reasons. It has been a stronghold for certain Mayi-Mayi groups and a base for the Burundian rebel forces, particularly FDD. ALIR II forces, which many military sources describe as the better armed and commanded of the Interahamwe and ex-FAR groups, use this area and nearby Shabunda to



66. Documentary evidence gathered shows that, in 1999, over 30 per cent of the first semester earnings of MIBA were transferred to Government accounts. Those transfers were vaguely labelled "payments to fiscal accounts" (*paiements accomplis fiscaux*). It is not clear who within the Government of the Democratic Republic of the Congo controls these accounts, or what the funds transferred to them are used for. Another 11 per cent of the earnings from that period were funnelled directly to the Congolese armed forces. Other transfers from MIBA sales are described in official documents as "deductions for the war effort", amounting to tens of millions of dollars. Testimony from very credible sources corroborates what these documents suggest: a pattern over the past three years of diverting a hefty percentage of MIBA earnings to high-level government officials for their personal benefit, as well as to cover war or military-related expenses.

67. In some cases, it appears that deals were concluded because they were linked, directly or indirectly, to arms and military support. In 1997, the Kabila Government ended the exclusive contract it had with De Beers to buy all of the industrial diamond output of MIBA. Following a period in which Congolese diamonds were sold on the international auction market to the highest bidder, President Kabila reached an agreement with the Israeli-owned International Diamond Industries in August 2000 for a monopoly on diamond sales. According to the terms of the agreement, IDI agreed to pay \$20 million in return for a monopoly on sales valued at \$600 million annually. The Panel was informed by very credible sources that this deal included unpublished clauses, in which IDI agreed to arrange, through its connections with high-ranking Israeli military officers the delivery of undisclosed quantities of arms as well as training for the Congolese armed forces.

68. IDI ultimately paid only \$3 million from the agreed sum of \$20 million. President Joseph Kabila decided in April 2001 to end the contract, citing failure to pay as the reason. In his statement, the owner of IDI, Dan Gertler, claimed that IDI had complied with its obligations and alleged that the Government's decision was motivated by the fact that information about the agreement was included in the Panel's final report. The statement also insisted that the Panel did not consult with IDI and demanded that the Panel rectify its report. The Panel requested to meet with IDI representatives in

Kinshasa in September 2001. IDI declined this request. IDI is reportedly trying to negotiate some form of compensation for breach of contract with the Government of the Democratic Republic of the Congo.

69. It is important to look at this failed Kabila-Gertler deal as a number of key aspects are significant. On the Congolese side, it comes within a pattern of miscalculated decisions taken by the cash-strapped Laurent-Désiré Kabila, whose main interest was the immediate cash flow. Although there was some discontent within Kabila's entourage at the outrageousness of the deal, it was, nonetheless, not revoked until seven months after it was signed. The Panel has credible information indicating that there is a growing involvement of Israeli businessmen in the region. Taking advantage of the withdrawal of De Beers from conflict diamond regions, a whole network of Israelis was established, including Mr. Gertler in the Democratic Republic of the Congo, Lev Leviev in Angola and Shmuel Shnitzer in Sierra Leone. In all three cases, the pattern is the same. Conflict diamonds are exchanged for money, weapons and military training. These diamonds are then transported to Tel Aviv by former Israeli Air Force pilots, whose numbers have significantly increased both in UNITA-held territory in Angola and in the Democratic Republic of the Congo. In Israel, these diamonds are then cut and sold at the Ramat Gan Diamond Centre.

70. During their meetings with the Panel, members of the Congolese Commission indicated that, as the country moves towards greater political openness, the Kinshasa Government will have to take action on the issue of Zimbabwe's activities in the Democratic Republic of the Congo. The Commission also expressed their view that the question should figure on the agenda of the inter-Congolese dialogue, and that a *protocol d'accord* must be established between the Democratic Republic of the Congo and Zimbabwe to rectify the irregularities, including agreements secretly signed under pressure of the military situation at the time.

71. Further evidence of this collapse of a functional State, and its inability to make decisions in its national interest, is reflected in the stance currently adopted by the Government of the Democratic Republic of the Congo towards the activities being carried out in the rebel-held areas. The Panel has learned, from commercial companies and individual business people who have operated under both the Kinshasa

Government and rebel authorities, that the regulations and procedures have not, for the most part, changed under rebel administrations. In fact, civil servants appointed by the Government are still performing such duties as customs control and tax collection in rebel-held areas. However, the taxes are not received by the Government in Kinshasa but are diverted for the use of the rebels and Uganda and Rwanda. This is acknowledged by the Government of the Democratic Republic of the Congo, which, offered in September 2001 to pay the 37-month arrears and salaries of those civil servants. Furthermore, the Government in Kinshasa appears to have recognized the activities of the commercial entities in the rebel-held areas. One of the many examples is the German-owned company Somikivu, which operates in the eastern Democratic Republic of the Congo, but continues to pay taxes to the rebels and maintains an office in Kinshasa. When asked about the legal status of the commercial entities operating in the rebel-held and occupied territories, the Congolese Minister of Justice informed the Panel during a meeting in September 2001 that none of the concessions had been revoked thus far, and that an evaluation on a case-by-case basis would be conducted when the Government regained control of the areas in which they are operating.

72. To further demonstrate this, the Panel has taken a closer look at the legal status of DARA Forest, a Thai-owned company operating in North Kivu Province. DARA Forest is a Congolese-registered logging company owned by five shareholders. Royal Star Holdings is the main shareholder, and is partly owned by the managing director of DARA Forest, John Kotiram. Besides Mr. Kotiram, there are three Congolese shareholders. In March 1998, DARA Forest registered as a Congolese company in Kinshasa, after which work was begun on building a sawmill in Mangina in North Kivu Province. In June 1998, DARA Forest was granted a 35,000-hectare logging concession from the North Kivu Provincial Authority, which grants these concessions following registration with the central Government. DARA Forest also acquired an exploitation licence from the same authority to buy and export from local loggers. Its exports, which were to the United States and China, started early in 1999, months after the beginning of the war.

73. DARA Forest, which the Panel has found to have complied with all the regulations in effect, currently

pays its taxes at the same bank as it did before the area came under rebel control. It also deals with the same customs officials as it did before the rebels took control of the area when it exports its products and imports production equipment. The Panel has also learned that a bimonthly check is conducted by the local Congolese authorities in North Kivu to ensure that DARA Forest is complying with the terms of licences granted to it. Furthermore, DARA Forest was granted on 12 September 2001 a certificate of registration from the Ministry of Justice in Kinshasa. This would appear to be a clear sign of recognition of the company and acceptance of its work in the rebel-held areas by the Government of the Democratic Republic of the Congo.

74. The case of Arslanian Frères also demonstrates the ambiguity of the Government's approach. The diamond company Arslanian Frères, based in Belgium, has an agreement to buy all the stock of the Belco Diamants *comptoir* in Kisangani and to "help them financially when needed" and has been travelling to Kisangani to openly purchase diamonds mined in the rebel-held areas surrounding the town. Nevertheless, one of the owners of the company, Raffi Arslanian, was approached in writing in 2001 by the Government's Minister of Mines to invest in a multi-million-dollar project aimed at reorganizing the State-owned diamond-producing enterprise MIBA.

75. There are many indications that President Joseph Kabila is genuinely interested in bringing about positive changes in his country. The Panel has noted that, notwithstanding the political considerations involved in the granting of favourable concessions to his allies, there are serious attempts to attract foreign investment to restructure, modernize and liberalize the remaining State assets in the mining business. In this respect, the country's new mining code is expected to bring about some fundamental and positive changes to the mining industry in the Democratic Republic of the Congo.

### **Zimbabwe**

76. According to information available to the Panel, there are five main factors at play, which helped to shape the Zimbabwean objectives in its involvement in the Democratic Republic of the Congo. One determining factor is Zimbabwe's desire to assert its role within SADC. Supporting the Democratic Republic of the Congo militarily presented such an opportunity. A second factor lies in Zimbabwe's ailing

of the shares in BCDI. The 2000 audit report on BCD, set up as a joint venture by the AFDL-controlled COMIEX, shows that Tristar owns 10 per cent of the shares. Mr. Kalisa told the Panel that information in its report regarding a banking transaction for monies paid to COMIEX-AFDL in 1997 was inaccurate. The Panel has been able to corroborate Mr. Kalisa's description of the transaction, in which \$3.5 million were transferred from the Banque Belgoise through Citibank to BCDI for payment to COMIEX. Mr. Kalisa also told the Panel that information in the report regarding a \$1 million loan to the RCD-Goma controlled SONEX for payment of fuel bills with Jambo Safari airlines was incorrect. The loan was made, according to Mr. Kalisa, for payment of fuel from Alliance Express airlines.

### Uganda

95. Uganda also has some legitimate security threats, which prompted its military intervention in the Democratic Republic of the Congo. In so intervening, the Government of Uganda enacted a protocol between the Democratic Republic of the Congo and Uganda, signed in April 1998, allowing two battalions from each country to cross the border in pursuit of perpetrators of terrorist activities.

96. The Panel notes that Uganda has complied with the presidential statement (S/PRST/2001/13) by establishing a national Commission of Inquiry, the Porter Commission.

97. While the effect of the Panel's report and the significant withdrawal of UPDF troops have given the impression that the exploitation activities have been reduced, they are in fact continuing. The commercial networks put in place by Ugandan army commanders and their civilian counterparts that were described in the report are still functioning in Oriental Province and Kampala. The Trinity and Victoria companies, for example, are still actively exploiting diamonds, gold, coffee and timber. UPDF have thus been able to pull out their troops, while leaving behind structures that permit military officers and associates, including rebel leaders, to continue profiting.

98. While the Government of Uganda does not participate directly in the exploitation activities, the culture in which its military personnel function tolerates and condones their activities. The commercial activities of senior UPDF officers are public knowledge. In an interview with the Panel in August

2001, the now retired General Salim Saleh admitted that, while never having been in the Democratic Republic of the Congo, one of his companies had been engaged in exporting merchandise to the eastern part of the country. He noted that the aircraft transporting the merchandise was initially confiscated by General James Kazini. General Kazini, who also participated in the interview, in turn described his role in facilitating the transport of Ugandan merchandise to Kisangani and other areas in the Democratic Republic of the Congo. In full control of the areas under their administration, General Kazini and others used this power, as they would have done elsewhere, to establish a mechanism to promote their business interests. The characteristics of the area under their control predominantly determine the kind of exploitation activities carried out by UPDF personnel.

99. The Panel has noted that the UPDF officers usually conduct their business through a Congolese affiliate, on whom they bestow power and support. This was the case with Jean-Pierre Bemba, Adele Lotsove and, more recently, Roger Lumbala of the now defunct RCD-National, as well as Mbusa Nyamwisi. Sources have informed the Panel that RCD-National was formed by General Kazini in 2000 from RCD-Goma defectors, who gave them Bafwasende as their base. More recently, the Panel learned that Mr. Lumbala had signed two commercial agreements bearing the signatures of UPDF Commander Kahinda Otafire and Belgian and Austrian parties. In addition, the Panel has learned that, late in December 2000, Lumbala — who is reportedly a front for the monopoly of the Victoria company on the Bafwasende diamonds — was in Kampala delivering diamonds to what the sources termed his "masters". Another activity UPDF officers are involved in is the liberal siphoning off of the customs revenues on the illicit trade between the Democratic Republic of the Congo and Uganda. A very credible source informed the Panel in that regard that Mr. Nyamwisi "skims" up to \$400,000 off the tax revenues collected from the Beni customs post at the Uganda border. According to the same source, Mr. Nyamwisi shares this money with General Kazini and General Salim Saleh.

100. There is a link between the continuation of the conflict and the exploitation of the natural resources, in the case of Uganda. Influential Government officials, military officers and businessmen continue to exploit

the security situation for their vested commercial interests.

### **Burundi**

101. The Panel found no evidence directly linking the presence of Burundi in the Democratic Republic of the Congo to the exploitation of resources. Although its army is positioned in the Democratic Republic of the Congo near a traditional trade and transit point for minerals, its presence has been and continues to be directed at blocking attacks from the Burundi rebel groups, particularly FDD, which are based in South Kivu and Katanga.

102. In its reaction to the Panel's report, the Government of Burundi contested the Panel's conclusions that Burundi had been exporting minerals it did not produce, and specifically mentioned the case of diamond exports coinciding with the 1998 occupation of the eastern Democratic Republic of the Congo. In an effort to verify this information, the Panel contacted the Africa Department of IMF, requesting a copy of an IMF memorandum which supports the report's statements. Although IMF representatives confirmed that they were trying to locate the document, the Panel has not been able to obtain a copy of it. In addition, the Minister of Energy and Mines and representatives of Burundi's mining sector provided the Panel with information supporting Burundi's claims that gold, coltan and cassiterite deposits can be found in its northern and north-eastern regions. Modest quantities of coltan and cassiterite have also been produced and exported during the past eight years. The Panel found however that the data on gold production and exports were not coherent, as they confirmed that artisanal gold mining has continued over the past eight years, whereas export statistics recorded zero gold exports from 1997 to 2000. Concerning cobalt, the Panel was informed that there are significant deposits, but that production has not yet been developed. Private sector and Government representatives also stressed that there is no domestic production of copper or diamonds at this time.

103. The Panel confirmed that Burundi has traditionally served as a re-export and transit centre for gold and diamonds originating in the Democratic Republic of the Congo. Much of this trade has however subsided following a three-year embargo imposed on Burundi in 1996. Officials also emphasized that Burundi's inability to control its borders, together with

its tradition of cross-border trade, has led to widespread smuggling by small-scale operations.

104. The Government of Burundi also provided the Panel with information to the effect that it had had a legitimate opportunity to profit from the mineral wealth of the Democratic Republic of the Congo in 1997 and had turned it down. A copy of the draft agreement shows that the Congolese Minister of Mines had offered the Government of Burundi and businessmen a joint mining venture in the Bafwasende region for a concession area of 20,000 km<sup>2</sup>, with abundant deposits of gold, diamonds, coltan and cassiterite.

## **VI. Transit countries**

105. Although they are not directly involved in the conflict, the Panel has investigated the role of some of the neighbouring countries in the region to establish a more comprehensive picture of the exploitation activities.

### **South Africa**

106. South Africa maintains a neutral stance towards the conflict in the Democratic Republic of the Congo, and is calling for the implementation of the Lusaka Ceasefire Agreement and the end of the conflict. South Africa also maintains close ties with all the parties and is actively involved in the peace process. Its former President, Nelson Mandela, is also the mediator for the Arusha peace process in Burundi.

107. On the commercial level, South Africa is very much involved in the Democratic Republic of the Congo. The Panel was able to see this at first hand during its visit to the northern Zambian border area with the Democratic Republic of the Congo. Around 150 large trucks cross this border every day, carrying foodstuffs, machinery and other products predominantly from South Africa. Many of the trucks transport copper and cobalt to South Africa on the return trip, where it is processed and shipped from the ports of Durban and Nelson Mandela (Port Elizabeth) to its final destinations, thus effectively ending the role of the port of Dar es Salaam as the traditional port of exit for Congolese copper and cobalt. As South Africa is a country with potential water shortages, South African businessmen are currently studying the option



142. ALIR II, over 5,000 strong, is mostly based in South Kivu, near Shabunda, Fizi and Baraka, but also has a command and liaison presence in Lubumbashi in Katanga Province. Some of its troops are reportedly recruited from the Zambian refugee camps. As part of a fluid, ongoing alliance with FDD and the Mayi-Mayi, they reportedly have been clashing with RCD-Goma and Rwandan and Burundian forces in the South Kivu region. The continued, and sometimes intensifying, fighting appears aimed, in the opinion of many informed sources, at either controlling a corridor into Burundi or continuing to destabilize the region so as to prevent an effective demobilization effort from getting under way. Credible sources also indicate that several thousand ALIR combatants were recently incorporated into the Congolese Armed Forces. During the visit of the Secretary-General to the Democratic Republic of the Congo in September, President Kabila announced that 3,000 ex-FAR and Interahamwe soldiers located in Kamina (Katanga Province) would be demobilized, under the supervision of the United Nations Organization Mission in the Democratic Republic of the Congo.

## VIII. Conclusions

143. The systematic exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo continues unabated. These activities involve a large number of State and non-State actors, belonging both to the region and outside, some directly involved in the conflict, others not. The exploitation has resulted in the further enrichment of individuals and institutions, who are opportunistically making use of the current situation to amass as much wealth as possible.

144. Without a resolution of the broader conflict in the Democratic Republic of the Congo and the region, it would be highly unrealistic to expect an end to the exploitation of natural resources and other forms of wealth in the country. Exploitation of natural resources in the Democratic Republic of the Congo cannot be viewed and dealt with in isolation, disregarding the factual situation existing in the area. It needs to be realized that this is one part of the problem which is inextricably linked to other serious issues in the region.

145. A primary and fundamental reason for the continuing and systematic exploitation by various "predatory" groups operating in the country is the

effective collapse of all State institutions and structures of the Democratic Republic of the Congo. Unable or unwilling to resist any pressure, it is vulnerable in the extreme. It must be remembered that a weak State offers significant financial opportunities and rewards to unscrupulous elements operating under the garb of various Governments, businesses, mafias, individuals etc. It would be highly unrealistic to expect a State under such conditions to exercise even a modicum of authority over its territory. In order to redress this grave condition, it is of the utmost importance to start rebuilding the State institutions. This will require a systematic and sustained approach stretching over many years, and with the full assistance and cooperation of the international community.

146. The conflict continues at a low intensity level, mainly by the various armed groups confronting the foreign forces so as to deny them access to and control of various resources. However, the ceasefire is generally respected on the front line, leaving the exploitation of the resources as the main activity of the foreign troops, as well as the different armed groups, where the former tolerate the activities of the latter as a controlled military opposition to ensure the continuation of the security threats, and hence justify their continued military presence in the Democratic Republic of the Congo.

147. Accordingly, there is a clear link between the continuation of the conflict and the exploitation of natural resources. It would not be wrong to say that one drives the other. The military operations and presence in the Democratic Republic of the Congo of all sides have been transformed into self-financing activities, whereby no real budgetary burden is borne by the parties concerned. This allows them a greater degree of freedom and no financial compulsion to end the conflict.

148. The initial motivation of foreign countries or armies to intervene in the Democratic Republic of the Congo was primarily political and security-related in nature; over a period of time, and owing to the evolving nature of the conflict, it has become the primary motive of extracting the maximum commercial and material benefits. This holds true for both government allies and rebel supporters.

149. Owing to the prolonged nature of conflict and civil war in the region, many countries appear to have a sense of heightened insecurity and suspicions about

their neighbours' motives. Countries involved in the conflict should not, however, be allowed to use this as a pretext for furthering their own national ambitions and agendas.

150. Contrary to its strong protestations, the Government of the Democratic Republic of the Congo has been involved in allowing some foreign companies to continue the exploitation of resources in rebel-occupied areas without renouncing or cancelling any concessions. This is borne out by the fact that some ministries in Kinshasa maintain contacts with these companies, with whom they actively interact.

151. The actual sources for financing the war effort by all parties in the conflict, including the Democratic Republic of the Congo, remain shrouded in mystery. No clear answer was given by anyone the Panel questioned and it was evident that there was much to conceal and not make public. The official defence budgets of countries engaged in the hostilities, in those cases where selected information was provided, clearly indicate that these countries could not afford the cost of their involvement in the Democratic Republic of the Congo. It is evident that in such cases the war effort was financed from extrabudgetary sources, giving rise to much suspicion and misgivings. Some of the international aid may have been misused for financing the conflict. This can be misconstrued as recognition and acceptance of their activities in perpetuating the conflict in the Democratic Republic of the Congo.

## **IX. Recommendations**

### **Institutional**

152. To enable the Democratic Republic of the Congo to have effective control over its territory and to protect its natural resources from illicit activities, the international community should assist in formulating a plan of action on the rebuilding of State institutions in the Democratic Republic of the Congo. This should be linked to the convening of an international conference on peace and development in the Great Lakes region.

153. All concessions, commercial agreements and contracts signed during the era of Laurent-Désiré Kabila (1997-2001) and subsequently in the rebel-held areas, including such concessions, contracts and commercial agreements signed secretly and under duress, should be reviewed and revised to address and correct all the irregularities. In redressing these

contractual obligations, the renegotiation process should be conducted under the auspices of a special body to be created by the Security Council. This process will enhance President Joseph Kabila's efforts towards rebuilding and reconstructing his country in a transparent and structured manner, which would encourage the genuine foreign investment of which the Democratic Republic of the Congo is in such dire need. Establishment of a broad-based government of national unity may facilitate this process.

154. The United Nations Organization Mission in the Democratic Republic of the Congo should accelerate the disarmament, demobilization and reintegration process in order to reduce the security concerns expressed by a number of States in the region, including the Democratic Republic of the Congo, to a level that makes it possible for the countries concerned to negotiate among themselves the modalities of securing their borders without infringing upon the sovereignty of any State.

### **Financial and technical**

155. The World Bank, IMF and the other international donors are best placed to critically evaluate their assistance. Those international donors may consider submitting to the Security Council, within the shortest possible time, their assessment of the role of their assistance in helping to finance the continuation of the conflict and the maintenance of the status quo in the Great Lakes region.

156. A moratorium should be declared for a specific period of time banning the purchase and importing of precious products such as coltan, diamonds, gold, copper, cobalt, timber and coffee originating in areas where foreign troops are present in the Democratic Republic of the Congo, as well as in territories under the control of rebel groups.

157. During the period of the moratorium, countries directly or indirectly involved in the conflict in the Democratic Republic of the Congo — in particular transit countries such as Zambia, South Africa, Kenya and the United Republic of Tanzania — should review their national legislation, and pass the necessary laws to investigate and prosecute the illicit traffickers of the high-value products from the Democratic Republic of the Congo.

158. During the same period, all technical measures that are under consideration should be finalized, such

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as the standardization of certificates of production, harmonization of tax regimes and verification regulations, compilation of analyses of diamond production and trade statistics. These measures should be monitored to verify their effectiveness by the related bodies such as the World Diamond Council, the United Nations Forum on Forests and CITES. Emphasis on standardization and unification of procedures and regulations should also be placed at the ports of entry at the final destination.

159. Revenues from the resources of the Democratic Republic of the Congo should be channelled through States' budgets. Tax collection and use should be rigorously controlled, transparent and accountable.

#### **Sanctions**

160. The Security Council may consider the imposition of sanctions. The timing of such sanctions would depend, however, on the evolution of the situation with regard to the exploitation of the natural resources of the Democratic Republic of the Congo, as well as developments in the Great Lakes region, after the present addendum is issued. Pending any action that the Security Council may decide to take, there is a need to establish a monitoring and follow-up mechanism, which would report on a regular basis to the Security Council on whether progress has been made in exploitation activities and other issues under consideration by the Council, prior to a decision on sanctions.

*(Signed)* Mahmoud **Kassem**, Chairman

*(Signed)* Mujahid **Alam**

*(Signed)* Mel **Holt**

*(Signed)* Henri **Maire**

*(Signed)* Moustapha **Tall**

*(Signed)* Gilbert **Barthe**

## Annex I

### **Countries visited and representatives of Governments and organizations interviewed**

The Panel wishes to express its deep appreciation to the government officials, diplomats, non-governmental organizations, journalists and others with whom the Panel met and who have assisted it in making possible the present addendum. The Panel would especially like to express its gratitude for the high level of cooperation extended to it by the Governments of Burundi, Namibia and Uganda.

The Panel, however, expresses its disappointment at the lack of adequate cooperation from the Governments of South Africa, the United Republic of Tanzania, Zambia and Zimbabwe.

The Panel also wishes to extend special thanks to the United Nations Organization Mission in the Democratic Republic of the Congo, and, in particular, both Ambassador Kamal Morjane and Ambassador Amos Namanga Ngongi; the United Nations Office at Nairobi, the United Nations Office in Angola and the United Nations Office in Burundi, as well as the United Nations Development Programme offices in Bujumbura, Dar es Salaam, Harare, Kampala, Kigali, Lusaka, Pretoria and Windhoek.

The following is the list of government officials and others with whom the Panel met during the course of its mandate. This list does not include many others with whom the Panel met, who, in their interest, did not wish to be mentioned.

#### **Angola**

##### **Government officials**

Minister for Foreign Affairs  
Minister of Defence  
Minister of the Interior  
Minister and Vice-Minister of Geology and Mines  
Minister of Petroleum  
Governor of the Central Bank  
Vice-Minister of Commerce  
Vice-Minister of Finance  
Chairman of Sonangol

##### **State representatives**

Ambassador of Belgium  
Ambassador of France  
Ambassador of the United Kingdom of Great Britain and Northern Ireland  
Embassy of Portugal  
Embassy of the United States of America

##### **International organizations**

Representative of the Secretary-General in Angola

##### **Others**

Chairman and General Director of the Angola Selling Corporation (ASCORP)



## **Belgium**

### **Government officials**

Ministry of Foreign Affairs  
Ministry of Economic Affairs

### **Others**

Chairman of the Belgian (Geens) Parliamentary Commission of Inquiry on the  
Illegal Exploitation of the Natural Resources and Other Forms of Wealth of  
the Democratic Republic of the Congo  
Diamond High Council (HRD), Antwerp  
University of Antwerp  
International Peace Information Service (IPIS)

## **Burundi**

### **Government officials**

His Excellency President Pierre Buyoya  
His Excellency Vice-President Domitien Ndayizeye  
Minister for Foreign Affairs  
Minister of Defence  
Minister of Commerce and Industry  
Minister of Energy and Mines  
Minister of Finance  
Department of Customs  
Bank of the Republic of Burundi

### **State representatives**

Embassy of Belgium  
Embassy of the Democratic Republic of the Congo  
Embassy of the United States of America

### **International organizations**

Representative of the Secretary-General in Burundi  
Heads of the United Nations agencies  
World Bank

### **Others**

Association de banques commerciales  
Comptoir minier des exploitations du Burundi (COMEBU)  
Burundi Mining Company (BUMINCO)  
International Rescue Committee

## **Central African Republic**

### **Government officials**

Ministry of Mines, Energy and Hydraulics  
Central Bank of the States of Central Africa  
Office de la réglementation de la commercialisation et du contrôle des produits  
agricoles

**State representatives**

Embassy of France  
Embassy of the Democratic Republic of the Congo  
Honorary Consul of Belgium  
European Union

**International organizations**

Representative of the Secretary-General in the Central African Republic  
UNDP

**Others**

Diamond export *comptoirs*

**Democratic Republic of the Congo**

**Government officials**

His Excellency President Joseph Kabila  
Minister for Foreign Affairs  
Minister to the Presidency  
Minister of National Security and Public Order  
Minister Delegate of Defence  
Minister of Economy, Finance and Budget  
Minister of Justice  
Minister of Planning and Reconstruction  
Minister of Agriculture  
Minister of Health  
Minister of Environment and Tourism  
Minister of PTT  
Minister of Transport and Communications  
Minister and Vice Minister of Mines and Hydrocarbons  
OFIDA (Office of Customs and Excise)

**State representatives**

Ambassador of Angola  
Ambassador of Belgium  
Ambassador of Namibia  
Ambassador of the United Kingdom of Great Britain and Northern Ireland  
Embassy of France  
Embassy of the United States of America

**International organizations**

Special Representative of the Secretary-General in the Democratic Republic of  
the Congo  
MONUC Force Commander and Chief of Staff  
Major General Chingombe, SADC Task Force Commander  
UNDP Resident Coordinator and Deputy Resident Coordinator

**Others**

Jean-Pierre Bemba, MLC/FLC  
Banque de commerce et du développement  
Commission of National Experts on the Pillaging and Illegal Exploitation of  
Natural Resources and Other Forms of Wealth  
COMIEX  
COSLEG

Catholic Relief Services  
Group Forrest  
International Human Rights Law Group  
Kababankola Mining Company  
Kisenge Manganese  
Oxfam (United Kingdom)  
Sengamines  
SOCEBO  
SODIMICO

**France**

Ministry of Foreign Affairs

**Kenya**

**Government officials**

Minister of Foreign Affairs  
Office of the President  
Ministry of Finance and Planning  
Ministry of Trade and Industry  
Ministry of Transport and Communications  
Ministry of the Environment and Natural Resources  
Department of Defence  
Customs and Excise Division  
Port Authority, Port of Mombasa  
Customs Division, Port of Mombasa

**State representatives**

Ambassador of Belgium  
Ambassador of China  
Ambassador of France  
Ambassador of Rwanda  
Ambassador of Switzerland  
Ambassador of Thailand  
Ambassador of the United States of America  
High Commissioner of Uganda  
High Commissioner of the United Republic of Tanzania  
High Commissioner of Zambia  
Embassy of the Democratic Republic of the Congo  
Embassy of Germany  
Embassy of the Netherlands  
Embassy of the Sudan  
High Commission of South Africa  
High Commission of the United Kingdom  
Head of the European Commission delegation

**Namibia**

**Government officials**

His Excellency President Sam Nujoma  
Minister and Deputy Minister for Foreign Affairs  
Minister of Defence  
Minister of Trade and Industry

Minister of Mines and Energy  
Permanent Secretary of the National Planning Commission  
Office of the President

**State representatives**

High Commissioner of the United Kingdom of Great Britain and Northern  
Ireland  
Ambassador of France  
Head of the European Commission delegation

**International organizations**

UNDP Resident Coordinator

**Others**

August 26 Holding Company

**Republic of the Congo**

**Government officials**

Department of Customs

**State representatives**

Ambassador of Belgium  
Ambassador of France  
Embassy of the Democratic Republic of the Congo  
European Union

**Rwanda**

**Government officials**

His Excellency President Paul Kagame  
Office of the President, Special Envoy for the Democratic Republic of the  
Congo and Burundi  
Deputy Chief of Staff of the Rwandan Patriotic Army  
Minister of Commerce  
Minister of Energy, Water and Natural Resources  
Permanent Secretary of the Ministry of Foreign Affairs  
Permanent Secretary of the Ministry of Finance  
Permanent Secretary of the Ministry of Defence  
Ministry of Justice  
National Bank of Rwanda  
Rwanda Revenue Authority  
Magasins généraux du Rwanda (MAGERWA)

**State representatives**

Ambassador of the United Kingdom of Great Britain and Northern Ireland  
Embassy of Belgium  
Embassy of Canada  
Embassy of France  
Embassy of Germany  
Embassy of the Netherlands  
Embassy of South Africa  
Embassy of Switzerland  
Embassy of the United States of America



**International organizations**

World Bank  
Heads of the United Nations agencies

**Others**

Federation of the Rwandan Private Sector (FSPR)  
Federation of Customs Clearance Commissioners  
Bank of Commerce, Development and Industry (BCDI)  
Rwandan Bankers Association  
Banque commerciale du Rwanda  
Banque de Kigali  
Eagles Wings Resources  
Rwanda Metals SARL  
SOGERMI SARL

**South Africa**

**Government officials**

Department of Foreign Affairs  
Government Diamond Valuator

**State representatives**

Ambassador of Belgium  
Ambassador of the Democratic Republic of the Congo  
Ambassador of France

**International organizations**

Heads of the United Nations agencies

**Others**

Institute for Strategic Studies  
Anglo American Corporation

**Uganda**

**Government officials**

His Excellency President Yoweri Museveni  
Minister for Foreign Affairs  
Minister of Defence  
Minister of Finance, Planning and Economic Development  
Minister of Agriculture  
Minister of Tourism, Trade and Industry  
Minister of State for Mineral Development  
Minister of State for Environment  
General James Kazini  
Lieutenant Colonel Nobel Mayumbu

**State representatives**

High Commission of the United Kingdom of Great Britain and Northern  
Ireland  
Embassy of France

**International organizations**

Resident Representative of the World Bank  
Resident Representative of the International Monetary Fund

**Others**

General (Ret.) Salim Saleh  
The Ugandan Commission of Inquiry (Porter Commission)  
British Broadcasting Corporation (BBC)  
*The East African*  
*The Monitor*  
*The New Vision*  
DARA Forest

**United Kingdom of Great Britain and Northern Ireland**

**Government officials**

Foreign and Commonwealth Office  
Customs and Excise

**Others**

Amnesty International  
Africa Confidential  
Global Witness  
British Petroleum  
De Beers  
Anglo American Corporation  
America Mineral Fields  
Oxfam  
Hart Ryan Productions

**United Republic of Tanzania**

**Government officials**

Permanent Secretary of the Ministry of Foreign Affairs  
Permanent Secretary of the Ministry of Defence  
Permanent Secretary of the Ministry of Energy and Minerals  
Ministry of Industry and Trade  
Ministry of Home Affairs  
Governor of the Bank of Tanzania  
Tanzania Harbour Authority

**United States of America**

World Bank  
International Monetary Fund

**Zambia**

**Government officials**

His Excellency President Frederick Chiluba  
Minister of Defence  
Minister of Finance and Economic Development  
Minister of Commerce, Trade and Industry  
Minister of State for Presidential Affairs  
Permanent Secretary of the Ministry of Foreign Affairs  
Permanent Secretary of the Ministry of Mines and Mineral Development

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**State representatives**

Ambassador of the United States of America  
Embassy of the Democratic Republic of the Congo  
Embassy of France

**International organizations**

Secretary-General of COMESA  
SADC Mining Coordinator

**Others**

Afronet

**Zimbabwe**

**Government officials**

His Excellency President Robert Mugabe  
Minister of Mines and Energy  
Minister of Transport and Communications  
Minister of Environment  
Permanent Secretary of the Ministry of Foreign Affairs  
Chief of the Army

**State representatives**

Ambassador of Belgium  
Ambassador of France

**International organizations**

United Nations Resident Coordinator

**Others**

Commercial Farmers' Union  
Zimbabwe Defence Industries

## Annex II

### Abbreviations

AFDL	Alliances des forces démocratiques pour la libération du Congo-Zaïre (Alliance of Democratic Forces for the Liberation of Congo-Zaire)
ADF	Allied Democratic Forces
ALIR	Armée pour la libération du Rwanda (Army for the Liberation of Rwanda)
BCD	Banque de commerce et du développement (Trade and Development Bank)
BCDI	Banque de commerce, de développement et d'industrie, Kigali
coltan	columbo-tantalite
COMESA	Common Market for Eastern and Southern Africa
COMIEX	Compagnie mixte d'import-export
COSLEG	COMIEX-OSLEG joint venture
FAC	Forces armées congolaises
ex-FAR	former Forces armées rwandaises
FDD	Forces pour la défense de la démocratie
FLC	Front de libération du Congo
FLEC	Frente para a Libertação do Enclave de Cabinda (Front for the Liberation of the Enclave of Cabinda)
FNL	Forces nationales pour la libération
Gécamines	Générale des carrières et des mines
IDI	International Diamond Industries
IMF	International Monetary Fund
LRA	Lord's Resistance Army
MIBA	Société minière de Bakwanga
MLC	Mouvement de libération congolais
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
OSLEG	Operation Sovereign Legitimacy
PRA	People's Redemption Army
RCD	Rassemblement congolais pour la démocratie (Rally for Congolese Democracy)
RCD-Goma	Rassemblement congolais pour la démocratie, based in Goma



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RCD-ML	Rassemblement congolais pour la démocratie — Mouvement de libération, initially based in Kisangani, now based in Bunia
RCD-National	Rassemblement congolais pour la démocratie, was based in Bafwasende
RPA	Rwandan Patriotic Army
RPF	Rwandan Patriotic Front
SADC	Southern African Development Community
SCEM	Société congolaise d'exploitation minière
SOCEBO	Société d'exploitation du bois
SOMIKIVU	Société minière du Kivu
Sonangol	Sociedade Nacional de Combustiveis de Angola
UNDP	United Nations Development Programme
UNITA	União Nacional para a Independência Total de Angola (National Union for the Total Independence of Angola)
UPDF	Uganda People's Defence Forces
ZANU-PF	Zimbabwe African National Union-Patriotic Front
ZDF	Zimbabwe Defence Forces
ZDI	Zimbabwe Defence Industries

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**ANNEX 5.3**

**United Nations Security Council, *Interim report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo*, document S/2002/565, 22 May 2002**



## Security Council

Distr.: General  
22 May 2002

Original: English

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### **Letter dated 22 May 2002 from the Secretary-General addressed to the President of the Security Council**

I wish to refer to the presidential statement (S/PRST/2001/39) dated 19 December 2001, in which the Security Council extended the mandate of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo for a period of six months. The Security Council requested the Panel to submit an interim report after three months and a final report at the end of its mandate.

I have the honour to transmit to you the interim report of the Panel submitted to me by the Chairman of the Panel. The report contains the Panel's independent assessment of the situation on the ground and its observations on the illegal exploitation of the natural resources of the Democratic Republic of the Congo. I should be grateful if you could bring the report to the attention of the members of the Security Council.

*(Signed)* Kofi A. **Annan**

## **Interim report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo**

### **I. Introduction**

1. At the request of the Security Council, the Panel of Experts returned to Nairobi on 18 February 2002 to carry out a third round of fact-finding on the plundering of the natural resources and other forms of wealth of the Democratic Republic of the Congo and the links between those activities and the continuation of the conflict.

2. Two Panels were earlier mandated by the Security Council (see S/PRST/2000/20 and S/PRST/2001/13) to investigate these same issues and submit reports. The Panel's first report to the Security Council was issued on 12 April 2001 (S/2001/357). The second Panel continued the investigations in order to provide an update, gather information on the countries and actors that had not been sufficiently covered in the report and respond to the reactions generated by the report. It submitted to the Security Council an addendum to the report, dated 13 November 2001 (S/2001/1072). In the addendum, the Panel examined the role in the illegal exploitation of Congolese resources not only of the seven countries directly engaged in the conflict but also of six African transit countries.

3. The Security Council, in a statement by its President dated 19 December 2001 (S/PRST/2001/39), requested the Secretary-General to renew the Panel's mandate for six months and asked the Panel to submit both an interim and a final report. The mandate, which has been enlarged, stipulates that the reports should include the following:

(a) An update of relevant data and analysis of further information from all relevant countries, in particular from those which thus far have not provided the Panel with the requested information;

(b) An evaluation of the possible actions that could be taken by the Council, including those recommended by the Panel in its report and the addendum thereto, in order to help bring to an end the plundering of the natural resources of the Democratic Republic of the Congo, taking into account the impact of such actions on the financing of the conflict and their potential impact on the humanitarian and economic situation in the country;

(c) Recommendations on specific actions that the international community, in support of the Government of the Democratic Republic of the Congo, might take, working through existing international organizations, mechanisms and United Nations bodies, to address the issues in the report and the addendum;

(d) Recommendations on possible steps that might be taken by transit countries as well as end-users to contribute to ending the illegal exploitation of the natural resources and other forms of wealth of the Democratic Republic of the Congo.

4. The Council also stressed the importance of the Panel's "maintaining a high level of collaboration with all the Congolese players, governmental and non-governmental, throughout the national territory".

5. The current Panel is composed of:

Ambassador Mahmoud Kassem (Egypt),  
Chairman  
Jim Freedman (Canada)  
Mel Holt (United States of America)  
Bruno Schiemsy (Belgium)  
Moustapha Tall (Senegal).

6. The Panel has been assisted by a part-time technical adviser, Gilbert Barthe (Switzerland) and two political officers, as well as an administrator and a secretary. Certain administrative difficulties have hampered the Panel's work during this period. Some have been resolved, but the Panel continues to operate without one member and one part-time technical adviser. The Panel has nevertheless striven to fulfil its mandate to the best of its ability.

7. To guide its work, the Panel developed a plan of action, which was transmitted to the Security Council. The Panel decided during the first three months to focus on four aspects of its mandate, namely, an update of information; the role of transit and end-user countries; the humanitarian and economic impact of the exploitation activities and the armed conflict; and maintaining a high level of collaboration with all Congolese actors. Several of these elements are being carried out in preparation for evaluating which measures would be most effective in curbing the illegal exploitation. Fact-finding is being limited to diamonds,



gold, coltan, copper, cobalt, timber, wildlife reserves and fiscal resources. The relationship between the exploitation activities and arms trafficking and other organized criminal activities is also a part of the Panel's investigations.

## **II. Activities in Africa**

8. The Panel visited three of the countries in the Great Lakes region that have been involved in the conflict and which have also served as transit points for certain natural resources: Uganda, Rwanda and Burundi. The Panel visited the Democratic Republic of the Congo twice, as well as two African transit countries outside the region, the Republic of the Congo and the Central African Republic. During those visits, the Panel met with high-level government authorities, technical officials, leading members of Congolese rebel groups, representatives of the diplomatic corps, MONUC, United Nations agencies, multilateral donors, non-governmental organizations and civil society associations. It also met with private commercial operators. Technical meetings were held with officials in each of the five transit countries visited to discuss Governments' responses to questions submitted by the Panel regarding transit trade in resources such as coltan, diamonds and gold.

### **Uganda, Rwanda and Burundi**

9. As the mandate of the Judicial Commission of Inquiry established by the Government of Uganda was originally due to expire in March, the Panel scheduled its first visit in the region to Kampala. A working session was held with the Commission, headed by Justice David Porter. The Commission is also investigating the illegal exploitation of resources in the Democratic Republic of the Congo, and specifically the involvement of the Government and other Ugandan parties. This was the third meeting between the Panel and the Porter Commission.

10. At the request of the Commission and government authorities, and with the encouragement of members of the international community, the Panel decided to transmit to the Commission three pieces of documentary evidence gathered in the course of its own investigations. This evidence, which the Panel feels is of considerable value, was presented to Justice Porter in mid-March. The Panel hopes that this gesture of cooperation will assist the Porter Commission in

advancing its inquiry and formulating constructive recommendations for action by the Government of Uganda. The Commission's mandate has been extended to the end of May 2002.

11. During the Panel's visit to Kigali, Rwandan authorities continued to insist on the persistent and extensive nature of their security concerns as a result of the actions of Hutu armed opposition groups in the Democratic Republic of the Congo. They emphasized that the Government of the Democratic Republic of the Congo should address these concerns within the framework of the Lusaka Ceasefire Agreement. They also expressed the view that the exploitation of the natural resources of the Democratic Republic of the Congo and trade in many of these commodities, which has traditionally existed across the two countries' borders, are secondary issues which cannot be properly resolved before progress is made on the fundamental political and security issues.

12. The Panel also visited Bujumbura. The relationship between the conflicts in Burundi and the Democratic Republic of the Congo and the possible repercussions for regional stability were one important aspect of the Panel's fact-finding during this visit.

### **Democratic Republic of the Congo**

#### **Inter-Congolese dialogue**

13. In accordance with its mandate and its plan of action, the Panel had intended to visit South Africa in order to meet with representatives of the various sectors participating in the inter-Congolese dialogue at Sun City. The Panel consulted with the office of the facilitator, the Government of South Africa and MONUC regarding the advisability and the timing of its proposed visit to South Africa to meet with the delegates at the inter-Congolese dialogue. On the advice of the facilitation team, which expressed the view that the Panel's presence might have a detrimental impact, the Panel decided not to visit South Africa before the end of the dialogue. As a result, the Panel has been obliged to seek out representatives of the sectors invited to the dialogue in different regions of the Democratic Republic of the Congo. These efforts will continue under the second half of its mandate.

### **Kinshasa and the eastern Democratic Republic of the Congo**

14. The extension of the inter-Congolese dialogue for one week coincided with the Panel's visit to Kinshasa, making it difficult for the Panel to meet with leading members of various delegations. Despite these complications, the Panel was able to meet with some ranking government and civil society representatives, as well as a few opposition party and Mayi-Mayi group members during its visit.

15. Congolese actors and international observers communicated their views on developments at the inter-Congolese dialogue and the potential ramifications of decisions taken at Sun City. The Panel pursued its enquiries into different strategies, mechanisms and actors implicated in the exploitation of resources. Environmental and human rights issues relating to the exploitation activities and the conflict were an important focus of this visit. Part of the Panel's fact-finding also concerned reforms being undertaken by the Government of the Democratic Republic of the Congo that could contribute to curbing the exploitation. The Panel met twice with members of the Commission of National Experts, established by the Government in May 2001. The Panel submitted a series of questions to the Commission relating to various elements of its mandate.

16. Two Panel members visited the eastern Democratic Republic of the Congo, travelling for almost three weeks in Orientale Province and North and South Kivu. Panel members collected extensive information on the plight of civilian populations and the state of local economies in the eastern region as a consequence of the armed conflict and the economic exploitation. They also investigated the strategies and mechanisms for the exploitation of natural resources, appropriation of fiscal resources and control of trade by foreign armies and a variety of armed parties present in the region, with the collusion of private operators in some instances.

### **Republic of the Congo and Central African Republic**

17. Part of the Panel's fact-finding visit in the Republic of the Congo focused on the illicit trade in diamonds originating in the Democratic Republic of the Congo. Authorities and some private operators emphasized the difficulties in controlling the transit trade entering from the Democratic Republic of the

Congo via the Congo River. The Panel also visited Bangui. Transit trade in coffee as well as trafficking in diamonds and gold were among the issues raised in discussions with officials of the Central African Republic.

### **Briefing for the Security Council mission in South Africa**

18. At the request of the head of the Security Council mission, Ambassador Jean-David Levitte, the Panel travelled to Pretoria to meet on 28 April with the mission to the Great Lakes region, which was intended to bolster support for peace initiatives in the region. During the closed-door meeting, the Panel briefed the Security Council mission about recent developments in the Great Lakes region and the recent findings of its fieldwork.

## **III. Activities outside Africa**

### **Consultations in New York and Washington**

19. Before resuming its work in the Great Lakes region, the Panel reconvened at United Nations Headquarters on 4 February. The Panel held consultations with the Permanent Representatives of 17 Member States, including members of the Security Council and countries involved in the conflict, who expressed their support for the Panel's work. The Panel met with United Nations Secretariat officials and representatives of United Nations agencies and non-governmental organizations. In Washington, the Panel met with representatives of the World Bank and the International Monetary Fund. They discussed the types of assistance provided to countries involved in the conflict and the extent to which their respective institutions could contribute to curbing the illegal exploitation of the resources of the Democratic Republic of the Congo in those countries.

### **Belgium, France, Germany and the United Kingdom**

20. **Secondary transit and end-user countries.** One of the methodologies being used in the Panel's investigations is an analysis of the commercial chains for specific commodities originating from the Democratic Republic of the Congo. The Panel has attempted to piece together these chains, from the extraction and production phases to the processing and end-use phases, including transport networks. This

approach was adopted in order not only to identify those involved in the commercialization of the commodities and where they are located, but also with a view to developing proposals for the most effective measures to curb the illicit trade. On the basis of a partial analysis of these chains, the Panel has been able to identify various countries which are not only end-users of the processed or refined commodities but are also key secondary transit points for primary commodities. Among them are several western European countries, which are the principal locations for some of the wholesale traders, assayers, trade associations and air transport companies dealing in commodities targeted by the Panel. The Panel visited the United Kingdom, Belgium, Germany and France from 1 to 10 April. Meetings were held with officials from government ministries, representatives of Parliament, members of non-governmental organizations and commercial operators. Private operators in the coltan and diamond trade, as well as representatives of one trade association, expressed the view that they had gained a better understanding of the implications of the exploitation of the resources of the Democratic Republic of the Congo as a result of meetings with the Panel.

#### **IV. The donor community**

21. Pursuing contacts it had initiated in Washington with donors, the Panel in the course of its enquiries in both Europe and Africa has sought to meet with both multilateral and bilateral donors, as well as international non-governmental organization donors. The Panel regards these contacts with the donor community as integral to its work. In Belgium, the Panel met with the European Commission's Development Directorate-General. These officials briefed the Panel on the various types of aid granted to countries in the Great Lakes region and their respective control and auditing mechanisms. The issues of the fungibility of European Community financial assistance and the monitoring of financial flows used for money-laundering were also discussed. It was agreed that the Panel and representatives of the Commission's delegations in the Great Lakes region would meet at the end of May in Kinshasa for further discussions on how international donor assistance might contribute, either indirectly or directly, to the continuation of the conflict in the Democratic Republic of the Congo.

22. In both Europe and Africa the Panel has detected a growing interest among donors in exploring ways in which aid policies may be used as effective vehicles for conveying the convictions of donor organizations, and perhaps for influencing the policies of these countries.

#### **V. Transit trade**

23. The Panel was mandated by the Security Council to submit recommendations on possible steps that could be taken by transit as well as end-user countries to contribute to curbing the illegal exploitation of the natural resources and other forms of wealth of the Democratic Republic of the Congo.

24. In accordance with its plan of action, the Panel submitted a series of questions to 11 African transit countries. Some of those countries are directly involved in the conflict in the Democratic Republic of the Congo, namely, Burundi, Rwanda, Uganda and Zimbabwe. The Panel also contacted other African countries it identifies as key transit routes for commodities from the Democratic Republic of the Congo: the Central African Republic, Kenya, Mozambique, the Republic of the Congo, South Africa, the United Republic of Tanzania and Zambia.

25. Through its nine questions, the Panel enquired about relevant legislation, official investigations into the illicit flow of commodities, measures already taken to try to curb the flow, the effectiveness of those measures, other possible measures that could be enacted and those Governments' needs for additional assistance and expertise.

26. The Panel followed up with a number of on-site visits to Uganda, Rwanda, Burundi, the Central African Republic and the Republic of the Congo, during which it met with representatives from various ministries and institutions in charge of different aspects of the transit trade. Written responses promised by some Governments are still pending. Consultations with other government officials for the purpose of gathering additional information will be necessary before the Panel can complete its analysis.

## **VI. Context and orientations of the Panel's work: resource exploitation, its links to the conflict and the humanitarian and economic crisis**

### **Exploitation of natural resources and other forms of wealth and the links to the conflict**

27. The Panel continues to pursue investigations into the different strategies used by both local and foreign actors in the exploitation of resources and the degree to which these different strategies contribute to the continuation of the conflict. The following are some of the trends and investigative leads that have guided and will continue to guide the Panel's work in the field.

28. On the basis of two months of fact-finding within and outside the region, the Panel's tentative assessment is that the illegal exploitation of Congolese resources is continuing, and that it is being consolidated in many areas. For example, despite the sharp decrease in coltan prices in 2001, coltan mining operations are continuing throughout the eastern Democratic Republic of the Congo. While several commercial operators based outside the Great Lakes region have stopped exporting coltan from the Democratic Republic of the Congo because the price decrease drastically reduced the profitability of this trade, operators linked to the parties involved in the conflict have continued to export a substantial volume of coltan. Another example of the continuing exploitation is an increase in licensing fees, taxes and customs levies, apparently to compensate for decreased revenues from the trade in coltan.

29. The Panel is gaining a more incisive understanding of the varying roles of foreign armies, foreign armed opposition groups, Congolese rebel groups and Mayi-Mayi groups<sup>1</sup> in the exploitation of resources and the armed conflict. Enquiries are also being focused on how the diverse types of conflict that exist among these armed parties, some of which seem

<sup>1</sup> Mayi-Mayi groups are a distinctly Congolese phenomenon and should not be confused with the foreign armed groups explicitly mentioned in the Lusaka Ceasefire Agreement. The term generally refers to community-based fighters who organize themselves to defend their local territory, including against foreign armies and their allies. However, the structure, military capability and political orientation of the many groups scattered throughout the eastern Democratic Republic of the Congo that identify themselves as Mayi-Mayi vary widely.

to be intensifying while others appear to be diminishing, may be linked to control of resources, territory, fiscal revenues and trade in general. It appears that the scope, intensity and modalities of the activities related to the exploitation of resources are in some cases reflected in the highly commercialized power bases of certain military and political actors in the conflict. In the case of the foreign armies present in the Democratic Republic of the Congo, the Panel is investigating the direct, institutionalized involvement of some in the exploitation of resources and in exercising far-reaching control over local economies.

30. There are indications that criminal networks and activities are being imported into the Great Lakes region from other African countries and regions outside Africa. The Panel is looking into alleged criminal networks based outside Africa that may be using trade in certain resources from the Democratic Republic of the Congo for the purposes of money-laundering. The Panel is also following up on the activities of an organized crime network which has been involved in the extraction of Congolese resources, the transport of certain commodities out of the Democratic Republic of the Congo for export and the import of arms into the Great Lakes region. That network's operations are now the target of judicial investigations in at least one country. Another network, based in Africa, is purportedly financing one set of criminal activities through profits garnered from the smuggling of certain resources. Other networks may be connected to poaching and related smuggling activities. Additional investigations are being carried out into allegations linking the trafficking in the natural resources of the Democratic Republic of the Congo to certain organizations inside and outside Africa. Those organizations have reportedly begun to use precious mineral resources for transactions instead of hard currencies, which are more and more easily traced by financial institutions and Governments. Some of these organized criminal activities may also aim at political destabilization.

31. The Panel is continuing to study the commercial chains for specific commodities. This study has permitted the Panel to gain more insight into various aspects of the commerce in these commodities and progressively verify certain patterns, for example:

(a) The well-established links between certain individual commercial operators and private companies and government officials and institutions;



(b) The varying degrees to which individuals, companies or entities and Governments are implicated in the trafficking in natural resources;

(c) Which segments of the commercial chains involve criminal networks;

(d) The importance of the use of military bases by different actors in the conflict for the evacuation of commodities to the initial export point;

(e) The lack of adequate controls in the civil aviation systems in different regions in Africa, resulting in part from outdated legal instruments and procedures, poor implementation of existing regulations and procedures and insufficient resources;

(f) A growing awareness among some commercial operators, who wish to conduct trade in a more transparent and ethical manner, that certificate of origin regimes should be established for commodities other than diamonds;

(g) How market factors are affecting the exploitation activities;

(h) How those involved in the illicit trade in Congolese resources are once more evolving their operations and tactics in an attempt to dissimulate their activities.

The Panel has learned that transit routes for commodities are again being altered and Congolese resources are apparently being relabelled during transit to disguise their origins. "Congolese" or foreign business partners are being used as a legitimizing facade, while commercial entities are being reconfigured so as to obscure links and activities. A greater emphasis is also being placed by different actors on controlling customs and tax revenues resulting from trade in general, specifically the trade in natural resources, as well as on the seizure of assets.

32. A substantial volume of certain resources continues to transit through countries bordering the Democratic Republic of the Congo, some by clandestine means and some openly under the guise of legitimate transit trade. The Panel is in the process of identifying which operators are involved in these commercial flows and determining whether they are connected to the main actors in the conflict.

33. The Panel is reviewing the impact on the exploitation of resources of a series of reforms being undertaken by the Government of the Democratic

Republic of the Congo. These include the implementation of a diamond certification scheme already concluded on a bilateral basis with the Diamond High Council in Belgium, the pending implementation of the new mining code and the drafting of a forestry code, the latter two activities being carried out with the support of the World Bank. During the remaining part of its mandate, the Panel will also evaluate the potential impact of the application of the resolution on the review of all commercial agreements and contracts signed during the conflict, adopted during the inter-Congolese dialogue at Sun City, and the establishment of an anti-corruption and ethics commission, one of the civic institutions created under the partial agreement on the democratic transition reached during the dialogue. In addition, the Panel is following the participation of the Government of the Democratic Republic of the Congo in the Kimberley Process, which is scheduled to finalize an international diamond certification scheme by late 2002.

34. The status and functioning of joint ventures in certain resource sectors in the Democratic Republic of the Congo also continue to be the focus of the Panel's fact-finding.

#### **The current nature of the conflict in the Democratic Republic of the Congo**

35. In the Panel's view, direct confrontation among the principal adversaries that are parties to the Lusaka Ceasefire Agreement has all but disappeared. In a conventional sense, the armies of the Democratic Republic of the Congo and its allies no longer militarily engage their enemies, the Congolese rebel forces and the foreign armies backing them. Overall, the main adversaries remain separated by the ceasefire line, which has de facto partitioned the country and has virtually eliminated direct encounters between the previously warring parties. The most notable exception to this was the ousting in March 2002 of Government troops (FAC) and Burundian rebel forces (FDD) from the village of Moliro in Katanga Province during an offensive by the RCD-Goma army, with support from RPA.<sup>2</sup>

<sup>2</sup> Moliro is a strategic point on the southernmost shores of Lake Tanganyika near the Zambian border. Despite the agreements worked out under the Kampala and Harare disengagement plans in 2000, it seemed that claims on Moliro as a new defensive position had never been properly resolved. The build-up of forces around this area over the course of several months infused preparations for the inter-Congolese dialogue with uncertainty and

36. On either side of the ceasefire line, foreign armies have consolidated their presence and the struggle over maintaining control of natural resources and territory has become a principal preoccupation. Conflict over the resources has a different complexion on either side of the ceasefire line. Foreign forces in the west, in concert with certain Congolese parties, have entrenched themselves and continue to pursue their economic interests in the natural resources of the Democratic Republic of the Congo, while adopting a more discreet profile. Their activities may also include asserting a certain control over local economies. For example, while Zimbabwe has officially declared the withdrawal of a substantial number of troops over the past year and a half, the Panel has received reports that replacement troops are being brought into areas such as Kasai, where Zimbabwean parties have interests in diamond mining. In Government-controlled regions, there may not be open armed conflict among competitors for resources or political adversaries as in the eastern region. The Panel has, nevertheless, received reports of the continuing negative impact that the presence of foreign troops, in particular Zimbabwean forces, has had on civilian populations. These include grave human rights violations and abuses of authority.

37. In contrast to the relative calm along the ceasefire corridor and the quieter pursuit of the exploitation of resources in the west, the quest for natural resources in the east is characterized by armed violence of varying degrees of intensity among foreign armies, foreign armed groups, rebel armies and Mayi-Mayi groups. These conflicts incite others. Some of the conflicts are about dispersing opposition forces. Some are linked to rekindled ethnic tensions. Others are about large numbers of people bearing arms for survival purposes.

38. Over the past five months, fighting has re-erupted continuously throughout the east. The fighting has at times been heavy. The areas where the clashes have occurred are strung out across the entire length and breadth of the eastern Democratic Republic of the Congo, stretching from the centre of Orientale Province east to the areas bordering Uganda, throughout the Kivus and west and south into the

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tension. Following the attack, the Security Council adopted resolution 1399 (2002), demanding the immediate withdrawal of RCD-Goma troops from Moliro and Pweto in Katanga Province and for all parties to pull back to positions defined under the disengagement plans.

Maniema and Katanga Provinces. Reports and testimony indicate that civilian populations have suffered greatly as a result, with casualties, forced displacements, increased food insecurity and malnutrition. A state of generalized insecurity reigns in many rural areas in the Orientale Province and the Kivus, as bands of youthful “soldiers” or free-floating militias attack, loot and burn villages and fields.

39. In the area of the north-eastern Democratic Republic of the Congo where two battalions of Ugandan troops are still stationed, violent armed conflicts have primarily been among the three Ugandan-backed Congolese rebel groups that dominate the northeast — MLC, its purported ally RCD-N and RCD-ML. Some of these rebel armies have been reinforced at times by highly fluid alliances with what have been described as Mayi-Mayi groups. In some cases, UPDF soldiers also intervened. Battles have been fought over control of Buta, Isiro, Watsa, Bafwasende and Bunia, all endowed in varying degrees with deposits of gold, diamonds, coltan or cassiterite as well as stands of timber. Butembo, a major import and distribution centre where the country’s second largest customs post is located, was also attacked repeatedly. Control of precious resources and customs and tax revenues, all vital to the consolidation of the highly commercialized power bases of certain individuals and groups, have reportedly fuelled these battles. Over the course of three-and-half years of conflict, various armies have clashed over these economically strategic areas, trading control back and forth among them.

40. Well ensconced in four of the mineral-rich provinces of the eastern Democratic Republic of the Congo, Rwandan-controlled forces, RCD-Goma and RPA, have been pushing northward in North Kivu in recent months and advancing north-west of Kisangani in Orientale Province in April, towards territories occupied by RCD-ML and MLC forces respectively. RPA forces recently occupied Kowe, an area in North Kivu where diamond deposits have been discovered. More or less simultaneously, additional forces were being deployed farther south in Katanga Province. Few of these troop movements reportedly resulted in any engagements of Rwandan Hutu armed groups.

41. Since February, RCD-Goma and the Rwandan army have come under pressure from intensifying attacks in the south. Offensives have multiplied against Rwandan-backed forces in South Kivu, Maniema and upper Katanga, regions rich in coltan, cassiterite, gold

and diamonds. In these areas both RCD-Goma and RPA have a long-established presence and appear to be expanding their control of territory, assets, tax revenues and mineral wealth. These conflicts, some short-lived, but recurring, have mostly been initiated by different Mayi-Mayi groups, occasionally allied with ALIR II forces. The Panel recently received reports that various Mayi-Mayi groups have adopted a strategy of attacking the locations of mining activities controlled by RCD-Goma or RPA, in an effort to either wrest control of them or disrupt them and make them less profitable. The locations of a few recent battles led by Mayi-Mayi groups correspond with such tactics, such as fighting in South Kivu in Shabunda (gold and coltan as well as the location of an airport) and Kitutu near Kamituga (gold and cassiterite or coltan).

**Humanitarian and economic situation: the toll of the exploitation and the conflict**

42. The Panel has been compiling and reviewing reports on the economic, social and humanitarian impact of the conflict and the exploitation activities. It is applying this to orienting its fact-finding and developing its own analysis and conclusions.

43. The Panel's investigations are in part focusing on how different strategies for the exploitation of resources affect populations at the local level, according to conditions that are unique to each locality, and how this in turn shapes the specific humanitarian impact of both the conflict and the trade in resources, which also varies from locality to locality. There are some broad generalizations that can be made, particularly with regard to the eastern Democratic Republic of the Congo, and this has been the primary focus of the Panel's work during the first half of its mandate.

44. In the eastern Democratic Republic of the Congo, population displacement, repeated outbreaks of violent armed conflict and generalized insecurity are common. One of the consequences is the destruction of crop and grazing fields in rural areas, halting food production and increasing pressure on existing food resources. This has resulted in mounting food insecurity. Humanitarian organizations, refused protection by armies or militias, find it difficult to gain access to these areas to provide assistance.

45. A variety of sources report that local populations, including children, are being conscripted and used as

forced labour in the extraction of resources by some military forces in different regions. Other tactics, such as the destruction of the infrastructure for agricultural production, are allegedly employed by different armed parties in order to constrain local populations to participate in the extraction of resources.

46. In some areas, entire communities have been forcibly displaced by armed forces so that they can take control of resource-rich zones or the access roads for those zones. Military forces and militia have reportedly evicted local artisanal diggers in order to seize production or take control of informal mining sites. Other serious human rights violations, including killings, sexual assaults and abuse of power for economic gain, have been reported as directly linked to military forces' control of resource extraction sites or their presence in the vicinity of such sites.

47. Excessive taxes, revenue siphoning, seizure of local resources, forced requisitioning of assets and deepening control over general trade by foreign and local military, with or without the collusion of commercial operators, have paralysed local economies. As a result, very few commercial enterprises are still operational in many areas. Conditions in some towns, which have become more and more like enclaves, are increasingly similar to those that might result from an embargo.

48. Almost no revenues are allocated for public services such as utilities, health services and schools. Infrastructures and services are quasi-inexistent. The Panel has learned that few, if any, State administration employees are paid salaries. This appears also to be the case for members of local armies and police. With most workers unemployed or unpaid in urban areas, and food production plummeting in rural areas, malnutrition rates are rising to very high levels, especially in areas where economic exploitation is most intensive.

49. Large numbers of conflict-related deaths are adding to an even greater number of deaths from malnutrition and disease, resulting in extremely elevated mortality rates for all ages. Infants and children have been particularly affected. Mortality rates surveyed in conflict areas in the eastern Democratic Republic of the Congo are among the highest recorded in the world.

**Environment: other consequences of the conflict and the exploitation activities**

50. The Panel is updating its earlier investigations regarding the extent of the ecological destruction that the conflict has engendered. One focus of the Panel's enquiries concerns the situation within the national parks of the Democratic Republic of the Congo, particularly in terms of the illicit exploitation of wildlife, forest and other resources. The intensive and unsustainable mining and logging activities being conducted outside these protected wildlife reserves, in both the eastern Democratic Republic of the Congo and Government-controlled regions, also present real environmental dangers, which will require further investigation. In the course of its information gathering, the Panel was informed of the negative impact of the conflict, due to massive refugee movements, on the environments of neighbouring countries such as the Republic of the Congo and the Central African Republic.

51. Five of the eight national parks established in the Democratic Republic of the Congo are located in the eastern region. This region features one of the highest mountain ranges in Africa and is renowned for its unique diversity of habitats and wildlife. Of the five wildlife reserves, many of which are home to rare endangered species, four have been designated as World Heritage sites by UNESCO — Virunga National Park, Kahuzi-Biega National Park, Garamba National Park and Okapi Wildlife Reserve. One of the reserves, Okapi, is also the traditional habitat of nomadic pygmy tribes.

52. The combination of the exploitation activities and ongoing conflict has effectively eliminated State administrative control over the parks and led to the militarization of many of them, for example, the Virunga, Kahuzi-Biega and Okapi reserves. These parks are strategically located along the eastern border, and are regularly used as crossing points by military forces to gain access to the interior of the eastern region. The increased presence of foreign military, local rebel forces and armed groups, some of which occupy areas within the parks on a quasi-permanent basis, has resulted in the development of highly organized and systematic exploitation activities at levels never before seen. These activities include poaching for ivory, game meat and rare species, logging, and mining for coltan, gold and diamonds. Exploitation activities reportedly involve a wide range

of Congolese operators and armed groups. They are mostly carried out under the control of foreign military, however, often with their logistical support and under their protection. Much of the production or bounty is transported first to neighbouring countries, to be exported to third countries. Poaching activities and the massive military presence have given rise to arms trafficking within some parks. The reserves are also occasionally the sites of violent clashes between some of the armed parties. Armed conflict has exacted its toll in human lives in the parks. Over 50 park guards and other staff employed by the Congolese Institute for Nature Conservation<sup>3</sup> have been killed since 1996.

53. The impact of the conflict on the economies of nearby communities has also spurred local populations to relocate in increasing numbers to the parks, settling there to carry out more and more subsistence logging, fishing and poaching activities. There are additional reports that populations from neighbouring countries have moved to the parks. The natural migration patterns of many wildlife species have been significantly disrupted, contributing to long-term problems in terms of repopulating certain park areas or maintaining population balances within others.

**VII. Observations**

**Recent strategies for profiteering and sustaining the conflict**

54. Control over fiscal resources — licensing fees, export taxes, import duties and general state and community taxes — seems to be gaining increasing importance in the eastern Democratic Republic of the Congo for the rebel groups and the foreign armies. Some of the revenues are reportedly diverted to individuals or groups of individuals for their personal profit. Others are allegedly siphoned off for payments to foreign armies, either to maintain their support against rival groups or to finance continuing, extensive military operations. Recent periods have seen tax rates double or triple in certain areas and increasingly harsh penalties imposed when payment is not made. With many land routes impracticable and unsecured and river traffic having ceased, some areas have become increasingly isolated, making control of trade all the easier. The immediate impact of these strategies has been the further collapse of most local economies and

<sup>3</sup> The government body that oversees the wildlife reserves.



the deepening impoverishment of most Congolese families.

**The inter-Congolese dialogue and the issue of the exploitation of resources**

55. Regarding the general issue of the illegal exploitation of natural resources, the Panel was informed by a variety of sources that repeated attempts by civil society representatives at the inter-Congolese dialogue to open discussions on this subject were thwarted. It was interesting to note that there was a great reluctance on the part of at least the three major belligerent parties to discuss the issue. This raises the question whether those three parties, as well as others, are implicated in and benefit from the exploitation activities.

56. At the inter-Congolese dialogue, the Economic and Finance Committee adopted resolutions on setting up mechanisms for the review of all commercial agreements and contracts signed during the current conflict as well as evaluating the costs of both conflicts fought since 1996. The review and revision of all concessions and agreements was one of the Panel's previous recommendations, the issue of the cost of the war being the subject of the Panel's earlier fact-finding. Those resolutions reflected the views of most Congolese. However, certain Congolese officials expressed the view that only the concessions and agreements relating to the rebel-held eastern region of the Democratic Republic of the Congo should be reviewed, in accordance with the new mining code. On the other hand, representatives of civil society organizations, the private sector and the political opposition were of the opinion that all the concessions and agreements signed, whether on the side of the allies or the rebel groups, should be reviewed or revised.

**The humanitarian tragedy**

57. The occupation of large portions of the Democratic Republic of the Congo by the armies of neighbouring States has caused considerable suffering among all segments of the population, affecting farmers, traders, businessmen, public servants, professionals, men and women of all ages, as well as children. Military support to the rebel movements and the use of national armies from neighbouring States to support the exploitation of resources have resulted in widespread conflict, indiscriminate arming of large portions of the population and considerable insecurity. A minimum of 15 per cent of the population of North

and South Kivu has been displaced over the past 18 months as a result of the conflicts. The economies of many of the principal urban centres and surrounding areas have collapsed while rural economic activities have ceased altogether in many places. Food insecurity is rampant, unemployment may be as high as 80 to 90 per cent in many areas, reducing both rural and urban populations to extreme poverty. Acute malnutrition rates are alarmingly high. While mortality levels vary greatly from place to place depending on the extent of conflict and the availability of health services, overall they are among the highest in the world.

*(Signed)* Mahmoud **Kassem**, Chairman

*(Signed)* Jim **Freedman**

*(Signed)* Mel **Holt**

*(Signed)* Bruno **Schiemsky**

*(Signed)* Moustapha **Tall**

*(Signed)* Gilbert **Barthe**

## **Annex I**

### **Countries visited and representatives of Governments and organizations interviewed**

The Panel wishes to express its deep appreciation to the Government officials, diplomats, United Nations agencies, donor institutions, non-governmental organizations, civil society groups, journalists, commercial operators and others with whom it met and who have assisted in making possible the present report.

The Panel also wishes to extend special thanks to the United Nations Organization Mission in the Democratic Republic of the Congo, and in particular to the Special Representative of the Secretary-General in the Democratic Republic of the Congo, Amos Namanga Ngongi. In addition, the Panel would like to thank the United Nations Office in Burundi and the UNDP offices in Bangui, Brazzaville, Bujumbura, Kampala, Kigali, Kinshasa and Yaounde for their assistance and support.

#### **Belgium**

##### **Government officials**

Parliamentary Commission of Inquiry on the Illegal Exploitation of the Natural Resources of the Democratic Republic of the Congo  
Inter-Ministerial Ad Hoc Working Group on the Illegal Exploitation of the Natural Resources of the Democratic Republic of the Congo

##### **State representatives**

European Union

##### **Others**

Tantalum Niobium International Study Center  
SOGEM mineral trading company (division of Umicore)  
Arslanian Frères  
International Peace Information Service

#### **Burundi**

##### **Government officials**

Minister of Defence  
Minister of Energy and Mines  
Minister of Finance  
Minister for Foreign Affairs  
Department of Customs (Ministry of Finance)

##### **State representatives**

Embassy of Belgium  
Embassy of France

**International organizations**

Acting Special Representative of the Secretary-General in Burundi  
Office for the Coordination of Humanitarian Affairs  
UNDP  
UNHCR  
UNICEF  
Office of the United Nations High Commissioner for Human Rights in Burundi

**Others**

ASYST mineral trading company  
Affimet gold trading company  
Comptoir minier des exploitations du Burundi (COMEBU)  
HAMZA mineral trading company

**Central African Republic**

**Government officials**

Minister of Mines, Energy and Hydraulics  
Minister of Trade and Industry  
Ministry of Economy  
Ministry of Equipment, Transport and Settlement  
Ministry of Finance and Budget  
Department of Customs

**State representatives**

Embassy of the Democratic Republic of the Congo  
Embassy of France  
European Union

**International organizations**

Representative of the Secretary-General in the Central African Republic  
ASECNA  
UNHCR  
UNDP

**Democratic Republic of the Congo**

**Government officials**

Minister of Defence  
Minister of Land Affairs, Environment and Tourism  
Vice-Minister for Foreign Affairs  
Vice-Minister of Mines  
Deputy Chief of Staff of the Armed Forces  
Governor of the Central Bank  
Centre d'évaluation, d'expertise et de certification des matières précieuses  
Comité interministériel du Small Scale Mining (CISSCAM)  
Régie des voies aériennes

**State representatives**

Ambassador of Belgium  
Ambassador of Canada  
Ambassador of Germany  
Ambassador of the United Kingdom of Great Britain and Northern Ireland  
Embassy of Denmark  
Embassy of France  
Embassy of the United States of America  
European Union

**International organizations**

Special Representative of the Secretary-General in the Democratic Republic of the Congo  
ECHO  
GTZ  
MONUC  
Office for the Coordination of Humanitarian Affairs  
Office of the United Nations High Commissioner for Human Rights in the Democratic Republic of the Congo  
UNDP  
UNICEF  
World Bank  
World Food Programme

**RCD-Goma**

Vice-President  
Department of Mines and Energy  
Vice-Governor of Kisangani

**RCD-ML**

Second Vice-President  
Minister of the Interior  
Acting Chief of Staff for APC  
Governor of Ituri Province  
Mayor of Butembo

**Others**

Anglican Church  
Ashanti Goldfield  
Association africaine des droits de l'homme (ASADHO)  
Banque internationale de commerce  
Centre national d'appui au développement et à la participation populaire (CENADEP)  
Church of Christ of the Congo  
Conseil apostolique des laïques catholiques au Congo (CALCC)  
Dara Forêt  
Exploitation forestière, sciérie raffinage de la papaine (ENRA)



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Fédération des entreprises du Congo (FEC — Kinshasa, Kisangani, Beni, Goma, Bukavu)  
Groupe Lotus  
Groupe musulman des droits de l'homme  
Héritiers de la Justice  
International Human Rights Law Group  
International Rescue Committee  
Mayi-Mayi representatives  
Medecins sans Frontières (Belgium and France)  
Mennonite Church  
National Commission of Experts on the illegal exploitation of the natural resources and other forms of wealth of the Democratic Republic of the Congo  
National Council of Development NGOs  
Okimo  
Parti démocrate et social chrétien (PDSC)  
Peace and Justice Commissions  
Pharmakina  
Pole Institute  
Programme d'appui aux femmes victimes des conflits et des catastrophes  
Regional Committee of Development NGOs  
SOCEBO  
Société civile du Congo (SOCICO)  
Société de renforcement de communauté de base (SERACOB)  
Société minière de Bakwanga (MIBA)  
Solidarité  
TOFEN-CONGO  
TRAFCO freight company  
UDPS (provincial committee of Goma)  
UPDF Sector Commander in Bunia  
UPDF Battalion Commander in Butembo  
UPDF Colonel Peter Karim  
Union des banques congolaises

**France**

**Government officials**

Ministry of Foreign Affairs  
Ministry of Economy and Finance

**Others**

Air France Cargo

**Germany**

**Government officials**

Ministry of Foreign Affairs

**Others**

Karl-Heinz Albers Mining and Minerals Processing  
H. C. Starck

**Kenya**

**Government officials**

Kenya Revenue Authority

**State representatives**

Ambassador of Belgium  
Ambassador of Rwanda  
High Commissioner of Uganda  
Belgian Ministry of Defence  
Embassy of the Democratic Republic of the Congo  
High Commissioner of the Republic of South Africa

**International organizations**

Special Representative of the Secretary-General for the Great Lakes Region  
World Customs Organization

**Others**

Chairman of the Association of Cargo Airlines  
International Crisis Group  
Kencargo  
Martin Air  
Oxfam  
World Vision

**Republic of the Congo**

**Government officials**

Minister of Environment  
Ministry of Transport  
Department of Customs (Ministry of Finance)

**State representatives**

Embassy of Belgium  
Embassy of the Democratic Republic of the Congo  
European Union

**International organizations**

UNDP

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**Rwanda**

**Government officials**

Special Envoy of the President for the Democratic Republic of the Congo  
and Burundi  
Office of the President of Rwanda  
Minister for Foreign Affairs  
Ministry of Commerce, Industry and Tourism  
Customs Commission

**State representatives**

Ambassador of Belgium  
Ambassador of France  
Ambassador of the United Kingdom of Great Britain and Northern Ireland  
Ambassador of the United States of America  
European Union

**International organizations**

MONUC  
UNICEF  
World Bank

**Others**

Adolphe Onusumba, President of RCD-Goma  
SDV transportation company  
Eagles Wings Resources  
SOGERMI mineral trading company

**Uganda**

**Government officials**

First Deputy Prime Minister  
Acting Minister for Foreign Affairs  
Minister of Defence  
Chief of Staff of UPDF  
Ministry of Tourism, Trade and Industry  
Bank of Uganda  
Department of Geological Survey and Mines  
Uganda Bureau of Statistics  
Uganda Civil Aviation Authority  
Uganda Coffee Development Authority  
Uganda Revenue Authority

**State representatives**

Ambassador of Belgium  
Ambassador of Denmark  
Ambassador of France  
High Commissioner of the United Kingdom of Great Britain and Northern  
Ireland  
Ambassador of the United States of America  
Head of the delegation of the European Union

**International organizations**

UNDP  
UNICEF  
World Bank

**Others**

Amnesty International  
Judicial Commission of Inquiry  
Uganda Debt Network

**United Kingdom of Great Britain and Northern Ireland**

**Government officials**

Ministry of Foreign Affairs

**United States of America**

**State representatives**

Permanent Representatives of Security Council members and other Member States

**International organizations**

International Monetary Fund  
Office of the Special Representative of the Secretary-General for Children and Armed Conflict  
UNDP  
Forum on Forests  
Office for the Coordination of Humanitarian Affairs  
World Bank

**Others**

Human Rights Watch



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## Annex II

### Abbreviations

ALIR	Armée pour la libération du Rwanda (Army for the Liberation of Rwanda)
APC	Congolese Patriotic Army (of the RCD-ML rebel group)
ASECNA	Agence pour la sécurité de la navigation aérienne en Afrique et à Madagascar
coltan	columbo-tantalite
ECHO	European Commission Humanitarian Aid Office
FAC	Forces armées congolaises
ex-FAR	former Forces armées rwandaises
FDD	Forces pour la défense de la démocratie
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit (German Government agency for international cooperation)
MLC	Mouvement de libération congolais
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
Okimo	Office des Mines d'or de Kilo-Moto
RCD	Rassemblement congolais pour la démocratie (Rally for Congolese Democracy)
RCD-Goma	Rassemblement congolais pour la démocratie, based in Goma
RCD-ML	Rassemblement congolais pour la démocratie — Mouvement de libération, initially based in Kisangani, now headquartered in Bunia
RCD-N	Rassemblement congolais pour la démocratie-National
RPA	Rwandan Patriotic Army
SOCEBO	Société d'exploitation du bois
UDPS	Union pour la démocratie et le progrès social
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UPDF	Uganda People's Defence Forces

**ANNEX 5.4**

**United Nations Security Council, *Final report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo*, document S/2002/1146, 16 October 2002**



## Security Council

Distr.: General  
16 October 2002  
English  
Original: French

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### **Letter dated 15 October 2002 from the Secretary-General addressed to the President of the Security Council**

I have the honour to refer to the statement by the President of the Security Council dated 19 December 2001 (S/PRST/2001/39), whereby the Security Council renewed for a period of six months the mandate of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo. The Council requested the Panel to submit to it an interim report after three months, followed by a final report at the end of its mandate. I refer also to the letter dated 12 July 2002 from the President (S/2002/763), by which the Security Council extended the mandate of the Panel until 31 October 2002.

I have the honour to transmit to you the final report of the Panel, which was submitted to me by its Chairman, Mr. Mahmoud Kassem. This independent report comprises an evaluation of the situation on the ground and the Panel's observations on the illegal exploitation of the natural resources of the Democratic Republic of the Congo. I should be grateful if you would bring the report to the attention of the members of the Security Council.

*(Signed)* Kofi A. Annan

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**Annex**

**Letter dated 8 October 2002 from the Chairman of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo addressed to the Secretary-General**

[Original: English]

In accordance with the statement of the President of the Security Council (S/PRST/2001/39) dated 19 December 2001 and the letter dated 12 July 2002 addressed to you by the President of the Council, the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo is pleased to submit its report for transmission to the President of the Security Council.

(Signed) Mahmoud **Kassem**  
Chairman

Panel of Experts on the Democratic Republic of the Congo



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**Final report of the Panel of Experts on the Illegal  
Exploitation of Natural Resources and Other Forms of  
Wealth of the Democratic Republic of the Congo**

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## I. Introduction

1. The Security Council, in a statement by its President dated 19 December 2001 (S/PRST/2001/39), requested the Secretary-General to renew for six months the mandate of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, and asked the Panel to submit both an interim and a final report. The new mandate stipulated that the reports should include the following:

(a) An update of relevant data and an analysis of further information from all relevant countries, including in particular from those which thus far had not provided the Panel with the requested information;

(b) An evaluation of the possible actions that could be taken by the Council, including those recommended by the Panel in its report (S/2001/357) and the addendum thereto (S/2001/1072), in order to help bring to an end the plundering of the natural resources of the Democratic Republic of the Congo, taking into account the impact of such actions on the financing of the conflict and their potential impact on the humanitarian and economic situation of the Democratic Republic of the Congo;

(c) Recommendations on specific actions that the international community, in support of the Government of the Democratic Republic of the Congo, might take, working through existing international organizations, mechanisms and United Nations bodies, to address the issues in the report and its addendum;

(d) Recommendations on possible steps that might be taken by transit countries as well as end-users to contribute to ending illegal exploitation of the natural resources and other forms of wealth of the Democratic Republic of the Congo.

2. The Security Council also stressed the importance of the Panel's maintaining a high level of collaboration with all the Congolese players, governmental as well as non-governmental, throughout the national territory.

3. The Panel submitted to the Security Council an interim report (S/2002/565) on 22 May 2002. At the request of the Council, the Panel responded in writing to questions and comments from Council members regarding the interim report and the Panel's ongoing work. Prior to presenting its interim report, and at the request of the head of the Security Council mission to

the Great Lakes region, the Panel travelled to Pretoria on 28 April to brief the mission's members.

4. To orient its work under the current mandate, the Panel developed two successive plans of action, which were transmitted to the Council. Under these plans, fact-finding focused on diamonds, gold, coltan, copper, cobalt, timber, wildlife reserves, fiscal resources and trade in general.

5. The Panel determined that a central focus of its work should be gathering information about politically and economically powerful groups involved in the exploitation activities, which are often highly criminalized. As a result, the Panel developed the central concept of the elite network (outlined in section II) as an operational thesis.

6. In organizing its investigations, the Panel divided the Democratic Republic of the Congo into three areas, namely, the Government-controlled area, the Rwanda-controlled area and the Uganda-controlled area. These descriptors are based on the identity of the actors that constitute the three principal networks involved in the exploitation. The Panel also concluded that each of these three areas, while conforming to the Panel's understanding of the elite networks, featured substantive variations.

7. The Panel obtained information from a wide variety of sources, including from Governments (civilian and military representatives), intergovernmental organizations, non-governmental organizations, businesses and private individuals. Owing to the nature of its mandate, gaining access to information has been difficult. Nevertheless, the Panel collected well-substantiated and independently corroborated information from multiple sources. These knowledgeable sources provided documents and/or eye-witness observations. It is this type of information — consisting mostly of documentary evidence — that the Panel has relied on its report.

8. The Panel has operated under a reasonable standard of proof, without recourse to judicial authority to subpoena testimony or documents. It obtains information from sources on a strictly voluntary basis. Furthermore, the Panel has made every effort to fairly and objectively evaluate the information it has gathered.

9. Throughout its work, the Panel has paid close attention to the evolution of the peace process in the

Democratic Republic of the Congo, as well as that in neighbouring Burundi. The Lusaka Ceasefire Agreement of 1999 and the Arusha Agreement on Peace and Reconciliation, of 2000, served as important points of reference for its work. The Sun City, Pretoria and Luanda Agreements have also informed the Panel's work.

10. The Panel was composed as follows:

Ambassador Mahmoud Kassem (Egypt),  
Chairman  
Jim Freedman (Canada)  
Mel Holt (United States of America)  
Bruno Schiemsy (Belgium)  
Moustapha Tall (Senegal).

11. Two part-time technical advisers, Gilbert Barthe (Switzerland) and Patrick Smith (United Kingdom of Great Britain and Northern Ireland), also served with the Panel. In addition, two political officers, an administrator and a secretary assisted the Panel.

## II. Change in tactics by elite networks

12. The regional conflict that drew the armies of seven African States into the Democratic Republic of the Congo has diminished in intensity, but the overlapping microconflicts that it provoked continue. These conflicts are fought over minerals, farm produce, land and even tax revenues. Criminal groups linked to the armies of Rwanda, Uganda and Zimbabwe and the Government of the Democratic Republic of the Congo have benefited from the microconflicts. Those groups will not disband voluntarily even as the foreign military forces continue their withdrawals. They have built up a self-financing war economy centred on mineral exploitation.

13. Facilitated by South Africa and Angola, the Pretoria and Luanda Agreements have prompted the recent troop withdrawals from the eastern Democratic Republic of the Congo. Welcome as they may be, these withdrawals are unlikely to alter the determination of Rwanda and Zimbabwe, and Ugandan individuals, to exercise economic control over portions of the Democratic Republic of the Congo. The departure of their forces will do little to reduce economic control, or the means of achieving it, since the use of national armies is only one among many means for exercising it. All three countries have anticipated the day when pressure from the international community would make

it impossible to maintain large forces in the Democratic Republic of the Congo. The Governments of Rwanda and Zimbabwe, as well as powerful individuals in Uganda, have adopted other strategies for maintaining the mechanisms for revenue generation, many of which involve criminal activities, once their troops have departed.

14. The Uganda People's Defence Forces continue to provoke ethnic conflict, as in the past, clearly cognizant that the unrest in Ituri will require the continuing presence of a minimum of UPDF personnel. The Panel has evidence that high-ranking UPDF officers have taken steps to train local militia to serve as a paramilitary force, directly and discreetly under UPDF command, which will be capable of performing the same functions as UPDF. There will be little change in the control that Ugandans now exercise over trade flows and economic resources. As UPDF continue to arm local groups, only less conspicuously than before, the departure of Ugandan armed forces is unlikely to alter economic activities by those powerful individuals in the north-eastern Democratic Republic of the Congo.

15. Like UPDF, and under pressure from its closest allies, Rwanda has started withdrawing. It has prepared for withdrawal by putting in place economic control mechanisms that do not rely on an explicit presence of the Rwandan Patriotic Army. It has replaced Congolese directors of parastatals with businessmen from Kigali to ensure continuing revenue from water, power and transportation facilities. It has replaced local currency with Rwandan currency. RPA battalions that specialize in mining activities remain in place, though they have ceased wearing RPA uniforms and will continue the activities under a commercial guise. The Panel's sources have reported that RPA recently undertook an operation to obtain a large number of Congolese passports so as to give an appropriate identity to RPA officers who continue to be stationed at strategically important sites in the Democratic Republic of the Congo.

16. The Panel has learned of other tactics for disguising the continuing presence of an armed force loyal to Rwanda. Reliable sources have reported an initiative by the Chief of Staff of the Armée nationale congolaise, Major Sylvain Mbuki, to reorganize the RCD-Goma forces in order to accommodate large numbers of RPA soldiers inside ANC units and local defence forces made up of pro-Rwanda elements. Most of the ANC units have had RPA leadership for some

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time, and now, with this reorganization, a significant number of RPA soldiers will be integrated into the ANC rank and file. Instead of departing for Rwanda, large numbers of Rwandan Hutus serving in RPA have been provided with new uniforms and assigned to ANC brigades as Congolese Hutu. Rwanda has diverted attention from those soldiers staying in the Democratic Republic of the Congo by drawing particular attention to those who depart. Ceremonies have been held at points of re-entry. In fact, the number of soldiers who have left the Democratic Republic of the Congo is so far only a portion of the total number of RPA troops in the eastern Democratic Republic of the Congo, which various sources estimate at between 35,000 and 50,000. Simultaneously with the RPA troop withdrawals, Rwandan officials have repatriated to North Kivu thousands of Congolese Tutsi refugees under duress from the camps around Byumba and Kibuye Provinces in Rwanda. Schools in the Rwandan camps have remained closed and some camp structures have been razed to encourage further repatriations. All the Panel's sources have also suggested that this movement could be part of the new tactic for maintaining Rwanda's presence in the eastern Democratic Republic of the Congo.

17. Although troops of the Zimbabwe Defence Forces have been a major guarantor of the security of the Government of the Democratic Republic of the Congo against regional rivals, its senior officers have enriched themselves from the country's mineral assets under the pretext of arrangements set up to repay Zimbabwe for military services. Now ZDF is establishing new companies and contractual arrangements to defend its economic interests in the longer term should there be a complete withdrawal of ZDF troops. New trade and service agreements were signed between the Democratic Republic of the Congo and Zimbabwe just prior to the announced withdrawal of ZDF troops from the diamond centre of Mbuji Mayi late in August 2002.

18. Towards the end of its mandate, the Panel received a copy of a memorandum dated August 2002 from the Defence Minister, Sidney Sekeramayi, to President Robert Mugabe, proposing that a joint Zimbabwe-Democratic Republic of the Congo company be set up in Mauritius to disguise the continuing economic interests of ZDF in the Democratic Republic of the Congo. The memorandum states: "Your Excellency would be aware of the wave of negative publicity and criticism that the DRC-

Zimbabwe joint ventures have attracted, which tends to inform the current United Nations Panel investigations into our commercial activities." It also refers to plans to set up a private Zimbabwean military company to guard Zimbabwe's economic investments in the Democratic Republic of the Congo after the planned withdrawal of ZDF troops. It states that this company was formed to operate alongside a new military company owned by the Democratic Republic of the Congo.

19. At the same time, local militias and local politicians have supplemented the role that State armies previously played in ensuring access to and control of valuable resources and diverting State revenue. The looting that was previously conducted by the armies themselves has been replaced with organized systems of embezzlement, tax fraud, extortion, the use of stock options as kickbacks and diversion of State funds conducted by groups that closely resemble criminal organizations.

20. Such activities have become increasingly prominent in the techniques of exploitation in the Democratic Republic of the Congo. The Panel has identified three distinct groups engaged in activities in three different areas and refers to them as elite networks. These elite networks have control over a range of commercial activities involving the exploitation of natural resources, diversion of taxes and other revenue generation activities in the three separate areas controlled by the Government of the Democratic Republic of the Congo, Rwanda and Uganda, respectively.

21. The Panel has identified the following elements that are common to all of the elite networks and that are essential to understanding the nature of the exploitation carried out by these networks in the Democratic Republic of the Congo:

- The networks consist of a small core of political and military elites and business persons and, in the case of the occupied areas, selected rebel leaders and administrators. Some members of the elite networks occupy key positions in their respective Governments or rebel groups.
- Members of these networks cooperate to generate revenue and, in the case of Rwanda, institutional financial gain.



- The elite networks ensure the viability of their economic activities through control over the military and other security forces that they use to intimidate, threaten violence or carry out selected acts of violence.
- The networks monopolize production, commerce and fiscal functions.
- The elite networks maintain the facade of rebel administrations in the occupied areas to generate public revenues that they then divert into the networks, thereby depleting the public treasury.
- The elite networks derive financial benefit through a variety of criminal activities including theft, embezzlement and diversion of “public” funds, undervaluation of goods, smuggling, false invoicing, non-payment of taxes, kickbacks to public officials and bribery.
- The elite networks form business companies or joint ventures that are fronts through which members of the networks carry on their respective commercial activities.
- The elite networks draw support for their economic activities through the networks and “services” (air transport, illegal arms dealing and transactions involving the natural resources of the Democratic Republic of the Congo) of organized or transnational criminal groups.

### III. Government-controlled area

22. The elite network of Congolese and Zimbabwean political, military and commercial interests seeks to maintain its grip on the main mineral resources — diamonds, cobalt, copper, germanium — of the Government-controlled area. This network has transferred ownership of at least US\$ 5 billion of assets from the State mining sector to private companies under its control in the past three years with no compensation or benefit for the State treasury of the Democratic Republic of the Congo.

23. This network benefits from instability in the Democratic Republic of the Congo. Its representatives in the Kinshasa Government and the Zimbabwe Defence Forces have fuelled instability by supporting armed groups opposing Rwanda and Burundi.

24. Even if present moves towards peace lead to a complete withdrawal of Zimbabwean forces, the network’s grip on the richest mineral assets of the Democratic Republic of the Congo and related businesses will remain. Zimbabwe’s political-military elite signed six major trade and service agreements in August 2002 with the Government of the Democratic Republic of the Congo. Reliable sources have told the Panel about plans to set up new holding companies to disguise the continuing ZDF commercial operations in the Democratic Republic of the Congo and a ZDF-controlled private military company to be deployed in the country to guard those assets.

#### The elite network

25. The elite network in the Government-held area comprises three circles of power, namely, Congolese and Zimbabwean government officials and private businessmen. Chief figures in the Congolese branch of the network are the National Security Minister, Mwenze Kongolo, a shareholder and deal-broker for both diamond and cobalt ventures; the Minister of Presidency and Portfolio, Augustin Katumba Mwanke, a former employee of Bateman’s mining company in South Africa and a key power broker in mining and diplomatic deals; the President of the State diamond company, Société minière de Bakwanga (MIBA), Jean-Charles Okoto; the Planning Minister and former Deputy Defence Minister, General Denis Kalume Numbi, a stakeholder in the lucrative Sengamines diamond deal and in COSLEG; and the Director General of Gécamines, Yumba Monga, pivotal in facilitating several asset-stripping joint ventures between the State mining company and private companies.

26. The Congolese branch also includes active, but less visible members. Frédéric Tshineu Kabasele is a director of three joint ventures with Zimbabwe using the COSLEG platform — the diamond trading Minerals Business Company, the logging company SOCEBO and the First Banking Corporation Congo. The Director of the National Intelligence Agency, Didier Kazadi Nyembwe, has oversight of many of the private commercial operations and has been linked by several sources to arms supplies for Burundi opposition groups and Mayi-Mayi groups in Maniema and South Kivu. COSLEG, a Congo-Zimbabwe joint stock company, remains a key vehicle for military-backed

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commerce involving mostly diamonds, banking and timber in the Government-held areas. The Technical Director of COSLEG, Mfuni Kazadi, specializes in the writing of joint venture contracts to accommodate the private interests of the elite network.

27. The key strategist for the Zimbabwean branch of the elite network is the Speaker of the Parliament and former National Security Minister, Emmerson Dambudzo Mnangagwa. Mr. Mnangagwa has won strong support from senior military and intelligence officers for an aggressive policy in the Democratic Republic of the Congo. His key ally is a Commander of ZDF and Executive Chairman of COSLEG, General Vitalis Musunga Gava Zvinavashe. The General and his family have been involved in diamond trading and supply contracts in the Democratic Republic of the Congo. A long-time ally of President Mugabe, Air Marshal Perence Shiri, has been involved in military procurement and organizing air support for the pro-Kinshasa armed groups fighting in the eastern Democratic Republic of the Congo. He is also part of the inner circle of ZDF diamond traders who have turned Harare into a significant illicit diamond-trading centre.

28. Other prominent Zimbabwean members of the network include Brigadier General Sibusiso Busi Moyo, who is Director General of COSLEG. Brigadier Moyo advised both Tremalt and Oryx Natural Resources, which represented covert Zimbabwean military financial interests in negotiations with State mining companies of the Democratic Republic of the Congo. Air Commodore Mike Tichafa Karakadzai is Deputy Secretary of COSLEG, directing policy and procurement. He played a key role in arranging the Tremalt cobalt and copper deal. Colonel Simpson Sikhulile Nyathi is Director of defence policy for COSLEG. The Minister of Defence and former Security Minister, Sidney Sekeramayi, coordinates with the military leadership and is a shareholder in COSLEG. The Panel has a copy of a letter from Mr. Sekeramayi thanking the Chief Executive of Oryx Natural Resources, Thamer Bin Said Ahmed Al-Shanfari, for his material and moral support during the parliamentary elections of 2000. Such contributions violate Zimbabwean law.

29. In June 2002, the Panel learned of a secret new ZDF diamond mining operation in Kalobo in Kasai Occidental run by Dube Associates. This company is linked, according to banking documents, through

Colonel Tshinga Dube of Zimbabwe Defence Industries to the Ukrainian diamond and arms dealer Leonid Minim, who currently faces smuggling charges in Italy. The diamond mining operations have been conducted in great secrecy.

30. Among the businessmen in the elite network, a Belgian national, George Forrest, pioneered the exploitative joint venture agreements between private companies and Gécamines. Mr. Forrest owes his commercial ascendancy to his long-standing ties to the establishment in the Democratic Republic of the Congo. One of his companies also makes and markets military equipment. Since 1994, he has owned 100 per cent of New Lachaussée in Belgium, which is a leading manufacturer of cartridge casings, grenades, light weapons and cannon launchers. In a flagrant conflict of interest, Mr. Forrest was appointed Chairman of Gécamines from November 1999 to August 2001 while his private companies negotiated new contracts with the explicit intention of using Gécamines' assets for personal gain. During that time he built up the most wide-ranging private mining portfolio in the Democratic Republic of the Congo. He benefits from strong backing from some political quarters in Belgium where some of his companies are based. His operations have been strongly criticized (one Belgian diplomatic cable referred to Mr. Forrest running a "strategy of attrition" in the mining sector of the Democratic Republic of the Congo) and have recently come under the scrutiny of the Belgian Senate's investigation into resource exploitation in the Democratic Republic of the Congo.

31. The techniques used by Mr. Forrest have since been replicated by Zimbabwean-backed entrepreneurs John Arnold Bredenkamp and Mr. Al-Shanfari. Mr. Bredenkamp, who has an estimated personal net worth of over \$500 million, is experienced in setting up clandestine companies and sanctions-busting operations. Mr. Al-Shanfari has gained privileged access to the Government of the Democratic Republic of the Congo and its diamond concessions in exchange for raising capital from some powerful entrepreneurs in the Gulf such as Issa al-Kawari who manages the fortune of the deposed Amir of Qatar. Also working with ZDF is a convicted criminal based in South Africa, Nico Shefer, who has arranged for Zimbabwean officers to be trained in diamond valuation in Johannesburg. Mr. Shefer's company, Tandan Holdings, has a 50 per cent stake in Thorntree

Industries, a joint venture diamond-trading company with ZDF.

32. Zimbabwean Billy Rautenbach headed a joint venture cobalt-mining company and was Chief Executive of Gécamines from November 1998 to March 2000. Although stripped of his cobalt concessions in Katanga, Mr. Rautenbach told the Panel that the Government of the Democratic Republic of the Congo had offered his company, Ridgepointe International, mining rights to Gécamines concessions at Shinkolobwe, which include substantial deposits of uranium, copper and cobalt. Mr. Rautenbach's representatives said that any new agreement would be subject to the new mining code of the Democratic Republic of the Congo and any uranium mining operations would be open to inspections by the International Atomic Energy Agency.

33. Such high levels of mineral exploitation would be impossible without the collusion of highly placed government officials who provide mining licences and export permits in return for private gain. The Panel has compiled extensive documentation of such facilitations. For example, in its attempts to buy rights to the Kolwezi Tailings, First Quantum Minerals (FQM) of Canada offered a down payment to the State of \$100 million, cash payments and shares held in trust for Government officials. According to documents in the possession of the Panel, the payments list included the National Security Minister, Mwenze Kongolo; the Director of the National Intelligence Agency, Didier Kazadi Nyembwe; the Director General of Gécamines, Yumba Monga; and the former Minister of the Presidency, Pierre-Victor Mpoyo. The FQM share offer to those officials was premised on a sharp rise in its share price once it was announced that it had secured some of the most valuable mineral concessions in the Democratic Republic of the Congo.

34. The Panel has documents showing that three "clans" of Lebanese origin, who operate licensed diamond businesses in Antwerp, purchased diamonds from the Democratic Republic of the Congo worth \$150 million in 2001, either directly through Kinshasa or through *comptoirs* in the Republic of the Congo. The three "clans" — Ahmad, Nassour and Khanafer — are distinct criminal organizations that operate internationally. Their activities, known to intelligence services and police organizations, include counterfeiting, money-laundering and diamond smuggling. Several credible sources have reported that

the clans also have ties with Amal and Hezbollah. Some businesses associated with the clans are Sierra Gem Diamonds, Asa Diam, Triple A Diamonds and Echogem. A group linked to the clans operations is providing counterfeit United States dollars to former generals from the time of President Mobutu, who are trying to overthrow the Government of the Democratic Republic of the Congo.

### **Strategies and sources of revenue**

35. The Panel has identified five strategies for generating revenues for the elite network through diamond, copper and cobalt mining companies. The network coordinates its operations between its political, military and business wings to generate maximum income.

#### **Asset stripping of State mining companies**

36. The richest and most readily exploitable of the publicly owned mineral assets of the Democratic Republic of the Congo are being moved into joint ventures that are controlled by the network's private companies. These transactions, which are controlled through secret contracts and off-shore private companies, amount to a multi-billion-dollar corporate theft of the country's mineral assets. Some 30 businessmen, politicians and military officers are the main beneficiaries of the arrangements. The elite network has been trying to legitimize such corporate theft and market these assets to legitimate international mining companies.

37. The Panel has now obtained documentary evidence that Mr. Al-Shanfari's company, Oryx Natural Resources, is being used as a front for ZDF and its military company OSLEG. Sengamines claims an 800 square kilometre concession, just south of Mbuji Mayi, carved out of the concession of the Société Minière de Bakwanga. According to company officials, Sengamines' diamond concessions would be worth at least \$2 billion if they were put into full production.

38. Sengamines claimed that it had reconfigured its equity after a failed attempt to be listed on the London Stock Exchange in June 2000, as follows: 49 per cent for Oryx Natural Resources, 35 per cent for COMIEX-Congo, and 16 per cent for MIBA. The Panel has learned that this purported buyout never happened. It was a device to disguise the close association between

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Sengamines and ZDF, and to deceive international investors. ZDF, through OSLEG, owns the 49 per cent of Sengamines that is publicly claimed by Oryx. In the course of a meeting held on 1 August 2000, OSLEG nominated Oryx to hold its 49 per cent interest in Sengamines; 35 per cent is held by COMIEX-Congo, and 16 per cent has been allocated to MIBA.

39. Tremalt Ltd., represented by Mr. Bredenkamp, holds the rights to exploit six Gécamines concessions containing over 2.7 million tons of copper and 325,000 tons of cobalt over 25 years. Tremalt paid the Government of the Democratic Republic of the Congo just \$400,000, but the estimated worth of the six concessions exceeds \$1 billion. The joint venture running the concession is the Kababankola Mining Company, in which Tremalt has an 80 per cent share to Gécamines' 20 per cent. Under this agreement, the Panel has learned that Gécamines derives no direct financial benefit. Although Tremalt representatives told the Panel that they have invested \$15 million to date, there are no signs of substantial investments having been made on the concessions, nor has any schedule of investment in the form of a business plan been released to Gécamines.

40. Like Oryx, Tremalt insists that its operations are not linked to ZDF or the Government of Zimbabwe. However, the Panel has obtained a copy of the confidential profit-sharing agreement, under which Tremalt retains 32 per cent of net profits, and undertakes to pay 34 per cent of net profits to the Democratic Republic of the Congo and 34 per cent to Zimbabwe. This profit-sharing agreement was the subject of a confidential memorandum from the Defence Minister, Mr. Sekeramayi, to President Mugabe in August 2002. Tremalt also undertakes to provide the Congolese and Zimbabwean militaries with motor vehicles, trucks, buses and cash payments as necessary. These are to be subtracted from the two countries' part of the profit share. A forum has been established between Tremalt and ZDF to plan strategy in the Democratic Republic of the Congo and "look after the interests of the Zimbabweans". Meeting monthly, the forum's main members are General Zvinavashe, Brigadier Moyo, Air Commodore Karakadzai, Mr. Bredenkamp, the Managing Director of KMC, Colin Blythe-Wood, and the Director of KMC, Gary Webster.

41. Gécamines officials told the Panel that the National Security Minister of the Democratic Republic

of the Congo, Mwenze Kongolo had pressured their negotiators to agree to the joint venture contract despite its negative implications for the State company's finances. The ultimate owners and beneficiaries of Tremalt are hidden behind a web of trusts and private holding companies registered in the British Virgin Islands and the Isle of Man to whose records the Panel was not allowed direct access.

#### **Control of procurement and accounting**

42. Management control is essential to the elite network's strategy for extracting maximum revenue from the joint ventures. Much of the revenue from the joint ventures is off the balance sheet in overpriced subcontracting and procurement arrangements with companies and individuals linked to the network. The two biggest Zimbabwe-Democratic Republic of the Congo joint ventures — Sengamines and KMC — are declaring huge losses.

#### **Enterprise General Malta Forrest and Groupe George Forrest**

43. Groupe George Forrest (GGF) in partnership with the United States-based OM Group currently runs one of the most profitable mining operations from the Democratic Republic of the Congo with only the most marginal benefit for the State mining company, Gécamines. Through this venture, the Scories du Terril de Lubumbashi (STL), also known as the Big Hill Project, Mr. Forrest and OM Group have secured access to a copper and cobalt stockpile which contains over 3,000 tons of germanium, a rare metal used in optical fibres, infrared lenses and telecommunication satellites. This stockpile, formerly the property of Gécamines, has a current market value of more than \$2 billion. Although the shareholdings for the STL project are divided between OM Group (55 per cent), GGF (25 per cent) and Gécamines (20 per cent), the State company has been expressly excluded from the revenues derived from the germanium processing.

44. Gécamines officials complain that OM Group and GGF have deliberately ignored the agreed technical plan for the STL project, which provided for two electric-powered refineries and a converter to be built adjacent to the copper and cobalt stockpile. This would have meant that all the germanium would have been processed within the Democratic Republic of the Congo, and Gécamines would have been entitled to a revenue share. Instead the semi-processed ore is



shipped to OM Group's plant in Finland where the germanium is extracted. The former Chairman of Gécamines, Mr. Forrest, whose construction companies built the STL project, has declined to intervene on behalf of the State company. Gécamines has rejected an offer by OM Group to cede the State company just 5 per cent of the revenues from the germanium processing in Finland.

45. Mr. Forrest has used his position in the elite network in an attempt to control the mining sector in the Democratic Republic of the Congo, according to several reliable sources. For example, the Kinross Gold Corporation of Canada had sought to invest up to \$1 billion in copper and cobalt mining operations, but was thwarted by interventions from Mr. Forrest and senior Government officials. The company returned to the Democratic Republic of the Congo late in 2001 as part of Kinross-Forrest Ltd., a company registered in the British Virgin Islands. A smaller Belgian-based company, Madsa, obtained the support of the World Bank and the United Nations Industrial Development Organization for a \$20 million development package to build processing plants to service the mining sector: a smelter, an acid manufacturing plant and a cement factory. Mr. Forrest and his business allies have opposed this development, in part, it seems, because it would cut their profits from the current overpriced procurement contracts.

#### **Tremalt Ltd. (John Bredenkamp)**

46. Tremalt's 80 per cent stake in KMC gives it management control over day-to-day administration and longer-term strategic decisions about exploiting the concession. Tremalt also procures equipment for ZDF and the Congolese Armed Forces (FAC), the cost of which it deducts from their share of KMC profits. Although Ridgepointe International, run by Mr. Rautenbach, the previous foreign investor in the Kababankola concessions, had to operate with much more dilapidated processing plants, it generated more than \$20 million profit within 18 months of taking over. Industry analysts say that Tremalt's claimed losses of more than \$13 million from February 2001 to July 2002 are not credible.

#### **Organized theft**

47. FAC and ZDF officers who controlled security at the main joint venture sites have been involved in and facilitate high levels of theft from production. Reliable

sources have informed the Panel that managers in several companies, with support from the members of the elite network, collude in these thefts.

48. The State-owned Société minière de Bakwanga diamond company has been plundered by a management that condones widespread theft by company insiders. Three theft rings operate in the MIBA compound known as the *polygone*. The first of these rings was organized and operated by 48 Zimbabwean soldiers who had been stationed at five different locations throughout the large mining site. Zimbabwe military personnel allow groups of people to enter the *polygone* and dig for diamonds, and in exchange receive compensation in the form of money and diamonds.

49. A second theft ring is operated by the Brigade Minière or provincial mining police, who are trained to guard the mine. Previously sacked for theft, Brigade Minière Commander Mushitu has returned to the force. In exchange for protection, the Commander receives sacks of diamond-rich gravel. However, the diamond diggers are often caught in exchanges of fire between the Brigade Minière and the Zimbabweans in their efforts to control the diamond thefts.

50. These losses are probably modest compared to the losses from a third theft ring that involves high-level MIBA managers and occurs inside the cleaning, sorting and classification operation facility. The thefts include gem and near-gem production. About 50 per cent of all company revenues are generated by the 3 to 4 per cent of gem and near-gem production. The drop in revenues resulting from theft has been estimated at about 25 per cent of total revenue, roughly 25 million dollars per annum. Under pressure from its creditors, MIBA was obliged to engage the services of a private security firm, Overseas Security Services, which determined that a criminal syndicate was operating inside the classification operation.

#### **Using the corporate facade as a cover for criminal activities**

51. Some members of the elite network running joint ventures are linked to the smuggling of precious metals and gems, arms trafficking, illegal foreign exchange trading and money-laundering. The Panel has received extensive documentation and first-hand testimony explaining the mechanics of these criminal operations.

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52. Sengamines supplements its revenues by laundering diamonds smuggled from Angola and Sierra Leone. Sengamines also smuggles its own diamonds out of the Democratic Republic of the Congo and the Panel has learned of specific instances, times, places and persons involved. For example, in March 2001, Mr. Al-Shanfari instructed his security chief to smuggle diamonds from the Sengamines concession to Johannesburg, South Africa, and deliver them to Ken Roberts, the chief executive of Serengeti Diamonds.

53. Sengamines has also served as a front for illegal foreign exchange transactions using several routes into and out of the Democratic Republic of the Congo. Most of the latter involved breaking the country's foreign exchange laws and profiting from arbitrage between differential exchange rates for the United States dollar and Congolese franc in Kinshasa and the eastern Democratic Republic of the Congo, respectively. In one example, on 13 March 2000, Oryx officials in Kinshasa loaded an aircraft belonging to Mr. Bredenkamp with eight crates of Congolese francs for shipment to Harare. The Panel also has documentation substantiating information that an Oryx employee regularly transported parcels of United States dollars (\$500,000 at a time) that were withdrawn from the Oryx account at Hambros Bank, London, to Kinshasa without declaring them to the Congolese authorities; at Kinshasa the money was changed into Congolese francs and further transported to Harare and the eastern Democratic Republic of the Congo. Oryx employees said they were asked to pay Mr. Mnangagwa a commission on these transactions which contravened Zimbabwe law. Despite repeated claims by Mr. Bredenkamp's representatives that he has no business relationship with Mr. Al-Shanfari, the Panel has received a document — dated January 2001 and jointly signed by Mr. Bredenkamp and Mr. Al-Shanfari — guaranteeing a \$1.5 million loan to Oryx Natural Resources from Python Services Ltd.

#### **Mining revenues and the military**

54. The procurement of military equipment and services is a major source of revenue for the elite network. Several joint venture mining companies have strong links with the military supply companies who facilitate their operations in the Democratic Republic of the Congo. The Panel has information that diamond revenues were used to pay for arms purchases for FAC and indirectly used to finance the contribution of the

Government of the Democratic Republic of the Congo to salary payments for ZDF. It has received a document recording a transfer of MIBA funds requested by Brigadier General François Olenga for the purchase of weapons for FAC.

55. Oryx Natural Resources has a close working relationship with Avient Air, a military company which supplies services and equipment to ZDF and FAC. In April 2002, Avient Air brokered the sale of six attack helicopters to the Kinshasa Government. Bank records show several transactions between Avient and accused trafficker Leonid Minim. Under the management of Andrew Smith, a former British army captain, Gerry O'Brien and Lewis Kling, Avient was contracted to organize bombing raids into the eastern Democratic Republic of the Congo in 1999 and 2000. At the same time Avient organized logistics and transportation of mining equipment for Sengamines and enjoyed security clearance as a military company working with ZDF. The Panel has a record of a payment in September 2001 of \$35,000 from the Oryx account at Banque Belgoise to Avient Ltd., Avient Air's sister company based in the United Kingdom.

56. John Bredenkamp, who has a history of clandestine military procurement, has an investment in Aviation Consultancy Services Company (ACS). The Panel has confirmed, independently of Mr. Bredenkamp, that this company represents British Aerospace, Dornier of France and Agusta of Italy in Africa. Far from being a passive investor in ACS as Tremalt representatives claimed, Mr. Bredenkamp actively seeks business using high-level political contacts. In discussions with senior officials he has offered to mediate sales of British Aerospace military equipment to the Democratic Republic of the Congo. Mr. Bredenkamp's representatives claimed that his companies observed European Union sanctions on Zimbabwe, but British Aerospace spare parts for ZDF Hawk jets were supplied early in 2002 in breach of those sanctions. Mr. Bredenkamp also controls Raceview Enterprises, which supplies logistics to ZDF. The Panel has obtained copies of Raceview invoices to ZDF dated 6 July 2001 for deliveries worth \$3.5 million of camouflage cloth, batteries, fuels and lubricating oil, boots and rations. It also has copies of invoices for aircraft spares for the Air Force of Zimbabwe worth another \$3 million.

### **Case study of a commercial chain involving diamonds**

57. The Democratic Republic of the Congo-Zimbabwe joint venture Minerals Business Company represents Zimbabwe's interests in the lucrative diamond trade of the Democratic Republic of the Congo. It buys and markets production from the joint venture Sengamines, which has attempted to conceal its links with ZDF. The Minerals Business Company uses Zimbabwe's military and political influence to evade the legal requirements of the Democratic Republic of the Congo and to avoid paying the costly licensing fees. The refusal of MBC to honour its obligations to the public treasury has prompted official complaints from the Ministry of Mines demanding that MBC comply with the law. MBC officials have asserted that Zimbabwean entities are not obliged to adhere to the laws of the Democratic Republic of the Congo.

58. The Minerals Business Company allows a limited number of other diamond companies to take advantage of the privileged status it enjoys in Kinshasa. Sandrian Mining, based in Kinshasa, has a contractual relationship with MBC. Thorntree Industries, a joint venture between South Africa-based Nico Shefer's Tandan group and ZDF, also has contracts with MBC, as does Mixen Trading, which has offices in Zimbabwe. MBC sells to the United States-based Flashes of Color, and the Swiss-registered Ibryn & Associates, as well as to the Belgian-registered Jewel Impex, Komal Gems and Diagem. One of the most important trading partners of MBC is the Belgian-based company Abadiam, which buys from MBC as well as directly from Sengamines. The Panel has bank records dated September 2001 showing transfers of more than \$1 million from the Belgian account of Oryx Natural Resources to Abadiam.

### **Collapse of the public sector; armed conflict and its humanitarian consequences**

#### **Kasai Oriental and Kasai Occidental**

59. The diversion of funds from State companies and public coffers, by fraud or under the pretext of *effort de guerre*, has contributed to eliminating funds available for public services. The public sector in the two Kasai Provinces has effectively disappeared. Of the five water production plants in Kasai Oriental, four plants

no longer function and the fifth, in the city of Mbuji Mayi, is said to function at less than 20 per cent capacity. Of the six water production plants in Kasai Occidental, five no longer function; the sixth, in the city of Kananga, operates at best at 10 per cent capacity.

60. Government officials blame the precipitous decline in public spending on the war. Most soldiers are unpaid and become social predators, financing themselves through theft and pillage, living off the population they are presumed to protect, and provincial governments make little effort to discourage them. Taxes and licensing fees have nevertheless increased, as have the forced acquisition of the resources of State enterprises in the name of the war effort. The Government has therefore benefited from the state of war by using it as a pretext, not only to justify an increase in demands on the population to increase government revenues, but also to justify a decrease in expenditure. Insecurity in the Government-controlled area is only a small part of the consequences of support for the military in war. It is much more a consequence of the deliberate neglect of the military, who by virtue of this neglect turn their weapons on the population.

61. The pretext of war, increased government levies, unpaid salaries and the absence of government services have combined to precipitate a collapse in the urban economies of Mbuji Mayi, Kananga and, to a lesser extent, of Lubumbashi. Banks no longer offer credit in the Kasai Provinces. The absence of local credit and the decline of road transport have forced most local industries in Kananga to close.

#### **Katanga**

62. Lubumbashi, and southern Katanga generally, have been affected by Rwanda's presence in the north. The occupation by RPA of the northern portion of Katanga, the rich agricultural plains around Nyunzu and Kongolo, has cut the southern portion off from what was once the breadbasket of Katanga.

63. A recent study by Médecins sans Frontières in Kilwa, a representative town in southern Katanga south of the front line, with a population of 350,000, has found a death rate for children under 5 of 3.2 per 10,000 per day. Over the course of a year this means that 12 per cent of all children under 5 years old will die, and one out of every four children die over a period of two years. Notably, virtually none (0.6 per

cent) of the deaths resulted from violence. Deaths instead result from illness — malaria and dysentery: conditions closely linked to malnutrition and the absence of medical facilities.

64. Malaria and dysentery are treatable. International non-governmental organizations — World Vision and Médecins sans Frontières in this case — try to step in where government facilities no longer function. However, the soaring death rates in the Government-held areas around Ankoro, Kilwa, Dubie and Lwanza, especially where medical facilities are non-existent and where State medical professionals receive no salaries, are indications of Government negligence. The rates of malnutrition and mortality are measures of that negligence and are the consequence, in part, of diverting State resources from State companies such as Gécamines into the private accounts of Zimbabwean individuals, other private interests, and Congolese individuals.

#### **IV. Rwanda-controlled area**

65. The claims of Rwanda concerning its security have justified the continuing presence of its armed forces, whose real long-term purpose is, to use the term employed by the Congo Desk of the Rwandan Patriotic Army, to “secure property”. Rwanda’s leaders have succeeded in persuading the international community that their military presence in the eastern Democratic Republic of the Congo protects the country against hostile groups in the Democratic Republic of the Congo, who, they claim, are actively mounting an invasion against them.

66. The Panel has extensive evidence to the contrary. For example, the Panel is in possession of a letter, dated 26 May 2000, from Jean-Pierre Ondekane, First Vice-President and Chief of the Military High Command for RCD-Goma, urging all army units to maintain good relations “with our Interahamwe and Mayi-Mayi brothers”, and further, “if necessary to let them exploit the sub-soil for their survival”.

67. Prominent members of a Congolese Hutu group, Benemugabohumwe, recently began to encourage Hutus living in the Democratic Republic of the Congo, some of them opposition groups, to work instead for the cause of Rwanda in the country. Eugene Serufuli, RCD-Goma Governor of North Kivu Province and reportedly himself a Hutu, has promoted a non-

governmental organization, *Tous pour la paix et la démocratie*, aiming to conscript Hutus of all political persuasions to throw in their lot with the Rwandans. Their purpose, as described by the *Nord Kivu Reveil* in a circular dated 16 April 2002, has been to “express allegiance to Rwanda by joining its efforts to control the eastern Democratic Republic of the Congo”.

68. A 30-year-old Interahamwe combatant living in the area of Bukavu described the situation in a taped interview with a United Nations officer in early 2002.

We haven’t fought much with the RPA in the last two years. We think they are tired of this war, like we are. In any case, they aren’t here in the Congo to chase us, like they pretend. I have seen the gold and coltan mining they do here, we see how they rob the population. These are the reasons for their being here. The RPA come and shoot in the air and raid the villagers’ houses but they don’t attack us any more. If you are lucky, and you have a big brother in the RPA, he might be able to get you some food and ammunition.

69. On the basis of its analysis of considerable documentation and oral testimony, the Panel holds the view that the rationale for Rwanda’s presence is to increase the numbers of Rwandans in the eastern Democratic Republic of the Congo and to encourage those settled there to act in unison to support its exercise of economic control. The recent departure of troops should not be interpreted as a sign of Rwanda’s willingness to reduce its considerable involvement in the evacuation of valuable resources, to reduce the level of armed conflict or to diminish the humanitarian crisis in the region. Economic exploitation in its various forms will continue, relying on a less conspicuous armed force and alternative strategies for carrying out the exploitative activities.

#### **The elite network**

70. The elite network’s operations in the eastern Democratic Republic of the Congo are managed centrally from the RPA Congo Desk, which serves to link the commercial and military activities of RPA. The Panel has described this function in some detail in previous reports. The Panel continues to receive documentation on ways in which the proceeds of the RPA commercial wing finance an armed presence. As an illustration, the Panel has recently acquired



documents showing coltan sales being negotiated by ranking Congo Desk officials. The Panel has copies of faxes sent from the office of RPA Major Dan Munyuza on behalf of Maniema Mining Company and another fax sent from the office of RPA Chief of Staff General James Kaberebe.

71. While revenues and expenditure in the Congo Desk are considerable, they are kept strictly separate from Rwanda's national budget. A reliable source associated with the Congo Desk has calculated that income to the Desk provided 80 per cent of all RPA expenditure in 1999. The official Rwandan budget for 1999 allocated \$80 million to the military. If this official budget allocation of \$80 million represents the 20 per cent referred to by the Panel's source as the portion of military expenditure not covered by the Congo Desk, then the total military budget from all sources would approximate \$400 million. This comes to 20 per cent of GNP for 1999 and approximately 150 per cent of recurring budget expenditure for that year. The Congo Desk's contribution to Rwanda's military expenses would therefore have been in the order of \$320 million. The activities funded by revenues generated by the Congo Desk strongly shape Rwanda's foreign policy and directly influence national decision-making in a number of domains. These transactions are, however, hidden from the scrutiny of international organizations.

72. The elite network maintains close commercial ties with transnational criminal networks, including those of Victor Bout, Sanjivan Ruprah and Richard Muamba Nozi. Victor Bout's aircraft are utilized for a number of purposes including transport of coltan and cassiterite, the transport of supplies into mining sites, and the transport of military troops and equipment. During the last major military campaign in Pweto, Democratic Republic of the Congo, Victor Bout's aircraft were used to transport RPA personnel to the area.

73. While Sanjivan Ruprah has frequently worked within Victor Bout's criminal organization, he maintains an independent affiliation with the Congo Desk in Kigali. On 7 February 2002, Mr. Ruprah was arrested in Belgium on suspicion of planning to provide 6 million new zaire banknotes — still valid in the eastern Democratic Republic of the Congo — to RCD-Goma with financing by diamond dealers based in Belgium. The President of RCD-Goma, Adolphe Onusumba, who has kinship and business ties with

Mr. Ruprah, played a key role in this counterfeit operation. Another group, the Muamba Nozi counterfeiting operation, also provides counterfeit Congolese francs to RCD-Goma. Its regional base of operations is located at Nairobi, where they print and distribute to the eastern Democratic Republic of the Congo large quantities of counterfeit Congolese francs. Officials in the Central Bank of Kinshasa have informed the Panel that Mr. Muamba Nozi's counterfeit activities are politically motivated and designed to deliberately destabilize the present regime by weakening the currency.

## Strategies and sources of revenue

### Coltan

74. The end of the SOMIGL coltan monopoly in April 2001 was less a consequence of the falling price of coltan and more a consequence of Rwanda's determination to capture more of the revenue that was being taken in taxes by the RCD-Goma rebel administration. The termination of the agreement with SOMIGL made it possible for RPA to frustrate the efforts of RCD-Goma to raise revenue for its own purposes.

75. The bulk of coltan exported from the eastern Democratic Republic of the Congo, as much as 60 to 70 per cent, has been mined under the direct surveillance of RPA mining *détachés* and evacuated by aircraft from airstrips near mining sites directly to Kigali or Cyangugu. No taxes are paid. Rwandan military aircraft, Victor Bout's aircraft and small airline companies are used in the evacuation of the coltan. RPA has maintained control over most of the coltan sites where rich deposits are found, where the percentage of tantalum is high, and where local airstrips are accessible. A variety of forced labour regimes are found at sites that have been managed by RPA mining *détachés*, some for coltan collection, some for transport, others for domestic services. Many accounts report the widespread use of prisoners imported from Rwanda who work as indentured labour.

76. A smaller portion, perhaps 15 to 25 per cent of the total coltan exported, is purchased by *comptoirs* owned by Rwandans who buy from local *négotiants* at remote coltan sites or from the agents of local defence groups. More typically these *comptoirs*, owned by Rwandan army officers or those closely linked to the

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Government of Rwanda, such as MHI *comptoir*, Eagle Wings or Rwanda Metals, have obtained their own mining sites and conscript their own workers to exploit the sites under severe conditions.

77. The smallest portion of coltan is purchased by the few remaining Congolese-owned *comptoirs* at one of the large number of coltan sites in remote areas. Most of the Congolese *comptoirs* have found it impossible to compete with the RPA or Rwanda-owned *comptoirs*.

78. As mining profits to the Congo Desk have increased, the share of RCD-Goma has declined. The Congo Desk has perennially deprived its junior partner, RCD-Goma, of any significant share in resources and prerogatives, and RCD-Goma has perennially complained. RCD-Goma administrators have frequently pointed out that they were unable to manage their army without sufficient revenue. Lacking financial support, the ANC brigades have turned to pillaging villagers throughout the eastern Democratic Republic of the Congo. The third Brigade has stolen a large number of cattle around Kalemie, and the first Brigade has taken diamonds from Opala. The Panel possesses extensive documentation on these activities. Most of these rebel forces are under the command of RPA officers. They have little hesitation, when so directed, in attacking local self-defence groups who obstruct their commercial operations, to eliminate specific enemies, to provide security around gold, coltan and diamond rich areas, to provide police services in urban areas and occasionally to keep a force present along the front lines. Since ANC troops are neither paid nor disciplined, they use their weapons to prey on the population, frequently burning whole villages to acquire property and food.

#### **Case study of a commercial chain involving coltan**

79. Eagle Wings Resources International, a coltan *comptoir* in Bukavu, is a subsidiary of Trinitech International Inc., based in Ohio, United States. Eagle Wings has offices in Rwanda, Burundi and the Democratic Republic of the Congo. The manager of Eagle Wings in Kigali has close ties to the Rwandan regime. Consequently, Eagle Wings operates in the Democratic Republic of the Congo as a Rwanda-controlled *comptoir* with all the privileges derived from this connection. Eagle Wings is not obliged to fulfil its full responsibilities to the public treasury managed by the RCD-Goma administration. Like other

Rwanda-controlled coltan *comptoirs*, Eagle Wings collaborates with RPA to receive privileged access to coltan sites and captive labour.

80. Approximately 25 per cent of Eagle Wings coltan is shipped from Kigali to the Ulba Metallurgical Plant of NAC Kazatomprom, in Kazakhstan. Another 25 per cent is sold to the parent company of Eagle Wings, Trinitech International Inc. in the United States, which arranges for sales to both Ulba and to the Chinese processing facility at Ningxia Non-Ferrous Metals Smeltery (NNMS). H. C. Starck, based in Germany and a subsidiary of the transnational corporation Bayer AG, purchases about 15 per cent of Eagle Wings coltan. H. C. Starck has denied on numerous occasions obtaining coltan originating from Central Africa. In a press statement issued on 24 May 2002, H. C. Starck reiterated that the company had purchased no material originating in Central Africa since August 2001. The Panel possesses documents showing the contrary. In the same press release, H. C. Starck claimed that its coltan originates from "peasant suppliers" and not from rebel groups. In fact, no coltan exits from the eastern Democratic Republic of the Congo without benefiting either the rebel group or foreign armies.

81. In one instance on which the Panel has documentation, Mozambique Gemstone Company provided false documents establishing Mozambique as the origin of a shipment of coltan originating in Rwanda and transiting through South Africa. Mozambique Gemstone Company then sold the consignment to AMC African Trading and Consulting Company Ltd., based in South Africa, which subsequently sold the consignment to H. C. Starck Ltd. in Rayong, Thailand, on 21 September 2001. H. C. Starck sent a letter of credit for this consignment on 9 May 2002 to Chemie Pharmacie Holland, which oversaw the transaction, and which is a commercial partner of Eagle Wings providing logistical and financial services. Eagle Wings is the only coltan source for Chemie Pharmacie. Eagle Wings has no operations in Mozambique.

82. The Panel has also had direct contacts with the Chinese processing facility, NNMS, to determine whether they use coltan originating in the eastern Democratic Republic of the Congo. NNMS categorically denied doing business with "any individual or any entity that represents somebody or some entity in the Democratic Republic of the Congo." In fact, a number of brokers trading in coltan

originating from the eastern Democratic Republic of the Congo have informed the Panel of their sales to NNMS. A publicity presentation prepared by NNMS itself has stated that the reason that they are able to provide low prices for their output is that NNMS buys significant amounts of cheap raw material from Central Africa. One NNMS report notes that 50 per cent of all coltan purchased for processing originates in Central Africa. Frequent follow-up Panel enquiries with NNMS were ignored.

### **Diamonds**

83. The diamond market was the prize Rwanda fought Uganda to have for its own. After the last clash in Kisangani in June 2000, RPA worked through the RCD-Goma administration to funnel all the diamonds in Kisangani through the Congo Desk control. The technique was to oblige all local diamond traders to sell to one principal *comptoir* holding exclusive export rights.

84. The Congo Desk gave Aziz Nassour the first monopoly. Aziz Nassour fell out of favour with the Congo Desk and was replaced by an Israeli diamond dealer, Philippe Surowicz. Diamond traders in Kisangani remember the Surowicz period as a "reign of terror". Diamond sellers frequently reported entering "Monsieur Philippe's" *comptoir* only to be confronted with RPA military who named a derisory price and took the diamonds. The Congo Desk replaced Mr. Surowicz in October 2001 with a Lebanese, Hamad Khalil, who worked through the Bakayoko *comptoir* in Kisangani.

85. In mid-November 2001, the Department of Lands, Mines and Energy of RCD-Goma conducted a study of Hamad Khalil's performance in the first month of his tenure. His quota had been set at a minimum of \$500,000 per month. Mr. Khalil met his quota exporting diamonds valued at \$576,380 over a period of 27 days. The performance was adequate, but it was far below the Kisangani sales potential of up to \$2 million per month. His poor performance raised the suspicion that the Congo Desk was using Mr. Khalil to divert revenues that might otherwise accrue to the RCD-Goma administration. A similar inspection of diamond production in the Sankuru and Lodja areas of Northern Kasai the week before had also revealed that RPA officers were clandestinely taking large quantities of diamonds out of Northern Kasai directly to the Congo Desk in Kigali. RCD-Goma determined that Mr.

Khalil was undervaluing the diamonds, and the consequence was a reduction in taxes payable to RCD-Goma's public treasury as well as a greater margin of profit for Mr. Khalil and the Congo Desk. The study concludes that "The public treasury would have four times the present revenue from diamonds were it not for fraudulent practices and the under-valuation of diamonds".

### **Imports, taxation and requisition by the public sector**

86. The controversial "conflict" diamonds from Kisangani are marketed by criminal networks. Proceeds from these criminal sales are laundered by the purchase of large quantities of household goods in Dubai — sugar, soap, cloth and medicines — which are then imported to the Democratic Republic of the Congo and offered to local sellers at attractive prices. The Rwandan wholesalers use the profits in Congolese francs to buy dollars and, to close the trade circuit, to purchase diamonds.

87. The interest of the RPA commercial wing in selling consumables at attractive prices is not only to launder money from criminal diamond sales, but also to place the once-thriving Kisangani economy under Rwanda's control. The cloths that were once manufactured at the Kisangani Sotexki factory and renowned for their quality no longer compete with the cheaper imports, and the result is that the Sotexki labour force, once 2,000, now stands at 100. The palm oil once produced locally at the Unilever-owned plant can no longer compete with the imported oil that is sold in Kisangani at a third of the price of locally produced oil. The Unilever-owned palm oil plants in Kisangani are practically at a standstill. Weakening local production not only undermines the local manufacturing economy and makes the Kisangani population captive consumers, it also shifts Kisangani's manufacturing economy to Kigali.

88. Another strategy for raising revenue is to use RCD-Goma's public sector facade to requisition funds from public enterprises. On 21 November 2001, the Secretary General of RCD-Goma requisitioned by decree all revenues generated by public utilities and parastatals. On the following day the Secretary General annulled all existing collective agreements for workers in those enterprises. The decrees were applicable to all public enterprises, including the water utility, the airport authorities, the electricity utility, the road and

transport authority among others. RCD-Goma declared the requisitions to be in the public interest. Within a month, the water utility lacked sufficient funds to purchase water purification chemicals in Kisangani and Bukavu and power stations stopped functioning for lack of necessary repairs. The International Committee of the Red Cross has stepped in to provide 60 tons of chemicals for water purification and has financed costly repairs at Tshopo power station to avert a discontinuation of water supply in Kisangani and avert a cholera outbreak. The parastatal transport company ceased to function, and the airport authorities appealed to RCD-Goma to restore a portion of the requisitioned funds since no salaries had been paid for six months.

89. Following a decree on 15 March 2002, new taxes were introduced and all existing tax rates have been increased. Over an 18-month period, since the previous tax decree of September 2000, taxes on electrical consumption have increased by 200 per cent. Licences for trading in agricultural products increased fourfold. Most licensing fees for operating a business were doubled or tripled. The number of different taxes collected in the area under RCD-Goma administration has increased four times since 1998. None of the tax revenue is used to provide public services.

### **Armed conflict and its consequences**

90. Medical practitioners, church workers, and non-governmental organizations in northern Katanga all attest to rapidly escalating disorder in Kalemie and an increased use of arms by a wide range of groups, some affiliated with RCD-Goma and others not. Fighting between RPA and FAC has been limited to Rwanda's seizure of northern Katanga in November 1998 and a government counter-offensive in October 2000. These confrontations resulted in considerable displacement of populations in the path of troop movements. However, it was the aftermath of those confrontations that resulted in the most severe armed conflict. Rwandan troops seized material for their campaigns. The RCD-Goma third ANC Brigade, following Rwanda's example in their own random fashion, seized food and other property. Armed movements arose among local populations for self-defence, and occasionally these local militias banded together with other local militias to create larger armed groups. The Panel has received extensive documentation from local lawyers, Catholic and Protestant churches, the Fédération des Entreprises

au Congo and others detailing thefts of cattle valued at more than \$15 million, thefts of over \$1 million worth of retail goods and the destruction or fraudulent sale of equipment from the Société nationale de chemin de fer du Congo.

91. The Catholic Church in the eastern Democratic Republic of the Congo has spoken out boldly about the thefts, killings, torture, extortions, rapes and piracy on Lake Tanganyika perpetrated originally by RPA and continued by ANC, the RCD-Goma police and the Banyamulenge militia. The Church, and most notably the Bishop of Kalemie-Kirungu, recently headed a campaign to expose these abuses. Directors of RCD-Goma's Department of Security and Information responded by threatening to kill prominent church leaders. The Catholic Diocese published a list of those threats on 15 May 2002.

92. The multiplication of armed forces and fighting in the interior have all but destroyed farm production on the rich plateau in the interior of northern Katanga. Excesses by RPA in requisitioning resources for the "war effort" set a standard for behaviour by the far less disciplined ANC rebel forces, who have ravaged the countryside. Growers are reluctant to invest in crops when they are so likely to be stolen. Large numbers of persons have been displaced from their homes and have abandoned their lands out of fear. The Office for the Coordination of Humanitarian Affairs has estimated that, in the northern Katanga area alone, 350,000 displaced persons are living away from their homes, with neighbours, in the cities or in the bush.

93. Armed conflict along the Masisi-Walikale-Goma axis arises from tensions between the large numbers of RPA in place to manage mining operations and Hutus who may be resident, but who are also imported or conscripted by Rwandan forces to carry out mining under forced labour conditions. Separate Rwanda-owned *comptoirs* have quarrelled among themselves for access to sites. RPA forces have attacked and burned villages to seize coltan mined by some Hutu groups or local villagers. The Panel has taken testimony from villagers who have been forced to leave their villages following attacks. With minor exceptions, the objective of military activity is to secure access to mining sites or ensure a supply of captive labour.

94. Population displacement is the outcome of frequent armed conflict, with the predictable consequences of food insecurity, malnutrition and high



mortality rates for both the displaced and host populations. The Office for the Coordination of Humanitarian Affairs estimated that 1.5 million persons were displaced in March 2001 in the areas occupied by Rwanda in North and South Kivu, Maniema and Katanga, nearly 14 per cent of the population. More than three quarters of families living in the rural areas have probably been forced to move at least once in the last five years. This degree of armed conflict undermines local authority and encourages an abusive social environment. Public infrastructure is destroyed. School enrolment in Shabunda has dropped 56 per cent since 1998. Men are led to abuse women on a surprising scale throughout the eastern Democratic Republic of the Congo. International non-governmental organizations have provided comprehensive reports about groups of women being taken hostage and submitted to long periods of sexual abuse. Children become instruments of war, forced to work in the mines and conscripted into armed forces. United Nations officials have suggested that the number of child soldiers in the rebel armies is much higher than reported by the rebel administrations, and that 50 per cent of local defence and Mayi-Mayi groups are children.

### **Malnutrition and mortality**

95. Malnutrition studies carried out by non-governmental organizations in both northern Katanga and the Kivus have shown that, in some places, as many as 25 to 30 per cent of all children under 5 years are malnourished. In most cases, this is due to the large numbers of displaced persons who have been forced to leave their own agricultural production and have taken refuge in nearby host villages. A number of studies have shown the close link between elevated malnutrition levels and mortality rates in this region.

96. The most commonly quoted conclusion from the International Rescue Committee's surveys is that 2.5 million more people died since the beginning of the war than would have died had the war not occurred. While the study is directly relevant to the sample population of 1.3 million, the International Rescue Committee has assumed that conditions are sufficiently similar throughout all five provinces of the eastern Democratic Republic of the Congo to justify applying the mortality rates found in the sampled population to the larger population in all five provinces. The study

covered the period from August 1998 to April 2001. If one assumes mortality to have continued at the same rate, this would mean that more than 3.5 million excess deaths would have occurred from the beginning of the war up to September 2002. These deaths are a direct result of the occupation by Rwanda and Uganda. Extensive mortality, especially mortality among children, is the consequence of a cycle of aggression, the multiplication of armed forces, a high frequency of conflict and its consequences, especially displacement. One should not be surprised to find, in areas most affected by the conflict, a mortality rate for children under 5 years of 35 per cent.

### **V. Uganda-controlled area**

97. The objective of the elite network in the areas controlled by Uganda has been to exercise monopolistic control over the area's principal natural resources, cross-border trade, and tax revenues for the purpose of enriching members of the network. Notwithstanding the current political rapprochement and the apparent momentum towards normalizing relations between Uganda and the Democratic Republic of the Congo, the elite network continues to increase its economic hold over the area.

#### **The elite network**

98. The elite network operating out of Uganda is decentralized and loosely hierarchical, unlike the network operating out of Rwanda. The Uganda network consists of a core group of members including certain high-ranking UPDF officers, private businessmen and selected rebel leaders/administrators. UPDF Lieutenant General (Ret.) Salim Saleh and Major General James Kazini are the key figures. Other members include the Chief of Military Intelligence, Colonel Noble Mayombo, UPDF Colonel Kahinda Otafiire and Colonel Peter Karim. Private entrepreneurs include Sam Engola, Jacob Manu Soba and Mannase Savo and other Savo family members. Rebel politicians and administrators include Professor Wamba dia Wamba, Roger Lumbala, John Tibasima, Mbusa Nyamwisi and Toma Lubanga.

99. The network continues to conduct activities through front companies such as the Victoria Group, Trinity Investment, LA CONMET and Sagricof. Each

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of these companies may concentrate on one or two commercial niches, though these may change. The role of the companies is to manage their respective niche activities by assembling the personnel, logistics and occasionally the financing for the operations.

100. The network generates revenue from the export of primary materials, from controlling the import of consumables, from theft and tax fraud. The success of the network's activities in the Democratic Republic of the Congo relies on three interconnected features, namely, military intimidation; maintenance of a public sector facade, in the form of a rebel movement administration; and manipulation of the money supply and the banking sector, using counterfeit currency and other related mechanisms.

101. The Uganda People's Defence Forces and their associated rebel militias have been used as the de facto enforcement arm of the network, ensuring the network's pre-eminent commercial position through intimidation, and the threat and use of force. UPDF or militias associated with individual UPDF officers have established physical control over areas containing commercially viable natural resources — coltan, diamonds, timber and gold. They establish authority in major urban and financial centres, such as Bunia, Beni and Butembo, where they use the rebel administration as a public sector facade to generate revenue, specifically to collect taxes under various pretexts, including licensing fees for commercial operators, import and export duties and taxes on specific products.

102. Uganda has recently agreed to withdraw all UPDF troops except for a reinforced battalion in Bunia and a small number of units on the slopes of the Ruwenzori Mountains. In anticipation of this withdrawal, a paramilitary force is being trained under the personal authority of Lt. General Saleh which, according to the Panel's sources, is expected to continue to facilitate the commercial activities of UPDF officers after UPDF have departed. This military group draws on dissidents from Jean-Pierre Bemba's MLC, members of the Uganda-supported RCD-Congo including its leaders Professor Kin-kiey Mulumba and Kabanga Babadi, and others in the north-eastern Democratic Republic of the Congo who have supported UPDF in the past. It has been reported that Lt. General Saleh discreetly provides financial support for this new rebel group. The Panel's sources have indicated that Heckie Horn, Managing Director of Saracen Uganda

Ltd., is a key partner with Lt. General Saleh in supporting this paramilitary group and that Lt. General Saleh himself is a 25 per cent owner in Saracen. Saracen's managing director also provides military training and arms to members of this group. In an interview with Panel members, the Managing Director of Saracen Ltd. categorically denied any involvement with Lt. General Saleh's activities in the north-eastern Democratic Republic of the Congo.

103. Panel sources report that Lt. General Saleh and Mr. Horn consulted President Joseph Kabila to obtain support for this covert operation. Its primary objective has been to replace Mbusa Nyamwisi with Roger Lumbala as head of RCD-K/ML in order to ensure access to the diamond-rich areas around Buta and Isiro controlled by Mr. Lumbala's rebel group, RCD-National. This objective has largely been achieved. Their more long-term objective is to bring about the downfall of Jean-Pierre Bemba, adding the growing number of dissidents in Mr. Bemba's ranks to the new rebel movement RCD-Congo. With increased numbers and training, they will then be in a position to confront RCD-Goma and Rwanda.

104. Members of the Ugandan network are typically tax exempt. The Panel is in possession of documents showing that the network uses its control over the RCD-K/ML rebel administration to request tax exonerations for imports of high-value commodities. The granting of numerous tax exonerations to UPDF Colonel Otafiire between late 2001 and early 2002 is one of numerous cases. Not only did Colonel Otafiire benefit financially but, eventually, those exonerations forced local competitors out of markets in Bunia and Beni, leaving the petrol trade largely under the control of the network.

105. Local commercial operators are, however, required to pay substantial import and export duties. These operators may be favoured with discounted tax payment deals, in the form of prefinancing arrangements, but tax payment for local operators is mandatory. Prefinancing arrangements involve the payment by an importer of discounted tax payments in exchange for a financial payment to an authorizing rebel politician or administrator. None of these payments to the rebel administration is used to finance public services.

106. The network uses its economic influence to control the banking sector, which in turn allows the

network to further control access to operating capital for commercial operators in the area. Economically speaking, this region has become a captive region, where the types of commercial ventures are manipulated and the viability of local businesses is controlled. Furthermore, the flow of money is regulated by the network through currency trading and the widespread introduction of counterfeit Congolese francs.

107. As in the past, the network continues to involve the transnational criminal group of Victor Bout. Mr. Bout recently purchased the Uganda-based non-operational airline company Okapi Air. The purchase of the company allowed Victor Bout to use Okapi's licences. The company was subsequently renamed Odessa. The Panel is in possession of a list of outbound flights from 1998 to the beginning of 2002 from Entebbe International Airport, which confirms the operational activities of Mr. Bout's aircraft from Ugandan territory. Currently, Mr. Bout's aircraft share the flight times and destinations (slots) with Planet Air, which is owned by the wife of Lt. General Salim Saleh and which facilitates the activities of Mr. Bout by filing flight plans for his aircraft.

## **Strategies and sources of revenue**

### **Coltan**

108. Coltan has been exploited extensively in Orientale Province by various armed groups under the protection of UPDF. A number of coltan operations, especially under the supervision of UPDF Colonels Muzora and Burundi, have been coordinated under the front company Trinity Investment, where UPDF Major General Kazini is the principal figure. Armed groups frequently identified with militias under the command of UPDF officers manage sites in remote locations where diggers pay a daily fee to exploit an area.

### **Case study of a commercial chain involving coltan**

109. During March 2002, Panel members met with Valentina Piskunova who, together with her husband Anatoly Piskunov, represents and operates the company LA CONMET from its base in Kampala. During discussions with the Panel, Ms. Piskunova explained that, because of the collapsed international coltan market, prices for the mineral in the eastern Democratic Republic of the Congo had dropped

dramatically. However, Ms. Piskunova told the Panel that the continuing international interest in coltan from the Democratic Republic of the Congo is due to the "very low" labour costs for extracting the mineral. Therefore, the company continued to buy coltan from its office at Butembo in the Democratic Republic of the Congo. She said that their purchase price for coltan with a 30 per cent tantalum content was \$10 per kilogram. The same coltan was then sold for \$17 per kilogram.

110. Ms. Piskunova went on to tell the Panel that the company's coltan was transported by road across the border between the Democratic Republic of the Congo and Uganda at Kasindi to Entebbe International Airport, where it was then transported by Boeing 707, via Sharjah, United Arab Emirates, at a cost of \$140,000 per flight, to Ulba, Kazakhstan, for processing.

111. In addition to the profit made on the sales of coltan, LA CONMET also experienced savings by being granted "full exoneration" for "all activities involving exploitation for the territory of Beni-Lubero" (Democratic Republic of the Congo), including freedom from paying fiscal and customs duties. The document granting the exonerations is in the possession of the Panel. It was signed at Kampala by Mbusa Myamwisi, then Commissioner General for RCD-Kisangani, on 5 January 2000, identifying Salim Saleh as the owner of LA CONMET and designating his representatives as "the Russian group LA CONMET".

### **Diamonds**

112. The network coordinates all elements of the diamond trade, local buying houses, Lebanese exporters, army protection from UPDF and individual militias, tax exonerations from the public sector, and Lebanese connections in Antwerp, under the aegis of the front company, the Victoria Group. Considerable evidence available to the Panel has named the Lebanese-born, Khalil Nazeem Ibrahim, and another known as Mr. Abbas, as the present focal points in Kampala for Victoria's diamond operations. The Panel has credible evidence that Khalil Nazeem Ibrahim used the capital and marketing services of Hemang Nananal Shah, proprietor of Nami Gems in Antwerp. Lt. General Saleh is recognized by the Panel's sources in Bunia, Kisangani and Kampala as the founder and director of the Victoria Group and as the mastermind of its operations.

113. The Lebanese individuals, together with their families, who are commonly named in connection with the Victoria Group, are also regarded as closely associated with the Lebanese families Khanafer and Ahmad. Khanafer Nahim, in particular, has been named as a key figure in Victoria Group operations. He is well known by a number of national intelligence and police organizations for the production of counterfeit currency, money-laundering and diamond smuggling on behalf of generals who were prominent in President Mobutu's time and are still interested in returning to power. The Victoria Group's use of counterfeit United States currency in Bunia to purchase gold from local *comptoirs* is widely known.

#### **Tax fraud and the requisition of assets**

114. Control over imports is as lucrative as the monopolization of exports. Exoneration from import duties gives the network an advantage in the north-eastern Democratic Republic of the Congo over local importers who pay duties and taxes. An across-the-board exoneration was recently proclaimed in the Protocole d'Accord issued by RCD-K/ML on 22 February 2002, which ensured Ugandan commercial operators complete exoneration from all taxes in the area under their control.

115. But increased profit margins from tax-free imports provide only a fraction of the benefits. Equally lucrative is access to the taxes themselves, monopolized by the network that uses the rebel administration's facade of a public treasury and its collection agents to raise revenue from local businessmen and the population at large. Hundreds of containers are imported each month into the Butembo, Beni and Bunia areas, and importers are obliged to pay an average of \$8,000 per container. Revenue from these import duties can be considerable. Some revenue is also diverted through prefinancing arrangements, which provide discounted import duties in exchange for kickbacks to rebel politicians. The Panel's sources insist that the revenues generated from import duties and prefinancing payments are diverted to UPDF officers. None is utilized for public services.

116. Trinity Investment's local transporters in Bunia, the Savo family group among others, carry agricultural products, wood and cattle from Bunia to Kampala exempt from UPDF toll barriers and export taxes. Trinity investment also works with another front company under the name of Sagricof to fraudulently

evacuate wood from North Kivu and the Ituri area. Tree plantations have been raided in the areas of Mahagi and Djugu along the north-eastern border with Uganda. Concerned citizens and research by local non-governmental organizations have identified Colonel Peter Karim and Colonel Otafiire, in addition to the Ugandan parliamentarian Sam Ngola, as key figures in the illegal logging and fraudulent evacuation of wood.

117. Many of the cattle removed have been forcibly taken from villages that have been the objects of attack by Hema militia supported by UPDF troops. The Panel has received reports from ranchers in areas to the south of Bunia as well as to the north in Mahagi detailing the removal of large numbers of cattle by UPDF troops. The representative of the Food and Agriculture Organization of the United Nations in Bunia has reported the more recent UPDF practice of offering protection to ranchers against attacks that they themselves have orchestrated, in exchange for regular payment in animals. UPDF have also required local butchers to hand over hides from animals butchered locally, and these hides are then transported to Kampala where they are reputedly sold to Bata Shoe Manufacturing.

#### **Economic exploitation and ethnic conflict**

118. The ongoing armed conflict between members of the Hema and Lendu clans stems, in part, from attempts by powerful Hema businessmen and politicians to increase the benefits they derive from the commercial activities of the elite network through their front companies, the Victoria Group and Trinity Investment, in the Ituri area.

119. Hema clan members, particularly members of the sub-clan Gegere, have justified the purchase of arms and the training of their own militia by the need to defend themselves against their traditional enemies, the Lendu. It is true that a long-festering dispute over land has resulted in discord between the two groups. Recently, however, the traditional enmity over land and the ongoing feud between the two groups is used as a rationale by the Hema, and especially by the extremist sub-clan Gegere, for importing arms and training their own militia with the ultimate unspoken objective of consolidating their economic strength in the region.

120. The Gegere sub-clan plays an important role in the operation of the elite network. The majority of transporters and local traders in Bunia come from this



group. Jacob Manu Soba, Manasse Savo and other members of the Savo family are among those who have provisioned UPDF in the area and who provide transport, logistical services and local commercial links. They have established close links with a succession of UPDF commanders and troops in the area and work closely with them in conducting cross-border trade.

121. The Hema fill an important niche in the operation of the criminal enterprises as truck owners and businessmen. They transport shipments of primary products from Ituri across the border to Uganda under the protection of UPDF troops and return with gasoline, cigarettes and arms, all exempt from taxation. They benefit from the trade and the generous profit margins, and from their association with the Trinity Group's Ugandan patrons. But their niche has remained marginal. They control none of the primary product exports themselves. They remain peripheral to the alliance between RCD-K/ML leaders, the Ugandan patrons and UPDF. The plot to replace Mr. Nyamwisi with Mr. Lubanga, which appears now to be a fait accompli in Bunia, is part of an attempt by these Hema traders to secure greater control over the spoils available to inside members of RCD-K/ML.

122. UPDF have created the conditions that require the presence of troops and their continued involvement in commercial operations. This has entailed providing arms to both sides in the ethnic conflict, the Lendu and the Hema. The consequent increase in ethnic fighting has resulted in UPDF being urged to assist in furthering the peace process in Bunia. This function was formalized in an official Protocole d'Accord signed on 22 February 2002 by Mbusa Nyamwisi and John Tibasima as President and Vice-President of RCD-K/ML and by Colonel Noble Mayombo as an official representative of the Government of Uganda. The Protocole d'Accord gave UPDF official responsibility for reducing the *conflits armés inter-ethnique en Ituri* and for assisting in bringing about a *retour de la paix* by keeping a contingent in place for observation and for negotiating an eventual long-term solution. In exchange, UPDF were promised a monthly stipend of \$25,000 from the RCD-K/ML public treasury, and all Ugandan enterprises that were approved by UPDF were accorded exoneration from all duties and taxes due to the rebel administration. This has given UPDF a legitimate cover for continuing military support for the elite network's activities in the area.

123. The Protocole d'Accord was signed a week after UPDF had been involved in a succession of attacks, from 11 to 16 February 2002, on villagers at Geti. The Panel's sources on the matter stated that the attack had been financed by Hema businessmen in Bunia. The UPDF motive was clarified even further in the course of a meeting with RCD-K/ML department chiefs on 12 July 2002, when a Panel member was informed that the Hema businessmen in question sought to have control over gold deposits in the Geti area, and that in fact the ethnic conflict was a minor issue.

### Armed conflict and its consequences

124. UPDF military operations have contributed to the arming of large numbers. UPDF have trained the militia of their Ituri commercial allies, the Hema, and provoked the need for the victims of Hema attacks to defend themselves. Lendu villages have mounted their own local forces, and they in turn have frequently attacked Hema villages. The creation of local self-defence groups is a familiar pattern: local ethnic groups frequently assemble armed groups to defend their villages or collectivities.

125. Armed conflict has spread throughout society, as economic and personal insecurity reach extreme levels. Large numbers of young men join one or another armed group because they have no other means of finding food or medicine or because they have no one to care for them. The young men in the Armé Patriotique Congolaise are unpaid but are provided with weapons and a uniform giving them the tools for menacing others. Widespread armed activity is characterized by opportunistic and chaotic encounters. Children are killed, adult victims are eviscerated, women are raped, property stolen, houses burned, churches demolished and whatever infrastructure exists is laid waste.

126. In the cities, young men dressed in military uniform and equipped with guns target businesses, households and churches. In the countryside, armed groups target whole villages. The attack on the village of Mpingi on 24 December 2001 is illustrative. A small Mayi-Mayi group had teamed up with a group claiming to be members of a Hutu opposition to set up a roadblock on the road from Butembo to Kanyabayonga. When the roadblock drew the attention of APC, the Mayi-Mayi group withdrew to the west into the village of Mpingi where they sought refuge. APC followed

them in force and attacked the entire village of Mpingi, destroyed and burned houses, vandalized the church, razed the school and clinic and forced the residents to flee. Targeting whole villages with violence, brutally raping and murdering residents, removing livestock, food and other property and dispersing residents has been the trademark of armed aggression. A portion of those who flee seek protection in nearby villages, abandoning their own productive activities in their home village while becoming dependent on the resources of host populations.

127. A portion of the displaced population take refuge in urban areas where they benefit from somewhat better security but have little, if any, means for survival. Unemployment rates in cities and towns often reach 90 per cent. An income survey by civil society groups in Butembo found that 90 per cent lived on a few cents a day and ate one meal a day. Urban families break up to seek survival in separate ways. The women engage in prostitution, the older men may return to what remains of their villages or mining sites and the young men enter the rebel army, swelling both the ranks of its forces and the numbers of young boys without subsistence possessing weapons.

128. In March 2001, the Office for the Coordination of Humanitarian Affairs estimated that there were 620,000 displaced persons in North Kivu, which amounted to 16 per cent of the total population. The area covered by the Office's survey includes both Uganda-controlled and Rwanda-controlled areas, but the conditions surveyed are representative of the Uganda-controlled area. Given the frequency of displacement in the area, this would mean that four out of five rural residents have been forcibly displaced at one time or another since 1998. This is the highest number ever registered for Africa. These aggregates have been confirmed for specific localities surveyed by international non-governmental organizations.

129. The spread of HIV/AIDS, the large numbers of child soldiers and the rape of women are other consequences of the pervasive armed conflict. Many soldiers are young boys who hardly seem capable of wielding the weapons they carry. The issue of child soldiers surfaced when 700 young recruits from the Bunia area were discovered at a UPDF training camp in Tchakwanzi, Uganda, of whom 165 were between 14 and 16 years of age. The programme to demobilize those 165 children, two of whom were girls, has attracted considerable attention. The issue also

received attention recently when the Governor of Bunea, Jean-Pierre Molondo, revealed that, of the recruits being trained for the extremist Hema militia, 60 per cent were under the age of 18.

### **Malnutrition and mortality**

130. Population displacement has a direct impact on agricultural production, food security and levels of malnutrition. The threat of attack and displacement is so prevalent in this area that farm families adopt farming strategies that minimize losses under conditions of extreme insecurity. They cease raising animals, since animals can be easily stolen. Fewer families raise protein-rich legumes, since these crops require attention through the growing cycle, and this attention can rarely be given. Malnutrition, in turn, substantially increases the exposure of the population to life-threatening illnesses.

131. The International Rescue Committee surveys provide the most comprehensive research into mortality in the eastern Democratic Republic of the Congo. None of the health zones sampled in its two major surveys was in the areas now controlled by Uganda. However, the pattern of armed conflict, population displacement, food insecurity and malnutrition in Uganda-controlled areas resembles the pattern that explains the very high mortality rates in the seven health zones where the research was conducted. The Committee's team judged the similarities to be sufficient to warrant extrapolating the results of areas sampled in the Kivus to the entire eastern Democratic Republic of the Congo, including areas under Ugandan control. The Panel concurs. One can expect the same range of mortality for children under 5, from nearly 30 per cent per year in areas of extreme insecurity without health facilities to 7 per cent in areas where there is less insecurity and some services. For the more than 20 million people living in the five eastern provinces, the number of excess deaths directly attributable to Rwandan and Ugandan occupation can be estimated at between 3 million and 3.5 million.

## **VI. Collaboration of the Panel with the Porter Commission in Uganda**

132. During its previous mandate, the Panel's relations with the Judicial Commission of Inquiry headed by

Justice David Porter (Porter Commission) were occasionally strained. However, with the encouragement of Member States, notably the members of the Security Council, the Panel established an amiable working relationship with the Commission. This relationship is unique in the history of panels of experts mandated by the Council, given the degree and the nature of the cooperation developed between the two bodies.

133. Panel members held frequent discussions with the Porter Commission. From the outset, Justice Porter was critical of the quality of the Panel's reports and the credibility of its sources. At the same time, he claimed that the Commission's investigations, ongoing now for more than a year, were stymied primarily because of a "conspiracy of silence" within UPDF. Under the Commission of Inquiry Act, the Commission has the power to conduct searches and compel the production of documents and testimony.

134. The Panel made evidence available to the Commission, including copies of 12 letters and a statement from a witness, together with five original audiotapes containing testimony given by a primary source. These materials represent only a small sample of the documentation gathered by the Panel on the involvement of leading Ugandan military and senior Ugandan Government personnel. They provide evidence of criminal activity by such ranking Ugandan authorities. They show officials demanding extortionist payments and tax exonerations from Congolese rebel movements, including the UPDF Chief of Staff demanding that his vehicles transporting coltan be allowed to cross the border without paying export duties. The Panel also arranged for one of its sources to testify before the Commission at a special hearing in spite of the risk of exposure to the source. In exchange, the Porter Commission provided the Panel with copies of the testimony of certain high-ranking military officers, Government officials, private businessmen and other individuals who had appeared before it.

135. The Panel's many efforts to establish a constructive relationship with the Commission have mostly been met with attempts to dismiss its credibility. The Commission has challenged the authenticity of letters provided by the Panel that show significant payments to UPDF officers from rebel movement budgets, even when reliable witnesses have testified to their validity. It has submitted other documents signed by ranking officials to handwriting

analysis and used this analysis to imply that they may be forgeries. The analysis of those documents, however, suggested that the signatures were probably genuine. During a specially arranged hearing aimed at corroborating the authenticity of certain documents transmitted by the Panel, the Porter Commission submitted one of the Panel's informants to an unusually aggressive questioning designed to frighten the individual and discredit his testimony.

136. When the Commission recalled Major General James Kazini in May 2002 to question him on the basis of documents supplied by the Panel, the UPDF military commander finally admitted that the signatures on the documents were indeed his and accepted that the documents related to his actions as the former commander of UPDF operations in the Democratic Republic of the Congo. Justice Porter commented during the questioning that General Kazini, who had consistently denied under oath any involvement in such illicit economic exploits, had perjured himself repeatedly during both that hearing and his original testimony before the Commission the previous year. The head of the Commission also conceded, according to transcripts of the hearing, that the Panel's "allegations" about General Kazini's involvement in exploitation activities, including those related to the diamond trade and tax revenues, "were actually true". Justice Porter reconfirmed these observations in meetings with the Panel, again conceding that the conclusions of the Panel's earlier reports about this officer and the involvement of UPDF in the illicit exploitation were "right". In an electronic message dated 25 May 2002, Justice Porter wrote to the Chairman of the Panel regarding the documentary evidence provided and General Kazini's second appearance before the Commission. He expressed his appreciation to the Panel, saying, "We feel, and hope you agree, that with your assistance we have at last been able to break what we have described as a conspiracy of silence within UPDF, at least in relation to diamonds and 'security payments', and we are extremely grateful to you for enabling us to do so."

137. During the Panel's last meeting with the Commission in September 2002 in Kampala, Justice Porter explained that any recommendation by the Commission to refer an individual for criminal prosecution as the result of its enquiries must first be approved by the Minister for Foreign Affairs and President Museveni. A criminal investigation would

then be necessary before the authorities could determine if grounds for prosecution existed. The Panel also understood that, in spite of the Commission's extensive investigative powers, its terms of reference restrict the scope of its enquiries into the activities of military personnel. It is not empowered to obtain military records and documents from the Defence Ministry. Nor can it conduct audits of individual officers' finances.

138. The Porter Commission's mandate has now been extended beyond that of the Panel, to 15 November 2002, allowing it the opportunity to comment on the Panel's report. In the event that the Porter Commission ignores or rejects the validity and evidentiary value of the documents provided or attempts to further discredit the Panel's work, the Chairman of the Panel requests that the Security Council authorize the Panel to respond to the Commission's report in a letter addressed to the Security Council, which would be circulated as a United Nations document.

## **VII. Transit and end-user trade issues**

### **Transit countries**

139. The Panel identified 11 African States through whose territory goods originating in the Democratic Republic of the Congo are likely to pass. Some are directly involved in the conflict, namely, Burundi, Rwanda, Uganda and Zimbabwe. The remaining seven are the Central African Republic, Kenya, Mozambique, the Republic of the Congo, South Africa, the United Republic of Tanzania and Zambia. The Panel submitted questions to all 11 countries and held substantive discussions with government representatives from five. The Panel enquired about relevant legislation, investigations into the flow of the commodities, measures taken to curb those flows, other possible action to be taken and those Governments' needs for assistance. Four of the 11 countries — the Republic of the Congo, Mozambique, the United Republic of Tanzania and Zimbabwe — declined to respond. The Panel later identified yet another transit point for Congolese coltan, Nigeria, and requested information about this trade. No response was received. Virtually none of the countries that responded to the Panel's questions had conducted any investigations or adopted any specific procedures for the identification or inspection of the transiting of commodities from the Democratic Republic of the Congo. The Ugandan

authorities mentioned the impounding of a cargo of smuggled ivory. South African officials confirmed the seizure of a sizeable clandestine shipment of diamonds from the Democratic Republic of the Congo, but provided no details. None of the authorities in these countries gave any indication that Congolese resources traded through their territories should or could be regarded as conflict goods. Almost none of the countries proposed any meaningful measures to help curb trade in Congolese commodities that are tainted by criminality and militarization. Kenya, however, proposed the reopening of the Northern Corridor route, under the Transit Transport Coordination Authority, with the assistance of the international community.

140. Reliable sources have told the Panel that gem diamonds from Mbuji Mayi in the Democratic Republic of the Congo account for much of the phenomenal increase in diamonds transiting through Dubai in recent years. Exports from the United Arab Emirates to Antwerp increased to \$149.5 million in 2001 from \$4.2 million in 1998 according to the Diamond High Council's statistics. The Panel has been told of chartered flights direct from Mbuji Mayi to Dubai, and other routes via Dar es Salaam, on which illicit diamond exports have been carried. Likewise, Dubai has become a transit point for coltan from the Uganda-controlled area and a portion of the diamonds originating from Kisangani in the Rwanda-controlled area. The arms and diamond smuggler Victor Bout uses the United Arab Emirates as his permanent base, with nine of his aircraft stationed at Ra's al Khaimah International Airport.

### **End-user countries**

141. In an effort to determine what measures might be taken at the end of the commercial chain to control the trade in resources of the Democratic Republic of the Congo and sever its links to the armed conflict, the Panel surveyed 17 end-user countries in Asia, Europe, the Middle East and North America. Many of these countries serve as secondary transit points and processing centres as well as major consumer markets. They included Belgium, China, France, Germany, India, Israel, Japan, Kazakhstan, Lebanon, Malaysia, the Netherlands, the Russian Federation, Switzerland, Thailand, the United Arab Emirates, the United Kingdom and the United States. In its requests, the Panel stressed that its aim was not to obstruct trade, but to identify mechanisms or practices that would



eliminate the costs in war and human lives that occur in the course of extracting and commercializing resources from the Democratic Republic of the Congo. In seeking these countries' views, the Panel made reference to a range of possible initiatives, while leaving open the possibility for innovation based on lessons learned from other conflict situations. Four countries did not respond: India, Kazakhstan, Malaysia and the United Arab Emirates. Few respondents commented explicitly on the role that the trade in these commodities plays in fuelling the conflict in the Democratic Republic of the Congo.

142. The responses nevertheless indicated that efforts are being stepped up to tackle the illicit trade in natural resources and that awareness is growing of the ethical responsibilities posed by conflict-driven trade in commodities. France, Japan, Israel, Thailand and the United States emphasized the adequacy of existing certificates of origin or product certification regimes in stemming the illegal trade, including the certification scheme now in the process of being implemented under the Kimberley Process. Like China, the Russian Federation stressed that its participation in the Kimberley Process is aimed at helping to sever the links between the illegal trade in rough diamonds and armed conflict, particularly in Africa. Germany stated that companies in transit and end-user countries should cease all commercial and transport activities related to the trade in resources from the region, "unless their counterparts are able to provide clearly documented certificates of origin". Most responses did not evaluate the comparative successes and failures of certification regimes in the face of highly criminalized or opaque commercial chains. Switzerland expressed the view that until the Kimberley Process certification scheme had entered into force and more experience had been gained from its implementation, it would be premature to comment on the use of such regimes in regulating the trade in commodities from certain regions. End-user countries did not specifically call for countries bordering the Democratic Republic of the Congo such as Burundi, the Republic of the Congo, Rwanda and Uganda, which also trade in rough diamonds, to join the Kimberley Process. Lebanon suggested that standardized, mandatory certificates of origin could be developed for certain precious commodities through the relevant United Nations body or bodies.

143. The Russian Federation cautioned that any proposed measures on curbing conflict-linked trade

should not hinder legitimate trade in primary commodities or "impose an excessive burden on the countries participating in such trade". Several European Union members, including France and the Netherlands, observed that any measures affecting trade flows would have to be taken within the framework of the European Union and its trade regulations. Belgium and the United Kingdom stressed that the burden of ensuring transparency in commercial and financial flows or supply chains should be borne primarily by private companies and should be based on either voluntary measures or the OECD Guidelines for Multinational Enterprises. Germany echoed this, saying that it had appealed to German companies to adhere to those guidelines as well as the principles of the European Union Commission's Green Paper on Social Responsibility and the United Nations Global Compact in their business activities in the region. Germany also encouraged the Panel to continue its efforts to increase the transparency of the commercial chains for the natural resources of the Democratic Republic of the Congo, especially by intensifying its dialogue with private companies. Only Belgium suggested the possibility of imposing targeted sanctions against businesses or individuals profiting from the trade in conflict goods. The Netherlands expressed the view that the verification of commodities would be less difficult and costly if carried out at the beginning of the commercial chain.

144. Belgium, Germany and the United States also highlighted the re-establishment of the State's authority throughout the territory of the Democratic Republic of the Congo as essential to combating the illicit exploitation, and the need for capacity-building to help achieve this. Similarly, Lebanon said that the customs administration of the Democratic Republic of the Congo should be reinforced so that it could more effectively control borders, monitor trade flows and prevent smuggling.

#### **International and regional organizations**

145. The Southern African Development Community shared the view of some end-user States that existing certificates of origin were adequate for demonstrating that products had been legally produced and acquired. Customs intelligence and investigative capability for combating smuggling are still being developed within SADC. Issues of capacity-building and information-

sharing within the region will have to be addressed as this process advances.

146. The World Customs Organization informed the Panel that it had established a network of Regional Intelligence Liaison Offices, each assigned to a number of countries, to facilitate the exchange of information and cooperation within a region. The Democratic Republic of the Congo and many francophone countries in the surrounding region are attached to the Liaison Office at Douala, Cameroon. WCO observed that the use of the Liaison Office and the WCO Internet-based Customs Enforcement Network by the Douala region's members was quite low. It stressed that curbing fraudulent trade in commodities transiting through a region depends on effective communication between the countries concerned.

147. With regard to trade flows, the World Trade Organization explained in its reply to the Panel that two provisions of the 1994 GATT, a component of the WTO treaty, authorize members to take measures that otherwise would be inconsistent with GATT/WTO rules. These rules generally prohibit trade restrictions and discrimination. Articles XXI (c) and XX describe situations and policy aims permitting exceptional measures. The former, the security exception provision, refers to exceptions related to a State fulfilling its obligations under the Charter of the United Nations. This might serve as justification for Members taking action in compliance with a Security Council resolution on maintaining peace and security, commented WTO. Article XX, the provision on general exceptions, may be evoked if the measure is adopted pursuant to one or more policies listed in the article's subparagraphs. For example, subparagraph (b) refers to measures necessary to protect human life.

148. The Economic Commission for Africa concurred with Belgium that "smart sanctions" should be part of the solution to ending the illegal trade. It added that the Governments of the countries involved should also be "held accountable for the illegal activities of individuals and/or companies as well as banks that are operating in their country since they have the power to regulate them".

## VIII. Observations

149. The illegal exploitation of natural resources, gross violations of human rights and a dire

humanitarian situation are some of the consequences of four years of war and the lack of a central government in the Democratic Republic of the Congo with the authority and capacity to protect its citizens and resources.

150. The withdrawal of foreign forces is an important step towards ending the illegal exploitation of natural resources. Yet the necessary networks have already become deeply embedded to ensure that the illegal exploitation continues, independent of the physical presence of the foreign armies.

151. Another step towards halting the exploitation of natural resources will be the early establishment of an all-inclusive transitional government in the Democratic Republic of the Congo, which would ensure that central government control is reinstated and that viable local administrations are empowered to protect and regulate the exploitation activities to the benefit of the populace. However, it is clear that, even with the establishment of an all-inclusive government, exercising effective control over territory and natural resources would require time and would be possible only within the context of a broader framework of sound institution-building. In the interim, it is the view of the Panel that continued monitoring and reporting on the illegal exploitation of resources will at least serve to deter these activities.

152. The most important element in effectively halting the illegal exploitation of resources in the Democratic Republic of the Congo relates to the political will of those who support, protect and benefit from the networks. This may pose a great challenge, given the intricate relationships they have forged and the dependency they have developed on the profits from these activities. The war economy controlled by the three elite networks operating in the Democratic Republic of the Congo dominates the economic activities of much of the Great Lakes region. Yet the Lusaka, Pretoria and Luanda Agreements do not address this all-important economic component of the conflict.

153. Armed groups, whether foreign or Congolese, who are benefiting from these exploitation activities, should also be taken into account in efforts to halt the exploitation. Years of lawlessness and a Government incapable of protecting its citizens have allowed the armed groups to loot and plunder the country's resources with impunity. While some hide behind a

political agenda, all are pursuing illegal economic activities as a matter of survival. It is hoped that progress in the peace process, together with an effective and responsive programme of disarmament, demobilization, rehabilitation, reintegration and resettlement, would provide better alternatives to the armed groups. This would require the necessary funding for reintegration programmes and security assurances for those who are not wanted for war crimes or acts of genocide. The international community must, therefore, provide the assistance to these programmes, invest in publicizing them and encourage the armed groups to participate.

154. The Panel is hoping that this report will contribute to a shift in policies — in the light of the recent encouraging political and military developments on the ground — that will bring the exploitation of resources back to a legally acceptable level.

## **IX. Conclusions**

155. An embargo or a moratorium banning the export of raw materials originating in the Democratic Republic of the Congo does not seem to be a viable means of helping to improve the situation of the country's Government, citizens or natural environment. Massive technical and financial assistance for the population would be required to offset the humanitarian impact of such restrictive measures. At the same time, if the Panel in its report does not recommend any punitive measures to curb the illegal exploitation and trade originating in the Democratic Republic of the Congo, this will only encourage a continuation of the exploitation by different criminal organizations. This could easily lead to an increase in these activities. There must be sustained efforts to deter illicit and illegal exploitation.

156. Restrictive measures nevertheless need to be taken vis-à-vis the role of companies and individuals involved in arms supply and resource plundering. The international and multinational dimension of these illegal activities is very important. Ethical and transparent business practices are needed to combat these illegal activities.

157. The establishment of a transitional government in Kinshasa should be accompanied by four elements, namely, the disarmament of all rebel groups in the Democratic Republic of the Congo; phased withdrawal

of foreign troops; measures to drastically curb the illegal exploitation and encourage legal exploitation; and the application of serious leverage through multilateral pressures and incentives. To these elements must be added a dynamic monitoring process. All must be phased, interlinked and ongoing. This dynamic package would not only advance the peace process in the Democratic Republic of the Congo, but would also lead to a peaceful and final settlement of the exploitation issue, ensuring that legal modes of resource exploitation prevail. The first two elements seem to be finding their way to an interlinked and phased implementation as a result of the recent agreements signed in Pretoria and Luanda. The third element is intrinsically linked with the fourth, namely applying leverage through incentives and disincentives.

158. In order to readjust the present process of illegal exploitation and encourage legal exploitation, which could contribute to the economic stability of all parties, there is a need to apply forceful disincentives and incentives. These should be monitored through a proactive monitoring body. Until now, all the parties involved in the illegal exploitation have had no strong incentive to alter the economic status quo. It is necessary, therefore, to find measures that address their fears of losing revenues. Such measures will however be effective only if a political process is undertaken simultaneously.

159. Reconstructing and reorienting the region's economies are essential to peacemaking and peace-building. The Panel believes that a peace dividend in the form of economic incentives should be emphasized by the international community in order to promote the parties' adherence to the peace agreements and encourage confidence-building. The Panel also proposes in its recommendations that a set of disincentives be enacted to apply pressure in the case of non-compliance with the agreements.

160. Many of the Panel's conclusions about the economic roots and consequences of the conflict have been echoed in ideas associated with the proposals for an international conference on peace, security, democracy and sustainable development in the Great Lakes region. Recently signed agreements may signal that the time for organizing this conference is approaching. Such a conference would be an ideal forum to address the need to reorient the regional trading system to post-conflict imperatives and for negotiating the framework of a multilateral agreement

to carry this out. This reorientation will require providing the incentives and means to promote regional economic integration, which would marginalize criminal and military-driven trade in favour of legitimate commercial development that is transparent and growth-oriented. Supporting regional economic integration could help to gradually draw the countries involved in the conflict closer and act as a barrier to future outbreaks of armed conflict.

## **X. Recommendations**

### **Peace dividend**

161. In the light of the new dynamic and progress created by the signing of the political and military agreements in Sun City, Pretoria and Luanda, the Panel believes that a set of agreements or initiatives on reconstruction and sustainable development are needed to address the economic dimension of the Lusaka peace process and provide incentives for continuing progress. The first set of initiatives could be for quick-disbursing aid for the Democratic Republic of the Congo and the other Great Lakes countries involved in the conflict, for reconstruction and rehabilitation programmes, aimed at creating jobs, rebuilding infrastructure and improving conditions for local populations, notably in the areas of education, health, water and sanitation.

162. Regional economic integration and trade could be the focus of an agreement or set of agreements that could emerge from discussions regionally, including at the international conference on peace, security and sustainable development. The international community, in particular the United Nations and the developed countries that have actively supported the signing of the recent agreements, can take a leading role in convening this conference.

### **Institutional reforms**

#### **Capacity-building for the State institutions**

163. Reconstructing and reforming the State institutions of the Democratic Republic of the Congo, particularly the State's capacity to secure its territory and borders, is the counterpoint to the withdrawal of the foreign troops. The main purpose should be to enable the legitimate transitional government to control

the country's natural resources and borders without foreign intervention.

164. A fast-track programme is needed to retrain and professionalize the entire national security apparatus, including military and intelligence, law enforcement and regulatory bodies, such as customs, revenue authority, immigration and natural resources agencies. This process will require extensive international aid and careful monitoring of progress over a sustained period. There is a need for multilateral and bilateral donors, together with international organizations, to coordinate their efforts, draw on best practices developed during other post-conflict transitions and encourage the participation of all sectors of Congolese society.

165. The priority areas for reform and the strengthening of national or central institutions would include:

- Combating the widespread criminalization in the Democratic Republic of the Congo
- Enhancing scrutiny and transparency
- Increasing accountability and ending the impunity enjoyed by high-ranking officials and various levels of civil servants
- Building regulatory capacity and controls
- Professionalizing institutions and their personnel, including ensuring their independence and neutrality
- Reforming customs and revenue administrations, such as the Office des douanes et accises and the Direction générale des recettes administratives, judiciaires, domaniales et de participations
- Building the capacity of ministries and specialized agencies related to natural resources such as the Centre d'évaluation, d'expertise et de certification des matières précieuses and the Institut congolais pour la conservation de la nature.

#### **Promoting legitimate and accountable civil administrations in the eastern Democratic Republic of the Congo**

166. The Panel recommends that a comprehensive economic and social development programme in the eastern Democratic Republic of the Congo be set up to



assist a transition to a legitimate civilian administration with a capable security and law-enforcement apparatus. Such a programme may be partially financed from the substantial assistance commitments pledged by the European Union, the World Bank and the International Monetary Fund for post-conflict reconstruction in the Democratic Republic of the Congo.

#### **Good governance in the Democratic Republic of the Congo and its compliance with peace agreements**

167. The Panel regards the quick disbursal of development assistance as essential to addressing the pressing social and economic needs of the Democratic Republic of the Congo. However, it also recommends that disbursal should be contingent on the adherence of the Government to the peace agreements it has signed with Rwanda and Uganda, its commitment to democratization and its progress in curbing the illegal exploitation of its natural resources.

#### **Reform of natural resource sectors**

168. Reforms of the mining and the forestry sectors should include the review of all concessions and contracts signed during both wars. The resolution adopted during the inter-Congolese dialogue, establishing a special commission to examine the validity of economic and financial agreements, could serve as the framework for this process. On the basis of the Panel's findings, this could also target all informal agreements on the awarding of concessions and the implementation of contracts. The international community, including the World Bank, the International Finance Corporation and UNDP, could collaborate closely with this commission and provide the support necessary for it to carry out its work in a thorough and objective manner. This could include expert advice and technical assistance, part of which could be focused on raising long-term international investment for the rehabilitation of the mining and forestry sectors and sustainable revenue generation.

#### **Financial and technical measures**

169. In the event of non-compliance with the recently signed agreements, and the continuing illicit and illegal exploitation of the natural resources of the Democratic Republic of the Congo, the Panel recommends that a

series of measures be taken against the concerned parties.

#### **Role of Governments**

170. The Governments of the countries where the individuals, companies and financial institutions that are systematically and actively involved in these activities are based should assume their share of the responsibility. The Governments have the power to regulate and sanction those individuals and entities. They could adapt their national legislation as needed to effectively investigate and prosecute the illegal traffickers. In addition, the OECD Guidelines offer a mechanism for bringing violations of them by business enterprises to the attention of home Governments, that is, Governments of the countries where the enterprises are registered. Governments with jurisdiction over these enterprises are complicit themselves when they do not take remedial measures.

#### **Reducing official development assistance**

171. The Panel's exchange of views with bilateral and multilateral organizations, as well as a review of applicable agreements such as the Cotonou Convention, indicates that there is ample justification for donors to respond to a Security Council resolution — which might be necessary — which would propose certain reductions in official aid to promote peace and good governance.

172. Measures should also be aimed at making aid disbursements to Burundi, Rwanda, Uganda and Zimbabwe conditional on their compliance with the relevant agreements in the Lusaka peace process and on verifiable measures taken to halt the illegal and illicit exploitation of the resources of the Democratic Republic of the Congo which can help to achieve multiple objectives. Non-compliance would automatically trigger a review and reduction of assistance programmes for those countries. It should be stipulated that reductions of aid disbursements are to be applied to institutional budget support, stabilization lending or project lending and not sector-specific allocations.

173. Implementation would proceed in three stages:

(a) A brief grace period to permit the verification of the compliance of all the parties to the conflict;

(b) An initial period when aid disbursements are reduced by a modest percentage if the countries involved have not met withdrawal targets;

(c) A subsequent period during which the aid is proportionately reduced at regular increases at regular intervals unless troop withdrawals and compliance with the peace agreements meet the required standards.

#### **Restrictions on business enterprises and individuals**

174. The Panel has compiled an extensive list of business enterprises and individuals whose involvement in the commercial activities of the three elite networks active in the Democratic Republic of the Congo is well documented. At this time it is however, focusing its recommendations regarding restrictive measures on only a small number of enterprises (annex I) and individuals (annex II) — many of them cited in this report — as a result of the wealth of information and documentary evidence gathered on them by the Panel.

175. By contributing to the revenues of the elite networks, directly or indirectly, those companies and individuals contribute to the ongoing conflict and to human rights abuses. More specifically, those business enterprises are in violation of the OECD Guidelines for Multinational Enterprises. Therefore, the Panel recommends that the Security Council consider imposing certain restrictions on a selected number of business enterprises and individuals involved in criminal and illicit exploitation that are identified in this report. The list emphasizes the implication of foreign enterprises as well as nationals of the Democratic Republic of the Congo in the economic exploitation.

176. There could be a short grace period of four to five months before the restrictions set out below are applied, during which the targeted entities and individuals would have the opportunity to prove that they have ceased all involvement in the exploitation activities. The restrictive measures could include:

(a) Travel bans on selected individuals identified by the Panel;

(b) Freezing of the personal assets of persons involved in illegal exploitation;

(c) Barring selected companies and individuals from accessing banking facilities and other financial

institutions and from receiving funding or establishing a partnership or other commercial relations with international financial institutions.

#### **Adherence of business enterprises to the OECD Guidelines**

177. The Panel has drafted another list of business enterprises (annex III) which, in the view of the Panel, are in violation of the OECD Guidelines for Multinational Enterprises. Countries which are signatories to those Guidelines and other countries are morally obliged to ensure that their business enterprises adhere to and act on the Guidelines.

178. The OECD Guidelines outline a procedure for bringing violations of the Guidelines to the attention of the Governments of the States where the business enterprises are registered. Home Governments have the obligation to ensure that enterprises in their jurisdiction do not abuse principles of conduct that they have adopted as a matter of law. They are complicit when they do not take remedial measures. The monitoring body, as described below, will contribute to implementing these procedures by verifying and updating its list of business enterprises in violation of the OECD Guidelines and transmitting evidence of those violations to the OECD National Contact Points in the home Governments of the enterprises.

#### **Transit trade and regional organizations**

179. To promote post-conflict peace-building programmes, the Panel recommends that the international community support the following confidence-building measures:

(a) Encouraging the East African Community, composed of Kenya, Uganda and the United Republic of Tanzania, to include Rwanda and Burundi in its membership;

(b) Helping to re-establish historical and legal trading patterns, for example by reopening the Northern Corridor transit route to legal trade among the Democratic Republic of the Congo, Burundi, Rwanda, Uganda and Kenya;

(c) Assisting the relevant African regional trade organizations to improve their customs and trade monitoring mechanisms. These might include juxtaposed border control facilities, harmonization of controls to promote the system and use of certificates

of origin and destination, and assistance in developing national legislation for monitoring financial flows related to trade;

(d) Improving air traffic control services in the Great Lakes region. The Technical Cooperation Programme of ICAO can provide assistance to States in the region that need to improve their air traffic control service.

#### **Regulating commodity trade from conflict areas**

180. Specialized industry organizations such as the Tantalum Niobium International Study Centre, the International Gold Council and the International Coffee Federation could be requested, in cooperation with the United Nations Conference on Trade and Development, to monitor trade in commodities from conflict areas. This would result in a reliable body of data that includes information relating to the evacuation of commodities, transit routes through neighbouring countries and information on end-users and their operations. The data produced could be the basis of industry policing of those individuals, companies and financial institutions that trade in commodities from conflict areas. The data could also serve in the event that a moratorium is called for on the illegal trade in commodities originating in the Democratic Republic of the Congo, such as coltan.

#### **Kimberley Process**

181. All Member States where trade in rough diamonds is being carried out should join the Kimberley Process. Universal participation will make the Kimberley Process a more effective instrument.

182. Diamond-producing countries should apply internal controls from extraction to exportation. Consideration should be given to establishing a set of internationally agreed upon standards for this process. A specialized enforcement organization within each member country needs to be formed that has the authority, knowledge and specialized training necessary to ensure the effectiveness of the Kimberley Process.

183. A permanently staffed secretariat should be created with the responsibility of coordinating the implementation of the Kimberley Process.

#### **Protecting timber and forestry products**

184. The Panel recommends that Member States actively support the efforts by intergovernmental and non-governmental organizations at both the international and regional levels to halt illegal logging and to develop an international definition of "conflict timber".

#### **Trade in endangered species**

185. Trade involving endangered species of wild fauna and flora taken from protected areas of the eastern Democratic Republic of the Congo is another activity in which elements of the criminal networks are engaged. Member States are asked to support the Task Force established under the Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora by (a) strengthening their national legislation to reinforce the powers of investigation and prosecution of the Task Force's personnel and (b) ensuring that their National Bureaus, established under that Agreement, intensify their investigations into the criminal traffic in endangered species of wild animals and plants as outlined by CITES.

#### **Monitoring process**

186. There is a need for a monitoring process that continues to scrutinize the situation in the Great Lakes region to ensure that exploitation activities are significantly curbed. A monitoring body, which the Security Council may consider establishing, could report to the Security Council on a regular basis on its findings, including recommendations about further action to halt activities that violate the Council's decisions. The Panel's expertise could be helpful in this regard.

187. The monitoring body could report to the Security Council on any State or company that might be involved in the illegal exploitation of natural resources. The monitoring body could recommend to the Council that major multilateral institutions and bilateral donors review and reduce the financial assistance programmes of any State found to be involved in these illegal activities. It could recommend to the Council that any company found to be implicated in the illegal economic exploitation be added to or kept on the list of those enterprises subject to financial and travel restrictions.

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In addition, the monitoring body could collaborate closely with national officials, including from the Central Bank of the Democratic Republic of the Congo, the Office des douanes et accises (customs administration) and the Direction générale des recettes administratives, judiciaires, domaniales et de participations (revenue administration), the Ministry of Mines and Hyrdocarbons, the State mining enterprises and private mining and mineral companies, in order to update information on how capacity-building and reforms are affecting the exploitation activities. In carrying out these tasks, the monitoring body could coordinate with the international financial institutions, the African Union, and the Economic Commission for Africa.

188. The Panel would also recommend that the monitoring body, with the adequate expertise and resources, track the following:

(a) Possible reductions in the level of illegal exploitation;

(b) The implementation of possible travel bans and the freezing of assets;

(c) Ongoing investigations into the illicit commerce in minerals, timber and endangered species of fauna and flora. The monitoring body could also collaborate further on some of these investigations;

(d) The sectors of the economy that have been affected by the exploitation activities;

(e) The impact on the humanitarian situation in the Democratic Republic of the Congo and the region;

(f) The reduction in violent conflict and the maintenance of civil order in the eastern Democratic Republic of the Congo, as well as the viability of local administrations and institutions related to the mandate of the monitoring body which might be adopted by the Council.

*(Signed)* Mahmoud **Kassem**  
Chairman

*(Signed)* Jim **Freedman**

*(Signed)* Mel **Holt**

*(Signed)* Bruno **Schiemsky**

*(Signed)* Moustapha **Tall**

*(Signed)* Patrick **Smith**



## Annex I

### Companies on which the Panel recommends the placing of financial restrictions

<i>Name</i>	<i>Address</i>	<i>Business</i>	<i>Principal officers</i>	<i>Comment</i>
1 AHMAD DIAMOND CORPORATION	ANTWERP BELGIUM	Diamond trading	Mr. AHMAD Imad	
2 ASA DIAM	ANTWERP BELGIUM	Diamond trading	Mr. AHMAD Ali Said	
3 BUKAVU AVIATION TRANSPORT	DRC	Airline company	Mr. BOUT Victor	
4 BUSINESS AIR SERVICE	DRC	Airline company	Mr. BOUT Victor	
5 COMIEX-CONGO	KINSHASA DRC		Mr. KABASELE TSHINEU Frederic	
6 CONGO HOLDING DEVELOPMENT COMPANY	DRC	Trading and exploitation of natural resources DRC	Mr. Félicien RUCHACHA BIKUMU Mrs. Gertrude KITEMBO	
7 CONMET	UGANDA and DRC	Coltan trading	Mr. Salim Saleh Mr. and Mrs. PISKUNOV	
8 COSLEG	ZIM and DRC	Joint-venture COMIEX and OSLEG	Mr. KABASELE TSHINEU Frédéric ZVINAVASHE Gava MUSUNGWA Vitalis	
9 EAGLE WINGS RESOURCES INTERNATIONAL	PO BOX 6355 Kigali, Rwanda	Exploitation coltan from the DRC	Mr. Alfred RWIGEMA Mr. Anthony MARINUS Mr. Ronald S. SMIERCIAK	Tel: +250.51.17.25
10 ENTERPRISE GENERAL MALTA FORREST		Exploitation Cobalt, Copper in DRC	Mr. George FORREST	

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	<i>Name</i>	<i>Address</i>	<i>Business</i>	<i>Principal officers</i>	<i>Comment</i>
11	EXACO		Exploitation Cobalt, Copper in the DRC		
12	GREAT LAKES GENERAL TRADE	BP 3737 KIGALI, RWANDA	Mineral trading	Maj Dan MUNYUZA  Mr. E. GATETE  Mr. Steven K. AKHIMANZI	Tel/Fax: +250.78.792
13	GREAT LAKES METALS	Kigali, Rwanda	Mineral trading		
14	GROUP GEORGE FORREST		Exploitation Cobalt and Copper	Mr. George FORREST	
15	MINERALS BUSINESS COMPANY	Boulevard Du 30 Juin, Immeuble ex- SCIBE, Kinshasa, DRC	Mineral trading	Mr. KABASELE TSHINEU Frederic  Lt General ZVINAVASHE Gava Musungwa Vitalis  Mr. Charles DAURAMANZI	
16	OKAPI AIR  ODESSA AIR	Uganda	Airline company	Mr. BOUT Victor	
17	OPERATION SOVEREIGN LEGITIMACY (OSLEG) Pvt Ltd	Harare, Zimbabwe	Commercial interests ZIM in DRC	Lt General ZVINAVASHE Gava Musungwa Vitalis	
18	ORYX NATURAL RESOURCES	DRC	Diamond exploitation in the DRC	Mr. AL-SHANFARI Thamer Said Ahmed	
19	RWANDA ALLIED PARTNERS	Kigali, Rwanda	Mineral trading	Mr. Hadji OMARI  Mr. Simba MANASE	
20	RWANDA METALS	Kigali, Rwanda	Mineral trading		
21	SARACEN UGANDA Ltd	Uganda	Security Company	Lt General (Rtd) Salim Saleh  Mr. Heckie HORN	

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	<i>Name</i>	<i>Address</i>	<i>Business</i>	<i>Principal officers</i>	<i>Comment</i>
22	SIERRA GEM DIAMONDS	ANTWERP BELGIUM	Diamond trading	Mr. AHMAD Said Ali Mr. AHMAD Hassan Mr. AHMAD Nazem	
23	TANDAN GROUP	SOUTH AFRICA	Holding	Mr. Niko SHEFER	
24	THORNTREE INDUSTRIES (Pvt) Ltd		Provides capital to MBC	Mr. Niko SHEFER	
25	TREMALT Ltd		Exploitation cobalt and copper	Mr. John Arnold BREDENKAMP	
26	TRINITY INVESTMENT GROUP	DRC and UGANDA	Exploitation resources and tax fraud	Mr. NGOLA Sam General KAZINI	
27	TRIPLE A DIAMONDS	ANTWERP BELGIUM	Diamond trading	Mr. AHMAD Moussa Ahmad Mr. AHMAD Ahmad Ali	
28	TRISTAR	Kigali, Rwanda	Holding FPR		
29	VICTORIA GROUP	DRC and UGANDA	Exploitation resources and tax fraud	Lt General (Rtd) Salim Saleh Mr. KHANAFER Nahim	

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## Annex II

### Persons for whom the Panel recommends a travel ban and financial restrictions

	<i>Last name</i>	<i>First name</i>	<i>Alias</i>	<i>Date of birth</i>	<i>Passport number</i>	<i>Designation</i>
1	AHMAD	Ali Said		01.03.1959		Businessman
2	AHMAD	Ahmad Ali		01.01.1929		
3	AHMAD	Imad				Businessman
4	AHMAD	Said Ali		09.04.1935		Businessman
5	AHMAD	Hassan		21.05.1957		Businessman
6	AHMAD	Moussa Ahmad				
7	AHMAD	Nazem		05.01.1965		Businessman
8	AKHIMANZA	Steven K.				Businessman
9	AL-SHANFARI	Thamer Said Ahmed		03.01.1968	00000999 (Oman)	Chairman & Managing Director ORYX Group and ORYX Natural Resources
10	BOUT	Victor Anatoljevitch	BUTT, BONT, BUTTE, BOUTOV, SERGITOV Vitali	13.01.1967 or ???	21N0532664 29N0006765 21N0532664 21N0557148 44N3570350	Dealer and transporter of weapons and minerals
11	BREDENKAMP	John Arnold		11.08.1940		Businessman
12	BURUNDI					Colonel UPDF
13	DAURAMANZI	Charles				Shareholder MBC
14	ENGOLA	Sam				Businessman
15	FORREST	George A.				Businessman
16	GATETE	Edward				Officer RPA; Operation Congo Desk
17	HORN	Heckie				Manager Saracen Uganda Ltd
18	KABANDA	Emmanuel				Officer RPA; Operation Congo Desk
19	KABAREBE	James				Chief of Staff RPA; Former Chief of Staff DRC; in charge of Congo Desk
20	KABASELE TSHINEU	Frédéric				Manager COMIEX, representative of COSLEG
21	KALUME NUMBI	Denis				General, shareholder SENG SENG
22	KARIM	Peter				Officer UPDF
23	KATUMBA MWANKE	Augustin				Minister of Presidency, DRC



	<i>Last name</i>	<i>First name</i>	<i>Alias</i>	<i>Date of birth</i>	<i>Passport number</i>	<i>Designation</i>
24	KAZADI NYEMBWE	Didier				Director Agence National de Renseignements DRC
25	KAZINI	James				Chief of Staff, Maj. General UPDF
26	KHANAFER	Nahim				Businessman
27	KIBASSA MALIBA					Politician, former Minister of Mines, shareholder SENGA SENGA
28	KITEMBO	Gertrude				Businesswoman
29	KONGOLO	Mwenze				Minister DRC, shareholder SENGA SENGA
30	MANASE SIMBA					Businessman
31	MAWAPANGA	Mwana Nanga				Ambassador DRC in Harare
32	MAYOMBO	Nobel				Chief Military Intelligence (CMI) in Uganda
33	MNANGAGWA DAMBUDZO	Emmerson				Speaker of Parliament ZIMBABWE
34	MOYO	Mike				Wing Commander ZDF
35	MOYO	Sibusio				Bd-Gen (Rtd) ZDF
36	MUAMBA NOZI	Richard	MWAMBA NOZY			Congolese diamond trader; Counterfeiter
37	MUNYUZA	Dan				Colonel RPA; In charge of security DRC (96-98)
38	MWENZE KONGOLO					Minister National Security, DRC
39	NUMBI KALUME	Denis				Minister of Planning and Reconstruction DRC
40	NZIZA	Jack				Officer RPA
41	OKOTO LOLAKOMBE	Jean-Charles				PDG MIBA
42	OMARI HADJI					Businessman
43	OTAFIRE KAHINDA					Colonel UPDF
44	MARINUS	Anthony				Manager Eagle Wings
45	PISKUNOV	Anatol				Businessman
46	PISKUNOVA	Valentina				Businesswoman
47	RUCHACHA BIKUMU	Felicien				Businessman
48	RUPRAH	Sanjivan	Samir Nasr Medhi Khan	09.08.1966	D-001829-00	Businessman
49	RWIGEMA	Alfred				Manager Eagle Wings
50	SALIM SALEH		AKANDWA NAHO Caleb			Lt General (Ret.) UPDF

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	<i>Last name</i>	<i>First name</i>	<i>Alias</i>	<i>Date of birth</i>	<i>Passport number</i>	<i>Designation</i>
51	SHEFER	Niko	Nico	25.12.1950	7616225 (Israel) 6651101 (Israel)	Businessman
52	SMIERCIAK	Ronald S.				Manager Eagle Wings
53	YUMBA MONGA					Manager GECAMINES
54	ZVINAVASHE GAVA MUSUNGWA	Vitalis				Lt General ZDF, Rep. of COSLEG, shareholder MBC

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### Annex III

#### Business enterprises considered by the Panel to be in violation of the OECD Guidelines for Multinational Enterprises

	<i>Name of company</i>	<i>Business</i>	<i>Country</i>	<i>Country signatory of OECD Guidelines</i>
1	AFRICAN TRADING CORPORATION Sarl	Trading of natural resources from DRC	SOUTH AFRICA	NO
2	AFRIMEX	Coltan trading	UK	YES
3	AHMAD DIAMOND CORPORATION	Diamond trading	BELGIUM	YES
4	A.H. PONG & Sons	Import-Export	SOUTH AFRICA	NO
5	A. KNIGHT INTERNATIONAL Ltd	Assaying	UK	YES
6	A & M MINERALS and METALS Ltd	Trading minerals	UK	YES
7	ALEX STEWART (Assayers) Ltd	Assaying	UK	YES
8	AMALGAMATED METAL CORPORATION Plc	Trading coltan	UK	YES
9	AMERICA MINERAL FIELDS (AMFI)	Mining	USA	YES
10	ANGLO AMERICAN Plc	Mining	UK	YES
11	ANGLOVAAL MINING Ltd	Mining	SOUTH AFRICA	NO
12	ARCTIC INVESTMENT	Investment	UK	YES
13	ASA DIAM	Diamond trading	BELGIUM	YES
14	ASA INTERNATIONAL		BELGIUM	YES
15	ASHANTI GOLDFIELDS	Mining	GHANA	NO
16	AVIENT AIR	Private military company	ZIMBABWE	NO
17	BANRO CORPORATION	Mining	SOUTH AFRICA	NO
18	BARCLAYS BANK	Banking	UK	YES
19	BAYER A.G.	Chemical industry	GERMANY	YES
20	B.B.L.	Banking	BELGIUM	YES
21	BELGOLAISE	Banking	BELGIUM	YES

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	<i>Name of company</i>	<i>Business</i>	<i>Country</i>	<i>Country signatory of OECD Guidelines</i>
22	CABOT CORPORATION	Tantalum processing	USA	YES
23	CARSON PRODUCTS	Commercialization of resources of the DRC	SOUTH AFRICA	NO
24	CHEMIE PHARMACIE HOLLAND	Financial and logistical support to EWRI	NETHERLANDS	YES
25	COGECOM	Coltan trading	BELGIUM	YES
26	C. STEINWEG NV	Freight Forwarders	BELGIUM	YES
27	DARA FOREST	Timber exploitation	THAILAND	NO
28	DAS AIR	Airline company	UK	YES
29	DE BEERS	Diamond mining and trading	UK	YES
30	DIAGEM BVBA	Diamond trading	BELGIUM	YES
31	EAGLE WINGS RESOURCES INTERNATIONAL	Exploitation coltan from the DRC	USA	YES
32	ECHO GEM	Diamond trading	BELGIUM	YES
33	EGIMEX		BELGIUM	YES
34	ENTREPRISE GENERALE MALTA FORREST	Construction, Mining, Trading	DRC	NO
35	EUROMET	Coltan trading	UK	YES
36	FINCONCORD SA	Coltan trading from DRC	SWITZERLAND	YES
37	FINMINING	Coltan trading from DRC	SAINT KITTS	NO
38	FIRST QUANTUM MINERALS	Mining	CANADA	YES
39	FLASHES OF COLOR	Diamond trading	USA	YES
40	FORTIS	Banking	BELGIUM	YES
41	GEORGE FORREST INTERNATIONAL AFRIQUE	Management	DRC	NO
42	HARAMBEE MINING CORPORATION	Mining	CANADA	YES
43	H.C. STARCK GmbH & Co KG	Processing coltan	GERMANY	YES
44	IBRYV AND ASSOCIATES LLC	Diamond trading	SWITZERLAND	YES



	<i>Name of company</i>	<i>Business</i>	<i>Country</i>	<i>Country signatory of OECD Guidelines</i>
45	INTERNATIONAL PANORAMA RESOURCES Corp	Mining	CANADA	YES
46	ISCOR	Mining	SOUTH AFRICA	NO
47	JEWEL IMPEX Bvba	Diamond trading	BELGIUM	YES
48	KABABANKOLA MINING COMPANY	Mining	ZIMBABWE	NO
49	KEMET ELECTRONICS CORPORATION	Capacitor manufacture	USA	YES
50	KHA International AG	Minerals trading and exploitation	GERMANY	YES
51	KINROSS GOLD CORPORATION	Mining	USA	YES
52	K & N	Project development	BELGIUM	YES
53	KOMAL GEMS NV	Diamond trading	BELGIUM	YES
54	LUNDIN GROUP	Mining	BERMUDA	NO
55	MALAYSIAN SMELTING CORPORATION	Coltan processing	MALAYSIA	NO
56	MASINGIRO GmbH	Minerals trading	GERMANY	YES
57	MELKIOR RESOURCES Inc	Mining	CANADA	YES
58	MERCANTILLE CC	Trading in natural resources from DRC	SOUTH AFRICA	NO
59	MINERAL AFRIKA Limited	Trading in natural resources from DRC	UK	YES
60	NAC KAZATOMPROM	Tantalum processing	KAZAKHSTAN	NO
61	NAMI GEMS	Diamond trader	BELGIUM	YES
62	NINGXIA NON-FERROUS METALS SMELTER	Tantalum processing	CHINA	NO
63	OM GROUP Inc	Mining	USA FINLAND	YES (USA) YES (FINLAND)
64	OPERATION SOVEREIGN LEGITIMACY (OSLEG) Pvt Ltd	Commercial interests ZIMBABWE in the DRC	ZIMBABWE	NO

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	<i>Name of company</i>	<i>Business</i>	<i>Country</i>	<i>Country signatory of OECD Guidelines</i>
65	ORION MINING Inc	Mining	SOUTH AFRICA	NO
66	PACIFIC ORES METALS AND CHEMICALS Ltd	Coltan trading	HONG KONG	NO
67	RAREMET Ltd	Coltan trading from DRC	SAINT KITTS	NO
68	SARACEN	Security company	SOUTH AFRICA	NO
69	SDV TRANSINTRA	Transport	FRANCE	YES
70	SIERRA GEM DIAMONDS	Diamond trading	BELGIUM	YES
71	SLC GERMANY GmbH	Coltan transport	GERMANY	YES
72	SOGEM	Coltan trading	BELGIUM	YES
73	SPECIALITY METALS COMPANY SA	Coltan trading	BELGIUM	YES
74	STANDARD CHARTERED BANK	Banking	U.A.E.	NO
75	SWANEPOEL	Construction	SOUTH AFRICA	NO
76	TENKE MINING CORPORATION	Mining	CANADA	YES
77	THORNTREE INDUSTRIES (Pvt) Ltd	Provides capital to MBC	ZIMBABWE	NO
78	TRACK STAR TRADING 151 (Pty) Ltd	Exploitation and trading minerals DRC	SOUTH AFRICA	NO
79	TRADEMETS SA	Coltan trading	BELGIUM	YES
80	TREMALT Ltd	Mining	British Virgin Islands	NO
81	TRINITECH INTERNATIONAL Inc	Coltan trading and exploitation	USA	YES
82	TRIPLE A DIAMONDS	Diamond trading	BELGIUM	YES
83	UMICORE	International Metals and Materials Group	BELGIUM	YES
84	VISHAY SPRAGUE	Capacitor manufacture	USA and ISRAEL	YES (USA) NO (ISRAEL)
85	ZINCOR	Mining	SOUTH AFRICA	NO

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## **Annex IV**

### **Countries visited and representatives of Governments and organizations interviewed**

The Panel wishes to express its deep appreciation to the Government officials, diplomats, United Nations agencies, donor institutions, non-governmental organizations, civil society groups, journalists, commercial operators and others with whom it met and who have assisted in making possible the present report.

The Panel also wishes to extend special thanks to the United Nations Organization Mission in the Democratic Republic of the Congo. In addition, the Panel would like to thank the United Nations Office in Burundi and the UNDP offices in Bangui, Brazzaville, Bujumbura, Kampala, Kigali, Kinshasa, Pretoria and Yaounde for their assistance and support.

#### **Austria**

##### **International organizations**

United Nations Office for Drug Control and Crime Prevention

#### **Belgium**

##### **Government officials**

Inter-Ministerial Ad Hoc Working Group on the Illegal Exploitation of the Natural Resources of the Democratic Republic of the Congo

Parliamentary Inquiry Commission on the Illegal Exploitation of the Natural Resources of the Democratic Republic of the Congo

##### **State representatives**

European Union Commission

##### **Others**

Arslanian Frères

International Peace Information Service

Sibeca

Sogem mineral trading company (division of Umicore)

Tantalum Niobium International Study Center

Vrije Universiteit Brussel

#### **Burundi**

##### **Government officials**

Minister of Defence

Minister of Energy and Mines

Minister of Finance  
Minister of Foreign Affairs  
Department of Customs (Ministry of Finance)

**State representatives**

Embassy of Belgium  
Embassy of France

**International organizations**

Acting Special Representative of the Secretary-General in Burundi  
Office for the Coordination of Humanitarian Affairs  
UNDP  
UNHCR  
UNICEF  
Office of the United Nations High Commissioner for Human Rights in Burundi

**Others**

Affimet  
ASYST mineral trading company  
Comptoir minier des exploitations du Burundi (COMEBU)  
HAMZA mineral trading company

**Central African Republic**

**Government officials**

Ministry of Economy  
Ministry of Equipment, Transport and Settlement  
Ministry of Finance and Budget  
Minister of Mines, Energy and Hydraulics  
Minister of Trade and Industry  
Department of Customs

**State representatives**

Embassy of the Democratic Republic of the Congo  
Embassy of France  
European Union



**International organizations**

Representative of the Secretary-General in the Central African Republic

ASECNA

UNHCR

UNDP

**Democratic Republic of the Congo**

**Government officials**

Minister of Defence

Minister of Foreign Affairs

Minister of Land Affairs, Environment and Tourism

Minister of Planning and Reconstruction

Vice-Minister of Foreign Affairs

Vice-Minister of Mines

Deputy Chief of Staff of the FAC

Governor of the Central Bank

Governor of Equateur Province

Governor of Katanga

Governor of Mbuji Mayi

Vice-Governor, in charge of the Economy, Finance and Development, Equateur Province

Centre d'évaluation, d'expertise et de certification

Comité interministériel de "Small Scale Mining"

Générale des carrières et des mines (Gécamines)

Office national des transports

Régie des voies aériennes

Société minière de Bakwanga (MIBA)

**State representatives**

Ambassador of Angola

Ambassador of Belgium

Ambassador of Canada

Ambassador of Germany

Ambassador of the United Kingdom of Great Britain and Northern Ireland

Ambassador of the United States of America

Belgian Consul  
Embassy of Denmark  
Embassy of France  
European Union

**International organizations**

Special Representative of the Secretary-General in the Democratic Republic of the Congo  
European Commission's Humanitarian Aid Office (ECHO)  
FAO  
GTZ  
MONUC  
Office for the Coordination of Humanitarian Affairs  
UNDP  
UNHCR  
UNICEF  
World Bank  
World Food Programme  
World Health Organization

**MLC**

President  
Secretary-General

**RCD-Goma**

Vice President  
Commissioner of the Interior  
Governor of Kalemie  
Department of Mines and Energy  
Vice-Governor of Kisangani  
Customs officials

**RCD-K/ML**

Second Vice-President  
Minister of Interior  
Acting Chief of Staff for the APC  
Governor of Bunia

Governor of Ituri Province

Mayor of Butembo

**Others**

Action contre la faim

ADETE

Agro Action Allemand

Associazione per la Cooperazione Internazionale e l'Aiuto Umanitario

Anglican Church

Ashanti Goldfield

Association africaine des droits de l'homme (ASADHO)

Banque internationale de commerce

BEP Productique (BEPROD)

Conseil africain et malgache pour l'enseignement supérieur (CAMES)

Caritas

Centre d'information et d'animation missionnaire (CIAM)

Centre d'études national sur le développement populaire (CENADEP)

Centre de formation, recherches en conservation forestière

Centre national d'appui au développement et à la participation populaire (CENADEP)

Church of Christ of the Congo

Comité provincial des diamantaires (CPD)

Commissions diocésaines Justice et Paix (CDPJ)

Conseil apostolique des laïques catholiques au Congo (CALCC)

Conference on Central Africa Moist Forest Ecosystems participants

Confédération de petites et moyennes entreprises du Congo (COPEMECO)

COSLEG (joint venture of COMIEX Congo and OSLEG)

Dara Forêt

Exploitation forestière, sciérie raffinage de la papaine (ENRA)

Fédération des entreprises du Congo (FEC — Kinshasa, Kisangani, Mbandaka, Beni, Goma, Gémena, Bukavu)

Fédération nationale des parents d'élèves du Congo (FNPEC)

Fédération des ONG laïques à vocation économique au Congo (FOLECO)

Forces novatrices pour l'union et la solidarité (FONUS)

Groupe de recherches et d'échanges technologiques (in Kabinda)

Groupe Lotus  
Groupe musulman des droits de l'homme  
GST (Gécamines labour union)  
Héritiers de la justice  
International Human Rights Law Group  
International Rescue Committee  
Inter Press Service (IPS)  
JAMS  
Journalistes en danger  
Justice et Paix  
Ligue des avocats pour les droits de l'homme  
Kababankola Mining Company  
Kotinne Plantation  
Jardin botanique d'Eala  
Maintenance, Assistance, Technique and Design  
Mayi-Mayi representatives  
Médecins sans Frontières (of Belgium and France)  
Mennonite Church  
Mouvement nationale congolais Lumumba (MNCL)  
Mouvement des pionniers de l'indépendance  
Mouvement populaire de la révolution (MPR)  
National Commission of Experts on the illegal exploitation of the natural resources and other forms of wealth of the Democratic Republic of the Congo  
National Congolese Railway Society (SNCC)  
National Council of Development NGOs (CNONGD)  
Nganga Plantation  
Norwegian Refugee Council (NRC)  
Organisation concertée des ecologistes et amis de la nature (OCEAN)  
OKIMO  
Oxfam  
Parti démocrate et social chrétien (PDSC )  
Parti lumumbiste unifié (PALU)  
Pharmakina  
Pole Institute



Promotion de la femme rural (PROFER)  
Programme d'appui aux femmes victimes des conflits et des catastrophes  
Radio Okapi  
Regional Committee of Development NGOs (CRONGD)  
Religious community representatives  
Radio Télé Debout Kasai (RTDK)  
Save the Children  
Sengamines  
Shenimed Coltan Comptoir  
Syndicat des exploitants alluvionnaires du diamant (APLOKA)  
SOCEBO  
Société civile du Congo (SOCICO)  
Société de renforcement de communauté de base (SERACOB)  
Solidarités  
TOFEN-CONGO  
TRAFCO Freight Company  
UDPS representatives  
UPDF Sector Commander in Bunia  
UPDF Battalion Commander in Butembo  
UPDF Colonel Peter Karim  
Union des banques congolaises  
Voix du handicapé pour les droits de l'homme (VHDH)  
Wildlife Conservation Society

**France**

**Government officials**

Ministry of Economy and Finance  
Ministry of Foreign Affairs

**Others**

Air France Cargo

**Germany**

**Government officials**

Ministry of Foreign Affairs

**Others**

H. C. Starck

Karl-Heinz Albers Mining and Minerals Processing

**Kenya**

**Government officials**

Minister of Foreign Affairs and International Cooperation

Ministry of Defence

Ministry of Finance

Ministry of Trade and Industry

Ministry of Transport and Communications

Kenya Revenue Authority

**State representatives**

Ambassador of Belgium

High Commissioner of the Republic of South Africa

Ambassador of Rwanda

High Commissioner of Uganda

Belgian Ministry of Defence

German Embassy

Belgian Parliamentary Inquiry Commission

Embassy of the Democratic Republic of the Congo

Democratic Republic of the Congo National Parks representatives

Institut congolais de conservation de la nature (Ministry of Environment,  
Democratic Republic of the Congo)

**International organizations**

Special Representative of the Secretary-General for the Great Lakes Region

Special Adviser to the Special Representative of the Secretary-General for the  
Democratic Republic of the Congo

World Customs Organization

World Wildlife Fund

**Others**

Association of Cargo Airlines

Congolese Commission of National Experts

Dian Fossey Gorilla Fund

International Crisis Group  
Kababankola Mining Company/Tremalt Ltd.  
Kencargo  
Lusaka Agreement Task Force  
Martin Air  
Oryx Natural Resources  
Oxfam  
World Vision

**Republic of the Congo**

**Government officials**

Minister of Environment  
Ministry of Transport  
Department of Customs (Ministry of Finance)

**State representatives**

Embassy of Belgium  
Embassy of the Democratic Republic of the Congo  
European Union

**International organizations**

UNDP

**Rwanda**

**Government officials**

Special Envoy of the President for the Democratic Republic of the Congo and Burundi  
Office of the President of Rwanda  
Minister of Foreign Affairs  
Ministry of Commerce, Industry and Tourism  
Customs Commission

**State representatives**

Ambassador of Belgium  
Ambassador of France  
Ambassador of the United Kingdom of Great Britain and Northern Ireland  
Ambassador of the United States of America  
European Union

**International organizations**

MONUC

UNICEF

World Bank

**Others**

President of RCD-Goma

Eagle Wings Resources

SDV Transintra

SOGERMI mineral trading company

**South Africa**

**Government officials**

Acting Director-General for Foreign Affairs

Department of Foreign Affairs

Department of Defence

Department of Home Affairs

Department of Minerals and Energy

Financial Intelligence Centre

National Intelligence Agency

National Intelligence Coordinating Committee

National Prosecuting Authority

National Treasury

Secretariat for Safety and Security

South African Diamond Board

South African Police

South African Revenue Service

**State representatives**

Ambassador of Belgium

Ambassador of France

Ambassador of the United States

High Commission of the United Kingdom of Great Britain and Northern Ireland

**Others**

Banro

Bateman Minerals and Metals

Centre for the Study of Economic Crime

Cobalt Metals Company

Compliance Institute

De Beers Group

DiamondWorks

Executive Outcomes

Fluxmans Attorneys

Grove Family Trust

International Institute of Security Studies

Kimberley Process Secretariat

Money Laundering Forum

Overseas Security Services

PricewaterhouseCoopers Forensic Services Division

Rand Afrikaans University

Rand Merchant Bank

SaferAfrica

STK Consulting

Tandan Holdings

Trans Hex

Ware Associates

University of South Africa at Pretoria

University of Witwatersrand/South African Institute for International Affairs

**Uganda**

**Government officials**

First Deputy Prime Minister

Acting Minister of Foreign Affairs

Minister of Defence

Chief of Staff of UPDF

Ministry of Tourism, Trade and Industry

Bank of Uganda



Department of Geological Survey and Mines

Uganda Bureau of Statistics

Uganda Civil Aviation Authority

Uganda Coffee Development Authority

Uganda Revenue Authority

**State representatives**

Ambassador of Belgium

Ambassador of Denmark

Ambassador of France

High Commissioner of the United Kingdom of Great Britain and Northern Ireland

Ambassador of the United States of America

Head of the Delegation of the European Union

**International organizations**

UNDP

UNICEF

World Bank

**Others**

Amnesty International

Judicial Commission of Inquiry

Saracen Uganda Ltd.

Uganda Debt Network

**United Kingdom of Great Britain and Northern Ireland**

**Government officials**

Ministry of Foreign Affairs

**United States of America**

**Government officials**

Department of Justice

**State representatives**

Belgian Deputy Minister of Foreign Affairs

Permanent Representatives to the United Nations, Security Council members and other Member States

**International organizations**

International Monetary Fund

Office of the Special Representative of the Secretary-General for Children and Armed Conflict

UNDP

Forum on Forests

Office for the Coordination of Humanitarian Affairs

World Bank

**Others**

Human Rights Watch

Oxfam

Winston Strawn and Partners

**Zambia**

**Others**

Non-governmental organizations

**Zimbabwe**

**Government officials**

Ministry of Mines

**State representatives**

British High Commission

**Others**

Renaissance Bank

Dozer Parts

## Annex V

### Abbreviations

ADB	African Development Bank
ANC	Armée nationale congolaise (army of RCD-G movement)
APC	Armée patriotique congolaise (army of the RCD-ML rebel group)
ASECNA	Agence pour la sécurité de la navigation aérienne en Afrique et à Madagascar
CIDA	Canadian International Development Agency
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
coltan	columbo-tantalite
COMIEX	Compagnie mixte d'import-export
COSLEG	COMIEX-OSLEG joint venture
FAC	Forces armées congolaises
ex-FAR	former Forces armées rwandaises
GATT	General Agreement on Tariffs and Trade
Gécamines	Générale des carrières et des mines
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit (German Government agency for technical cooperation)
ICAO	International Civil Aviation Organization
IMF	International Monetary Fund
KMC	Kababankola Mining Company
MIBA	Société minière de Bakwanga
MLC	Mouvement de libération congolais
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
OECD	Organization for Economic Cooperation and Development
OKIMO	Office des Mines de Kilo-Moto
OSLEG	Operation Sovereign Legitimacy
RCD	Rassemblement congolais pour la démocratie (Rally for Congolese Democracy)
RCD-Congo	Rassemblement congolais pour la démocratie (newly formed rebel group made up of MLC and RCD-Goma dissidents)
RCD-Goma	Rassemblement congolais pour la démocratie, based in Goma
RCD-K/ML	Rassemblement congolais pour la démocratie — Mouvement de libération, initially based in Kisangani, now headquartered in Bunia

RCD-N	Rassemblement congolais pour la démocratie-National
RPA	Rwandan Patriotic Army
SADC	Southern African Development Community
SIDA	Swedish International Development Agency
SOMIGL	Société minière des Grands Lacs
SOCEBO	Société congolaise d'exploitation du bois
UDPS	Union pour la démocratie et le progrès social
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UPDF	Uganda People's Defence Forces
USAID	United States Agency for International Development
WCO	World Customs Organization
ZDF	Zimbabwe Defence Forces

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**ANNEX 5.5**

**Human Rights Watch, *The Curse of Gold. Democratic Republic of Congo*, April 2005**

**(Excerpts)**



# **The Curse of Gold**

## **Democratic Republic of Congo**

**Human Rights Watch**

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*This report was written in English and translated into French. If there are any inconsistencies between the French and English versions of this document, the English version will govern. This report was correct as at April 26, 2005.*

## I. Summary

*“We are cursed because of our gold. All we do is suffer. There is no benefit to us.”*

Congolese gold miner

The northeast corner of the Democratic Republic of Congo (DRC) is home to one of Africa’s richest goldfields. Competition to control the gold mines and trading routes has spurred the bloody conflict that has gripped this area since the start of the Congolese war in 1998 and continues to the present. Soldiers and armed group leaders, seeing control of the gold mines as a way to money, guns, and power, have fought each other ruthlessly, often targeting civilians in the process. Combatants under their command carried out widespread ethnic slaughter, executions, torture, rape and arbitrary arrest, all grave human rights abuses and violations of international humanitarian law. More than sixty thousand people have died due to direct violence in this part of Congo alone. Rather than bringing prosperity to the people of northeastern Congo, gold has been a curse to those who have the misfortune to live there.

This report documents human rights abuses linked to efforts to control two key gold mining areas, Mongbwalu (Ituri District) and Durba (Haut Uélé District), both bordering Uganda.

When Uganda, a major belligerent in the war, occupied northeastern Congo from 1998 to 2003, its soldiers took direct control of gold-rich areas and coerced gold miners to extract the gold for their benefit. They beat and arbitrarily arrested those who resisted their orders. Ignoring the rules of war for the conduct of occupying armies, they helped themselves to an estimated one ton of Congolese gold valued at over \$9 million. Their irresponsible mining practices led to the collapse of one of the most important mines in the area in 1999, the Gorumbwa mine, killing some one hundred people trapped inside and destroying a major livelihood for the residents of the area.

The Ugandan army withdrew from Congo in 2003, following Rwanda, another major belligerent, which had withdrawn the year before. Each left behind local proxies, the Lendu Nationalist and Integrationist Front (*Front des Nationalistes et Intégrationnistes, FNI*) linked to Uganda, and the Hema Union of Congolese Patriots (*Union des Patriotes Congolais, UPC*), supported by Rwanda. With continued assistance from their external backers, these local armed groups in turn fought for the control of gold-mining areas and trade routes. As each group won a gold-rich area, they promptly began exploiting

the ore. The FNI and the UPC fought five battles in a struggle to control Mongbwalu, each resulting in widespread human rights abuses. Human Rights Watch researchers documented the slaughter of at least two thousand civilians in the Mongbwalu area alone between June 2002 and September 2004. Tens of thousands of civilians were forced to flee from their homes into the forests to escape their attackers. Many of them did not survive.

In 2003, peace talks at the national level culminated in the installation of a transitional government, but northeastern Congo remained volatile and beyond central government control. Multinational corporations nonetheless sought to sign new deals or revitalize old ones to start gold mining and exploration operations in the rich gold concessions in the northeast. One of these companies, AngloGold Ashanti, one of the largest gold producers in the world, started exploration activities in the Mongbwalu gold mining area. Following earlier attempts to make contact with the UPC armed group, AngloGold Ashanti representatives established relations with the FNI, an armed group responsible for serious human rights abuses including war crimes and crimes against humanity, and who controlled the Mongbwalu area. In return for FNI assurances of security for its operations and staff, AngloGold Ashanti provided logistical and financial support – that in turn resulted in political benefits – to the armed group and its leaders. The company knew, or should have known, that the FNI armed group had committed grave human rights abuses against civilians and was not a party to the transitional government.

As a company with public commitments to corporate social responsibility, AngloGold Ashanti should have ensured their operations complied with those commitments and did not adversely affect human rights. They do not appear to have done so. Business considerations came above respect for human rights. In its gold exploration activities in Mongbwalu, AngloGold Ashanti failed to uphold its own business principles on human rights considerations and failed to follow international business norms governing the behavior of companies internationally. Human Rights Watch has been unable to identify effective steps taken by the company to ensure that their activities did not negatively impact on human rights.

In other small-scale mining operations conducted throughout the duration of the conflict, armed groups and their business allies used the proceeds from the sale of gold to support their military activities. Working outside of legal channels, a network of traders funnelled gold mined by artisanal miners and forced labour out of the Congo to Uganda. In return for their services some traders counted on the support of combatants from the armed groups who threatened, detained, and even murdered their commercial rivals or those suspected of failing to honor business deals. These traders sold the ore to



gold exporters based in Uganda who then sold to the global gold market, a practice that continues today.

In 2003, an estimated \$60 million worth of Congolese gold was exported from Uganda, much of it destined for Switzerland. One of the companies buying gold from Uganda is Metalor Technologies, a leading Swiss refinery. The chain of Congolese middlemen, Ugandan traders, and multinational corporations forms an important funding network for armed groups operating in northeastern Congo. Metalor knew, or should have known, that gold bought from its suppliers in Uganda came from a conflict zone in northeastern DRC where human rights were abused on a systematic basis. The company should have considered whether its own role in buying gold resources from its suppliers in Uganda was compatible with provisions on human rights and it should have actively checked its supply chain to verify that acceptable ethical standards were maintained. Through purchases of gold made from Uganda, Metalor Technologies may have contributed indirectly to providing a revenue stream for armed groups that carry out widespread human rights abuses.

The international community has failed to effectively tackle the link between resource exploitation and conflict in the Congo. Following three years of investigation into this link, a United Nations (U.N.) panel of experts stated that the withdrawal of foreign armies from Congo was unlikely to stop the cycle of conflict and exploitation of resources. But the U.N. Security Council established no mechanism to follow up on the recommendations of the panel. The trade in gold is just one example of a wider trend of competition for resources and resulting human rights abuses taking place in mineral rich areas throughout the Congo. The link between conflict and resource exploitation raises broader questions of corporate accountability in the developing world. Given the troubling allegations described in the U.N. panel of experts reports and in this report, it is imperative that further steps be taken to deal with the issue of natural resources and conflict in the Congo and beyond.

In preparation for this report, Human Rights Watch researchers interviewed over 150 individuals including victims, witnesses, gold miners, gold traders, gold exporters, customs officials, armed group leaders, government representatives, and officials of international financial institutions in Congo, Uganda and Europe in 2004 and 2005. Human Rights Watch researchers also met with and engaged in written correspondence with representatives from AngloGold Ashanti and Metalor Technologies to discuss concerns.

We wish to thank our Congolese colleagues in Justice Plus, and other individuals who cannot be named for security reasons, for their assistance and support in our research. They risk their lives to defend the rights of others and are to be commended for their courage and commitment.

#### IV. Background: Enriching the Elites

Gold, one of the richest resources in the Congo, offers the potential to contribute to financial reconstruction after a war that has cost millions of lives and has left countless others in desperate poverty. But in recent years it has enriched only a fortunate few, many of whom have won control over the gold by use of force. Gold has contributed little to the overall prosperity of the nation; on the contrary it has been a curse to those who have the misfortune to live in regions where it is found.

In 1996 Rwandan and Ugandan forces invaded the Congo, ousted long-time ruler Mobutu Sese Seko, and installed Laurent Desiré Kabila in power. In July 1998 Kabila tried to expel the Rwandan troops, but they and the Ugandan forces instead engaged Kabila's government in the second Congo war, one that eventually drew in Zimbabwe, Angola, Namibia (supporting Kabila) and Burundi (allied with the Rwandans and Ugandans). Often termed as Africa's first world war, the conflict resulted in the deaths of 3.5 million people, the great majority in eastern DRC. Many victims were displaced people who died from exposure, hunger, or lack of medical assistance.<sup>1</sup> A first peace agreement, signed in Lusaka in 1999, had little effect but the U.N. agreed to establish a peacekeeping force known as the U.N. Organization Mission in the Democratic Republic of Congo (MONUC) in November 1999. Through continued international pressure, the national government and major rebel movements eventually signed a power-sharing agreement at Sun City in April 2002 that allowed for the establishment of the Global and All Inclusive Peace Agreement which set up the transitional government in June 2003. Despite this agreement and other bilateral and regional security agreements, insecurity continued in large parts of eastern Congo.

The war in northeastern Congo, specifically in Ituri, sprang from the larger Congo war, and became a complex web of local, national, and regional conflicts. It developed after a local land dispute in 1999 between Hema and Lendu ethnic groups was exacerbated by the Ugandan army who occupied the area and by national rebel groups keen on expanding their power base. The availability of political and military support from external actors, notably Uganda and Rwanda, plus growing extremists' sentiments, encouraged local leaders in Ituri to form more structured movements. Armed groups were born, generally based on ethnic loyalties, including the predominately northern

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<sup>1</sup> International Rescue Committee and Burnet Institute, *Mortality in the Democratic Republic of Congo: Results from a Nationwide Survey*, December 2004.

Hema group the UPC<sup>2</sup>, the predominately Lendu FNI<sup>3</sup>, the southern Hema group PUSIC and the more mixed FAPC.<sup>4</sup> Each of these groups received military and political support from either the DRC<sup>5</sup>, Ugandan or Rwandan governments at different times turning Ituri into a battleground for the war between them.<sup>6</sup>

Between 2002 and 2004 these Ituri armed groups attempted to gain recognition on the national scene, hoping for positions in the Kinshasa based transitional government and in the newly integrated army. In this scramble, local militia leaders frequently switched alliances between themselves and other backers as their interests dictated. They attempted to control huge swathes of territory and strategic sites, including gold mines and lucrative customs posts, in order to enhance the importance of their movement. The strategic sites also provided much needed finance for the armed groups and favor with their backers. A U.N. special report on the events in Ituri published in July 2004 underlined that the competition for control of natural resources, particularly gold, by these armed groups was a major factor in prolonging the crisis in Ituri.<sup>7</sup>

### ***The Significance of Gold***

Gold was first discovered in the Agola River in northeastern Congo in 1903 by two Australian prospectors. They named the area after the local chief Kilo<sup>8</sup> and shortly thereafter made a similar discovery in the Moto River just to the north, from which the name Kilo-Moto derives. Exploitation of the gold started in 1905 and continued on an increased scale. During the first half of the twentieth century, colonial entrepreneurs exploited gold through private companies that introduced large-scale or industrial mining. After independence in 1960, the state nationalized many of these companies, including, in 1966, the Société des Mines d'Or de Kilo-Moto (SOKIMO) that worked the lodes of northeastern Congo. It granted the large SOKIMO concession in Ituri and Haut Uélé Districts of Orientale Province to a new state-owned Office of the Gold Mines of Kilo-Moto (OKIMO). To date, OKIMO officials estimate that more than 400

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<sup>2</sup> The northern Hema group is often referred to as Gegere, a sub-clan of the Hema.

<sup>3</sup> This included temporarily the southern Lendu group known as the Ngiti, who had formed the FRPI militia.

<sup>4</sup> Another group, the Popular Forces for the Democracy of Congo (FPDC) was also born but it has played only a minor role. PUSIC has not been active in the gold mining areas of Mongbwalu and Durba and so goes largely unmentioned in this report.

<sup>5</sup> Assistance was received from the pre-transition Kinshasa government before mid-2003, though support allegedly continued from certain components of the transitional government after mid-2003.

<sup>6</sup> Human Rights Watch, "Ituri: 'Covered in Blood' – Ethnically Targeted Violence in North-eastern DRC", *A Short Report*, July 2003.

<sup>7</sup> Letter from the U.N. Secretary General to the President of the Security Council, "Special Report on the Events in Ituri January 2002 – December 2003", July 16 2004, p. 5.

<sup>8</sup> The local chief was actually called Krilo, but the Australians mistook the name for Kilo.

tons of gold have been extracted from their concession and that much more remains, though there is no precise estimate of how much.<sup>9</sup> Many industry experts agree that the OKIMO concession is one of the most exciting, and potentially the largest, unexplored gold reserve in Africa.<sup>10</sup> In the early 1990s OKIMO entered into arrangements with multinational corporations to exploit the large mines of northeastern Congo using industrial methods (discussed below) and also licensed local miners to work other areas by artisanal methods.

In 2000, the U. N. Security Council expressed concern that Congo's natural resources such as gold, diamonds and other minerals were fuelling the deadly war. They appointed a panel of experts<sup>11</sup> to look into the matter who published four separate reports between April 2001 and October 2003.<sup>12</sup> In these series of reports, the U.N. panel of experts reported that Rwandan, Ugandan, and Zimbabwean army officers as well as members of the Congolese elite were growing rich from the wealth of the Congo. They showed how extraction of these resources helped fund armed groups, thus fueling the war. They further documented how the minerals of the Congo were fed into the networks of international commerce. The panel concluded in its report of October 2002 that the withdrawal of foreign armies would not end the resource exploitation because the elites had created a self-financing war economy.<sup>13</sup>

In 2002, following heavy international pressure, in part because of the U.N. panel reports, both the Rwandan and Ugandan governments agreed to withdraw their soldiers from Congo. Uganda subsequently arranged with the Congolese government to keep some forces in northeastern Congo until 2003 when the last of their troops withdrew.

This report, focused on control of gold in northeastern Congo, shows that the pattern of exploitation of natural resources described by the U.N. panel of experts, does indeed continue as of this writing, resulting in widespread abuses of human rights. The trade in gold is just one example of a wider trend of competition for resources and resulting human rights abuses taking place in mineral rich areas throughout the Congo.

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<sup>9</sup> Pasteur Cosma Wilingula Balongelwa, General Director of OKIMO, "Written Presentation on OKIMO", Kinshasa, January 31, 2004.

<sup>10</sup> Human Rights Watch interviews, gold industry experts, Bunia, Kampala, London, February – May 2004. Industry experts use the term 'ore body' instead of the lay term gold reserve.

<sup>11</sup> Known as the U.N. Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo; hereafter the U.N. panel of experts.

<sup>12</sup> See reports from the U.N. Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo, April 12, 2001 (S/2001/357), May 22, 2002 (S/2002/565), October 16, 2002 (S/2002/1146), October 23, 2003 (S/2003/1027) plus other addendums.

<sup>13</sup> *Ibid.*, U.N. panel report (S/2002/1146), October 16, 2002.





Gold miners working in an open pit mine in Durba. © 2004 Marcus Bleasdale

### ***Ugandan Forces Plunder the Gold of Haut Uélé District, 1998-2002***

In August 1998, shortly after the start of the second Congolese war, Ugandan troops occupied gold-rich areas of Haut Uélé, including the town of Durba, (Watsa Territory, Haut Uélé District, Orientale Province), site of three important gold mines: Gorumbwa, Durba and Agbarabo. According to estimates of engineers and geologists familiar with the area, nearly one ton of gold was extracted from this region during the four-year period of Ugandan occupation.<sup>14</sup> Based on prices at the time, this would have been valued at some \$9 million dollars.

Ugandan troops were supporting the advance of their Congolese allies, the rebel Rally for Congolese Democracy (Rassemblement Congolais pour la Démocratie, RCD) and the Congolese Liberation Movement (Mouvement pour la Libération du Congo, MLC), but according to local observers, the Ugandans took Durba primarily for the wealth it offered. Within weeks of the second war, the Rwandan and Ugandan backed RCD rebel forces quickly announced their “control over the OKIMO mines” and in a written decision prohibited any illicit mining stating that the RCD was going to “economically

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<sup>14</sup> Human Rights Watch interview, OKIMO engineers and geologists, Durba, May 13, 2004. Estimates were based on regular observation and monitoring.

reorganize the territory under its control.”<sup>15</sup> One witness in Durba who witnessed the Ugandan army enter said, “The Ugandans were only here for the gold. . . There was no military reason [to be here] and they never fought any battles here.”<sup>16</sup> Officials of the state-owned gold mining agency OKIMO had been left in charge of the Durba mines after the flight of the expatriate staff of the Barrick Gold Corporation, a mining company which held a concession from OKIMO. A former OKIMO employee present when the Ugandans arrived said, “We understood that they came to our area only for economic interests. The moment they arrived they were more interested in OKIMO than anything else.”<sup>17</sup>

In the early days of the occupation, Ugandan soldiers, including a Ugandan officer called Major Sonko, came by helicopter to try to start gold production.<sup>18</sup> Finding it too difficult and costly to operate the mines on an industrial scale, they decided to use artisanal miners, (*orpailleurs*), although Congolese mining regulations prohibited such miners from working in industrial mines and restricted them to smaller-scale holdings. According to one former OKIMO employee, the decision to get gold immediately and cheaply by using artisanal miners led to the reckless mining practices that would destroy Gorumbwa mine, the most important in the area.<sup>19</sup>

Local sources said that Ugandan Lieutenant David Okumu gave the initial order to start mining in Gorumbwa.<sup>20</sup> According to a report prepared by OKIMO officials that provides further details, Ugandan soldiers took over mine security, chasing away OKIMO guards and the local police in order to benefit from the gold mining.<sup>21</sup> Local miners went to work in the mines, even though they were required to pay an entrance fee to Ugandan soldiers or to give them a portion of their ore when leaving. Witnesses reported that Ugandan soldiers beat local miners who refused to work under these conditions or who failed to deliver the expected amount of gold.<sup>22</sup> To speed extraction of the ore, Ugandan soldiers directed miners to use explosives taken from OKIMO

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<sup>15</sup> Rassemblement Congolais Pour La Démocratie (RCD), Cabinet du Coordinateur, Décision No. 004/RCD/CD/LB/98, Goma, October 28, 1998.

<sup>16</sup> Human Rights Watch interview, Durba, May 11, 2004.

<sup>17</sup> Human Rights Watch interview, OKIMO employee, Durba, May 13, 2004.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> Human Rights Watch interviews, Congolese miners and other sources, Durba and Watsa, May 10 - 13, 2004.

<sup>21</sup> OKIMO Internal Memorandum to General Management, “La sécurité au Groupe d’Exploitation Moto”, March 17, 2000. Further details also provided in internal OKIMO memos of September 9, 1999 and May 29, 2000. Documents on file at Human Rights Watch. See also, William Wallis, “Warlords and Adventurers in Scrambles for Riches,” *Financial Times*, July 15, 2003.

<sup>22</sup> Human Rights Watch interview, Durba, May 13, 2004.

stocks. Local residents said that there were more than fifty explosions in the mines during the month of December 1999, some of them severe enough to shake nearby housing. Even the rock pillars that supported the roof in the mine were blasted to extract any ore that might be inside them.<sup>23</sup>

On several occasions OKIMO officials protested to Ugandan army commanders about the illegal mining, the theft of fuel and explosives from their stock, and the possible damage to the mines through the explosions.<sup>24</sup> Ugandan soldiers beat, arrested, and threatened some of those who protested. Lieutenant Okumu arrested the local OKIMO Director Samduo Tango and had him publicly beaten. A witness at the scene of the beating said,

[Samduo Tango] was arrested and taken to “Les Bruns” [a house in the OKIMO concession] by Commander Okumu and he was beaten. He was protesting against how the Ugandans were doing things. It happened a few months after the Ugandans arrived. They also beat other workers who were against them. Samduo had to pay to be released and then he fled. Another person who was beaten was Aveto as he witnessed the Ugandans taking dynamite from the warehouse. He was arrested along with Samduo and also publicly beaten. Commander Okumu beat them himself and he asked other soldiers to also beat them. I saw this myself.<sup>25</sup>

Another OKIMO official told a Human Rights Watch researcher,

I had many meetings with [Commander Okumu] to make him understand that they must not destroy the mine. But these meetings only put us more at risk. I myself was threatened because of all this. One time I was taken to their military camp for questioning.<sup>26</sup>

Lt Okumu left the Durba area in early 1999 but other Ugandan commanders continued with similar practices and took no actions to stop the illegal mining. In June 1999 OKIMO officials reported again on the situation and asked Commander Sula based in

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<sup>23</sup> Ibid., OKIMO Internal Memorandum, March 17, 2000, Also Human Rights Watch interview, OKIMO engineer, Durba, May 13, 2004.

<sup>24</sup> Ibid., OKIMO Internal Memorandum, March 17, 2000.

<sup>25</sup> Human Rights Watch interview, Durba, May 13, 2004.

<sup>26</sup> Human Rights Watch interview, OKIMO employee, Durba, May 13, 2004.

Isiro to intervene. He ignored the request and soon after the Durba-based Ugandan officer Freddy Ziwa arrested one of the OKIMO officials.<sup>27</sup> According to an internal OKIMO memorandum, Commander Sula met with local miners and Ugandan soldiers on July 12, 1999 in Durba and ordered them to organize more extensive mining in the OKIMO concession. On July 29, 1999 artisanal miners and Ugandan soldiers began work in the second largest mine in the area, the Durba mine.<sup>28</sup> The miners were reportedly transported to work in army vehicles.<sup>29</sup>

In December 1999, OKIMO officials met with two other Ugandan army officers heavily involved in the mining, Commanders Bob and Peter Kashilingi. They sought an end to the mining and warned again that Gorumbwa mine might collapse if the practice of blasting the supporting pillars continued. According to OKIMO officials, no action was taken by Ugandan commanders.<sup>30</sup>

In late 1999 the Gorumbwa mine collapsed killing a reported one hundred miners trapped inside and flooding the area.<sup>31</sup> According to one local engineer:

The Ugandan army were responsible for the destruction of Gorumbwa mine. They started to mine the pillars. It was disorderly and very widespread. People were killed when the mine eventually collapsed. It was not their country so they didn't care about the destruction. They kept promising to help stabilise the mine, but they never did.<sup>32</sup>

Another engineer thrown out of work by the collapse of the mine explained, "Gorumbwa mine was the most important. It was ruined by the Ugandans and this has halted development here. It has caused social degradation."<sup>33</sup>

In December 1998, an epidemic of Marburg hemorrhagic fever killed more than fifty people in Durba, the majority of them miners. The outbreak was believed to have

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<sup>27</sup> Ibid., OKIMO Internal Memorandum March 17, 2000.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Human Rights Watch interview, Durba, May 13, 2004. See also OKIMO Internal Memorandum, March 17, 2000.

<sup>31</sup> Wallis, "Warlords and Adventurers in Scrambles for Riches".

<sup>32</sup> Human Rights Watch interview, engineer, Durba, May 13, 2004.

<sup>33</sup> Human Rights Watch interview, former engineer, Durba, May 11, 2004.

begun in Gorumbwa mine.<sup>34</sup> According to a team of medical experts sent to the area by the U.N. several months later, the unhealthy conditions in the Gorumbwa mine increased the risk of workers contracting this fever.<sup>35</sup>

Ugandan soldiers had no authority to extract gold from mines in the Durba area. Possibly aware of the illegal nature of their exploitation, they sought once in May 1999 to create a semblance of legitimacy for their activities. Working through their local Congolese proxy the RCD, the local Congolese Brigade Commander, Mbanga Buloba, held a meeting questioning OKIMO's legal title to the mining rights in the area and claiming it was the new rebel administration who were entitled to manage the artisanal gold exploitation. The effort, described in a memorandum by OKIMO officials, came to nothing.<sup>36</sup>

Nor did Ugandan soldiers have any military imperative to exploit or destroy the gold mines in the Durba area. As an occupying power they were responsible under international law for protecting civilian and non-military state assets, including mines, and had an obligation to properly maintain them. Their systematic and abusive exploitation of the gold mines represented an immediate loss to state assets and their destruction of the infrastructure and damage to the Gorumbwa mine decreased the value of the state assets for future use, all in violation of international law.<sup>37</sup>

In 2001 the U.N Panel of Experts on Illegal Exploitation in the DRC reported on the involvement of Ugandan officers in mining activities in Durba.<sup>38</sup> Their reports were followed-up in 2002 by the Ugandan government appointed judicial commission of inquiry led by Justice David Porter, commonly known as the Porter Commission, who were instructed to respond to the allegations made by the panel.<sup>39</sup> The Porter Commission interviewed various Ugandan officers about their involvement in illegal gold mining in Durba including Lt Okumu, Major Sonko and Lt Col Mugeny amongst

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<sup>34</sup> Human Rights Watch interview, Watsa, May 12, 2004. There have been previous outbreaks of Marburg fever in the area in 1992, 1994 and 1997. See also medical papers by Dr Matthias Borchert.

<sup>35</sup> Office for the Coordination of Humanitarian Affairs, "Rapport de mission du Conseiller Humanitaire: Epidémie de Fièvre hémorragique de Durba/Province Orientale," May 1999. Also Human Rights Watch interview, medical professional, Watsa, May 13, 2004.

<sup>36</sup> *Ibid.*, OKIMO Internal Memorandum March 17, 2000.

<sup>37</sup> Article 55 of the Hague Regulations (Convention IV) respecting the Laws and Customs of War on Land and its annex: Regulations Concerning the Laws and Customs of War on Land, The Hague, October 18, 1907.

<sup>38</sup> U.N. Panel of Experts, Report (S/2001/357), April 12, 2001, p. 11.

<sup>39</sup> "Final Report of the Judicial Commission of Inquiry into Allegations into Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo 2001 (May 2001 – November 2002)", November 2002. Hereafter, this will be referred to as the "Porter Commission report".



others. All of them denied any involvement in such activities. The Porter Commission found the officers were lying and declared there had been “a cover-up” inside the UPDF to hide the extent of such activities.<sup>40</sup>

Despite the findings of the Porter Commission, no arrests were made of officers responsible for the wide-scale and abusive looting, nor was any compensation provided to OKIMO or the Congolese state for such activities. In September 2004 the DRC government demanded \$16 billion in compensation from the Ugandan government for the plunder of natural resources by its forces while they occupied parts of the DRC, in violation of international law.<sup>41</sup> In newspaper reports, representatives from the Ugandan government acknowledged some responsibility for the killings, plunder and looting the DRC suffered at the hands of their troops, but made no commitment to pay compensation stating the amount demanded was “colossal.”<sup>42</sup>

In 2002 under international pressure Ugandan forces started to withdraw from parts of the DRC and moved their troops out of Durba leaving the area to a breakaway faction of the original RCD, this one known as the RCD-ML and its armed group, the APC. After the Sun City agreement in 2002, RCD-ML became allied also with the national government. In the following two years, this gold mining region changed hands several times between rival national movements and local armed groups. Each time there was one constant. “Every time there was a change of armed group,” said one witness, “the first thing they did was to immediately start digging for gold.”<sup>43</sup> With the establishment of the transitional government in mid-2003, Kinshasa supposedly reasserted control over the region, but in fact formerly rebel military forces continued to play a role in exploiting the gold though they now claimed to be part of a newly integrated national army.<sup>44</sup>

### ***Local Armed Groups Fight for the Gold of Ituri, 2002-2004***

With the withdrawal of all – or most – of the Rwandan and Ugandan soldiers from eastern Congo in 2002 and 2003, local armed groups became the main direct contenders for control of areas rich in gold. In Ituri District the most important of these groups were affiliated with either the Hema or the Lendu, ethnic groups that had been battling

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<sup>40</sup> Ibid., p. 69 and 70.

<sup>41</sup> Article 55 of the Hague Regulations (Convention IV).

<sup>42</sup> David Musoke and A. Mutumba-Lule, “DRC Wants \$16 billion for Plunder by Uganda, Rwanda,” *East African*, September 27, 2004.

<sup>43</sup> Human Rights Watch interview, Durba, May 13, 2004.

<sup>44</sup> Human Rights Watch interviews, Durba and Watsa, May 11 – 13, 2004.

over land and fishing rights since 1999.<sup>45</sup> Because the ethnic conflict became intertwined with the struggle over gold, the fighting in Ituri District drew in far larger numbers of civilians than was the case around Durba, in Haut Uélé District. Both areas had significant gold mines but Durba suffered less historical ethnic tensions between the Hema and Lendu. Controlling sites rich in gold assured armed group leaders the means for buying guns and other supplies to carry on the conflict and also guaranteed political importance to the leaders, increasing the possibility that they would earn recognition and coveted posts at national level.<sup>46</sup>

Although local armed groups moved to center stage as the major actors, Ugandan and Rwandan soldiers continued to play a role, providing arms and advice to leaders of these armed groups, sometimes directly, sometimes through one or the other of the Congolese rebel movements with which they were allied. These supporting actors had their own agendas and were ready to shift alliances with local actors as circumstances changed. By 2002 Rwanda and Uganda had fallen out, a split highlighted by combat between their forces at Kisangani in May 2002. The division between them added further complexity to the dynamics of local alliances, sometimes increasing opportunities for local groups to play off one powerful backer against the other. A third armed group of mixed ethnicity, the FAPC led by Commander Jérôme Kakwavu, a Congolese Tutsi and former RCD-ML commander, joined the struggle in support of the Hema. Local armed groups, rebel movements, and Rwanda and Uganda all juggled multiple interests, but always important among them was desire to control the gold.

During this period, the Congolese government had little influence in Ituri, leaving local affairs largely to its ally, the RCD-ML. In an attempt by the international community to find a political solution to the ongoing fighting in Ituri, the U.N. chaired dialogue between the Congolese government, armed groups and the Ugandan government resulting in the establishment of an ad hoc Ituri Interim Administration (IIA) in April 2003. When this body proved ineffective, the national government and MONUC in May 2003 pressured representatives of six armed groups to pledge in writing to cooperate with the peace process. The Foreign Affairs Commissioner of the FNI showed no intention of honoring the pledge, saying, "We were forced to sign the document. It means nothing to us."<sup>47</sup> Leaders of other groups apparently felt the same way and fighting has continued since then between militia themselves and between militia and

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<sup>45</sup> Human Rights Watch, "Ituri: 'Covered in Blood'" and "Uganda in Eastern DRC: Fuelling Political and Ethnic Strife", *A Short Report*, March 2001 and "Chaos in Eastern Congo: U.N. Action Needed Now," *A Briefing Paper*, October 2002.

<sup>46</sup> United Nations Security Council, "Special Report on the Events in Ituri", July 16, 2004, p. 5.

<sup>47</sup> Human Rights Watch interview, Floribert Njabu, President of the FNI and Lonu Lonema, Foreign Affairs Commissioner FNI, Kampala, July 3, 2004.

MONUC peacekeeping troops. In February 2005, after the killing of more U.N. peacekeepers in Ituri, MONUC renewed its pressure on the armed groups. Some of the militia leaders declared again they were prepared to participate in disarmament operations, though at the time it writing it was unclear if this time they would stick to their commitments.

Poorly funded by the international community and not supported by MONUC, the interim administration accomplished little and was dissolved in June 2004. The transitional government restored local administrative structures, and appointed administrators with little or no connection to the armed groups. The new functionaries remained largely unpaid and had no means to exercise control over armed groups.

In an attempt to resolve the security problems, President Joseph Kabila, who succeeded as president after the death of his father Laurent Kabila in 2001, signed a decree in late 2004 granting six leaders of the Ituri armed groups positions as generals in the newly integrated Congolese army and a further thirty-two militiamen positions as lieutenant-colonels, colonels and majors. Despite divisions within the transitional government about these appointments, the generals were welcomed into army ranks in January 2005. The government provided no assurances that the newly appointed generals would not be returned to Ituri nor did it make any commitments to starting judicial investigations into serious allegations of war crimes and crimes against humanity allegedly carried out by the new appointees. The integration of alleged war criminals into senior army ranks was denounced by Human Rights Watch and international diplomats.<sup>48</sup> In the aftermath of the killing of nine U.N. peacekeepers in Ituri in February 2005, the transitional government arrested Floribert Njabu, Thomas Lubanga and a handful of other senior Ituri commanders though at the time of writing they had not yet been charged with any crimes or brought to justice.

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<sup>48</sup> See Human Rights Watch, "D.R. Congo: Army Should Not Appoint War Criminals," *Press Release*, January 14, 2004.

### ***Justice for UPC crimes***

Human Rights Watch reported on the November 2002 massacre at Mongbwalu in July 2003 and a year later a report to the U.N. Security Council also detailed the massacre of civilians around Mongbwalu. To date the perpetrators of these crimes have not been brought to justice either by the UPC or by the DRC transitional government.

The UPC splintered into two factions in early December 2003. The branch led by Commander Kisémbó changed from a largely military movement to a political party and received recognition as a national political party in mid-2004. Commander Kisémbó was arrested by MONUC troops on June 25, 2004 for continued military recruitment but was later released without charge. Since October 2003 Thomas Lubanga, leader of the other UPC faction, has been restricted by the transitional government to Kinshasa where he lives at the Grand Hotel. He was arrested in Kinshasa in March 2005 but has not yet been charged with any crimes. Commander Bosco remains the chief military officer in charge of the UPC Lubanga faction based in Ituri. MONUC claims he is responsible for the attack on a MONUC convoy resulting in the death of a Kenyan peacekeeper in January 2004 and for taking a Moroccan peacekeeper hostage in September 2004.<sup>92</sup>

Commanders Salumu and Sey, still part of Commander Jérôme's forces, were selected for training at the Superior Military College in Kinshasa in preparation for joining the newly integrated Congolese army as senior officers. Human Rights Watch is not aware of any vetting carried out by DRC military officials or international donors who support army integration to determine their unsuitability for senior posts because of their involvement in human rights abuses.<sup>93</sup>

In March 2003, the UPC lost control of the Mongbwalu area and the profits from its gold mines when they were attacked and pushed back by a new alliance of forces led by their former ally turned enemy: the Ugandan army.

### ***Massacres and other Abuses by the FNI, FAPC and the Ugandan Army***

After having dropped the Hema, Ugandan soldiers built a new alliance with the Lendu, who had created the FNI party under Floribert Njabu in November 2002. At the end of February 2003, Commander Jérôme also ended his link with the UPC and created his

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<sup>92</sup> Human Rights Watch interview, MONUC human rights section, Bunia, February 20, 2004.

<sup>93</sup> Donors involved in security sector and army reform in the DRC include the Belgian and South African governments and the European Union.

militia, known as the FAPC, based in the important border town of Aru, northeast of Mongbwalu. According to a special report to the U.N. Security Council on Ituri, the FAPC was created with direct Ugandan support.<sup>94</sup>

With international pressure growing to withdraw their troops from Ituri, Ugandan soldiers sought to secure maximum territory for their local allies. On March 6, 2003 reportedly in response to an attack by the UPC, the Ugandan army drove the UPC out of Bunia with the assistance of Lendu militias. One former Lendu leader who participated in the operation said that he and his men had done so at the request of Ugandan army Brigadier Kale Kayihura.<sup>95</sup> Ugandan soldiers and FNI combatants chased fleeing UPC troops northwards towards Mongbwalu.

### ***Massacre at Kilo, March 2003***

On March 10, 2003 the Ugandan and Lendu forces attacked Kilo, a town just south of Mongbwalu, with the Lendu arriving several hours before the Ugandans.<sup>96</sup> The Lendu combatants met little resistance from the UPC and began killing civilians who they presumed to be of Nyali ethnicity, accusing them of having helped the Hema. According to local sources, they killed at least one hundred, many of them women and children. They looted local residences and shops and required civilians to transport the booty for them.<sup>97</sup> Residents walking on the road near the town of Kilo nearly a month later still reported the smell of corpses rotting in the forest.<sup>98</sup>

A local woman witnessed her house being burned and then saw the Lendu combatants kill a man, five women, and a child with machetes. She was then forced to help transport loot for the Lendu combatants. She recounted that, en route, the Lendu selected four children between ten and fifteen years old, Rosine, Diere, Kumu and Flory, from the group and killed them and then killed five more adults. When some of the women faltered under the heavy loads they were forced to carry, the Lendu killed them and cut off their breasts and then cut their genitals. The witness said,

At Kilo Mission on top of the hill there were many Lendu combatants. They had a few guns but mostly machetes, bows and arrows. They were

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<sup>94</sup> Ibid., U Nations Security Council, "Special Report on the Events in Ituri", p13

<sup>95</sup> Human Rights Watch interview, former Lendu militia leader, February 21, 2004.

<sup>96</sup> Human Rights Watch interview, Mongbwalu, May 4, 2004.

<sup>97</sup> Human Rights Watch interview, local analysts, Bunia, October 10, 2004. Also Human Rights Watch interview, Floribert Njabu, President of the FNI, May 2, 2004.

<sup>98</sup> Human Rights Watch interview, Mongbwalu, May 5, 2004.



very dirty and had mud on their faces so we wouldn't recognize them. On the hill we saw many bodies of people who had been killed. They were all lying face down on the ground. They were naked. The Lendu were getting ready to burn the bodies. There were many of them, too many to count.<sup>99</sup>

According to witnesses, Commander Kaboss commanded the attack. He reported to Commander Matesso Ninga, known as Kung Fu, who was in charge of operations for the FNI, though he was not seen at Kilo during the massacre. At the time, the FNI Military Chief of Staff was Maitre Kiza.<sup>100</sup>

Ugandan troops under Commander Obote arrived a few hours after the Lendu and tried to stop their killing. The witness said,

When the Ugandan soldiers arrived they started to hit the Lendu and shot at them. They said to them, "Why have you killed people, we said you could loot but not to kill people. You will tarnish our reputation." They tried to return some of the loot but the Lendu were starting to run away. The Ugandans said they regretted the way the Congolese behaved and they regretted very much that the chief's house had been burned and ruined.<sup>101</sup>

Although the Ugandans stopped the killings in the town, the FNI combatants continued to kill people in the surrounding villages such as Kabakaba, Buwenge, Alimasi and Bovi. "If the Ugandans heard about the killings," said one witness, "they would go to try and stop it, but it was often too late."<sup>102</sup> Local authorities also reported the rape of some twenty-seven women and the burning of villages, including Emanematu and Livogo which were completely destroyed.<sup>103</sup>

Although the Ugandan soldiers tried to limit FNI abuses after the Kilo attack, they neither disarmed the combatants nor ended their military alliance with them. Instead they continued their joint military operation towards Mongbwalu arriving there on

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<sup>99</sup> Human Rights Watch interview, Bunia, February 24, 2004.

<sup>100</sup> Human Rights Watch interview, local analysts, Bunia, October 10, 2004. Also Human Rights Watch interview, Floribert Njabu, President of the FNI, May 2, 2004.

<sup>101</sup> Human Rights Watch interview, Bunia, February 23, 2004.

<sup>102</sup> Human Rights Watch interview, Bunia, February 24, 2004.

<sup>103</sup> Human Rights Watch interview, local authorities, Bunia, October 8, 2004.

March 13, 2003 and set up the military headquarters for the 83<sup>rd</sup> Battalion.<sup>104</sup> The next day a community leader sought security assurances from Ugandan Commander Okelo, who was in charge of the military camp. According to him, Commander Okelo confirmed that “he controlled the Lendu combatants and he had given them one week to put down their traditional weapons.”<sup>105</sup> Witnessed observed Ugandan army troops carrying out joint patrols with Lendu combatants and reported that “it was clear the Ugandan army was in command.”<sup>106</sup>

When the Ugandan soldiers left Ituri two months later, they were still working closely with the FNI. According to an Ugandan army document dated May 1, 2003, Ugandan Major Ezra handed over control of Mongbwalu to FNI Commanders Mutakama and Butsoro as Ugandan army troops left the area. All parties signed the document, witnessed by MONUC observer Oran Safwat.<sup>107</sup> Although Commander Jérôme and most of his troops had withdrawn to Aru, a contingent under Commander Sey remained at Mongbwalu.

Witnesses also said that Ugandan army commanders left behind some of their ammunition and weapons for the FNI.<sup>108</sup> In addition, a shipment of Ugandan arms bound for Mongbwalu was seized by MONUC in Beni several months after the Ugandans withdrew. Those accompanying the arms reported that the FNI were still getting aid from Uganda and that the weapons seized in Beni were meant for them. According to the MONUC report on the incident, one of those accompanying the weapons, a deputy administrator from Mongbwalu, admitted he was constantly in touch with the Ugandans.<sup>109</sup>

### ***Accountability for the March 2003 Kilo Massacre***

Many witnesses reported the abuses to local authorities who in turn wrote a letter to the MONUC human rights section in Bunia on September 26, 2003 listing 125 civilian deaths, cases of torture and rape in the Kilo area from March to May 2003 carried out by

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<sup>104</sup> Letter from Brigadier Kale Kayihura to the Regional Director of MONUC in Bunia, RE: Disposition of UPDF in the Two Command Sectors of Bunia and Mahagi., April 17, 2003. The document also confirms that 1 Infantry Coy was left in Kilo.

<sup>105</sup> Human Rights Watch interview, Mongbwalu, May 2 and 4, 2004.

<sup>106</sup> Ibid.

<sup>107</sup> UPDF Restricted Document, “Withdrawal of Ugandan Peoples’ Defence Forces from the Democratic Republic of Congo,” UPDF Form No. AC/DRC/01 signed in Mongbwalu, May 1, 2003. Document on file at Human Rights Watch.

<sup>108</sup> Human Rights Watch interview, Mongbwalu, May 2, 2004.

<sup>109</sup> Confidential U.N. internal report on the investigation into the plane seizure in Beni, July 25, 2003.

FNI combatants while Ugandan soldiers were still present in the area.<sup>110</sup> No response was received and on November 20, 2003 a second letter was sent detailing a further nineteen deaths, eight cases of torture and two cases of rape between July to November 2003.<sup>111</sup>

The Ugandan army had command control over the FNI combatants during their joint military operation and should be held responsible for the abuses committed by FNI combatants. Although they may have attempted to minimize crimes by organizing joint patrols and requesting that combatants lay down their traditional weapons, they did not carry out any further steps to ensure accountability for these crimes. In addition, they soon armed the FNI with modern weapons. Human Rights Watch is not aware of any investigation or arrest made by either the Ugandan army or the FNI authorities into abuses committed by their troops. To date no one has been held responsible for the massacre of civilians and other serious human rights abuses committed in Kilo.

### ***The 48 Hour War, June 2003 and subsequent massacres***

After the Ugandan forces left in May 2003, the UPC retook Mongbwalu on June 10, 2003. Despite having recently received additional weapons from Rwanda, delivered at a newly constructed airstrip some 30 kilometers from Mongbwalu,<sup>112</sup> the UPC was able to hold the town for only forty-eight hours before being pushed back by the FNI combatants under the command of Mateso Ninga, known as Kung Fu. The FNI counter attacked with heavy weapons that had reportedly been left behind by the Ugandans.<sup>113</sup> For the Lendu, their victory in what became known as the “48 Hour War,” was a source of great pride. Based on local testimony, it appears that some 500 persons were killed during the Lendu counterattack, many of them civilians.<sup>114</sup>

FNI authorities asserted that the UPC attacked Mongbwalu in order to regain control of the gold.<sup>115</sup> In addition, a large number of civilians accompanied the combatants, apparently intent on looting and helping the combatants loot the town.<sup>116</sup> According to

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<sup>110</sup> Letter from local authorities to MONUC Human Rights Section in Bunia, “Transmission of report on the tragic events carried out by Lendu combatants in Banyali/Kilo from March 9, 2003 till present against the civilian population”, Ref No 323/09/1,180/2003, September 26, 2003.

<sup>111</sup> Letter from local authorities to MONUC Human Rights Section in Bunia, “Table of Human Rights Violations in B/Kilo Sector”, Ref No 323/21/1,180/2003, November 20, 2003.

<sup>112</sup> *Ibid.*, Panel of Experts, “Confidential Supplement to the U.N. Security Council”, November 2003.

<sup>113</sup> Human Rights Watch interviews, FNI authorities, Mongbwalu, May 2, 2004 and local residents, May 3, 2004.

<sup>114</sup> Human Rights Watch interviews, Beni and Mongbwalu, February 27 and May 2, 2004.

<sup>115</sup> Human Rights Watch interview, FNI authorities, Mongbwalu, May 2, 2004.

<sup>116</sup> Human Rights Watch interview, Beni, February 27, 2004.

witnesses and FNI authorities, they represented a large number of those killed during the Lendu counterattack.<sup>117</sup> One witness recounted being shocked at the sight of so many bodies, civilians as well as combatants, in town on the day of the Lendu victory. He said,

[Commander] Kung Fu saw that many people died and he asked people to help with burying. But there were too many so they just decided to burn them instead. They burned for at least three days. There was a terrible smell in the air.<sup>118</sup>

FNI officials acknowledged to a Human Rights Watch researcher that civilians had accompanied the UPC combatants.<sup>119</sup> During a commemorative re-enactment of the battle at 2004 May Day celebrations in Mongbwalu stadium, witnessed by Human Rights Watch, women and young people playing the role of Hema civilians were portrayed carrying goods before they were killed by Lendu combatants under the command of Kung Fu. The play went on to show the community burning the bodies of those killed and declaring Commander Kung Fu a hero.<sup>120</sup> But when questioned on the issue, the self-styled president of the FNI, Floribert Njabu, asserted that there had been no civilians with the attacking combatants. He declared that the FNI had “professional commanders who know about the international rules of war”<sup>121</sup> implying they would not have killed civilians.

There is no evidence to suggest that the FNI combatants distinguished between military and civilian targets during the battle. According to local reports and witnesses the killing was indiscriminate and did not distinguish women and children from combatants. While it is not unusual for women and children to take part in looting activities in such military operations in Ituri, they should have been respected.

Shortly after retaking Mongbwalu from the UPC, FNI combatants continued their attacks against Hema civilians. Between July and September 2003, FNI combatants attacked numerous Hema villages to the east of Mongbwalu including Nizi, Drodro, Largo, Fataki and Bule. In the town of Fataki a witness arriving shortly after one such attack by FNI combatants reported seeing the fresh corpses of victims dead in the

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<sup>117</sup> Human Rights Watch interviews, Beni and Mongbwalu, February 27 and May 2, 2004.

<sup>118</sup> Human Rights Watch interview, Mongbwalu, May 1, 2004.

<sup>119</sup> Human Rights Watch interview, FNI officials, May 2, 2004.

<sup>120</sup> May Day Celebrations, Mongbwalu Stadium, May 1, 2004 attended by a Human Rights Watch researcher.

<sup>121</sup> Human Rights Watch interview, President Floribert Njabu of the FNI, Mongbwalu, May 7, 2004.

streets with their arms tied, sticks in their rectums, and body parts such as ears cut off.<sup>122</sup> In Drodro witnesses reported that FNI combatants attacked the hospital shooting Hema patients in their beds.<sup>123</sup> Local sources claimed scores of civilians had been killed in these attacks and thousands of others were forced to flee. A stark warning was left behind by the attackers etched on the wall of a building in Largo, “Don’t joke with the Lendu.”<sup>124</sup>



A young Hema victim in the hospital in Drodro. Lendu combatants tried to kill her by chopping her neck with machetes. Many women and children, both Hema and Lendu, have been targeted on the basis of their ethnicity. © 2003 Marcus Bleasdale.

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<sup>122</sup> Human Rights Watch interview, international journalist, London, January 12, 2005.

<sup>123</sup> Ibid., See also Helen Vesperini, “DR Congo villagers reel from second massacre in four months,” *Agence France Presse*, July 27, 2003.

<sup>124</sup> Ibid.



There was a substantial MONUC presence in Ituri at the time as well as European Union peacekeeping troops as part of Operation Artemis.<sup>125</sup> No U.N. officials reported on the killings in Mongbwalu in June 2003. U.N. and E.U. troops were made aware of the later killings in areas to the east of Mongbwalu by international journalists who had visited the area and conducted fly-over operations in attempts to deter further violence. The Artemis mandate granted by the U.N. security council did not allow for peacekeeping actions outside of the town of Bunia.

### ***A 'Witch Hunt' for Hema Women and other Opponents***

Shortly after the UPC attack in June 2003, FNI combatants began accusing Hema women living in and around Mongbwalu of spying for Hema armed groups. Hema women still living in the area were few in number and most of them were married to Lendu spouses and had been able to live safely within the Lendu community. But after the "48 hour war" Lendu combatants arrested, tortured and killed these women and some men, accusing them of 'dirtying and betraying' their society. Using charges of witchcraft, Lendu combatants and spiritual leaders covered their crimes by claiming the killings had been ordered by a spirit known as Godza. More moderate FNI officials found it difficult to counter these claims and did nothing to stop them. A witness said,

After the June [2003] attack, the Lendu decided to kill all the Hema women without exception. There were women I knew who were burned. I had never seen that kind of thing before. Previously Hema women who were married to outsiders were not harmed. Now they wanted to hunt these women. The Lendu spirit, Godza, told them to kill all the Hema women during one of the Lendu spiritual ceremonies. One of the women they killed was Faustine Baza. I knew her well. She was very responsible and lived in Pluto. The FNI came to get her and took her to their camp. They killed her there. They killed other women as well. I did not want to be a part of this so I left. I couldn't stay while they were exterminating these Hema women. They did it in Pluto and Dego. They came from Dego with thirty-seven Hema women to kill. I don't want to return now - it's too hard.<sup>126</sup>

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<sup>125</sup> Operation Artemis was the name of the Interim Emergency Multinational Force sent by the European Union and authorised by the U.N. Security Council under Resolution 1484 on May 30, 2003 to contribute to the security conditions and improve the humanitarian situation in Bunia. It was a limited three month mission with a geographical scope to cover only the town of Bunia.

<sup>126</sup> Human Rights Watch interview, Beni, February 27, 2004.

Another witness said,

In July women were killed at Pluto and Dego. The strategy was to close them in the house and burn it. More than fifty were killed. Pluto was considered the place of execution for Hema people from Pluto and other places too. They captured the women from the surrounding countryside. They said it was to bring them to talk about peace. They put ten women in a house, tied their hands, closed the doors, and burned the house. This lasted about two weeks, with killing night and day. After that, no more Hema women were left in [our area] and the men were prevented from leaving with their children. They called the women “Bachafu” – dirty. Sometimes the men would be taken to prison. Suwa’s husband was asked to pay \$300. They told him they killed his wife, and he had to pay thirty grams of gold (\$300) to clean the knife they had killed her with.<sup>127</sup>

Many people were aware of the killings and bodies were often seen in the towns. A witness reported seeing six bodies of women at the Club, a well-known building in Mongbwalu, in mid-2003. He said many other passers-by also saw the nude and brutalized bodies and that Lendu combatants were trying to recruit people to help burn them.<sup>128</sup> A community leader in an outlying village expressed his frustration about the continuation of the practice, saying he had been interrogated more than ten times by Lendu combatants as to the whereabouts of Hema women. He said to a Human Rights Watch researcher, “I want to know what Kinshasa is going to do to help us. Are they going to let the FNI stay here? The population is really suffering.”<sup>129</sup>

The operation against Hema women extended to men and other tribes as well and continued at least until April 2004, killing some seventy persons in Pluto, Dego, Mongbwalu, Saio, Baru, Mbau and Kobu and possibly in other locations in the Mongbwalu area. By this point, the allegation of witchcraft became a common accusation, often resulting in death after a ‘judging ceremony’ by local spiritual leaders. Carried out in secret these judging ceremonies used different methods to determine a person’s guilt or innocence. One civilian accused of being Hema described to a Human Rights Watch researcher the ceremony he and others were forced to undergo after being caught by Lendu combatants in 2003:

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<sup>127</sup> Human Rights Watch interview, Beni, February 27, 2004.

<sup>128</sup> Human Rights Watch interview, Mongbwalu, May 2, 2004.

<sup>129</sup> Human Rights Watch interview, village outside Mongbwalu, May 6, 2004.

A local fetisher [spiritual leader] came to the place I was being held. He had two eggs with him. I was tied up and very scared. He rolled the eggs on the ground at my feet. I was told if the eggs rolled away from me then I would be considered innocent. But if the eggs rolled back towards me then I was considered to be a Hema and I would be guilty. I was lucky, the eggs rolled away from me. Another person, Jean, who I was with, was not so lucky. The eggs rolled the wrong way and he was told to run. As he ran the Lendu shot their arrows at him. He fell. They cut him to pieces with their machetes in front of my eyes. Then they ate him. I was horrified.<sup>130</sup>

In the Mongbwalu area the killings continued throughout 2003 and into 2004. A witness described to a Human Rights Watch researcher the ongoing killings:

[After the June war] they said they did not want the Hema to return. Those who stayed were killed. They killed them in Saio and Baru. They would just take them away. A man called Mateso, Bandelai Gaston, a Nyali, and his brother Augustin were killed because they were accused of being witches. There were also women who were killed. Celine, an Alur, was killed for witchcraft. Gabriel, a Kakwa, and his wife were also killed. They were accused of protecting Hema people.<sup>131</sup>

Some community leaders raised concerns about the 'Godza ceremonies' with FNI leader Njabu, in July 2003. At the time he seems to have done nothing to stop the killings, but according to local residents, the number decreased after he moved to Mongbwalu in February 2004, whether simply as a coincidence or as the result of his presence is unclear.<sup>132</sup>

While some FNI authorities may have been against such killings, and perhaps took steps to minimize them, at the time of writing no one has been held responsible for them. Human Rights Watch is not aware of any investigation carried out by FNI representatives into these killings.

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<sup>130</sup> Human Rights Watch interview, Arua, Uganda, February 2003.

<sup>131</sup> Human Rights Watch interview, Mongbwalu, May 5, 2004.

<sup>132</sup> Human Rights Watch interviews, Mongbwalu, May 2 and May 4, 2004.

### ***Murder of two MONUC Observers***

On May 12, 2003, shortly after Ugandan troops had left Mongbwalu to the FNI and the FAPC, FNI combatants deliberately killed two unarmed U.N. military observers, Major Safwat Oran of Jordan and Captain Siddon Davis Banda of Malawi. Rumors of an impending Hema attack—which would actually happen with the “48 hour war” a month later—caused panic among town residents, about one hundred of whom sought refuge at the residence of the MONUC observers. The observers, apparently concerned themselves, arranged to be evacuated. When the U.N. helicopter arrived at a nearby airstrip, FNI combatants refused to allow the observers to pass. Led by FNI Commander Issa, the combatants took them to FAPC Commander Sey at his headquarters at the “apartments.” “The combatants were chanting that Sey should not let them leave,” said one witness.<sup>133</sup>

Shortly after, the combatants led the observers away again, apparently because Sey declined to take them under his protection, and killed them a short distance from the “apartments.” A witness who passed by later that afternoon said,

I found the bodies on the road leading down from the apartments. They had both been shot. One was shot in the head and the other in the stomach. I found the military of the FAPC around the bodies.<sup>134</sup>

Local residents transported the bodies to the FAPC headquarters and placed them in a nearby empty house. Sey and his combatants fled from Mongbwalu that evening, apparently seeking to distance themselves from the crime.<sup>135</sup> Local residents later buried the two bodies in a shallow grave in Mongbwalu.<sup>136</sup>

According to several Mongbwalu residents, FNI Commander Issa was responsible for the killings. Witnesses reported that FNI combatants took possession of the observers’ U.N. cars and used them until they were recovered by the U.N.<sup>137</sup>

During discussions with a Human Rights Watch researcher, the FNI’s leader Njabu said, “We did not investigate the killings. It is not our affair. Our military were at Saio at the

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<sup>133</sup> Human Rights Watch interview, Mongbwalu, May 4, 2004.

<sup>134</sup> Ibid.

<sup>135</sup> Human Rights Watch interview Mongbwalu, May 5, 2004.

<sup>136</sup> Human Rights Watch interview, Mongbwalu, May 4, 2004.

<sup>137</sup> Human Rights Watch interview, Bunia, and Mongbwalu, February 19 and May 4, 2004.

time, seven kilometers away. Commander Jérôme's combatants were at the apartments. You should ask Commander Sey what happened."<sup>138</sup> But in a second interview days later he admitted that Commander Issa might also have been present and he indicated that an investigation was ongoing.<sup>139</sup> More than one year later, FNI authorities had not yet announced any results of an investigation. According to one unconfirmed local report, FNI Commander Kung Fu did carry out an investigation and, presumably as a result, Commander Issa fled and was reportedly later killed.<sup>140</sup>

### ***Threat Against Human Rights Defenders and Others Reporting Abuses***

Some FNI combatants tried to keep local people from being in touch with MONUC or other outside agencies, apparently for fear that they would pass on information about FNI abuses.

Important FNI commanders threatened human rights activists from the organization Justice Plus after they had traveled to Europe and spoken about the situation in Ituri.<sup>141</sup> Other FNI leaders reportedly planned to look into activities of the organization and threatened that its staff would be considered enemies if they were found to have had contacts with the Rwandans and the Hema.<sup>142</sup>

FNI combatants acted more directly and immediately against local residents known to have spoken with MONUC staff during their occasional visits to Mongbwalu in late 2003.<sup>143</sup> One person so abused said,

I was taken by nine [Lendu] combatants in uniform. They came to my house and shouted, "Get up! What did you say to MONUC?" They threatened me with their spears. They took me to the apartments and I was interrogated by [a Lendu commander]. He asked me what I had said to MONUC. That is all he wanted to know. He threatened me. They hit me on the face. I said I had told MONUC nothing. They said they

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<sup>138</sup> Human Rights Watch interview, FNI President Floribert Njabu, May 2, 2004.

<sup>139</sup> Human Rights Watch interview, FNI President Floribert Njabu, May 7, 2004.

<sup>140</sup> Human Rights Watch interview, Mongbwalu, May 5, 2004.

<sup>141</sup> Human Rights Watch interview, Justice Plus, Bunia, February 24, 2004.

<sup>142</sup> Human Rights Watch interview, Justice Plus, Bunia, February 24, 2004.

<sup>143</sup> After the killing of the two MONUC observers, no other MONUC staff were posted to Mongbwalu until April 2005.



would put me in prison. They took \$100 from me but a commander who knew me saved me and they let me go.<sup>144</sup>

The same person was arrested a second time and severely beaten with bats and ropes. He was kept for seven days and regularly beaten.<sup>145</sup>

Witnesses reported that civilians were threatened for having applauded visits of MONUC staff.<sup>146</sup> After one such mission in November 2003, some twelve civilians were beaten and arrested, and at least one, a man named Choms, was summarily executed. A witness told a Human Rights Watch researcher that Mr. Choms had applauded the arrival of a U.N. plane, saying he thought this meant peace was coming. Local police reported this to the FNI and two combatants of the force arrested Mr. Choms and another person and took them to the police station. A witness who went to the police station the next day to check on Mr. Choms said,

The other prisoners told me he had been interrogated and beaten and that this was followed by a shot. . . . I forced my way into the room and the body was still there. He had no shirt on and there was a bullet in his chest. He had marks on his back from being whipped. They then questioned me and forced me to leave. They wouldn't give us the body for burial.<sup>147</sup>

### ***Arbitrary Arrests, Torture and Forced Labor***

FNI combatants imposed a number of "taxes," collected in an arbitrary and irregular way, and organized forced community labour known as "salongo". FNI representatives resorted to arbitrary arrests, beatings, and other forms of cruel and degrading treatment to obtain the maximum possible payment and service from civilians. According to local residents, these practices worsened considerably after the departure of Ugandan troops.<sup>148</sup>

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<sup>144</sup> Human Rights Watch interview, Mongbwalu, May 4, 2004.

<sup>145</sup> Human Rights Watch interview, Mongbwalu, May 4, 2004.

<sup>146</sup> Ibid.

<sup>147</sup> Human Rights Watch interview, Mongbwalu, May 5, 2004.

<sup>148</sup> Human Rights Watch interview, local residents, Mongbwalu, May 3 and 4, 2004.

Residents were required to pay a “war tax” that varied in amount and in the frequency with which it was due.<sup>149</sup> Traders at the market were also subject to confusing and irregular “tax” demands. One businessman said,

There are about five or six different taxes. They range from \$2 to \$20. Everyone has to pay. You pay when they come and sometimes they come back again after just a few days. It is very irregular. If you don't pay you are beaten or taken to prison. . . . Both military of the FNI and civilians do this.<sup>150</sup>

Human Rights Watch researchers documented similar abusive cases throughout the Mongbwalu area, Kilo, Rethy and Kpandruma. “The people can say or do nothing,” said one witness. “We just do what the FNI say.”<sup>151</sup>

A young trader arrested on February 5, 2004 by the FNI for non-payment of tax was beaten and taken to the Scirie-Abelcoz military camp. He said,

There I spent two days in. . . a hole in the ground covered by sticks. They took me out of the hole to beat me. They tied me over a log and then they took turns hitting me with sticks – on my head, my back, my legs. They said they were going to kill me. . . There was a woman with me in the underground prison. They hit her also. They tried to force me to have sex with her but I couldn't. She was called Bagbedu.

After two days I was taken to Mongbwalu. They made me carry the woman and forced me to sing songs as I was carrying her. I was escorted by three FNI combatants and one kadogo [child soldier]. On the road, we met other soldiers who forced me to drop the woman and beat me more. In Mongbwalu the soldiers beat me again with sticks. They took me to a prison in a house. They also put the woman in the prison but she died four days later. I spent five days there. Every day they beat me.<sup>152</sup>

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<sup>149</sup> Ibid.

<sup>150</sup> Human Rights Watch interview, Ariwara, March 7, 2004.

<sup>151</sup> Human Rights Watch interview, Bunia, February 20, 2004.

<sup>152</sup> Ibid.

After a week, his family paid \$80 and Commander Maki of Camp Goli freed him.

FNI representatives showed a Human Rights Watch researcher a long list of taxes asked of residents, including a “war tax” that they claimed was voluntary.<sup>153</sup>

The FNI used similar practices to enforce the salongo policy of community labour to fix roads, collect firewood for the military, clean up the military camp, or even burn bodies as described above. At times salongo was required for as much as two full days a week, although by late 2004 it had been decreased to once a week for three hours. Participants received a piece of paper showing they had done the required labour. Persons who could not present such proof when asked by police or combatants were subject to beatings, arrest, fines or even death. According to one witness, a young man named Lite who failed to present the required proof when asked was smashed in the head with a gun by a FNI combatant and died from the blow. The witness asked FNI authorities what justice there would be for the family of Lite and, he said, “They responded that the family of Lite could kill the man who had done this act, but the family would not.”<sup>154</sup>

Another man reported that he was rounded up with a group of about one hundred men who had all refused to report for salongo labour some fifteen miles from their homes, saying it was too far. They were forced to walk all night and then were imprisoned and had to pay \$5 for each elderly person, \$10 for each young person, and \$20 for each businessman in order to be freed.<sup>155</sup>

A local administrative official admitted that in order to get laborers for salongo they needed to “intimidate people to come, otherwise they would not.”<sup>156</sup> A person responsible for the salongo in Saio told a Human Rights Watch researcher that the local chief would “deal with people who don’t work,” while a police commander added that he “sanctioned those who refused to work.”<sup>157</sup> He would not elaborate on what kind of sanctions were involved.

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<sup>153</sup> Human Rights Watch interview, Jean Pierre Bikilisende Badombo, Chef de Cité and Sukpa Bidjamaro, Deputy Chef de Cité, May 3, 2004.

<sup>154</sup> Human Rights Watch interview, Bunia, February 23, 2004.

<sup>155</sup> Human Rights Watch interview, Ariwara, March 7, 2004.

<sup>156</sup> Human Rights Watch interview, Mongbwalu, May 4, 2004.

<sup>157</sup> Human Rights Watch interview, Manu Ngabi, local authority and Gerard Kitabo, Police Commander, Saio, May 5, 2004.



Young gold trader arrested and tortured in Mongbwalu in February 2004 by Lendu FNI combatants for being unable to pay a market tax. © 2004 Human Rights Watch

### ***Control of the Gold Mines***

Upon taking control of Mongbwalu on March 13, 2003, the FNI militia leaders, like the UPC previously, moved immediately to begin profiting from gold mining. Artisanal miners resumed digging, but had to pay FNI combatants fees to enter the mines, \$1 per person at some mines. Based on entrance records kept by FNI security guards at one mine and seen by Human Rights Watch researchers, the FNI made \$2,000 per month in entrance fees at this one mine alone.<sup>158</sup> Miners also had to deliver to FNI two to five grams of gold per week, often as raw ore. From such ore FNI combatants were able to

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<sup>158</sup> Human Rights Watch visit to Adidi mine, May 3, 2004. Statistics from the entrance book kept by FNI security officials at the entrance mine. Book clearly labeled as FNI.

assess the density of the gold and thus to locate the most valuable veins. They could then send in their own men to mine those areas.<sup>159</sup> As one miner said,

The money that circulates in Mongbwalu is gold. Gold is the economy. The Lendu take the gold from the diggers. They take the best gold areas by force. Lots of people don't want to go and dig for gold as they know it will be taken from them.<sup>160</sup>

FNI combatants, some of them previously gold diggers, also mined gold themselves or organized groups of people to dig for them. In Itendey, a gold area just to the south of Mongbwalu, for example, FNI combatants forced young men to mine gold in a nearby riverbed. A local community leader who had fled from the area told a Human Rights Watch researcher,

The FNI combatants come every morning door-to-door. They split up to find young people and they take about sixty of them to the Agula River to find the gold. They [the young people] are guarded by the military and are not paid. They are forced to work. If the authorities try to intervene they are beaten. The chief has tried to stop this by reasoning with them, but they don't like this. They even force the younger children to leave school to carry sand or transport goods.<sup>161</sup>

Miners worked in deplorable conditions, exposed to risk of accidents both in the mines and when handling mercury to process the ore.

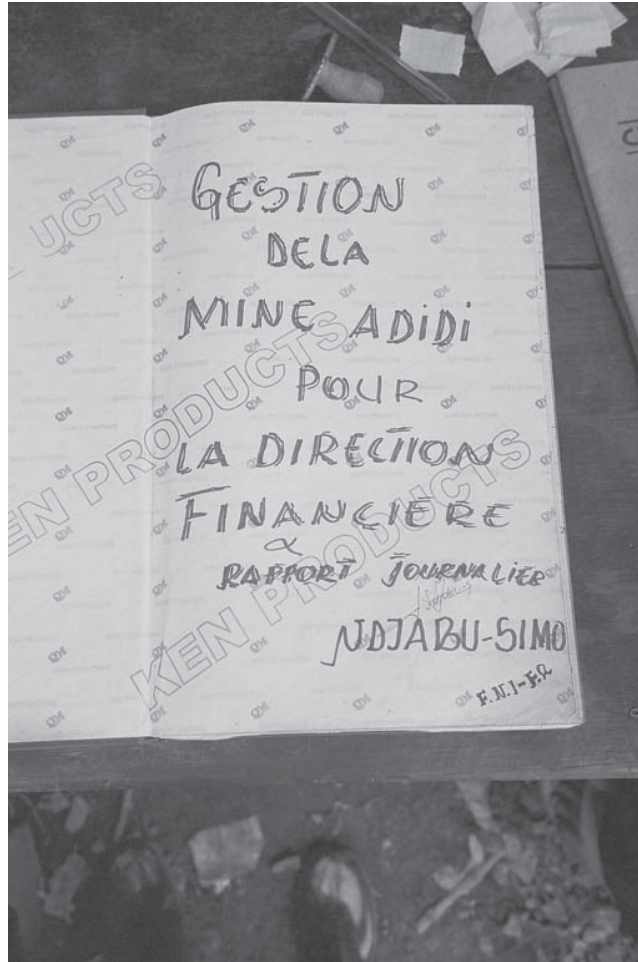
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<sup>159</sup> Human Rights Watch interview, Bunia, February 23, 2004.

<sup>160</sup> Human Rights Watch interview, Beni, February 25, 2004.

<sup>161</sup> Human Rights Watch interview, Bunia, February 20, 2004.





Entrance register kept by FNI security guards at Adidi gold mine (“Management of Adidi mine for the financial management and daily report, Ndjabu-Simo, FNI-FR”). Each gold miner paid US\$1 to enter the mine and was forced to give a portion of the mined gold to the guards when exiting. © 2004 Human Rights Watch

## Box 2 - Conditions at the Mines

In May 2004 a Human Rights Watch researcher visited mines in Mongbwalu and Durba where many miners and engineering experts spoke of the deteriorating safety conditions at the mines. One former OKIMO engineer told Human Rights Watch about the lack of air in parts of the underground mine where equipment that used to ensure oxygen flows was no longer working. Miners recounted that some of their colleagues had died of suffocation in parts of the mine, especially when fires were lit in attempts to soften hard rock areas, a technique witnessed by Human Rights Watch researchers.<sup>162</sup> Miners also spoke of frequent rocks falls, flooding and other accidents. No safety equipment of any kind was visible.

Miners worked individually or in small groups with rudimentary tools such as hammers and chisels. They were generally in bare feet and carried candles or small flashlights to light their way. In some underground mines, workers walked for kilometers through chest-high water and narrow passages to get to galleries where they could work. Women also worked in the mines often being used as porters.

Mining in open-pit mines, some as deep as 300 meters, is also precarious. Miners spoke of frequent mud-slides and falls. Expert gold engineers lamented the anarchic mining that was taking place with no regard for the safety of the miners themselves or for the longer term damage being caused to the mining facilities.<sup>163</sup>

One miner said, *“There are some areas which were boarded up by the Belgians many years ago. But we just break down the boards and go in anyway. We use a hammer and a large iron bolt or chisel to dig for the gold. The work is very hard and I could only work about six hours per day.”*<sup>164</sup>

Miners, if they are lucky, get about \$10 per day. One miner said, *“I can make between \$5 and \$20 per day if I am lucky and find a good gold vein. Otherwise I could work for 2 weeks just looking for gold and make nothing.”*<sup>165</sup>

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<sup>162</sup> Human Rights Watch interview, former gold engineer, Mongbwalu, May 2, 2004. Also Human Rights Watch visit to Adidi and Makala mines, Mongbwalu, May 3, 2004.

<sup>163</sup> Human Rights Watch interview, OKIMO engineer, Durba, May 13, 2004.

<sup>164</sup> Human Rights Watch interview, gold miner, Bunia, February 21, 2004.

<sup>165</sup> Ibid.

When asked why they worked in such dangerous conditions, one miner responded, *“Tell me what choice I have? This is the only way I can make any money. Its about my own survival and that of my family.”*<sup>166</sup>

The entire mining and refining process is done by hand. After the ore is mined, it is pounded down into sand with the use of an iron bar. The sand is then mixed with water and mercury, which attracts the gold particles and separates it from the rock dust. The mixture of gold and mercury is then heated so the mercury evaporates and the gold remains. Mercury, a dangerous substance, is readily available in the market areas. Human Rights Watch witnessed numerous miners using mercury with no gloves or masks, taking no safety precautions when handling the substance.

In addition to profiting directly from mining, FNI leaders sought to control the trade in gold. According to gold traders, FNI control of the trade was still haphazard and sometimes involved direct use of force. In May 2004, the FNI Commissioner of Mines explained to a Human Rights Watch researcher that the FNI were well aware of the significance of the gold market in Mongbwalu and that “they were looking for additional ways to control the trade.”<sup>167</sup> There are no reliable statistics on the amount of the gold trade from Mongbwalu nor of the proceeds reaped by the FNI from it. Local traders and other informed sources estimated that between 20 and 60 kilograms of gold left the Mongbwalu area each month, a value of between \$240,000 to \$720,000 per month at the time of writing. The majority of the gold is traded from Mongbwalu to Butembo in North Kivu where Dr Kisoni Kambale is one of the main gold exporters (see below).

As one gold miner explained, “The profits enter into the pockets of the FNI,”<sup>168</sup> both in the sense of personal profit and in the sense of profit to the FNI. A former senior FNI commander told a Human Rights Watch researcher that some of the gold proceeds were used to buy weapons and ammunition to supplement weapons recuperated from the battlefield.<sup>169</sup> The leader of the FNI, Njabu, himself admitted to Human Rights Watch researchers that his combatants mined gold and that he traded gold for weapons. He calculated the proceeds he would make from the sale of five kilograms of gold to be about \$50,000, adding “This is not looting as I am Congolese.”<sup>170</sup> A MONUC

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<sup>166</sup> Human Rights Watch interview, gold miner, Mongbwalu, May 2, 2004

<sup>167</sup> Human Rights Watch interview, Mr. Basiani, FNI Commissioner of Mines, May 5, 2004.

<sup>168</sup> Human Rights Watch interview, gold miner, Bunia, February 23, 2004.

<sup>169</sup> Human Rights Watch interview, former FNI commander, Bunia, February 21, 2004.

<sup>170</sup> Human Rights Watch interview, FNI President Floribert Njabu, Kinshasa, October 7, 2003.

investigation into weapons seized in Beni in July 2003 confirmed that the FNI used taxes from the gold mines to buy weapons.<sup>171</sup> Njabu admitted to a Human Rights Watch researcher that he had purchased these weapons, adding, “I want them back or I will fight to get them.”<sup>172</sup>



Artisanal miners transporting tubs of raw ore mixed with dirt out of an open-pit gold mine in Durba. Mining in open-pit mines, some as deep as 300 meters, can be precarious with frequent mud-slides and falls. © 2004 Marcus Bleasdale

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<sup>171</sup> U.N. internal report on the investigation into the plane seizure in Beni, July 25, 2003.

<sup>172</sup> Human Rights Watch interview, FNI President Floribert Njabu, Kinshasa, October 7, 2003.

The FNI armed group was also approached by multinational companies eager to gain access to the significant gold reserves in the area. The FNI Commissioner of Mines explained to Human Rights Watch that they had been approached by a number of different companies but that officially AngloGold Ashanti had the concession in the Mongbwalu area and that they were in contact with them (see below for further information).<sup>173</sup> The arrival of multinational companies into a volatile area where conflict and competition for the control of natural resources are closely interlinked creates further complexities and has the potential to create more violence. While AngloGold Ashanti is the only mining company working in the Mongbwalu area, other companies have signed contracts for work in gold mining areas further north in the town of Durba.

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<sup>173</sup> Human Rights Watch interview, Mr. Basiani, FNI Commissioner of Mines, May 5, 2004.



area. Many local traders in Durba confirmed that they worked for Mr. Oria.<sup>370</sup> In an interview with a Human Rights Watch researcher, Mr. Oria said that he traded gold, explaining that he sold gold in Uganda for Congolese clients and then depositing the proceeds into foreign bank accounts on their behalf.<sup>371</sup>

Mr. Oria's business is not authorized by the state as a trading house and so cannot legally export gold from the Congo nor is it licensed to operate in the foreign exchange market.<sup>372</sup> Mr. Oria's relationship with Commander Jérôme facilitates his illegal trade. Mr. Oria is protected by some of Commander Jérôme's combatants, several of whom have beaten, tortured, and even killed gold traders accused by Mr. Oria of having cheated him (see above). Witnesses claimed Mr. Oria helped finance the FAPC movement and regularly provided food and perhaps other supplies for FAPC combatants.<sup>373</sup> The U.N. group of experts investigating violations of the arms embargo concluded that proceeds from customs and immigration, including those from the gold trade, were channeled into the coffers of the FAPC and used to pay for its military infrastructure. In one case, the group of experts obtained forty handwritten receipts signed by FAPC commanders withdrawing cash from border proceeds for "military emergencies" and "combat rations."<sup>374</sup> Several witnesses said that Mr. Oria and Commander Jérôme were frequently seen together and that Mr. Oria on occasion stayed in Angarakali, the FAPC military camp in Ariwara.<sup>375</sup>

### ***Congolese Gold Exported to Uganda***

The gold traded from northeast Congo goes principally to one destination – Uganda. Both Dr Kisoni and Mr. Oria sell their 'tainted gold' to Ugandan traders based in Kampala, many of whom in turn sell gold to companies in Switzerland and other destinations.<sup>376</sup> Most of this gold is exported illegally from Congo: traders have no export permits or exchange documents, are not authorized trading houses, do not keep accounts at the Central Bank of Congo and do not pay relevant taxes and duties as required under Congolese law.<sup>377</sup> The Congolese population gain almost no benefit

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<sup>370</sup> Human Rights Watch interview with gold traders and business people in Durba, May 13, 2004.

<sup>371</sup> Human Rights Watch interview, Omar Oria, Kampala, March 10, 2004.

<sup>372</sup> Mining Code, Articles 120, 126, 128.

<sup>373</sup> Human Rights Watch interviews, Ariwara, March 6 and 7, and Aru March 7, 2004.

<sup>374</sup> Ibid., Report of the Group of Experts on the U.N. Arms Embargo, January 25, 2005, para 109.

<sup>375</sup> Human Rights Watch interviews Ariwara, March 6, 2004 and March 7, 2004.

<sup>376</sup> While the primary destination is Switzerland, gold is also traded to Dubai, South Africa and other European countries.

<sup>377</sup> All these requirements are set out under the Mining Code of July 2002.

from this trade; instead they suffer grave human rights abuses by groups seeking to control the trade and the gold mines.



Gold traders conducting business. © 2004 Marcus Bleasdale

The gold is “legalized” in Uganda. Traders in Kampala do not require their Congolese clients to present documents authorizing the export of gold, operating on an “ask no questions” basis. They treat the gold as if it were a transit good, filling out customs forms and other documents required to make its export legal from Uganda and acceptable in the unregulated global market.<sup>378</sup>

In the 1990s most unlicensed exports of gold from Congo went to Burundi, but civil war in Burundi and a regional trade embargo declared in 1997 made Burundi less attractive as a transit point. After a brief shift through Kenya, the trade moved to Kampala where the climate was more favorable. In 1993 the Ugandan Central Bank eased restrictions on gold sales and decided not to tax gold exports.<sup>379</sup> This change followed five years later by the establishment of Ugandan army control over rich gold mining areas of

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<sup>378</sup> Human Rights Watch interviews with representatives from Uganda Commercial Impex Ltd, Machanga Ltd and A. P. Bhimji Ltd, Kampala, July 7 and 8, 2004.

<sup>379</sup> U.S. Geological Survey, “The Mineral Industry of Uganda”, 1997.

northeastern Congo resulted in a dramatic increase in gold exports from Uganda (see chart below).

### ***Gold Export Figures from Uganda***

According to official statistics, Uganda exported nearly \$60 million in gold in 2002, a peak year, and about \$46 million in 2003. But in 2003 specialists in the trade valued it still at \$60 million.<sup>380</sup> According to the Central Bank of Uganda, data from these industry experts may be more accurate than that compiled from government customs data.<sup>381</sup> Whether using industry or official statistics the increase in gold exports has been remarkable. Gold is currently the third top Ugandan export, after coffee and fish.<sup>382</sup> In 2001 gold accounted for 84 percent of the total value of all minerals exported from Uganda; in 2002 it was 99 percent.<sup>383</sup>

Most of the gold exported from Uganda comes from Congo. Domestic production in Uganda is negligible, despite encouragement from the World Bank and new mining regulations introduced in 2001. Statistics from the Ministry of Energy and Mineral Development and official export figures shows that Ugandan gold production accounts for less than 1 percent of the official gold exports.<sup>384</sup> In the annual report of the Ministry of Energy and Mineral Development, discrepancies between gold production and gold exports are striking. In 2002, for example, domestic gold production was valued at \$24,817 while gold exports for the same year were listed as just under \$60 million.<sup>385</sup> When Human Rights Watch researchers asked Ministry representatives about this discrepancy, they refused to comment.<sup>386</sup>

Import statistics fail to show the real scale of the gold trade. Officially, gold brought into Uganda should be declared upon entry as an import if expected to stay in the country, or as a transit good if intended for another final destination. But official Ugandan import statistics show a tiny amount of gold imported to the country and show no statistics for

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<sup>380</sup> Human Rights Watch interviews with representatives from Uganda Commercial Impex Ltd, Machanga Ltd and A. P. Bhimji Ltd, Kampala, July 7 and 8, 2004.

<sup>381</sup> E-mail correspondence with the Central Bank of Uganda, July 12, 2004.

<sup>382</sup> Ugandan Bureau of Statistics, Value of Exports by Commodity 1998 – 2003.

<sup>383</sup> Annual Report 2002, Ugandan Ministry of Energy and Mineral Development available at [www.energyandminerals.go.ug](http://www.energyandminerals.go.ug) (retrieved at February 2005).

<sup>384</sup> Based on statistics on production from the Ugandan Ministry of Energy and Mineral Development and official export figures from the Ugandan Bureau of Statistics from 1998 to 2003.

<sup>385</sup> Annual Report 2002, Ugandan Ministry of Energy and Mineral.

<sup>386</sup> Human Rights Watch interview, Ugandan Ministry of Energy and Mineral Development Representative, July 2004.

transit goods. The unofficial trade in gold is likely facilitated by the lax enforcement of regulations at the Uganda-Congo border posts. According to a study conducted in 2004 by the Ugandan Bureau of Statistics (UBOS), over 50 percent of all imports and exports went unrecorded at six border posts.<sup>387</sup> In cases where people wanted to hide precious minerals, the study estimated the entry of such goods went completely unrecorded. The U.N. group of experts monitoring the arms embargo to eastern DRC observed that at the northern border post of Vurra, between Aru (DRC) and Arua (Uganda), there was limited or no customs and immigration inspection, especially in the case of FAPC combatants who were allowed to cross freely.<sup>388</sup>

Since Ugandan gold production figures are less than 1 percent of official exports, most gold being exported must have entered Uganda from elsewhere. Official statistics fail to record the entry of significant amounts of gold hence most of this trade must be illegal and unrecorded. In 2004 the discrepancy between gold produced in the country and that exported was just over \$45 million per year, as shown by the official figures below.

**Table 1:**  
**Official Ugandan Gold Import, Export and Production, Figures in US\$**

Year	1998	1999	2000	2001	2002	2003	2004
Gold Exports	18,600,000	38,360,000	55,730,000	50,350,000	59,900,000	45,760,000	45,590,000
Gold Imports	0	2,000	3,076,000	890,000	0	2,000	n/a
Local Gold Production	n/a	40,307	477,000	1,412	24,817	23,000	21,000
<b>Discrepancy</b>	18,600,000	38,317,693	52,177,000	49,458,588	59,875,183	45,735,000	45,569,000

*Note: Statistics for 2004 are estimates*

*Source: Ugandan Bureau of Statistics, Ministry of Energy and Mineral Development and Central Bank of Uganda.*

### **Gold Traders in Kampala**

Gold industry experts in Kampala acknowledged and readily explained the discrepancy between domestic production of gold and amount of its export, as shown by official statistics. In interviews with Human Rights Watch researchers, gold traders confirmed

<sup>387</sup> Human Rights Watch interview, Ugandan Bureau of Statistics, Trade Representative, Entebbe, July 2004.

<sup>388</sup> *Ibid.*, Report of the Group of Experts on the U.N. Arms Embargo, January 25, 2005, para 98.

that most of the gold they exported came from Congo. They estimated the trade to be worth about \$60 million per year.<sup>389</sup> There are three main gold export businesses in Kampala. The largest two, Uganda Commercial Impex Ltd and Machanga Ltd, control an estimated 70 percent of the export trade from Uganda. Since profit margins on each trade are relatively small, these traders make profits by trading in high volume and by offering good quality gold, for which they need a reliable source of supply.

Uganda Commercial Impex Ltd. is the largest gold exporter in Uganda. In an interview with Human Rights Watch researchers, its representatives said that nearly 90 percent of their gold came from Ituri and they confirmed that Dr Kisoni Kambale from Butembo was “one of their customers.”<sup>390</sup> Company representatives explained they paid their customers cash for the gold or transferred funds into the customer’s bank accounts held either locally or abroad. Like Dr. Kisoni, they had their own refinery on the premises, to process any gold that arrived as ore before exporting it to Switzerland and South Africa. Representatives of the company stated they declared the gold upon export, ensuring that a customs form and airway bill accompanied each shipment.<sup>391</sup>

Representatives of Machanga Ltd, the second largest gold exporter, also told Human Rights Watch researchers that the gold they traded came from Congo and they confirmed that one of their customers was Mr. Omar Oria.<sup>392</sup> They further explained they advanced cash for the purchase of gold, sometimes as much as 30 percent of the anticipated purchase price, a system used also by Mr. Oria in Ariwara. Machanga representatives stated they exported all their gold to Metalor Technologies SA, a gold refining company in Switzerland.<sup>393</sup> Other traders stated they also sold gold to Switzerland as well as to other locations such as South Africa and Dubai.

Trading companies in Kampala do not operate illegally but rather benefit from the loose regulation of the gold trade. Not required to request import documentation or to ask the origin of the gold, they buy smuggled Congolese gold as if it had entered Uganda legally and export it as a legal commodity. An essential bridge to the global economy, they benefit from the risks taken by Congolese dealers like Dr. Kisoni and Mr. Oria and from their relationships with local armed groups.

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<sup>389</sup> Human Rights Watch interviews with representatives from Uganda Commercial Impex Ltd, Machanga Ltd and A. P. Bhimji Ltd, Kampala, July 7 and 8, 2004.

<sup>390</sup> Human Rights Watch interview, Kanal Chune, Uganda Commercial Impex Ltd, Kampala, July 7, 2004.

<sup>391</sup> Ibid.

<sup>392</sup> Human Rights Watch interview, Jigendra Jitu, Machanga Ltd, Kampala, July 8, 2004.

<sup>393</sup> Ibid.



They may however be breaching a U.N. arms embargo. The U.N. group of experts concluded that firms and individuals entering into financial relationships with Ituri armed groups may be in violation of the U.N. arms embargo on eastern DRC.<sup>394</sup>

### ***Encouragement of the Gold Trade by the Ugandan Government***

President Museveni has sought to expand the weak economic base in Uganda by increasing exports. Coffee, the most important export commodity in the past, provided some 40 percent of overall export earnings. But a drop in world price for coffee hit the Ugandan economy hard, as did increased international oil prices. Continuing poor revenue return and corruption have further weakened the economy. The impact of joining the East African Community customs union, expected to be beneficial in the long run, may be negative at first.<sup>395</sup> Increase in the export of gold, one of the fastest growing non-traditional export sectors, offers some hope in this otherwise bleak picture. The government believes that trade in minerals has the potential to rival coffee as a source of foreign exchange for Uganda. In January 2004 the Ugandan government signed a \$25 million loan agreement with the World Bank to finance exploration of the country's mineral deposits.<sup>396</sup> Domestic mineral production may at some point substitute for some of the gold imported from Congo, but such a development is a long time in the future.

Since 1999 the Ugandan government has rewarded Ugandan gold exporters for their efforts to promote the trade. In 2002 Uganda Commercial Impex Ltd. received the President's Export Award for best performance in the gold trade sector and Machanga Ltd. placed second in the competition. Hon. Omwony Ojok, the Minister of State in the office of the President responsible for Economic Monitoring, represented the President at the gala awards ceremony, attended also by five other government ministers.<sup>397</sup> The companies were honored for encouraging the export trade and for fulfilling social responsibilities as part of their business. It is not clear how carefully the selection committee examined their business relationships with Congolese traders, themselves linked to armed groups responsible for human rights abuses in Congo.

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<sup>394</sup> Ibid., Report of the Group of Experts on the U.N. Arms Embargo, January 25, 2005, pages 30-33.

<sup>395</sup> Human Rights Watch interview, World Bank economist, Kampala, July 2004 and diplomatic economic advisors, Kampala, July 2004.

<sup>396</sup> Steven Odeu, "Uganda gets funds to explore minerals," *New Vision*, January 22, 2004.

<sup>397</sup> Ugandan Export Promotion Board, *Export Bulletin*, News Highlights: Presidents' Export Aware (PEA) 2002, Edition 3, Jan-March 2004. Also President Export Award 2002, Evening Programme, December 5, 2003. Ugandan Commercial Impex Ltd also won the Gold Award in 1998 and 1999.

The Ugandan government has proposed tighter controls on gold imports, perhaps in an effort to increase its own revenues. Among the regulations being discussed is one that requires permits for all precious metals imported into Uganda and that imposes an import tax of .5 percent of the purchase price.<sup>398</sup> These regulations have not yet been accepted as law. Stricter regulation of the gold trade in Uganda and other transit countries would assist in stamping out the illegal smuggling and in cutting the link between the gold traders and armed groups who commit human rights abuses. The proposals by the Ugandan government would increase Ugandan revenue and may help somewhat in recording the gold trade coming from the DRC but without requiring further checks such as exit certificates, it is unlikely to curb the trade by illegal smugglers.

### ***Buyers of Tainted Gold***

According to the U.N. panel of experts on the illegal exploitation of Congolese resources, companies who buy gold from Uganda may also be contributing indirectly to human rights abuses in the Congo. After mapping the interconnections between Congolese parties to the conflict, foreign governments, and companies, the panel maintained that some business activities, directly or indirectly, deliberately or through negligence, contributed to the prolongation of the conflict and related human rights abuses.<sup>399</sup> Gold industry experts and companies who trade in gold must, or should be, aware that most of the gold traded from Uganda comes from a conflict zone in the Congo and that it was likely to have been exported illegally.

### ***Switzerland: Unaccounted Gold?***

According to industry experts in Uganda, over 70 percent of the gold exported from Uganda is destined for Switzerland. Switzerland is one of Uganda's main trading partners. According to Ugandan trade statistics, exports to Switzerland jumped from \$29 million in the year 1999 to \$99 million in the year 2000, a record high for trade from Uganda to Switzerland. Although trade decreased to \$70.6 million and then to \$69 million in the following two years, it remained considerably higher than in the years before war began in Congo. According to Ugandan trade figures in 2002, Switzerland was Uganda largest single trading partner receiving over \$69 million worth of goods, with Kenya its second largest trading partner receiving goods valued at \$61.5 million.<sup>400</sup>

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<sup>398</sup> Ugandan Government Draft Mining Regulations 2004, Subsection 3, Section 117.

<sup>399</sup> *Ibid.*, U.N. Panel of Experts reports, April 12, 2001 (S/2001/357) para 215, and October 16, 2002 (S/2002/1146) paras 174 and 175.

<sup>400</sup> Ugandan Bureau of Statistics, "Statistical Abstract 2003", Exports by Region and Country of Destination 1998 – 2002.

It is likely that a large percentage of the trade from Uganda to Switzerland is gold. According to official Swiss information, imports from Uganda, excluding gold, amounted to just over \$11 million in both 2002 and 2003; most of this trade was in coffee.<sup>401</sup> Swiss imports of gold are classified as “sensitive data.” The Swiss government provides only the total amount of gold it imports and exports each year, without producing a breakdown of the country of origin. But Swiss government officials estimated imports from Uganda, to have been approximately \$13 million in 2003 (see table below).<sup>402</sup>

**Table 2:**  
**Swiss Import and Ugandan Export Statistics:**  
**Some Glaring Discrepancies**

Year	2001	2002	2003
Swiss imports from Uganda excluding gold	\$6,965,000	\$11,405,898	\$11,637,025
Swiss gold imports from Uganda (unofficial number)	\$14,315,187	\$1,684,140	\$12,631,047
TOTAL Swiss imports from Uganda according to Swiss import statistics (gold plus other imports)	\$21,280,187	\$13,090,037	\$24,268,072
TOTAL exports from Uganda to Switzerland according to Ugandan export statistics	\$99,104,000	\$70,674,000	\$69,011,000
<b>Discrepancy</b>	\$77,823,813	\$57,583,963	\$44,742,928

*Source: Administration Federale des Douanes (AFD), Commerce Exterieur de la Suisse; and Ugandan Bureau of Statistics. Unofficial figures come from Swiss federal government sources.*

A comparison of Ugandan export and Swiss import statistics in 2001, 2002 and 2003 shows some glaring discrepancies. In 2003 goods from Uganda worth over \$44 million were not registered at the point of entry into Switzerland and were unaccounted for; in 2001 the figure was \$77 million. When questioned about the discrepancies, Swiss customs agents told Human Rights Watch researchers that it was possible the goods had entered Swiss free port zones; areas normally based around airports which effectively

<sup>401</sup> Administration Fédérale des Douanes (AFD), Commerce Extérieur de la Suisse, “Statistiques Selon Les Pays et Marchandises”, 1998, 1999, 2000, 2001, 2002, 2003.

<sup>402</sup> Human Rights Watch interview, Swiss official, Berne, January 26, 2005.

operate outside of Swiss government control.<sup>403</sup> Goods entering such zones are not registered or taxed, are not reflected in Swiss import statistics and are sent to other locations without export duties. As the most valuable commodity imported from Uganda, gold could form a substantial part of the Ugandan goods entering the free port zones. According to one Swiss trade official, Swiss banks are possible candidates who may be buying gold through free port zones.<sup>404</sup> While free port zones are part of Swiss territory, they operate outside of Swiss customs control. A Swiss customs official told Human Rights Watch researchers, “The control of free ports is beyond us.”<sup>405</sup>

Free ports are not transparent and may hide illegal activities. Recognizing these risks, the Swiss government in December 2003 submitted a new Customs Act to parliament to tighten control at free ports. At the time of writing the new act was still under discussion with no consensus on which goods should be more closely monitored by customs agents. But a Swiss customs official told Human Rights Watch researchers that gold was unlikely to be subject to stricter controls under the new law.<sup>406</sup> Were Switzerland to impose stricter controls on gold transiting through free ports, it could facilitate efforts to stop the trade in tainted gold from Congo to other parts of the world.

### *Metalor Technologies SA*

While a large part of the gold traded from northeastern Congo via Uganda is difficult to trace, it is clear that an estimated \$13 million worth of gold entered Swiss territory from Uganda in 2003 and was officially registered as an import.<sup>407</sup> According to research done by Human Rights Watch, some of this gold imported into Switzerland is bought by Metalor Technologies SA based in Neuchâtel, Switzerland, one of the oldest manufacturers of products for the international gold market. Metalor ranks among the leading refiners in the world of gold and other precious metals. In 2003 the company's net sales were \$225 million.<sup>408</sup>

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<sup>403</sup> Human Rights Watch interviews, Swiss customs agents, Berne, January 26, 2005. Free ports also exist in other countries, but control of free ports in Switzerland is considered weaker than that in other European countries, making it attractive for many traders.

<sup>404</sup> Human Rights Watch interview, Swiss trade official, Berne, January 26, 2005. A statement supported by a Ugandan based trader who stated he sold gold to Swiss banks, Human Rights Watch interview with representatives from Uganda Commercial Impex Ltd, July 7, 2004.

<sup>405</sup> Human Rights Watch interview, Swiss customs agent, Berne, January 26, 2005.

<sup>406</sup> Ibid.

<sup>407</sup> Human Rights Watch interview, Swiss industry expert, Berne, January 26, 2005.

<sup>408</sup> “Annual Report 2003”, Metalor Technologies International SA.

A representative of the Ugandan-based gold exporting agency Machanga Ltd., told Human Rights Watch researchers that his company exported all its gold to Metalor.<sup>409</sup> Representatives of Machanga also confirmed to Human Rights Watch representatives that they bought gold from Mr. Omar Oria,<sup>410</sup> a close business associate of Commander Jérôme, based in northeastern Congo. Mr. Oria directly participated in human rights abuses including cases of torture and arbitrary detention carried out by Commander Jérôme and his FAPC armed group as documented by Human Rights Watch (see above). A United Nations group of experts monitoring the arms embargo on eastern DRC also reported that Metalor was a buyer of gold from Machanga.<sup>411</sup> Thus Metalor through its purchases of gold from Machanga may be indirectly involved in a trade that supports an armed group responsible for serious human rights abuses.

In a December 17, 2004 letter responding to an inquiry from Human Rights Watch, Metalor declined to say whether Machanga was a supplier of gold to the company without first seeking Machanga's approval, stating that "disclosing information on our suppliers and certain transactions would be contrary to confidentiality and secrecy obligations imposed on us."<sup>412</sup> It is not clear from this or subsequent correspondence if the company attempted to contact Machanga to obtain such permission.<sup>413</sup> In a meeting with Human Rights Watch on April 21, 2005, a representative from Metalor confirmed the company bought gold from suppliers in Uganda, though the company insisted on retaining confidentiality as to the identity of those suppliers.<sup>414</sup>

In its meeting with Human Rights Watch and in its letters of December 17, 2004 and April 14, 2005, Metalor stated it did not accept goods originating from criminal activity, from criminal or terrorist groups or goods used to finance criminal activities. It claimed to comply with all measures required by a Swiss federal law on money-laundering and the Swiss precious metals control act, including requiring assurances from its suppliers that they owned the goods, that such goods had been acquired legally and that all necessary measures had been taken to prohibit the trade of goods from unlawful

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<sup>409</sup> Human Rights Watch interview, Jigendra Jitu, Machanga Ltd, Kampala, July 8, 2004

<sup>410</sup> Human Rights Watch interview, Jigendra Jitu, Machanga Ltd, Kampala, July 8, 2004.

<sup>411</sup> Ibid., Report of the Group of Experts on the U.N. Arms Embargo, January 25, 2005, p. 32.

<sup>412</sup> Dr. Scott Morrison, Chief Executive Officer, Metalor Technologies to Anneke Van Woudenberg, Human Rights Watch, December 17, 2004. Document on file at Human Rights Watch.

<sup>413</sup> Ibid., Also Letter from Dr. Scott Morrison, Chief Executive Officer, Metalor Technologies to Anneke Van Woudenberg, Human Rights Watch, April 14, 2005. Also e-mail from Morrison to Van Woudenberg, February 1, 2004. Documents on file at Human Rights Watch.

<sup>414</sup> Human Rights Watch interview, Mrs Nawal Ait-Hocine, Head of Legal and Compliance, Metalor Technologies SA, Neuchâtel (Switzerland), April 21, 2005.



origin.<sup>415</sup> In its meeting with Human Rights Watch, the company representative explained that Metalor's client managers regularly visited their suppliers, including any in Uganda, to conduct due diligence checks, though she was unclear as to when the last visit had taken place to the company's suppliers in Uganda.<sup>416</sup>

In an email communication on February 1, 2005, Metalor claimed, "Due diligence [was] carried out by all reasonable and lawful available means (such as governmental bodies, official institutions, diplomatic representations, financial information providers, registries of commerce, etc.)."<sup>417</sup> In its April 2005 meeting with Human Rights Watch, a Metalor representative stated that as part of these checks the company had sought information from authorities such as the Swiss State Secretariat for Economic Affairs (SECO).<sup>418</sup> When questioned about the results of these checks, the Metalor representative explained that such contacts were not always formal or documented but that the company had received no "negative responses" in relation to the trade of gold from Uganda.<sup>419</sup>

Despite these assurances, questions remain about the thoroughness of Metalor's due diligence checks. Since Uganda's domestic gold production is negligible and since Uganda does not import gold from other countries, gold exported from Uganda to Metalor is almost certainly mined in northeastern Congo. When presented with publicly available gold export and mining production statistics from official Ugandan sources, the Metalor representative expressed surprise at the obvious discrepancy.<sup>420</sup> The representative stated Metalor had never seen such statistics and was unaware of any discrepancy, even though the company admitted to having met on more than one occasion with the Ugandan mining commissioner,<sup>421</sup> an individual likely to have been well aware that the vast majority of gold exported from Uganda originated from northeastern Congo as reflected by the statistics published in department's annual report.<sup>422</sup> Metalor stated the information presented by Human Rights Watch during the meeting of April 2005 would be fed into its due diligence process.

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<sup>415</sup> Ibid., Morrison to Van Woudenberg, December 17, 2004 and April 14, 2005. Documents on file at Human Rights Watch. Also Human Rights Watch interview, Mrs Nawal Ait-Hocine, Head of Legal and Compliance, Metalor Technologies SA, Neuchâtel, Switzerland, April 21, 2005.

<sup>416</sup> Human Rights Watch interview with Mrs Nawal Ait-Hocine, Head of Legal and Compliance, Metalor Technologies SA, Neuchâtel, April 21, 2005. Also Ibid., Metalor Annual Report 2003.

<sup>417</sup> Ibid., Morrison to Van Woudenberg, e-mail correspondence, February 1, 2005. Document on file at Human Rights Watch.

<sup>418</sup> Ibid., Morrison to Van Woudenberg, April 14, 2005.

<sup>419</sup> Human Rights Watch interview with Mrs Nawal Ait-Hocine, Head of Legal and Compliance, Metalor Technologies SA, Neuchâtel, April 21, 2005.

<sup>420</sup> Ibid.

<sup>421</sup> Ibid.

<sup>422</sup> Ministry of Energy and Mineral Development, Government of Uganda, Annual Report, 2002.

The Metalor representative stated to Human Rights Watch that the company “believed the gold [it bought] was of legal origin.”<sup>423</sup> Yet the gold traders in Kampala from whom Metalor acquired its gold were clear when interviewed by Human Rights Watch researchers that the gold they bought originated from Congo and that they did not request documentation from their Congolese suppliers such as import and export certificates.<sup>424</sup> Between 2001 and 2004 numerous reports were published, including ones in Swiss newspapers, about the trade in natural resources from the Congo describing the horrific human rights abuses that the revenue helped to finance.<sup>425</sup> In its April 2005 meeting with Human Rights Watch, the representative from Metalor stated the company was unaware of such information and had not heard about a series of public U.N. panel of experts reports published between April 2001 and October 2003 describing in detail how the exploitation of Congo’s resources had funded armed groups in eastern Congo and how the trade in gold from Congo was being funneled through Uganda.<sup>426</sup> In its meeting with Human Rights Watch, the Metalor representative explained that on occasion the company carried out additional checks on its suppliers in circumstances when it noticed ‘red flags’ – information from public or private sources raising questions about a specific country of origin or the ethics of a supplier.<sup>427</sup> Until recently when Metalor was mentioned in a report by a U.N. group of experts monitoring the arms embargo in eastern DRC, it appears no red flags were raised in relation to the gold Metalor bought from its suppliers in Uganda. Metalor representatives did inform Human Rights Watch that they were carrying out further checks with their suppliers in light of the U.N. report.<sup>428</sup>

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<sup>423</sup> Ibid.

<sup>424</sup> Human Rights Watch interviews with representatives from Uganda Commercial Impex Ltd, Machanga Ltd and A. P. Bhimji Ltd, Kampala, July 7 and 8, 2004.

<sup>425</sup> There were numerous public reports about the situation in Ituri and the human rights abuses of armed groups. For reports published in Swiss newspapers see, for example, “Or: la descente aux enfers,” *L’Hebdo*, July 29, 1999; David Haeberli, “Justice : La Suisse bloque 13 millions de dollars issus d’un trafic de minerai congolais,” *Le Temps*, November 30, 2002; Alexis Masciarelli, “Après le départ de l’armée ougandaise, les massacres interethniques reprennent à Bunia,” *Le Temps*, May 12, 2003 ; “Les vraies causes des guerres civiles: Misère ethnique? Non, économique”, *L’Hebdo*, June 19, 2003; “La CPI s’intéressera tout d’abord au Congo. Deux priorités pour le procureur de la CPI : L’Ituri et le business de la guerre”, *La Tribune de Genève*, July 17, 2003. See also Ibid., Reports from Human Rights Watch, March 2001, October 2002 and July 2003; Amnesty International, October 2003; International Crisis Group, June 2003; U.N. Security Council, July 2004 amongst others.

<sup>426</sup> See reports from the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo, April 12, 2001 (S/2001/357), May 22, 2002 (S/2002/565), October 16, 2002 (S/2002/1146), October 23, 2003 (S/2003/1027) plus other addendums.

<sup>427</sup> Ibid., Human Rights Watch interview with Mrs Nawal Ait-Hocine, Head of Legal and Compliance, Metalor Technologies SA, Neuchâtel, April 21, 2005.

<sup>428</sup> Ibid.

Metalor knew, or should have known, that gold bought from its suppliers in Uganda came from a conflict zone in northeastern DRC where human rights were abused on a systematic basis. Under international business norms such as the OECD Guidelines for Multinational Enterprises, to which Switzerland is a party, companies are obliged to encourage suppliers to apply principles of corporate conduct compatible with the OECD Guidelines, including provisions on human rights.<sup>429</sup> The U.N. Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, state that companies “within their respective spheres of activity and influence,”<sup>430</sup> including through their suppliers, have an obligation to promote and ensure respect for human rights. Metalor should have considered whether its own role in buying gold resources from its suppliers in Uganda was compatible with ensuring respect for human rights and it should have actively checked its supply chain to verify that acceptable ethical standards were maintained. In its own annual report, the company reaffirmed its commitment to do so.<sup>431</sup>

Armed groups in Ituri would face serious difficulties in supporting their military operations if they were unable to turn gold into funds to buy arms and other necessities. The chain of Congolese middlemen, Ugandan traders and multinational corporations together generate the revenue stream from which armed groups reap substantial financial benefits. Through any purchases of gold made from this network, Metalor Technologies may have contributed indirectly to the revenue stream that supports armed groups in Ituri who carry out widespread human rights abuses. Any failure to terminate relationships with suppliers in Uganda dealing with armed group leaders in Congo may indirectly implicate Metalor in the human rights abuses these groups were committing.

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<sup>429</sup> Ibid., OECD Guidelines Paragraph II.10 and General Policies, paragraphs 1 and 2. A recent study in the OECD looked specifically at the issue of trade from conflict zones. See OECD Working Party of the Investment Committee, “Conducting Business with Integrity in Weak Governance Zones: Issues for Discussion and a Case Study of the DRC,” November 26, 2004.

<sup>430</sup> Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, E/CN.4/Sub.2/2003/12 (2003), Section A, General Obligations.

<sup>431</sup> Ibid, Metalor Annual Report 2003.

**ANNEX 5.6**

**International Alert, *The Role of the Exploitation of Natural Resources in Fuelling and Prolonging Crises in the Eastern DRC*, January 2010**



# THE ROLE OF THE EXPLOITATION OF NATURAL RESOURCES IN FUELLING AND PROLONGING CRISES IN THE EASTERN DRC

January 2010





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# THE ROLE OF THE EXPLOITATION OF NATURAL RESOURCES IN FUELLING AND PROLONGING CRISES IN THE EASTERN DRC

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## Acronyms

<b>AFDL</b>	Alliance des Forces Démocratiques de Libération
<b>AFED</b>	Amis de la Forêt et de l'Environnement pour le Développement
<b>AGK</b>	AngloGold Ashanti Kilo
<b>AMG</b>	Advanced Metallurgical Group
<b>ANR</b>	Agence Nationale de Renseignement
<b>APPG</b>	All Party Parliamentary Group
<b>BEST</b>	Bureau d'Etudes Scientifiques et Techniques
<b>BGR</b>	Bundesanstalt für Geowissenschaften und Rohstoffe
<b>BNA</b>	Bureau de la Navigation Aérienne
<b>CAMI</b>	Cadastre minier
<b>CASM</b>	Communities and Small-Scale Mining
<b>CdC</b>	Cadre de Concertation
<b>CEDAF</b>	Centre d'Etude et de Documentation Africaines
<b>CEEC</b>	Centre d'Expertise, d'Evaluation et de Certification
<b>CEPAS</b>	Centre d'Etudes pour l'Action Sociale
<b>CEPGL</b>	Communauté Economique des Pays des Grands Lacs
<b>CHDC</b>	Congo Holding Development Company
<b>CIRAD</b>	Centre de Coopération Internationale en Recherche Agronomique pour le Développement
<b>CIRDI</b>	Centre International pour le Règlement des Différends relatifs aux Investissements
<b>CIRGL</b>	Conférence Internationale sur la Région des Grands Lacs
<b>CNDP</b>	Congrès National pour la Défense du Peuple
<b>COCABI</b>	Coopérative des Creuseurs Artisans de Bisié
<b>COFED</b>	Cellule d'Appui à l'Ordonnateur National du Fonds Européen de Développement
<b>COMESA</b>	Common Market for Eastern and Southern Africa
<b>COMIMPA</b>	Coopérative Minière Mpama Bisié
<b>DDR</b>	Désarmement, Démobilisation, Réinsertion
<b>DfID</b>	Department for International Development
<b>DGM</b>	Direction Générale des Migrations
<b>UAE</b>	United Arab Emirates
<b>FAPC</b>	Forces Armées du Peuple Congolais
<b>FARDC</b>	Forces Armées de la République Démocratique du Congo
<b>FDLR</b>	Forces Démocratiques de Libération du Rwanda
<b>FEC</b>	Fédération des Entreprises Congolaises
<b>FNI</b>	Front des Nationalistes et Intégrationnistes
<b>GFE</b>	Gesellschaft für Elektrometallurgie
<b>GMB</b>	Groupe Minier Bangandula
<b>GRAMA</b>	Groupe de Recherche sur les Activités Minières en Afrique
<b>HRW</b>	Human Rights Watch
<b>ICCN</b>	Institut Congolais pour la Conservation de la Nature
<b>INICA</b>	Initiative pour l'Afrique Centrale
<b>IPIS</b>	International Peace Information Service

<b>ITIE</b>	Initiative pour la Transparence dans les Industries Extractives
<b>KIMIN</b>	Kilo-Moto Mining International
<b>KMC</b>	Krall Metal Congo
<b>LRA</b>	Lord's Resistance Army
<b>MDDZ</b>	Mines d'or du Zaïre
<b>MGL</b>	Minière des Grands Lacs
<b>MONUC</b>	Mission de l'Organisation des Nations Unies au Congo
<b>MPA</b>	Metal Processing Association
<b>MPC</b>	Mining and Processing Congo
<b>MPR</b>	Mouvement Populaire de la Révolution
<b>NMC</b>	Niobium Mining Company
<b>OCC</b>	Office Congolais de Contrôle
<b>OCDE</b>	Organisation pour la Coopération et le Développement Economique
<b>OCHA</b>	Bureau de Coordination des Affaires Humanitaires
<b>OFIDA</b>	Office des Douanes et Accises
<b>OKIMO</b>	Office des Mines d'Or de Kilo Moto
<b>ONG</b>	Organisation non gouvernementale
<b>ONU</b>	Organisation des Nations Unies
<b>PARECO</b>	Alliance des Patriotes pour la Refondation du Congo
<b>PNC</b>	Police Nationale Congolaise
<b>PNKB</b>	Parc National de Kahuzi Biega
<b>RAID</b>	Rights and Accountability in Development
<b>RCD</b>	Rassemblement Congolais pour la Démocratie
<b>RDC</b>	République Démocratique du Congo
<b>RMA</b>	Ressources Minérales Africaines
<b>SAESSCAM</b>	Service d'Assistance et d'Encadrement de l'Artisanat Minier
<b>SAKIMA</b>	Société Aurifère du Kivu-Maniema
<b>SARW</b>	Southern Africa Resource Watch
<b>SIPRI</b>	Stockholm International Peace Research Institute
<b>SOKIMO</b>	Société des Mines d'Or de Kilo Moto
<b>SOMICO</b>	Société des Mines du Congo
<b>SOMIGL</b>	Société Minière des Grands Lacs
<b>SOMINKI</b>	Société Minière du Kivu
<b>SWOT</b>	Strengths, Weaknesses, Opportunities, Threats
<b>UCI</b>	Uganda Commercial Impex
<b>UPC</b>	Union des Patriotes Congolais
<b>UPDF</b>	Uganda People Defence Force
<b>USAID</b>	US Agency for International Development
<b>WCS</b>	Wildlife Conservation Society



## Executive Summary

1. Gold and various metals of the tin group (cassiterite, coltan, niobium and tungsten) have been mined in the eastern provinces of the Democratic Republic of Congo (DRC) since the beginning of the 20th century. The mining sector was heavily affected by the disintegration of the Congolese state, by widespread corruption and by the destruction of local infrastructure. The national mining companies in the eastern DRC (OKIMO, SOMINKI) collapsed during the 1990s, leaving the way open for informal artisanal mining, in which thousands of miners were employed. The wars waged in North and South Kivu and Ituri between 1996 and 2003 strengthened the illegal character of artisanal mining and fueled the formation of militias who exploited their control of the mines in order to raise the funds necessary for their own economic survival and arms purchases.
2. In a situation where insecurity and illegality fed on each other, the mining economy became a particularly opaque conflict economy (“conflict minerals”). The eastern DRC became an area of uncontrolled extraction of raw materials, organised by local and regional interests operating with actors in the international market.
3. The geography of the mining areas is not well documented. Among the most important sites are Mongbwalu and Djalassiga (Ituri), Durba (Upper Uélé) Numbi, Kama, Kamituga, Twangiza, Lugushwa and Minoro (South Kivu) and Bisié, Itebero, Mumba-Bibatama, Lueshe, Fatwa Kasugho, Musienene and Manguredjipa (North Kivu), Kalima, Kampene, Namoya, and Makania (Maniema). Although the system of mining and marketing of mineral ores in the Kivus has been widely publicised, it is still not possible to provide a complete cartography of production sites. This is partly due to the fact that it is nearly impossible for artisanal mining to act in conformity with the new Mining Code of 2002, which stipulates that it should be carried out in a mining area ‘demarcated by surface area and depth’; Article IV states that wherever the conditions ‘do not allow for industrial or semi-industrial exploitation, the Ministry of Mines can construct settlements inside the boundaries of a defined geographical area in a zone of artisanal exploitation’. But none of these zones in the eastern DRC have been defined to date. Information on mining activity should in principle be centralised in the Provincial Mining Directorates, which do not have the resources enabling them to carry out these tasks. As a result, available information is incomplete. The opaqueness of the mining sector is not simply due to deliberate concealment and fraud, nor to the problems caused by the continued presence and activities of armed groups. The problem starts with the existence of huge gaps in available information about the geography of production.
4. For a number of reasons it is at present not possible to know with any degree of certainty how much ore is produced and exported, due to the multiplicity of government bodies that interfere in the control of production and exportation of ore, and because of deficiencies in the accounting, fraud and smuggling across borders, especially with regard to gold. The quantitative measurement of production requires a system for recovering information which has yet to be developed from administrative statistics, the Fédération des Entreprises Congolaises (FEC) and field research among producers and transporters. Taking into account the lack of centralisation and reliable statistics, any such investigation will necessarily be localised and will not provide an overall view. Smuggling will remain the blind spot in any attempt at quantification.
5. Production from the mining sites in Orientale Province, in Maniema and in North Katanga passes in part through the Kivus and Ituri. Orientale Province, Maniema and North Katanga suffer from a lack of knowledge, as do the diamond mining areas in the Kivus.

6. The informal nature of mining production does not mean that it is not structured. The system of production is based on exploiting a labour force of countless underpaid labourers and on a series of exactions sought by all those people, whether civilian or military, intervening along the way between the mine and the trading houses. Diggers, shovelers and transporters of the ore are working with primitive tools and raw muscle power under the watch of team leaders or soldiers. The various armed groups, as well as the Congolese Army (FARDC), actively take part in this predatory process.
7. The history of concessions illustrates the instability of prospecting and exploitation rights. The “waltz of contracts” that characterised the end of Mobutu’s reign and the regime of Laurent-Désiré Kabila can be explained by the nature of arbitrary power, not through economic reasoning. In the regions analysed, mining activity is based on local arrangements, where modern legal rights must coexist with customary law. Nevertheless, and even if the foreign companies that have taken over from SOMINKI and OKIMO have been slow to relaunch mining activities, international companies remain very interested in working in the DRC.
8. Since 2000, there have been two systems for the commercial trading of “conflict minerals”: informal trading by purchasing agents and trading by the military. Even after the official withdrawal of foreign armed forces from Congolese soil, military trading has not completely disappeared. The FARDC and the various armed groups have militarised, brutalised and bled dry artisanal mining, extracting handsome profits. Mining is therefore an important issue for security and conflict resolution.

The substantial involvement of the FARDC in mineral trading makes the army a “self-generating revenue agency”. The high-level beneficiaries of these illegal activities ensure that they stay below the radar. The FARDC’s involvement has also led to the creation of a criminal network of senior army officers who act in collusion with those in senior governmental positions. The FARDC’s major involvement in the mining trade, and the desire to maintain the status quo, is a factor that has slowed down the army’s “integration” efforts, and thus army reform.

9. The current system of commercial trading is an oligopolistic one that enriches a whole group of government officials, army officers, militia leaders, traders, transporters and foreign intermediaries whose profits are thought to be running in the millions of dollars. The attempts by the UN and by NGOs at identifying the individuals involved in these “networks of elites” have only been partially successful. Despite their lack of transparency, these “networks of elites” illustrate the criminal nature of relationships between business, politics and violence. Trade in minerals represents a significant part of the legal and illegal income of officials responsible for regulating the trade; even if the taxes imposed are less than they should be due to fraud, they still amount to several million dollars each year. In this light it can be seen that the “mining question” represents high stakes for governance in the eastern DRC.
10. The minerals trade in the DRC is based on a multimodal system of communication, which includes portage, road and air transport, and reveals a regional geo-economy that is firmly turned towards East Africa. Border towns or those near the border, such as Goma, Bukavu, Uvira, Beni, Butembo and Bunia where the trading agencies are set up – create a bridge between the informal upstream chain and the downstream linked to the circuits of the globalised economy. The trade in minerals contributes to the informal economic integration of the Great Lakes Region and demonstrates a clear separation between politics (within the framework of national sovereignty) and economics (within the system of integrated trade in East Africa). Congolese minerals are exported through official trading networks that transit through Burundi, Rwanda and Uganda. Minerals are also smuggled across the eastern borders of these three transit countries and the origin of the exported minerals is systematically concealed. The minerals follow the same commercial routes as other merchandise and are part of a

cross-border trade. A degree of specialisation in the commercial routes exists, corresponding to political and above all economic considerations. The Uvira-Bujumbura route is particularly used for gold shipments and the Bukavu-Cyangugu route for exports of gold, cassiterite and coltan. In the early 1990s, Burundi was the most important transit point for Congolese gold, but following the international embargo against the Buyoya regime, and the creation of a tax exemption system for gold in Uganda, Uganda replaced Burundi. In recent years, Tanzania has also become increasingly important in the export of diamonds.

11. Burundi, Rwanda and Uganda profit greatly from the trade in Congolese minerals, which constitute a major source of income. Specialisation applies here too: gold moves through Burundi and Uganda and minerals from the tin group pass through Rwanda. Their spheres of economic influence in eastern DRC have remained fairly stable since 2000. The “mining question” therefore represents major stakes in the geo-economy of the whole region.
12. The investigations carried out by the UN and NGOs have brought to light the ultimate recipients in the trade of “conflict minerals” in Europe, the United States, the Middle East and Asia, as well as the pivotal role of certain groups of businessmen (Lebanese, Indo-Pakistani, Russian, etc.). The American, Russian and Chinese networks are the least well documented.
13. Mining fraud takes the form of illegal taxation (over- or under-taxation) and of smuggling. Corruption in the mining sector impedes all serious attempts to re-establish the authority of the state and contributes to “governance through disorder” in this region. The problem of corruption in the mining sector is a major governance issue in the DRC. National and international initiatives (EITI) set up to regulate the Congolese mining industry have not yet been implemented in the eastern part of the country and have had few results nationally.
14. The social and economic stakes of artisanal mining are considerable. For most of the miners involved in it as a means of survival, either willingly or by necessity, artisanal mining is a poverty trap. Work in a mine represents a break with traditional social organisation by changing the roles of young people and women. It is dangerous, with the risk of accidents, and violent, in light of the sharp rivalries between armed groups and mine site owners.

In spite of its job-creation effects, mining is a poverty trap: behind the illusion of sudden wealth, it generates a dynamic of impoverishment. Research on the human consequences of artisanal mining has concentrated on the diggers, who are the most numerous and the worst off. Some attention has, however, been paid to the various actors along the trading chain, once the minerals leave the mine all the way to the trading houses. There are winners and losers among them, but who are they? A close study would undoubtedly show that the ethnic groups who traditionally held dominant trading positions also control the minerals trade, such as the Bashi in South Kivu and the Nande in North Kivu. Both of these regard the Banyarwanda as intruders and have always sought to discredit them because they are competitors.

Artisanal mining is part of a worldwide process of social transformation driving people from the countryside towards the mines and urban centres. Small towns have sprung up around the largest mining sites, further altering the spatial distribution of the population. These agglomerations created from mining have changed economic, social and cultural life in the Kivus and Ituri.

The system of artisanal mining exploitation produces both direct and indirect violence. Direct violence throughout the trading chain of mining production can be classified into two categories: violence perpetrated by armed men (militia and security forces) towards those engaged in trade, and violent conflict among traders themselves. The minerals trade is a violent

business, and even when the mining areas are “calm”, they still resemble the “Congolese Far West” or, strictly speaking, the “Far East”. The conflicts between the informal owners of mining *carrés* [squares] can turn violent when the intervention of the authorities determining rights is insufficient. The presence of militias and the army is naturally an important catalyst of violence. Traders also fall victim to armed men who often intercept them to steal their goods.

15. The environmental consequences of mining are negative in every respect, from chemical pollution of the water table, deforestation, diversion of rivers, the sweeping away of whole sections of hillsides and the disappearance of arable land to intensive poaching in national parks to feed the miners. These parks have had to pay a heavy price for anarchic mining activities, especially in the Kahuzi Biega National Park, where mining of coltan and cassiterite is in full swing. Given the park’s immense size, the damage inflicted by opening the mines appears as only a few scars in the dense forest. But the slaughter of wild animals to feed the workforce has caused considerable damage, especially since part of the poached game is diverted to markets in the towns in Kivu. Therefore, the mining issue is also an environmental issue in eastern DRC.
16. The current UN sanctions regime (a freeze on assets and travel bans) is directed against the traders and not against the trade in minerals. The UN itself admits the sanctions regime is ineffective because of the lack of cooperation on the part of governments and the lack of any perceived harm by the companies that have learned to manage the risk to their reputation from their activities in the conflict zones. For the moment, the most striking result of being added to the UN list has been the suspension of certain supply contracts by import companies. Some Western firms have distanced themselves from their Congolese suppliers. The UN is now focusing on mapping publications of the mining sites and on controlling borders.
17. Currently two responses to the problem of “conflict minerals” are being debated: restrict trade (to a greater or lesser degree – from total embargo to selective bans) or formalise the trade through a mix of economic, institutional and security actions. Sceptical about the possibility of reducing insecurity by restricting trade, some organisations (INICA, DfID, USAID, etc.) have proposed an alternative of trying to formalise it in order to make it more disciplined and ethical. The latter option, inspired by the Kimberley Process and by the development sector, would involve a global strategy linking sanctions with an improvement in security in all its aspects (legal, economic and physical) and a reform of mining activities.
18. There have been no tangible results from Congolese efforts to improve the situation, such as suspending exports of ore in 2007, closing customs posts in Bunagana and Ishasha in 2008, closing the mines in Walikale and Adidi in 2008, etc. While international initiatives on this problem tend to multiply, it is worth drawing attention to the initiatives to trace coltan by Germany and the requirement to declare the origin of minerals by the US.
19. With a view to helping establish a mining industry that does not generate further violent conflict, this report recommends the following:
  1. Improving geographical knowledge about mining activities;
  2. Improving knowledge about mining in Ituri and in the Kivus;
  3. Understanding the downstream side of the commercial chain;
  4. Evaluating the possibilities of imposing sanctions;
  5. Spreading information in the DRC;
  6. Supporting the proposal of formalising trade;
  7. Reducing incentives for smuggling by harmonising and simplifying customs tariffs at a regional level.

## Introduction

‘In Africa, trade never stops. It is only interrupted.’

*A Bend in the River*. V. S. Naipaul

### The economy and conflicts, the economics of conflicts: Exposure and research on “conflict minerals” in eastern DRC

There is a large variety of publications today about the ways in which the exploitation of mineral resources is a factor in unleashing war. Up until the beginning of the 1998 rebellion, the analyses of war in the Great Lakes region were written in the shadow of the Rwandan genocide and the regional upheavals provoked by regime change in Kigali. In Filip Reyntjens’ 1999 book, *La guerre des Grands Lacs* [The Great Lakes War], the economic dimension of the conflict is barely mentioned.<sup>1</sup> Another work completed in the same year, under the direction of Paul Mathieu and Jean-Claude Willame, *Conflits et guerres au Kivu et dans la région des Grands Lacs* [Conflicts and wars in Kivu and the Great Lakes region] concentrated on the land question in Kivu and on the regional aspects of the war. Only one page refers to the ‘economic interests of the conflict’.<sup>2</sup> It was primarily the press and particularly the Belgian newspapers, *Le Soir* and *Libre Belgique*, which exposed the ‘pillaging of the Congo’<sup>3</sup> by Rwandan and Ugandan soldiers. *Le Soir* reported that Museveni was criticised in Uganda, because of the ‘involvement of his half-brother, Salim Saleh, in trafficking in gold and precious wood’, and also that ‘the donor community was concerned about the resources devoted to the war’.<sup>4</sup> In 1999, *L’Enjeu congolais* [What is at stake in the DRC], by Colette Braeckman, denounced the “war of loot” and described the evolution of events in the DRC from 1996 onwards as ‘a new chapter in the hold-up of the Congo that has been going on for over a century’,<sup>5</sup> but she did not elaborate on this aspect of the conflict. In *Les Nouveaux Prédateurs* [The New Predators], published in 2003, she returned at greater length to this “hold up”.<sup>6</sup> The thesis of a war self-financed by the exploitation of the natural resources of the Kivus meanwhile was solidly supported by the work of the UN Group of Experts. This understanding of the conflict coincides with the views of Paul Collier, writing for the World Bank, and is now common knowledge.<sup>7</sup>

The first comprehensive studies devoted to the mining aspects of the war in eastern DRC were written during the period when, after looting by soldiers, coltan fever seized the Kivus. Coltan (Colombo-tantanite), the mineral that experienced a boom in 1999-2000, caused the furor. At the time of this boom, several NGOs in Belgium mobilised forces through the campaign ‘No blood on my cell phone’ to expose the purchases of coltan by European companies in the conflict zones. This exposure resulted in the Security Council setting up a Group of Experts on the Illegal exploitation of the natural resources and other riches of the Democratic Republic of the Congo, a group that has been maintained ever since it was first created in June 2000. The interest of NGOs

1 F. Reyntjens (1999). *La guerre des Grands Lacs. Alliances mouvantes et conflits extraterritoriaux en Afrique centrale* [The Great Lakes War – Shifting alliances and extraterritorial conflicts in Central Africa]. Paris: L’Harmattan.

2 P. Mathieu et J.-C. Willame (1999). *Conflits et guerres au Kivu et dans la région des Grands Lacs. Entre tensions locales et escalade régionale* [Conflicts and wars in Kivu and the Great Lakes region – Between local tensions and regional escalation]. Paris: Cahiers africains No. 39–40. Tervuren. Institut Africain-CEDAF. L’Harmattan.

3 *Le Soir*, 23rd December 1998.

4 *Le Soir*, 28th December 1998.

5 C. Braeckman (1999). *L’Enjeu congolais. L’Afrique centrale après Mobutu* [What’s at stake in the Congo—Central Africa since Mobutu]. Paris: Fayard.

6 C. Braeckman (2003). *Les nouveaux prédateurs. Politiques des puissances en Afrique centrale* [The New Predators : The big powers’ policies in Central Africa]. Paris: Fayard. New revised edition in 2009.

7 P. Collier (2000). *Economic causes of conflict and their implication for policy*. Policy Research Paper. Washington: World Bank.



and the UN in this question led at first to a large body of investigative and exposure literature, followed by field research on the theoretical aspects of the relationship between conflict, war economies, natural resources and development.

Local researchers have been studying the links between conflicts and natural resources at the same time as the UN panel of experts. The Pole Institute in Goma (Institut Interculturel dans la région des Grands Lacs), created at the end of the 1990s, published a study under the direction of Aloys Tegera, *Le coltan et les populations du Nord-Kivu* [Coltan and the people of North Kivu] in February 2001.<sup>8</sup> Didier De Failly of BEST (Bureau d'Etudes Scientifiques et Techniques) in Bukavu, carried out specific investigation of the artisanal exploitation of coltan and the marketing chain.<sup>9</sup> Many other researchers have pointed to his concrete explanations of the *modus operandi* of those involved in mining, transporting and marketing coltan within a globalised system; (Stephen Jackson, for example, argued that the producers 'are linked to the world market through a chain of intermediaries and are exposed to all the ups and downs of this market').<sup>10</sup> The exploitation of minerals, whether on an industrial or an artisanal scale, is indeed heavily influenced by demand fluctuations in world markets. **The miner who earns his living by using his own physical energy to dig up coltan in some forgotten forest in Kivu forms the first link of a global chain, the last link of which is the mobile phone user.**

A considerable (although often repetitive) body of literature on mineral exploitation and the conflict in the eastern the DRC is available today. This plethora of reports and publications, mostly accessible on the internet, forces us to be selective.

The numerous reports of UN expert groups, such as the Panel of Experts from 2000 to 2003 or the Group of Experts since 2004, are a basic source, starting from their first report of 12 April 2001 up to their latest of 18 May 2009. Among the many studies of NGOs and research groups, those of the Pole Institute, International Peace Information Service (IPIS), Global Witness, International Crisis Group, International Alert and Human Rights Watch (HRW) are essential sources, since they cover the entire period from 2001 to 2008 and also the different aspects of research. The Diane Fossey Gorilla Fund has carried out a series of studies on the impact of illicit exploitation of coltan on wildlife in the national parks. The Canadian group GRAMA (Groupe de Recherche sur les Activités Minières en Afrique) of the University of Quebec in Montreal studied the marketing of coltan from the DRC.<sup>11</sup> In 2007, a report from Pact, commissioned by DfID, USAID and COMESA, analysed the connections between mining activities and commercial circuits in the DRC.<sup>12</sup> A 2008 study by Communities and Small-Scale Mining (CASM) contained very precise information on the exploitation of and trade in cassiterite, drawing on the example of the Bisié mine, the largest in North Kivu.<sup>13</sup> This mine, which had already been researched by others, including AFED (Amis de la Forêt et de l'Environnement pour le Développement) in 2007, provides a good illustration of how the mining sector works throughout the Kivu region. Very recently, in April 2009, expanding the experience gained from investigating Bisié, Nicholas Garrett and Harrison Mitchell published their work on the relationship between the trade in minerals and development in conflict areas in eastern DRC.<sup>14</sup> This study was carried out with support from DfID, the London School of Economics, the Crisis States Research Centre and the

8 A. Tegera [Ed.] (2002). *Le coltan et les populations du Nord-Kivu* [Coltan and the people of North Kivu]. Jointly researched by the Pole Institute & CREDAP. Regards croisés No. 007. Pole Institute.

9 D. De Failly (2001). 'Coltan: pour comprendre', *L'Afrique des Grands Lacs - Annuaire 2000-2001* [Great Lakes Africa - Yearbook], pp.279-306. Paris: L'Harmattan.

10 S. Jackson (2001). 'Nos richesses sont pillées! Economies de guerre et rumeurs de crime au Kivu' [Our wealth has been plundered! War economies and rumours of crime in Kivu], *Politique africaine*, No. 84, pp.117-135.

11 P. Martineau (2003). *La route commerciale du coltan congolais: une enquête* [The trade route of Congolese coltan : an investigation]. GRAMA. UQAM.

12 Pact (2007). *Researching natural resources and trade flows in the Great Lakes Region*.

13 N. Garrett (2008). *Artisanal cassiterite mining and trade in North Kivu: Implications for poverty reduction and security*, CASM.

14 N. Garrett and H. Mitchell (2009). *Trading conflict for development: Utilising the trade in minerals from eastern DR Congo for development*. Resource Consulting Services.

Conflict Research Group. In the US, Enough – from the Centre for American Project devoted to the prevention of genocide and crimes against humanity – has also shown an interest in the Kivus.<sup>15</sup>

A review of the literature shows the central role played by Anglo-Saxon organisations, whether their aims are humanitarian, academic or correspond to economic considerations or interests. Much of the expertise available comes from Belgian researchers, such as the Africamuseum of Tervuren (geology, cartography, and the Centre d'Etude et de Documentation Africaine – CEDAF), as well as universities and research groups in Antwerp<sup>16</sup> Ghent and Leuven. The works of Koen Vlassenroot are particularly indispensable. Beyond to Belgium and Great Britain, several other European research centres have contributed to the debate on mining exploitation and conflict in eastern DRC, such as SIPRI, the Stockholm International Peace Research Institute.<sup>17</sup> In Germany, the Bundesanstalt für Geowissenschaften und Rohstoffe (BGR) [Federal Institute for Geosciences and Natural Resources] published a study on natural resources in the DRC in 2007, in association with KfW Entwicklungsbank [KfW Development Bank].<sup>18</sup> After recommendations were drawn up by the International Conference on the Great Lakes region, seeking a 'Regional Mechanism for Certification of Natural Resources',<sup>19</sup> a G8 summit initiative at Heiligendamm in June 2007 on the certification of minerals has become a reality. Researchers from the BGR are working on the geochemical fingerprint of metals, particularly tantalum in order to establish their origin; a pilot project has just been launched in Rwanda to develop the forms of scientific support to be provided by CTCs, Certified Trading Chains.<sup>20</sup>

South Africa, which itself has a large mining industry, has understandably followed the situation in the DRC very closely. In 2007, Southern Africa Research Watch (SARW) published a study on the revision of mining contracts.<sup>21</sup> Roland Pourtier, as part of Initiative for Central Africa (INICA), completed a study in 2004 on the regional implications of artisanal mining in Kivu.<sup>22</sup> Alain Karsenty, a CIRAD researcher based in Montpellier, studied taxation of natural resources in the DRC.<sup>23</sup>

### How the maps are conceived

Maps are an integral part of this report. Some of them localise mining resources, the principal mines and armed groups, drawn up from various bibliographical and cartographical sources that have been consulted. Other maps illustrate commercial aspects of the mining economy – from a local up to a global scale: transport of mineral ores from Bisié mine) to the *comptoirs* [trading houses] in Goma, regional corridors between the eastern DRC and the Indian Ocean ports; importing countries. Some maps show the basic structural data which is essential to an

15 Enough Project Team (2009). *A comprehensive approach to Congo's conflict minerals*. Strategy Paper.

16 In particular, the Centre d'étude de la région des Grands Lacs d'Afrique, which since 1997 has published a Yearbook under the direction of Stefaan Marysse and Filip Reyntjens: *L'Afrique des Grands Lacs*. Paris: L'Harmattan.

17 R. de Koning (2008). 'Resource-conflicts links in Sierra Leone and the Democratic Republic of the Congo'. *SIPRI Insights on Peace and Security*, 2.

18 C. Berke, J. Pulkowski, N. Martin, J. Vasters, M. Wagner (2007). *Les ressources naturelles en République démocratique du Congo – Un potentiel de développement?* [Natural resources in the Democratic Republic of Congo – Potential for development?]. Frankfurt: BGR-KMW.

19 Conférence Internationale sur la Région des Grands Lacs (2006). *Programme d'Action Régional de Certification des Ressources Naturelles*. Projet n° 3.2.2. Dar es Salaam.

20 BGR Press Release (13th March 2009). 'BGR-Pilotprojekt in Rwanda: Transparenz, sozial-und umweltstandards durch zertifizierung mineralischer rohstoffe' [BGR's Pilot project in Rwanda: Transparency, social and environmental standards through certification of mineral resources].

21 C. Kabamba (2007). *Directives pour une révision des contrats d'exploitation Minière en RDC* [Directives for revising mining exploitation contracts in the DRC], June 2007. Johannesburg: Braamfontein. info@sarwatch.org

22 R. Pourtier (2004). *L'artisanat minier au Kivu et ses implications régionales* [Artisanal mining in Kivu and regional implications]. Paris: INICA-OCDE. *L'économie minière au Kivu et ses implications régionales* [The mining economy in Kivu and its regional implications]

23 A. Karsenty (2006). *Etude d'identification d'un programme pour l'amélioration des recettes fiscales et domaniales en République Démocratique du Congo* [composante 'ressources naturelles' d'un programme d'appui à la gouvernance en RDC] [Study to identify a programme to improve state and tax revenue in the DRC ("natural resources" component of a governance support programme in the DRC)]. Ministère des Finances. Cellule d'Appui à l'Ordonnateur National du FED (COFED). CIRAD.

understanding of the conflicts in Kivu: the colonial legacy of the mining economy, the distribution of ethnic groups, chiefdoms and population densities.

The main difficulty in drawing up maps arises from the lack of any cartography for the DRC that is consistent, complete and up-to-date. A project for a 'Reference Common Geography' (RCG) is underway, launched in 2006 by the UN Logistics Centre, supported by OCHA and coordinated since 2007 by the UNDP. In a Cartography of Motives, IPIS has made use of the data available from RGC. Its mapping to a scale of 1/1,000,000 covers most of North and South Kivu, but not Maniema. However, Maniema is included in the satellite maps at a scale of 1/200,000 produced by the University of Ghent. These two series do not, unfortunately, map the whole area of the region under study. To obtain a homogenous base for mapping, we have used the map of the DRC at a scale of 1/2,000,000, drawn up by the Catholic University of Leuven in 2007.<sup>24</sup> Additional information was found in the Management Kongo Development map of the DRC published in 2000, which is based on a digital terrain model by the United States Geological Service. Several minor distortions can be seen in comparing these different sources, but they do not affect the maps that figure in this report. The hydrographic data are compatible between the different maps, but this is not the case for roads and the tracing of administrative boundaries, which reveal real differences.

Uncertainty concerning toponomy is a more serious difficulty. Many village names differ from map to map. It is impossible to say where some mines referred to in the documents are situated, as their names do not appear on any map. Even significant sites such as Lueshe, the only industrial site in North Kivu, do not appear on recent maps. Similarly, Ariwara is nowhere to be found, even though it is one of the largest gold-trading centres in Ituri; with the help of a Human Rights Watch study, we were able to situate it. The maps attached to the report have only a relative degree of accuracy. They are drawn up to provide a synthetic view by adding the force of visual images to the text.

Maps and a bibliography are located in the appendix to this report

#### The area covered by the study

Area (sq. km)		Population		Density (inhab./sq. km)	
		1984 (census)	2008 (estimates)	1984	2008
North Kivu	59 483	2 434 000	5 200 000	41	87
South Kivu	65 070	1 940 000	4 700 000	30	72
Ituri	65 658	1 749 000	4 200 000	27	64
Maniema	132 250	850 000	2 250 000	6	17

Source for 2008: OCHA, Plan d'action humanitaire 2009

24 République Démocratique du Congo, 1/ 2 000 000, Unité de recherche en environnémentrie et géomatique, Université catholique de Louvain. With the collaboration of the Institut Géographique du Congo and the Belgian Institut Géographique National. ULC-Géomatics, Louvain-la-neuve (2007).

## Chapter 1: Overview of Mining Exploitation

### Summary:

Gold and tin have been mined in the eastern provinces of the DRC since the beginning of the 20th century. The mining sector has been seriously disrupted by the disintegration of the Congolese state, by corruption and the destruction of local infrastructure. The mining industry collapsed in the 1990s, giving way to informal artisanal exploitation, which employed hundreds of thousands of miners. The wars that affected North and South Kivu and Ituri between 1996 and 2003 reinforced the illegal nature of the mining of ores and promoted the formation of militias, which were able to finance their purchases of arms from their control and exploitation of the mines. In a situation in which insecurity and illegality fed on each other, the mining economy became highly opaque. This has made access to any reliable and accurate information (mines sites and production levels) extremely difficult.

### 1.1 Exploitation of mines: An old story

#### The colonial origins of the mining economy

The exploitation of minerals in the eastern DRC began over a century ago.<sup>25</sup> Two Australian prospectors found gold in the Agola River in 1903 and named this area after the Chief Kilo. After the discovery of the site in Moto, the gold-bearing region of Upper Ituri was given the name of Kilo-Moto. For more than a century, this name has been the symbol of the DRC's gold, whose long history has recently been tarnished by the massacres of 2002-2003 in Mongbwalu.<sup>26</sup> The Société des Mines d'Or de Kilo Moto (SOKIMO) was created in 1926, following the pattern of the major colonial companies such as the Union Minière du Haut Katanga, which were characterised by their paternalist policies towards their labour force, poorly paid but whose basic needs were provided for. These companies, veritable states within a state, were closely involved in the financing and management of regional infrastructure, including socio-educative infrastructure such as transport, health and education.

In the Kivus,<sup>27</sup> mining only became important in the 1920s. The Minière des Grands Lacs (MGL) and the CNKI Comité National du Kivu (CNKI) had begun to mine gold before cassiterite was discovered in 1926. Maniema soon became the major area for tin-mining, with centres in Kalima, Punia, Kasese and Sakumakanga. **Two companies, Symetain and Cobelmin of the Empain Group, established in 1932 and 1933, dominated the mining sector until after the DRC's independence.**

The annual reports on economic affairs in the Kivus<sup>28</sup> provide interesting production figures when compared with current evaluations:

#### Gold and cassiterite production during the colonial period

	1935	1940	1945	1950	1955	1959
Gold (kg)	2 954	6 269	3 174	2 397	2 107	3 449
Cassiterite (t.)	1 200	5 250	12 110	8 383	11 379	6 074

<sup>25</sup> See maps: Tin basin in the Belgian Congo and Rwanda-Urundi and mining resources.

<sup>26</sup> Human Rights Watch (2005). *Le Fléau de l'Or* [The Curse of Gold]. New York: HRW.

<sup>27</sup> The Kivu region, whose boundaries were determined by the colonial administration, includes the three areas of North Kivu, South Kivu and Maniema. In 1988 they became provinces.

<sup>28</sup> Bashizi Musharhamina (1998). 'Conjoncture mondiale et exploitation minière au Kivu (1933-1959)' [World conjuncture and mining exploitation in Kivu]. *Likunduli. Enquêtes d'histoire coloniale* [Likunduli - Enquiries into colonial history], 9,1, pp.108-121. Lubumbashi: CERDAC.

Employment in the mining sector during the colonial period was already considerable, as the figures for all of the Belgian Congo reflect:<sup>29</sup>

#### Employment in the main mining sectors

Annual average	Gold	Tin	Copper	Diamonds
1928-1929	21 000	5 000	16 500	28 600
1938-1940	90 437	38 588	8 498	17 582
1941-1943	88 177	73 303	14 365	12 319

#### Independence and the collapse of the mining economy: The remarkable failure of SOMINKI and KILO MOTO

Industrial mining became the victim of a combination of two factors:

- The instability of world markets;
- The weakening and disorganisation of economic and administrative structures in a society marked by the “Zaire disease”, a catastrophic variety of bad governance, associated with widespread corruption.

In 1976, Symetain and Cobelmin and some other companies created the Société Minière du Kivu (SOMINKI), in which Zaire held 28% of the capital and the Empain Group 72%. Already handicapped by the costs stemming from the relative isolation of the Maniema mines, which were cut off from the outside world, SOMINKI proved unable to cope with the sharp drop in the price of tin on the world market in 1985. After reaching a peak in February 1985 of over £10,000 a tonne, the price fell to around £4,300 a year later. The continuing decline caused the Empain Group to sell its majority share-holding in SOMINKI.

#### The world tin market (in tonnes)

1970	1975	1980	1985	1990	1994
1 500	3 000	7 200	9 200	3 500	3 500

#### Production of tin and associated metals by SOMINKI (in tonnes)

1980	1985	1990	1995
3 000	4 000	2 500	1 000

The decline in tin production following the collapse of world prices in fact preceded the series of lootings by the AFDL. In 1996 this dealt the final blow to a dying company, whose salaried employees had already greatly decreased in number:

#### Changes in the SOMINKI labour force (1978-1995)

Year	Expatriates	Senior Staff	Production Staff
1978	110	215	16 500
1985	80	283	11 500
1990	24	275	8 500
1995	13	221	5 700

<sup>29</sup> J-L Vellut (1981). Les bassins miniers de l'ancien Congo Belge. Essai d'histoire économique et sociale (1900-1960) [The mine basins in the former Belgian Congo; An essay on the social and economic history of 1900 to 1960]. Cahier 7. CEDAF.



SOMINKI was bought in 1996 by the Canadian group, Banro. After chaotic years of war and rebellion, Banro's legal position was clarified in 2003, allowing it to resume its mining activity.<sup>30</sup> This is planned, but production had not yet started by 2008.

The Société des Mines d'Or de Kilo Moto (SOKIMO) was formed in 1926 and built practically all the main infrastructure of the Ituri district during the colonial period. It developed a paternalistic management of its labour force. The company was nationalised in 1966 under the name of Office des Mines d'Or de Kilo Moto (OKIMO), which took over the concessions of 83,000 sq. km divided between Ituri and Upper Uélé. The main mining site in Ituri, Mongbwalu, was divided into three blocks (38, 39 and 40). The steady decline of the company led during the 1990s to sub-contracting to artisanal miners, with the possibility of individuals to prospect (US\$150), to exploit an area of 500 m<sup>2</sup> (US\$250), or even more (against 30% of the profits for OKIMO). This system of sub-contracting both production and exploration compensated OKIMO's lack of capacity to exploit the mines. It should also be noted that OKIMO did not even have the resources to buy the gold mined by the diggers and bring it to the market. During the 1990s, OKIMO leased its concessions to entrepreneurs who controlled access to the mines and collected taxes, sometimes becoming selling the gold themselves. In the past, these sub-contractors had honoured their obligation to pay fees to OKIMO but this came to an end.

### Informal artisanal mining and the disintegration of the Congolese state

Since SOMINKI and OKIMO stopped their activities, industrial mining has disappeared in Kivu and Ituri. On the old mining sites, only a few buildings, mining installations in ruin and rusty machinery are left, recalling the period when the DRC's economy had not entirely sunk into the informal domain.<sup>31</sup> **Industrial mining was not replaced by artisanal mining all at once, but rather accompanied the gradual breakdown of the Congolese state.** Artisanal mining has existed for a long time in the DRC: without going back to historic Katanga whose copper *croisettes* served as currency over much of Central Africa, gold-panning was practised during the colonial period and the early years of independence, but only on a small scale. **It was the disorganisation of the economy resulting from "zairianisation" in 1974 that turned all productive activities into informal ones.** The confiscation of the colonists' assets and their squandering by those benefiting from a redistribution policy not based on competency but on loyalty to the Popular Movement for the Revolution (MPR), had disastrous consequences for the economy. As the "Zaire disease" and the application of "Article 15" of the Constitution ("solve it yourselves") became the norm, the number of artisanal miners increased, particularly in the diamond mining areas of Kasai. Artisanal exploitation was authorised in 1982 outside the mining concessions. The new legislation legalised the already existing situation and encouraged the development of artisanal mining.

Many miners in Kivu, who had lost their jobs with the collapse of SOMINKI, sought compensation by informally exploiting the deposits they knew well. A truly parallel economy – semi-legal – came increasingly into being, involving a range of actors from the mine to the export agencies. The armed clashes in Kivu during the AFDL's campaign in 1996-1997 and the occupation by the Rwandan and Ugandan military during the period of rebellion (1998-2002), completed the destructuring of the formal economy and made the control of mineral resources one of the major issues in a regional conflict. **The coltan boom of 1999-2000 led to an unprecedented rush to the mining areas** by young people attracted by the hope of rapid gain. Coming from rural or urban backgrounds, these men and women thought they could find in the mines a way of emancipating themselves from a society in deep crisis that could not offer them any prospects of a satisfying future. The coltan boom was short-lived. After selling at US\$230 a pound in 2000, tantalum returned by the end of 2001 to its pre-1999 value, between US\$25 and US\$30. This episode nevertheless had long-term consequences, as it represented an irreversible change for many young people who had cast their hopes in the mines.<sup>32</sup>

30 See Chapter 2.2.

31 See Y. Lammens & C. Braeckman (2007). *L'or noyé de Kamituga* [Kamituga's drowned gold]. Film produced by Simple Production –Philofilm.

32 See Chapter 5.1.

## 1.2 The exploitation sites: An imperfect mapping

Although the system of production and commercialisation of minerals in Kivu is well documented today, it is still not possible to draw up a precise and exhaustive cartography of the production sites. The document of reference – the geological and mining map of the DRC published in 2005 by the Africamuseum in Tervuren<sup>33</sup> – uses data from the 1976 map of mineral deposits in Zaire.<sup>34</sup> The location of mineral resources is certainly useful, but it doesn't indicate whether or not they are being exploited. The MONUC and OCHA maps provide only brief and fragmentary information about mining sites.

The most interesting document is one published by the International Peace Information Service (IPIS), the 'Cartography of the motives behind the conflicts', which provides locations not only of the mines but also the different armed groups in North and South Kivu for the period between September 2007 and January 2008.<sup>35</sup> This substantial work inevitably has its limitations, since it is impossible to provide simultaneous mapping of constantly changing situations throughout a territory covering 59,500 sq. km for North Kivu and 65,000 sq. km for South Kivu. Such a Sisyphean task would depend on information from local correspondents who are difficult to coordinate. IPIS's cartography gives locations for a large number of mining sites, without distinguishing between presently-existing and past sites. For example, in the National Park of Kahuzi Biega all the names of coltan mining sites appear, which were already shown in INICA's 2004 map, itself based on an earlier study by an NGO in Bukavu. **A multi-layered collection of data piling up all the locations, often inexact as regards both time and place, is inadequate to provide an accurate and up-to-date inventory.**

**The geography of the mines is often still imperfect.** This is due on the one hand to the near impossibility for artisanal mining to conform to the 2002 Mining Code. It stipulates that artisanal activity must be carried out in an area of exploitation 'demarcated as to its surface and to its depth'. Article IV specifies that where conditions 'do not allow for industrial or semi-industrial exploitation, the Minister of Mines may set up such sites within the limits of a geographical area determined to be an area of artisanal exploitation'. But no such areas have so far been defined in eastern DRC.

Information about mining activities should in theory be concentrated in the Provincial Mining Directorates. Unfortunately, they lack the material and financial resources to visit mining sites. The result is that their information is very limited. The opaqueness of the mining sector is not only due to the practice of dissimulation and fraud as well as the activities of armed groups; its starting point is the serious gaps in the geography of production that is only roughly outlined. Many mining sites referred to in certain reports cannot be precisely located. Mine locations are shown on only some of the satellite mapping plates produced by the University of Ghent for the Museum in Tervuren, in particular those of the tin-bearing region of Maniema.

Mineral exploitation in the eastern DRC can be divided between two main types of production:

- Gold – alluvial or in lode deposits – represents most of Ituri's production (Orientale Province) and is also found in many North and South Kivu sites.
- Various metals make up the composite minerals in the tin group – the "3Ts" – tin, tungsten and tantalum. In DRC, tungsten is known as wolfram/wolframite; tantalum is present in Colombo-tantalite, commonly known as coltan, which also contains varying proportions of niobium. The composition of the ore varies according to the sites. Coltan and cassiterite are often found

33 Musée royal de l'Afrique Centrale (2005). *Carte géologique et minière de la République Démocratique du Congo* [Geological and mining map of the DRC], scale 1/2 500 000, Tervuren.

34 Service géologique du Zaïre, Musée Royal de l'Afrique centrale et BRGM (Bureau de Recherches Géologiques et Minières) (1976). *Carte des gîtes minéraux du Zaïre* [Map of Zaïre's mineral deposits], scale 1/200 000.

35 S. Spittaels & F. Hilgert (2008). *Cartographie derrière les conflits: le cas de l'Est de la RDC* [Cartography behind the conflicts: the case of eastern DRC]. Anvers: IPIS, Fatal Transactions.

together, but coltan can also be found with tungsten. The interest in one or another metal depends on demand: in 1999-2000, cassiterite was merely a not very valuable by-product of coltan; today, the opposite is true. The ores also always contain iron, regarded as an impurity, which requires processing to separate it out, so as to reach a sufficient concentration of tin – 65%, if possible – that can be sold at a good price.

- Establishing a complete and up-to-date cartography is a prerequisite for properly understanding the highly dispersed artisanal mining sector.

### The principal known mining sites<sup>36</sup>

Provinces	Name of the mining area	Production (mineral and amount)	Number of miners
Orientale – Ituri (Eastern) – Haut Uélé	Mongbwalu, Kilo-Moto Djalassiga Durba	Gold  Gold production in the whole eastern region of the DRC: estimate 5 to 10 tonnes	60 000
North Kivu	Bisié (Walikale) Itebero Mumba-Bibatama  Lueshe Fatwa Kasugho Musienene Manguredjipa	Cassiterite, 10 000 tonnes Coltan, cassiterite Coltan, cassiterite Wolframite Production de cassiterite in North Kivu estimated at 14 000 tonnes Niobium Diamonds Diamonds Gold	Estimate for the Province: 200 000
South Kivu	Numbi  Nyabibwe Kama Kamituga Twangiza Lugushwa Minoro	Coltan, cassiterite, Tourmaline Coltan, cassiterite Coltan, cassiterite Gold Gold Gold Diamonds	

## 1.3 The North Kivu mining sites

### Minerals of the tin group

Most of the sites are located in the “Little North”, which includes the Walikale, Masisi, Rustshuru and Nyiragongo territories. This is the richest region, especially Walikale, but is also the most complicated area of the Kivus, since all the tension-creating factors – land ownership, demographic, ethnic, economic and military – are concentrated there. In 2007 and 2008 this area was at the centre of the conflicts between the CNDP on the one hand and, on the other, the FARDC and their supporters at that time, the Mai Mai and sometimes the FDLR.

36 See map: Mining exploitation sites.

The largest mining site today is Bisié in the Walikale territory. According to Nicholas Garrett's in-depth study,<sup>37</sup> this exceptional deposit produced 70% of the cassiterite exported from Goma. At the time of research (April-December 2007), the four production sites had 1,732 workers. Another study spoke of "7,000 heads" on the site:<sup>38</sup> in addition to the miners, there were also porters, traders, family members and prostitutes.

Some mining sites are more or less easily accessible by road and their location can be established precisely, for example in Masisi, known mainly as an agro-pastoral area before the war, but which also has several mining *carrés* [squares]. In Mumba-Bibatama, in the Ngungu area, three quarries are being exploited, one of which belongs to a leading Tutsi personality in the province, Senator Edouard Mwangaschuchu Hizi.

In many cases, however, it is difficult to locate these mines on a map. In its study on 'Coltan and the people of North Kivu',<sup>39</sup> the Pole Institute refers to a great number of mining sites (about thirty) in the Masisi, Kalehe and Walikale territories, without indicating where exactly they are found, especially since the names of villages vary from one map to another. "Mining foyers" are referred to south of Walikale, near Itebero, but without any further details about where the "hills" Nkuba and Kakelo are to found.<sup>40</sup> The Pole Institute also mentions exploitation sites to the north of the Kahuzi Bieza National Park, but those cannot be found because of the absence of any geographical indicators. The Atlas of the Administrative Organisation of the Democratic Republic of the Congo<sup>41</sup> is of little assistance, since in the studies consulted, the mining sites are seldom cross-referenced with groupings or local government areas they are part of.

Lueshe, the only industrial site in North Kivu, specialises in processing pyrochlore (niobium) and does not appear on IPIS maps, nor on satellite maps, nor on any of the general maps of the DRC. It does, however, appear on the 1988 map of the Republic of Zaire. This disappearance of Lueshe is surprising. **It illustrates the importance of developing a rigorous cartographical update.**

### Gold and diamonds in the "Great North"

The Great North, which includes the territories of Lubero and Beni, has only a few tin-bearing sites. Gold is mainly mined here, mostly in the Beni area and diamonds near Butembo and Lubero. Fewer studies exist, compared with the "Little North", probably because the "Great North" has been less affected by armed conflict. The Nande provide a strong degree of social cohesion in the Great North, whose economy is one of the most dynamic in the DRC. Butembo and Beni are very active trading centres, particularly for high value items such as gold and diamonds.<sup>42</sup>

## 1.4 The South Kivu mining sites

The mining sites can be divided into two groups: minerals of the tin group are dominant in the north of the province and in the south, gold.

### Minerals of the tin group

The most accessible sites are along the routes from Bukavu to Walikale and from Bukavu to Goma. The Nyabibwé mine (cassiterite-coltan) is to the south of Saké, along the road remade by "Agroallemande" (Welthungershilfe). The remains of abandoned equipment recall the "pre-artisanal"

37 N. Garrett (2008). Op. cit.

38 AFED, Amis de la forêt et de l'Environnement pour le Développement (2007). *Rapport général de l'étude sur l'exploitation artisanale des ressources minières en territoire de Walikale: Cas du Coltan* [General report on the artisanal exploitation of mining resources in Walikale territory: the case of coltan]. Goma: AFED.

39 A. Tegera (2002). Op. cit.

40 R. Pourtier (2004). *L'économie minière au Kivu et ses implications régionales*. INICA-OCDE.

41 L. de Saint Moulin, J.-L. Lalombo Tshibanda (2005). *Atlas de l'organisation administrative de la République Démocratique du Congo*. Kinshasa: CEPAS.

42 See Chapter 3. Geo-economy of trade.

era. The important mining centre in Numbi (coltan, cassiterite and tourmaline) on the boundary between North and South Kivu is very difficult to reach.

The western part of the Kahuzi Biega National Park, which straddles South and North Kivu, was invaded in total illegality during the coltan boom. The eastern part around Mount Biega, famous for its mountain gorillas, has, on the other hand, remained more protected. The NGO Vision Verte [Green vision] of Bukavu has accurately mapped the sixty-some mines that have been exploited inside the Park. The Diane Fossey Gorilla Fund has paid particular attention to the destruction inflicted on the flora and fauna by the presence of miners.<sup>43</sup> Recent information updating the situation there is lacking.

## Gold

The gold-bearing area of South Kivu comprises three main areas, Twangiza, Kamituga and Igushwa, which form – together with Namoya, situated in Maniema – the “Golden Furrow” to the south-west of Bukavu. Alluvial gold has been mined since the 1920s around Kamituga, gold in lode deposits from a later date. After the period of legal confusion during the war years, SAKIMA (Banro Group) became the sole holder of mining rights, but this Canadian company is confronted on the ground by the resistance of artisanal miners who have been working alluvial sites inside the concession boundaries for a long time. During recent years, Banro has concentrated on preliminary work for a future relaunch of exploitation (geological and mineralogical research, prospection, etc.). South African engineers carried out a very detailed study on Namoya in 2007.<sup>44</sup> According to oral testimony, Chinese are taking part in the exploitation of the site for Banro.

Information available on Banro’s website makes it possible to locate the mines with great precision within the company’s perimeters. However, knowledge of where artisanal sites are being exploited outside these boundaries is more uncertain. This contributes to the lack of transparency in the production and marketing of gold, which manages to dodge the control of state institutions to a great extent, but not that of other forms of power, whether military or civilian.

Another resource that eludes state control is diamonds. It appears that there are an increasing number of diamond exploitation sites in the Kivus, although they attract little attention, perhaps because diamonds are considered to be the business of Kasai, the Bandundu areas bordering Angola and the Kisanagani region. IPIS has noted that there is significant production in the Shindano mine, near Minoro (north of Shabunda).<sup>45</sup> The Pole Institute mentions the in Makania mine in the Punia region, where thousands of diggers have left the cassiterite quarries to pursue diamonds. Other mines are reported to the south-east of Lubutu.

- The geography of artisanal mining is evolving, since the diggers are easily mobilised and willing to move.

## 1.5 The Maniema mining sites

Maniema has for a long time been at the heart of mining in the Kivus. Up until the collapse of the tin market in 1985, the exploitation of tin was more industrial in nature, with energy being provided by hydro-electric plants in Lutshulukulu and Ambwe to supply Kalima and Kailo. The SOMINKI mining centres were closed one after the other during the 1990s, but the recovery in tin prices boosted artisanal exploitation. Information on Maniema, compared with that on North

43 I. Redmond (2001). *Coltan boom, gorilla bust. The impact of coltan mining on gorillas and other wildlife in eastern DR Congo*, May. Diane Fossey Gorilla Fund and Born Free Foundation; Jevin D’Souza (2003). *Scoping study of the artisanal mining of coltan in the Kahuzi Biega National Park* (April). London: Diane Fossey Gorilla Fund.

44 SENET (2007). *Preliminary assessment no 43-101. Technical Report, Namoya Gold Project, Maniema Province, RDC, prepared for Banro Corporation*. Johannesburg: Senet House.

45 S. Spittaels & F. Hilgert (2008). *Op. cit.*



and South Kivu, is very scarce. This lost corner of the world has been spared from recent military violence, and has aroused little interest among researchers or humanitarian organisations.

The location of the old SOMINKI mines can be seen on satellite imaging maps. What is missing is information about their present condition. Kalima, the former headquarters of SOMINKI's General Management, accessible by road from Kindu, is at the heart of an area that still has great mining potential. Several airstrips in Kamisuku, Kinkungwa, Kama and Kampene, are used to carry ore to Bukavu. Kailo used to be an important mining centre and its cassiterite and wolframite were taken to Kindu. Punia and Kasese produce cassiterite and coltan. According to a research student preparing a thesis on Maniema, Mr Kalombo Vivi Lukongo, gold is also being actively sought. There are several gold-washing sites between Kasese and Shabunda as well as near Kama and Kampene. In the Kasongo territory, Bikenge is a significant centre for gold production, taken out through Kama. To the north of Maniema, diamond quarrying has been referred to near Lubutu. Maiko Park contains gold mines. Grégoire Kayobo, a former Simba, who fought alongside Laurent-Désiré Kabila in 1964, still has his power base here.

- Information about Maniema remains sparse. It would be helpful to carry out field research, so as better to understand the mining economy in an area in which the mineral production passes through the Kivus.

## 1.6 The Ituri and Upper Uélé Mining Sites

Mining activity is less scattered here than in North and South Kivu. It is confined to gold-mining in the huge gold-bearing basin which stretches to the north-west of Bunia, near two large centres of production, Mongbwalu in Ituri and Durba in Upper Uélé. Control of the gold mines has been at the heart of extremely violent armed conflicts among various political and military groups between 2002 and 2004. Human Rights Watch has analysed these events in a well-referenced report published in 2005.<sup>46</sup>

Like all the other nationalised Zairean companies, OKIMO was unable to escape predatory management. Having sub-leased its concessions to sub-contractors, it turned to seeking partnerships with international groups. Ashanti Goldfields acquired parts of Kilo-Moto Mining International, but, like for Banro, the period extending from Laurent-Désiré Kabila's military campaign in 1996-1997 up until the retreat of Ugandan forces in 2003 was one of risk-filled tribulations. During the rebellion, the RCD-ML leader, Mbusa Nyamwisi, a dissident from RCD-Goma, played a key role in mining affairs.<sup>47</sup> A joint venture was finally negotiated in 2003 for the exploitation of Concession 40, which covered 8,191 sq. km around Mongbwalu. AGK (AngloGold Ashanti Kilo) brought together OKIMO (13.787%) and Anglo-Gold (86.22%).

Gold has whetted the appetites of all the parties involved in the regional conflicts, such as the looting by the Ugandan armed forces, denounced in the first UN panel of experts report, as well as the ethnic conflict between the Hema and Lendu over land and fishing rights. The withdrawal of the Ugandan troops left the field open to militias who fought for control of Mongbwalu in 2002-2003. The Hema of the Union des Patriotes Congolais (UPC) led by Thomas Lubanga<sup>48</sup> and then the Lendu of the Front des Nationalistes et Intégrationnistes (FNI) sadly distinguished themselves by carrying out massacres, in particular in Mongbwalu. This recent past, full of violence, has left its mark, particularly because Anglo-Gold had made agreements with the FNI and with the return to a more "normal" situation suspicions continue to abound. AGK's activities have been confined to exploration and feasibility studies on the one hand and some social good will actions

<sup>46</sup> Human Rights Watch (2005). Op. cit.

<sup>47</sup> Mbusa Nyamwisi, a Nande, became minister during the Transition and has held a ministerial portfolio ever since.

<sup>48</sup> Thomas Lubanga was one of the first to be arrested for war crimes and referred to the IPC.

on the other, such as renovating the hospital and paying salaries owing in the health, education and energy sectors. Relaunching production is not envisaged before 2011 – the current crisis is not likely to speed things up.

- **The gaps in information about Upper Uélé call for field research, especially now that the LRA has become involved in mineral trading, according to various sources.**

## 1.7 The challenge of quantifying the mining industry

It is not possible at the present time to know with any acceptable degree of accuracy what quantity of mineral ore is being produced and exported. The principal difficulties in establishing any quantitative measurement of the mining economy include:

- The multiplicity of organisations involved in the regulation of production and export of minerals, and the lack of coordination between them;<sup>49</sup>
- Deficiencies in handling statistical data, which helps to keep the mining economy in a state of deliberate obscurity, thus encouraging fraudulent activities;
- Administrative fraud: under-declaration of quantities exported and falsification of documents by the customs service; smuggling across borders, particularly of gold.

Using the example of wolframite exported through Goma in 2006, the Pole Institute illustrated the statistical discrepancies among the various administrative services:

OFIDA	392 t	Mining Division	401 t
OCC	268 t	Foreign Trade	295 t

OFIDA's 2006 data for North Kivu is incomplete: it totals the exports through Goma and Kasindi, but doesn't include those through Bunagana and Ishasa, due to the insecurity caused by fighting between the FARDC, FDLR and Mai Mai.

### Mined mineral exports from North Kivu in 2006 (OFIDA)

	Weight	Value in US\$
Cassiterite (t.)	2 968	7 065 123
Wolframite (t.)	483	1 063 567
Coltan (t.)	41	217 558
Niobium (t.)	8	17 136
Gold (kg)	9	109 918

In addition to this uncertainty over production, mining potential is also unclear, due either to the mining companies' cult of secrecy or to a lack of basic knowledge. Estimates of tantalum reserves therefore vary widely, as much as from 15% to 60% of world reserves.

Researchers attempting to quantify the volumes and value of minerals turn to various indirect methods:

- Estimating the number of flights by small transport aircraft serving the mining areas, on the basis that they carry 2 tonnes on each flight;
- Comparing the results of surveys conducted with miners, traders and trading houses, but only a small number of mines, such as Bisié, are documented in this way, which means that without

<sup>49</sup> See Chapter 3. Key actors in trade, administrative services.

thorough research, extrapolations represent little more than statistical tinkering;

- Research downstream in the marketing chain: unlike the DRC, Rwandan foreign trade ministries properly maintain statistics and they can be considered reliable. Administrative organs in Uganda and Burundi are not as capable as those in Rwanda, but their statistical data are nevertheless usable;
- Surveys conducted with transporters;
- Using figures for foreign trade from major data banks (EUROTRACE, TRADEMAP, EUROSTAT, etc.), which unfortunately are not consistent;
- Analysing data provided by European, American and Asian companies importing minerals from the Great Lakes region in Africa.

Estimates of production/export mentioned in reports are invariably fragmentary. The most recent study (April 2009), *Trading conflict for development*,<sup>50</sup> gives the following figures for production, based on data from the Mining Division in Goma and from the FEC (Federation of Business Enterprises in the DRC) in Bukavu. The authors apply a coefficient of 35% to these figures to account for smuggling. This coefficient is itself an estimate.

#### Export of minerals from Kivu, 2007 and 2008 (in tonnes)

	2007	+ 35%	2008	+ 35%
Cassiterite	13 656	18 435	18 216	24 592
Wolframite	1 095	1 479	652	880
Tantalum	267	360	383	517

The Pole Institute has produced estimates covering a longer period (1999-2006) that show production trends for each mineral: the temporary boom of coltan, the spectacular rise of cassiterite, and more recently of wolfram (tungsten), and the collapse of niobium in Lueshe. These figures are, however, far from reflecting real production volume because of widespread fraud.

Year	Cassiterite	Coltan	Wolframite	Niobium
1999	71	5	5	
2000	23	15	15	22
2001	550	90	28	605
2002	497	28	28	1339
2003	938	26	26	670
2004	4 672	42	42	386
2005	3 599	26	26	91
2006	2 909	39	401	9

Source: Pole Institute, 2007

- **In conclusion, the statistical problem remains unsolved. The collection of quantitative data on the volume of mining production does not allow for reliable quantification throughout the area under study.**
- **A quantitative evaluation of production requires a method of cross-checking data that is yet to be constructed on the basis of administrative data, the FEC and field research among producers and transporters. Given the lack of centralisation, the poor reliability of statistics and the dispersal of mining sites, such research would need to be localised and would not provide a full picture. Smuggling will always be the blind spot of quantification attempts.**

50 N. Garrett and H. Mitchell (2009). Op.cit.

## Chapter 2: The System of Production

### Summary:

The informal nature of mining production does not prevent it from being highly structured. The system is based on exploiting the labour of thousands of miners and imposing a whole series of charges by those persons – military or civilian – intervening all along the chain, from mine to trading house. Diggers, shovelers, and porters all work with rudimentary tools and bare muscle power under the watch of team leaders or soldiers. The various armed groups, just like the Congolese Army (FARDC), all take an active part in the predatory process.

The muddle between customary law and modern law leads to legal confusion, a potential source of conflict. The international companies (Banro Group, AngloGold Ashanti) that have replaced SOMINKI and OKIMO are slow to launch activities in an insecure environment. Their arrival raises questions about the future of the miners and the coexistence of artisanal mining and industrial exploitation.

For the reasons given in Chapter 1, mineral production in the Kivus and in Orientale Province remains entirely artisanal in the absence of the large international groups. Their return is delayed by endemic insecurity and, since 2008, by the world economic crisis that provoked a major decrease in the prices of raw materials, with the exception of gold.

Although the artisanal mining is considered to be part of the “informal sector”, it is nonetheless highly organised. All economic actors take part in a system with its own internal coherence and its rules, even if it functions in the margins of official legality, with the force of armed groups. **Various contradictions flow from this, particularly between the customary and administrative authorities, but it also creates hybrid forms of management linking tradition and modernity within the framework of local institutional improvisations.**

The production of minerals remains at the hunter-gatherer economy stage prevailing at the beginning of the colonial period. An unlimited labour force works with rudimentary tools and depends completely on its own muscle power to dig out from the soil the products that will be exported in their raw state or, at best, having undergone a first stage of processing in the trading houses. (Since 2007, in principle the only trading houses to receive authorisation are those that are equipped with magnetic separators and concentrators that give added value to metals of the tin group.)

The same artisanal extraction methods are used in Kivu, Ituri and all other regions of the DRC engaged in mining activity, whether it is the Kasais or Katanga. The digger is a national figure, with some specialists estimating there are as many as two million artisanal miners in the whole country. Mining in the eastern part of the DRC differs from that in other mining regions:

- All of production depends on the work of the diggers;
- Social and ethnic tensions are exacerbated by land disputes, the resentment by “locals” towards “outsiders” and the legacy of violence in Rwanda spilling into eastern Kivu. The spread of artisanal labour has occurred in this context, which has favoured the militarisation of the economy.

## 2.1 Property rights, prospecting rights and exploitation rights: Confusion, uncertainty, overlapping and “local arrangements”

### A blurry legal situation

Knowing who owns a mine may appear to be very simple but this is far from the case. In reality, it is highly complex because of overlapping legal systems. Like everywhere in Sub-Saharan Africa, customary law and modern law, as it emerged from colonisation, clash head on. The transposition of European property rights to a society where access to land depends on other criteria than private property has encountered resistance from the traditional authorities in the countryside. In those chiefdom-based societies in eastern Kivu, the *mwami* are the holders of property rights, which they concede to “land chiefs” or “hill chiefs”; these chiefs’ legitimacy is based on the right of being the first occupant, a right that is inherited. The colonial administration relied on the traditional chiefs by giving them administrative responsibilities. The creation of the Republic weakened their authority as it deprived them, from a legal point of view, of their prerogatives over land. The Bakajika Law of 1966, as amended by the 1973 Land Act, effectively attributed to the state full legal power over the land and what lay beneath it as well as exclusive jurisdiction over land transactions. There is a vast difference between what is written and practice, particularly in a failing state unable to apply its own laws.

In territories far away from Kinshasa, increasingly isolated because of the collapse of the transport infrastructure, customary chiefs have retained real power and they continue to insist on their leading role in regulating land ownership. Yet they are well-informed about the legal procedures for accessing property and adept at playing both systems for obtaining land titles. A double system of law persists, therefore, which adds to confusion over land status and leads in practice to opening up the land market and creating a new class of landowners of “big men” farmers, especially cattle-farmers, traders, politicians and senior army officers. Transactions in land titles tend to vary according to political changes. Under the RCD-Goma administration, Rwandans, mainly Tutsi, were favoured. A document drawn up by the customary authorities of Kalehe territory in 2004 criticised the anarchic sales of land with the ‘complicity of the provincial and cadastral authorities and Land Affairs in Bukavu’. They added a list of purchasers, which included a DRC deputy and the governor of North Kivu, Eugène Serufuli. Photocopies of documents of the sale of land titles and of long-term leases were added to support the memorandum’s arguments, which called for restoring the rights of Mwami Ntale IV of the Buhavu chieftainship.<sup>51</sup> A great number of memoranda are produced by civil society, including local associations and NGOs, giving a first-hand feel for the local reality and the conflicts of interest. One of the main problems is how to clarify land disputes, which have multiplied since the displacements of people caused by the wars.<sup>52</sup> This is a particularly complex task because of the lack of transparency of cadastral services and the endless disagreements between the rightful owners and those actually occupying the land.

#### ■ Landowning interests interfere with mining interests.

### The hill and the *carré* [square]

Mining has introduced a new legal element, since mining rights are distinct from land rights. According to the 2002 Code, the mining registry has precedence over the land registry. If mining licences are granted, land title holders are limited to claiming compensation. Since in most cases customary chiefs do not possess land titles, this opens the way to negotiations or to a power struggle. In the eastern DRC, the customary chiefs who proclaim themselves “owners of the hill” argue that they have the right to exploit the minerals or to receive rental income. The “hill” has

51 Entente des ressortissants du territoire de Kalehe “EREKA”, *Memorandum des notables du territoire de Kalehe à l’intention de son excellence Monsieur le Président de la République Démocratique du Congo à Kinshasa* [Memorandum of the Kalehe territory notables to his excellence the President of the DRC in Kinshasa], 4th May 2004.

52 S. Mugangu Matabaro (2008). ‘La crise foncière à l’est de la RDC’ [The land crisis in eastern DRC]. *L’Afrique des Grands Lacs, Yearbook 2007–2008*, pp. 385–414.



no legal existence as far as the Mining Code is concerned.<sup>53</sup> A mining right is only acceptable under the Mining Code if it is registered with the Mining Registry (CAMI). Mining regulations<sup>54</sup> include all the technical considerations governing boundaries within the country.

The basic surveying unit is the square (*carré*). The sides of the square, lying east-west or north-south correspond to ‘an angular distance of 30 seconds in geographical coordinates as represented on the official maps of the whole country, produced by the Geographical Institute of the Congo on a scale of 1/200,000’ (Article 39 of the mining regulations). Each square covers an area of 84,955 hectares. Admirably precise, considering the state of cartographical coverage. Boundaries for mining concessions and exploration permits are determined by these squares. As for artisanal mining, the Ministry of Mines defines the zones for artisanal exploitation and notifies the Mining Registry, which marks them on the mining resources maps (Article 109 of the Mining Code). Article 109 also stipulates that a ‘Perimeter with a currently valid mining title cannot be transformed into an artisanal exploitation zone’.

**The situation on the ground the situation is quite removed from a Code that doesn’t apply to the Congolese context.** Almost all the artisanal exploitations in the eastern DRC are **outside the law**, because

- Not a single artisanal exploitation zone has been defined in recently-opened mines (also called quarry or work area);
- Miners rarely officially declared;
- A large number of sites being exploited are located within concessions theoretically protected by mining titles.

The overlapping of hill and square creates legal situations of a hybrid nature and often leads to disputes quarry miners, permit holders and land “owners”. The Pole Institute gives an example in the Masisi with the reminder that these conflicts are not new, that rights are acquired by payment in this jungle, where the survival of the fittest is the norm, where ‘cows are now replaced by the famous “mining squares” for the exploitation of coltan’.<sup>55</sup> The reality on the ground is always very complex. In the Masisi, the Mumba/Bibatama mine, for example, comprises three squares rich in cassiterite, coltan and wolframite. One is exploited by the Hizi International Company, and it seems that the owner, Senator Mwangachuchu, is the only one to hold a production licence. The formal sector, in good standing with the Mining Code, thus coexists with the informal sector.

### One type of arrangement between legal and illegal actors: The Bisié mine

The economic issues provoked by the Bisié mine illustrate the ways in which the two levels of law overlap and in which international and local groups compete.<sup>56</sup> After the wealth of mining site had been discovered, two trading houses in Goma began to compete for their share in its economic exploitation, the Groupe Minier Bangandula (GMB) and the Mining and Processing Congo (MPC). The GMB was set up by local shareholders, led by Alexis Makabuza (with 50% of the shares), one of the most prominent men in Goma politico-business circles and close to Laurent Nkunda. The MPC was associated with the Metal Processing Association (MPA), supplier of the tin foundry in Gisenyi. Both companies are subsidiaries of the South African group, Kivu Resources, based in Mauritius.

On site, each company allied itself with an influential customary chief from one of the four families who claimed to hold land rights: the Bangandula family for the GMP and the Bassa family for the MPC. Both of these chiefs claimed to be “chief of the hill” by dint of their “right of first occupant”. On the legal front, GMB signed a leasing contract with Sakima in October 2005 covering 7 concessions, including Biruwe that was supposed to include Bisié. During 2006, GMB took “possession” of the mine after signing a contract with the Administrator of Walikale territory to ensure the safety of its staff,

53 *Code minier*. Loi n° 007/2002 of 11th July 2002. Journal Officiel de la République Démocratique du Congo, 15th July 2002.

54 *Règlement minier*, Décret n° 038/2003 of 26th March 2003, Journal Officiel de la République Démocratique du Congo, 1st April 2003.

55 A. Tegera (Ed.) (2002). Op. cit.

56 N. Garrett (2008). Op. cit.

and above all after reaching an understanding with the non-integrated 85th Brigade which had de facto control over the mining zone. As for MPC, after proving by Global Positioning Satellite that Bisié was outside the concession, it obtained an exploration licence in September 2006 covering the area in dispute.

The chiefs of the hill from the Bangandula and Bassa families ended up reaching an understanding and signing an agreement with the MPC, which promised to give them a percentage of its revenues. The 85th Brigade, for its part, guaranteed the functioning of the system and a minimum of security, in exchange for a share of the production as it left the mine. **Their interests were more complementary than conflictual between the “legal” actors, such as the MPC, who observed the Mining Code, and those actors basing themselves on customary law or on the force of arms.**

- The period of disturbances, along with the informalisation of the Congolese state, aggravated legal uncertainties. This opened the doors to all kinds of arrangements between the different forms of local power (civil servants, customary chiefs, militia, local politicians, and security forces) and Congolese businessmen. Gaining “ownership” of a mining site is never a permanent, but rather a changing compromise between local powers.

## 2.2 Rights of international mining groups: Old and new actors

Since Mobutu was overthrown in 1997, civil wars, a transition with labyrinthine-like negotiations, and the long time taken to set up new institutions all had serious consequences for both the old and new mining companies, which were slow to launch their operations. Despite all the uncertainties, **new mining groups that had no past history to live down entered the stage and gambled on the future by taking up positions in the Kivus.**

### The disputed legacy of SOMINKI

The sale of SOMINKI gave rise to a legal imbroglio with which Congo-Zaire was all too familiar. Envisaged from 1986 onwards by the Empain Group, it was not concluded until ten years later, in 1996, by its sale to the Canadian group Banro and the Belgian company Mines d’or de Zaire (MDDZ). After buying out MDDZ’s share, Banro set up the Société Aurifère du Kivu-Maniema (SAKIMA). Legally confirmed by a decree dated 6 May 1997, just ten days before the fall of Mobutu, Banro became the holder of 47 concessions covering a total of over 10,000 sq. km representing SOMINKI’s holdings, and included six gold-bearing concessions – Kamituga (3), Lugushua, Namoya and Twangitza.

The liquidation of SOMINKI was carried out amidst great confusion as a result of the political situation – the AFDL’s military campaign and looting of the company’s buildings and stocks, then Laurent-Désiré Kabila’s accession to power. Mainly interested in gold, Banro decided not to become directly involved in the tin-bearing concessions. In October 1997, SAKIMA signed a leasing agreement with the Ressources Minérales Africaines (RMA), a Kinshasa company belonging to the Belgian-American, Bernard Van Rooyen. RMA’s management was put in the hands of a well-known Goma businessman, Victor Ngezayo, a mixed-race Tutsi.<sup>57</sup>

Banro’s decision to withdraw from the tin side of its business, the calling into question of contracts signed by Mobutu during the war of liberation led by Kabila, and no doubt Kabila’s increasing hostility towards the Rwandan leaders, led him to abrogate the decree that established SAKIMA by another decree of 29 July 1998 – on the eve of the unleashing of the second war. On the same

<sup>57</sup> His brother, Albert, had been assassinated in March 2008, perhaps as a result of confusion on the part of the killers. In any case, he had not been involved in mining and political affairs, unlike his brother Victor. Victor wanted his rights recognised, or to sell them. During the rebellion, he kept his distance from the RCD-Goma, by creating his own political party. Regardless, assassinations and other settling of political scores are common in the Congolese “Far East”, and add to the endemic insecurity there.

day, a new company, Société Minière du Congo (SOMINCO) was created, followed on 31 July by the loss of all Banro's mining rights, reclaimed by the Congolese state. It is not insignificant that the nomination as administrator-delegate of SOMINKO was won by the *mwami* of Luhwinja, Philemon Naluhwindja, who had never stopped claiming his rights over the land attributed to the concessions. Customary authorities remain one of the active forces in this complex game which links economic interests, legal claims and political posturing.

**The Congolese actors were not, however, in control of a game subject to international rules.** The case between Banro and the Congolese state was taken to the International Centre for Settlement of Investment Disputes (ICSID) in Washington. The war generated enormous confusion, but afterwards the situation returned to normal, at least legally, and Banro's concessions were restored (April 2003 decision), although the dispute between Banro and the RMA had not been settled. The legal situation may have been clarified in principle, but work at the mines was limited to some preparations for exploitation. While the lawyers and experts battled things out in the gilded rooms of international justice, tens of thousands of diggers were digging up the ground on the concession-holder's lands.

### SOMIKIVU: A confused situation and an uncertain future

La Société des Mines du Kivu, set up in 1982, brought together the Congolese state (20%), the German company Gesellschaft für Elektrometallurgie (GFE) (70%) and the Belgian company Cofimines (10%). GFE was a subsidiary of the American Metallurg, whose main shareholder, according to David Barouski, was the Safeguard International Fund based in Wayne, Pennsylvania.<sup>58</sup> In 2006, Metallurg took over the Dutch company Advanced Metallurgical Group (AMG), whose supervisory board included, according to Barouski, many influential political and financial personalities. In the DRC, as the last link of the chain of the politico-financial networks of the great powers, the role of Director-General of SOMIKIVU was taken by Modeste Makabuza, one of the leading businessmen in Goma; his brother, Alexis, said to be close to Laurent Nkunda, was also active in the mining sector through the Bangandula Group.

SOMIKIVU had been inactive since 1993, as all the expatriate staff had left due to the climate of insecurity caused by the inter-ethnic massacres. Activity resumed during the period that the RCD-Goma was in charge in the area, under the direction of Karl-Heinz Albers, with the England-based Niobium Mining Company (NMC), providing technical assistance. The legal position became complicated, when the Congolese state granted Krall Metal Congo (KMC), a company set up in 1999 in Kinshasa, GFE's (6th April 1999 decision). After the "reunification", Krall Metal tried to assert its rights with the help of Kinshasa, who saw this as an opportunity to restore its authority in Kivu by weakening the legacy of the RCD that had profited from a company involved in the looting of resources. Facing legal proceedings, Karl-Heinz Albers resigned in March 2004 and delegated his powers to Julien Boillot, an officer of the Niobium Mining Company, who in turn delegated them to Modeste Makabuza. According to a 2001 UN Report, he was on good terms with Paul Kagame. His company, Jumbo Safari, took part in the transporting of mineral ores. NMC's purchase of the tin foundry in Kigali in 2003 strengthened ties with Rwanda.

The SOMIKIVU manager announced a resumption of production in 2007. But in fact nothing happened for several reasons, including the continuing armed violence and lack of security, the increasing difficulties to access the mine because of the deterioration of the road infrastructure, the chronic lack of electricity, and declining world demand for pyrochlore which did not justify significant investment in a country at risk.

### The waltz of contracts for Kilo Moto

The history of the ownership of the Kilo Moto gold mines has been particularly turbulent. In 1991, Kilo-Moto Mining International (KIMIN) signed a contract with OKIMO for

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58 D. Barouski 'The case of the Lueshe Mine', *ZSpace*, 27th July 2008. Available at <http://www.zmag.org/zspace/commentaries/3566>.

2,000 sq. km around Mongwalu. In 1996, Ashanti Goldfields bought KIMIN's share, but in 1997, Laurent-Désiré Kabila unilaterally annulled this contract and granted it to Russell Resources International (Australia). Mbusa Nyamwisi, then head of the RCD-ML before he became a minister during the transition, awarded the management of the state enterprise OKIMO to a Mr Kiza, who leased his concessions to members of his family. In 2000, a new contract was signed between Ashanti and OKIMO, which led to the creation of a joint venture (AngloGold Ashanti Kilo – AGK), and in 2001, Ashanti obtained rights over the whole concession 40. The joint venture has held rights over this concession since 2003 – OKIMO 13.78% and Anglo 86.22%. AGK returned to the area in 2004, but had “dubious relations” with the FNI, which were reported in the international press – medical care for militia members, giving a house to a militia chief and money transfers – and forced the company to denounce these practices.<sup>59</sup> The state's reestablishment of control in Mongbwalu, an area much disputed between militias, was achieved thanks to MONUC via the deployment of a Pakistani infantry battalion in 2005 and to one of the first integrated brigades of the FARDC. Between 2005 and 2007, AGK carried out exploration and feasibility studies with plans to begin production only in 2011 because of the lack of infrastructure. From then on, the problem was no longer the armed groups, but the artisanal miners who were in physical control of the mineral deposits. In December 2007, the Governor of Orientale Province, Médard Autsai Asenga, announced the closure of the Adidi mine for ‘reasons of health and security’. This represented a manoeuvre to allow the AGK to physically regain control of the site with the help of the police, who blocked entry to it.

### The newcomers

The likelihood that the political situation in the DRC would be normalised, together with the sharp rise in minerals prices, cassiterite among others, between 2004 and 2008 attracted international companies, that had hitherto not been present in the DRC. These newcomers have obtained rights, but have so far not yet begun prospecting.

This is the case, for example, of Shamika Resources Inc., a company registered in Canada, which calls itself a junior mining company, aiming to promote sustainable development for the benefit of the population through developing mining. It set up a Congolese subsidiary in January 2007, Shamika Congo Kalehe Sprl, and opened an office in Goma. According to its website,<sup>60</sup> it has acquired mining rights in North Kivu, South Kivu, Maniema, Orientale Province and Katanga. It holds three licences in Maniema in the Punia-Lubutu region. In South Kivu the company holds licences on the island of Idjwi and in Kalehe. In North Kivu, it has designs on Walikale territory, in Orientale on the Poko site, in Katanga on Manono, which was once the centre of the industrial exploitation of tin in the DRC. In all, it holds 15 exploration licenses.

Transafrika, a company under Mauritian law, with a majority holding of South African capital, holds exploration licences in the south of South Kivu, but has not yet begun prospecting.

At the beginning of 2009, a Russian company, Congo Russian Industry, a subsidiary of Rosspetsplav, declared its intention to relaunch production of niobium in North Kivu. A holding company, based in Luxembourg, Midural Inc., owns the Congolese shares and the Congolese Foreign Affairs Minister paid a visit to Russia. Russian penetration in this sector has already encountered some problems: the Congolese authorities confiscated a consignment of niobium on the grounds that the ore came from an area previously controlled by the CNDP.<sup>61</sup>

- **Since the informal economy has become deeply rooted in social practice since 1982, the return of industrial companies poses in an acute way the question of the future of the diggers in all mining regions of the DRC.**

59 Human Rights Watch (2005). Op. cit.

60 Shamika Resources. Available at <http://www.shamikaresources.com/overview.cfm>

61 Africa Mining Intelligence, 29th April 2009.

- Like Katanga, Kivu is also subject to major manoeuvring by international groups dominating the mining sector. An overall view requires research into the delivery of rights by mining authorities.

## 2.3 Armed groups and territorial control of the mines

- Armed groups are crucial actors in the economic system of mining, as has been illustrated by the many UN enquiries and also those of NGOs working for peace and respect for human rights.<sup>62</sup> The remarkable cartographic work by IPIS located the positions of the different armed groups during the period from September 2007 to January 2008. Since then, major changes took place after the fighting during the summer and autumn of 2008 and above all after the military events of the winter of 2009. These included the arrest of Laurent Nkunda in January, followed by the integration of the CNDP troops into the FARDC and the joint offensive by Rwanda and the DRC against FDLR soldiers. After fleeing into the depths of the forest, the FDLR are now ready to make a come-back, which could have disastrous consequences for the village people.
- The FDLR<sup>63</sup> are present in North and South Kivu, with a strong concentration of their troops in the “Little North”, where their headquarters are based in Kalonge. They are mainly located in the forest areas, particularly along the edges of the national parks and nature reserves, such as Virunga, Kahuzi Biega and Tayna. The forest is an especially important a refuge for that section of the FDLR made up of old Hutu militias *interahamwe*, who live in fear of being judged and condemned as perpetrators of genocide if they return to Rwanda. According to the expert group’s preliminary report, they make several million dollars, through their direct control of many production sites. (75% of their income comes from trade in mineral ores.) They control most of the artisanal sites of South Kivu except Kamituga (cassiterite, gold and coltan), gold deposits to the west of Lubero and cassiterite in the Walikale area in North Kivu, the Unde mine in the “Great North” and other sites in the Kahuzi-Biega Park on the border between the two Kivus. The 3rd battalion of the FDLR-FOCA is present in the Kilembwe area and receives a share of the gold and cassiterite.
- The CNDP has established itself around Masisi and in the Rutshuru region where the “Congolese Tutsi” are the most numerous. These are areas devoted to agro-pastoral activities with few mining sites. In 2007 and 2008, when the CNDP, fresh from its military successes, was strengthening its positions, it organised a parallel taxation system for its own benefit at the border posts of Ishasa and Bunangana. Like all the other armed bands, it levied its taxes at all the road barriers erected on the main roads.<sup>64</sup> The CNDP has also been present at some coltan sites and at the Lueshe mine. According to the UN, only 15% of its income comes from mining activities.
- The Mai Mai and other local militias adopted an old self-defence tradition of rural communities. Under the leadership of a Nande, General Sikuli Lafontaine, PARECO brought together several “indigenous” ethnic groups, particularly the Hunde, Nyanga and Temba, already allied during the interethnic massacres, in which they fought against the Banyawarandas, joined by the Havus and a few Hutus. The December 2008 UN experts’ report considered them to be the third largest armed group. Quite attached to their independence but at the same time easily manipulated by political leaders, their alliances changed constantly; the only point all the Mai Mai groups had in common was a visceral rejection of “outsiders”, especially the Tutsi. Disputes over land, rather than mining, were at the centre of the fighting by the Pareco, who denounced what seemed to them to be the creation of a “Tutsiland” and opposed the return of

<sup>62</sup> See map of Armed Groups in Kivu.

<sup>63</sup> See map of FDLR locations.

<sup>64</sup> S.S. Andrew (2008). *Laurent Nkunda et la rébellion du Kivu. Au cœur de la guerre congolaise* [Laurent Nkunda and the Kivu Rebellion – at the heart of the Congolese war]. Paris: Karthala.



Tutsi refugees. In Shabunda and in the extreme north of Kahale, the PARECO deployed units at the mining sites. The Mai Mai, like all the armed groups, took part in the general system of extortion in exchange for “protecting” mines situated in areas under their control, especially in the “Little North” and in exacting taxes at the road barriers set up along the main routes.

- The FARDC: In the Kivus and Ituri the Congolese army has found an ideal opportunity as predators in the mining economy. In the mines and along the roads, soldiers levy illegal taxes, said to be destined to the military hierarchy in Bukavu. Several brigades join in and profit from the **militarisation of artisanal mining activity**:<sup>65</sup>
  - The 18th integrated Brigade controls the landing strip in Lulingu in South Kivu used exporting minerals from Kahuzi Biega.
  - The 122nd Brigade controls Kamituga and the road between Mwenga and Kitutu in South Kivu.
  - Soldiers from the 12th battalion of the FARDC exploit gold from the Mufa mine) and cassiterite from Karhembu in Tubimbi in the Walungu territory (South Kivu).
  - The 11th integrated Brigade controls Shabunda, the town from where exports left for Bukavu.
  - The 6th Brigade from South Kivu controls Mobale Mine.
  - The 85th Brigade, commanded by Colonel Samy Matumo, controlled the area around Walikale and in particular the coltan mine in Bisié, at two days journey on foot from Walikale, which produced 70% of the cassiterite reaching the trading houses in Goma. This brigade was replaced by elements of the CNDP after the Congolese-Rwandan operation of early 2009.
  - Soldiers have been involved in the exploitation of cassiterite in Lemera in South Kivu.
  - A brigade was deployed in Mongbwalu in Ituri.
  - The FARDC is also present at mining sites in Kamole and Nyamkinga on the Island of Idjwi on Lake Kivu.

The mining sites attracted and still attract the greed of the armed groups. Ituri provides a good illustration of the fight for gold between armed groups: the Ituri militia (UPC, FNI, and FAPC) fought each other for the control of the gold deposits. The FAPC and the FNI clashed over the control of Djalasiga. The UPC held Mongbwalu up until 2003 and were then replaced by the FNI, who were succeeded by the first brigade of the FARDC to be deployed in Ituri. At the time they dominated, the FNI imposed an entry fee at the mine on the diggers and began to exchange arms for gold, blemishing the UN peacekeepers’ reputation. It should be recalled that in their first deployment in Ituri in 2005, the Congolese Army immediately established itself at the mining sites of Mongbwalu and Bambu, from where they drove off the local militia by force, with no regard for the local civilian population.<sup>66</sup> Clashes between FDLR and FARDC also occurred in 2005 over the control of Mwenga in South Kivu.

It should, however, be noted that the armed forces present did not carry on a **permanent mining war**. They could make agreements to divide the profits from a production site and seek a partial economic balance. What happened on the ground was in fact much more complicated than might be expected from hostility between rival groups. Before “Operation Kimia II”, the Shabunda area was peacefully “shared” between the 4th Battalion of the FDLR-FOCA, the Mai Mai and the FARDC. The mining production zone was under the control of the FDLR, while the local airports were under the FARDC’s control, which meant the two sides had to cooperate. The Numbi mine in the north of South Kivu that produces cassiterite, coltan, manganese and tourmaline, was “shared”. This large mining area was a source of income for the RCD and for Rwanda during the military occupation.<sup>67</sup> IPIS reported at the time of its enquiry in February 2007 that

<sup>65</sup> Global Witness (2009). *Face à un fusil, que peut-on faire ? La guerre et la militarisation du secteur minier dans l’Est du Congo* [What can you do in the face of a rifle? War and militarisation of the mining sector in eastern Congo]. London: Global Witness.

<sup>66</sup> Justice Plus (2007). *Ituri: l’armée n’a pas fait la différence*.

<sup>67</sup> The Report of the Group of Experts of 12th April 2001 mentioned the fact that the Patriotic Rwandan Army was using 1,500 prisoners to exploit coltan in the area around Numbi.

Numbi was controlled by the 14th integrated Brigade. Military units from PARECO and the FDLR were stationed in the villages around the mining area, each one levying a percentage of the production. The CNDP, a new arrival and common enemy, also no doubt profited from the mining exploitation. The owners of the mining sites are mostly Congolese Tutsi, the main operator being – like in Mumba – Edouard Mwangachuchu, one of the strongest supporters of the CNDP. **Therefore, arrangements exist for embezzling mining resources, arrangements that transcend military outcomes, and whose main beneficiaries are the “big men” – military or civilian.** This logic of dividing up the economic spoils works particularly among the three forces mentioned (FARDC, Mai Mai and FDLR), although such arrangements are always unstable.

- **The armed groups and the FARDC exercise tight territorial control over the main mining sites. Only secondary mining sites escape from their grip. This territorial hold is both their strength and their weakness.<sup>68</sup> Still, this is not a “blood diamonds” scenario, where the local people are reduced to slavery in order to dig in the mines.**
- **The FARDC’s substantial involvement in the mining trade made the army a “self-generating revenue agency”, whose highly-placed beneficiaries of this racket carefully remain in the shadows. This involvement has generated a veritable mafia within the high-ranking military.**
- **The FARDC’s substantial involvement in the mining trade is a factor slowing down their “integration” and therefore the reform of the army (since they prefer to stay where they are).**
- **Certain troop movements after the Congolese-Rwandan operation can be interpreted as changes in military control over mining sites, such as the CNDP in Bisié and the aborted shift of the CNDP towards Shabunda to take over the mining sites).**

## 2.4 An organised and hierarchical work force

### Exploitation techniques

Numerous studies have described the organisation of work in the mines, ranging from the Pole Institute in 2001 up to the detailed analysis of the Bisié mine in 2008. The mines function somewhat differently, according to whether it is a quarry in an alluvial area, an open-cast mine or an underground mine. The tools are invariably rudimentary, picks and shovels, hammers to break up the blocks of ore or to chisel the rock, basins and jerry cans, punctured for gold-washing. Mining galleries can be several dozen metres deep, with or without props, depending on the nature of the rock. The work is exhausting and dangerous. Several films provide a good illustration of this, such as *L’or noyé de Kamituga* [The drowned gold of Kamituga]<sup>69</sup> or the recent *Katanga Business*.<sup>70</sup>

#### Artisanal gold-mining techniques

Two types of gold are mined in Mongbwalu: dry gold (90% to 95% purity) and amalgam gold (82-90% purity). Before the Adidi deposit was closed, 35-40 kg of gold a month were produced there (25% dry gold and 75% amalgam gold). Several mining methods are used:

- Underground in three old industrial mines (Adidi, Senzere and Makala). The largest was in Adidi, 4 km from Mongbwalu, with about 2,000 diggers before its closure in 2007, and 5,000 workers total, including porters, pulverisers, etc.
- Pit mining: 365 in Concession 40 and 33 near Mongbwalu
- Alluvial mining: dredgers (some traders have obtained them) or changing the course of streams

68 See Chapter 3.

69 Yvon Lammens and Colette Braeckman (2007). Op. cit.

70 *Katanga Business* (2009), film by Thierry Michel.

There are two systems of gold exploitation in Kamituga: open-pit mining, in which mud is filtered into receiving basins by the gold-washers; underground exploitation that involves blasting with dynamite and retaining galleries propped up with wooden poles – resulting in many work accidents. There are several systems of production/commercialisation: gold-washers sell their product to the owners of the *outra* or they are employed by the *doyen* or “guard” or they work directly for the trading agencies.

As a general rule, the exploitation is strictly manual, with some help from motorised pumps to speed up the flow. Only one company, Hizi International, exploits its coltan mine with machinery to wash the ore, which represents a technological advance.

### The organisation of production units

The organisational structure of mine exploitation includes the “owner” of the mine or the tenant of the land on which it is situated. A manager, paid by the owner according to a percentage of the production that is defined by contract supervises the work and collects the ore. Team leaders organise the work of a dozen people. “Diggers”, are different from “shovelers”. The workplace is under the surveillance of “policemen” responsible for making sure that the miners do not steal any ore. In areas controlled by the armed forces, they often carry out this task themselves. The porters form a separate category. A detailed study, like that by Nicholas Garrett,<sup>71</sup> shows that there exists a hierarchy among the diggers between a small minority of card-holders and the others. The rock crushers are at the bottom of the labour hierarchy.

The question of how many diggers there are<sup>72</sup> remains unclear, since only a small number of them are complying with the Mining Code, and have purchased their digger’s card. They sometimes form cooperatives which are not without problems. Organising a cooperative is often beyond the abilities of the diggers, many of whom are young school leavers, with neither social capital nor legitimacy. Since they must adhere to certain norms, particularly for accounting, cooperatives are most often placed under the responsibility more educated people or local notables. For example, in a document intended to seek funding for artisanal miners and ‘women involved in forest-based nutritional activities’ the president manager of the Kakelo/Walikale Mining Cooperative is none other than the owner of the Kakelo “hill”. Experience shows that good intentions do not prevent the abuse of positions of president or treasurer. Neither does the setting up of cooperatives escape from manipulation, as the Bisié case demonstrated: both of the rival companies pressed for creating miners’ cooperatives. GMB was behind the Coopérative Minière Mpama Bisiye (COMIMPA) and half the members of this cooperative, notably Alexis Makabuza, were shareholders in the Bangandula Group. MPC reacted by encouraging the creation of a rival cooperative, the Coopérative des Creuseurs Artisanaux de Bisié (COCABI). In 2007, at the end of negotiations among those concerned, a compromise was reached protecting the MPC’s commercial interests, while letting COMIMPA intervene in the production phase. In a country where associations spring up like mushrooms, the diggers seem poorly organised. Some of them work in small groups outside the large mining sites, independently, but run the risk of their production being stolen. Most of them do their work under the control of team leaders, sometimes backed up by armed men. In social environments where social structure has broken down and where life is a matter of improvisation, individualism prevails.

- Production techniques are rudimentary and dangerous and could be improved with modest investment.
- The weakness of the diggers’ collective organisation points to the need for studies on the sociology of work, which are sorely lacking at present.

71 N. Garrett (2008). Op. cit.

72 See Chapter 5.

### Photos of artisanal exploitation techniques



## Chapter 3: Commercial Trading Systems

### Summary:

Since 2000 there have been two commercial trading systems of “conflict minerals”: informal trade through trading houses and “military commercialism”. Despite the departure of foreign troops on Congolese soil, military commercialism has not completely disappeared. The FARDC and various armed groups have taken up this form of trading for themselves, in a less organised way that is very “decentralised” and parasitical. Mineral trading in the DRC is based on a multimodal system of communications using portage, roads and aircraft. The Kivus and Ituri are not only production areas, they are also export routes for the minerals that come from deep within the Congo in Orientale Province, Maniema, and North Katanga. The towns on or near the border where the trading houses have been set up in Goma, Bukavu, Uvira, Beni, Butembo and Bunia fill an essential place in the commercial trading system. These towns form a bridge between an informal upstream and a downstream linked to the circuits of the globalised economy.

This trade constitutes an oligopolistic system that benefits an assortment of officials, soldiers, militia leaders, traders, transporters and foreign intermediaries, which the UN and NGOs have tried to identify with only partial success.

Described as one, if not *the* only motive, behind the wars in eastern DRC, the trade in minerals has been and still is a focus of international attention. While the reports of the Group of Experts, of IPIS, Global Witness, Human Rights Watch, etc., are essentially aimed at denouncing the economic basis for the conflicts in the eastern DRC and unmasking the relations between actors in the international raw materials market and the perpetrators of violence in the DRC, the research literature attempts to decipher the mechanisms of international trade and its impact, particularly as it operates in the DRC. Thus this twofold literature moves back and forth between the minerals trade seen as trafficking (the UN perspective) and this trade seen as one of the manifestations of the informal economy that dominates the DRC and challenges even the very categories of legality and illegality. As this trade is largely informal, some writers judge that it is more “non-legal” than “illegal”.<sup>73</sup> It should be noted that of all the minerals traded commercially in the eastern DRC, coltan has been best documented, for the reason cited above. Given the strength of the market after the crisis in 2008, the gold is now attracting most attention.

In addition to the reports by the Group of Experts, the following documents are especially useful for the analysis of the minerals trade in eastern DRC:

- **Analysis of trade:** publications of the Pole Institute (Mined resources, formal and informal cross-border trade in eastern DRC), of Resource Consulting Services (*Trading conflict for development*), of DfID (Trading for Peace), of INICA, (*L’Economie minière au Kivu et ses implications régionales*) and GRAMA, (*La route commerciale du coltan congolais*);
- **Analysis of relations between actors in the conflict and international trade:** all Human Rights Watch publications, (*The Curse of Gold*), those of IPIS (particularly *Cartographie des motivations derrière les conflits*), and of Global Witness (*Under-mining peace: tin – the explosive trade in cassiterite in eastern DRC*).

<sup>73</sup> On the relevance of the concepts of legality and illegality, as applied to the trade in minerals, see particularly *Les ressources minées* (Pole Institute) and *Trading conflict for development* (Resources Consulting Services). These two studies challenge the relevance of the notion of illegal exploitation, since in the DRC the informal economy is the way the majority of people survive and for them “legality” is synonymous to theft by the state.



Various trading systems are used for trading mineral ores in the eastern DRC. They have not so much emerged successively as they have been superimposed one on top of the other. The trading system based on artisanal miners coexisted with official industrial commercialisation during the colonial period and the Mobutu regime. As indicated in Chapter 1, commercial trading based on formal industrial companies (whether national or foreign) disappeared during the 1990s, swept away by the general disintegration at the end of the Mobutu regime. This kind of trade has not re-emerged, since the two large companies that returned to Kivu (Banro) and to Ituri (AnGoGold Ashanti) are still in the study phase and do not trade in artisanal production (confirmed by the UN Group of Experts). From the time Mobutuism collapsed and the AFDL and RCD appeared, the gap left by the industrial firms has been filled by largely informal trade of the *comptoirs* and by “military commercialism”. These two commercial trading systems reveal the culpable relationships between business, politics and violence as well as the criminalisation of the minerals trade in this part of the world.

### 3.1 Two commercial systems

#### “Military commercialism”<sup>74</sup>

“Military commercialism” defines the system of exploitation implemented by Uganda and Rwanda during the two wars (1996-97 and 1998-2002). It was based on the **more or less direct involvement** of the army in the commercial minerals trade. Described in detail by the UN Group of Experts and several NGOs, military commercialism refers to the use of the army in order to generate direct profits for the political-military elites of Kampala and Kigali. The involvement of Ugandan and Rwandan army officers in the natural resources trade has been demonstrated in several reports. An aircraft accident in 1998 in Ituri exposed the presence together of a UPDF general, Israeli and Indo-pakistani businessmen and family members of James Kazini, Commander-in-chief of the Ugandan army in the DRC; they were carrying US\$1.2 million for buying gold.<sup>75</sup> In addition to this accidental revelation, the mineral exports from Uganda (particularly of gold) and from Rwanda (of coltan) increased significantly after their military intervention in the DRC, considered to be the result of smuggled exports organised by the two countries’ armies. Similarly, according to the Group of Experts, Rwanda and Uganda respectively exported US\$4.5 million and US\$6.2 million in diamonds to Belgium between 1998 and 2001, although neither country has any diamond deposits. After the UPDF’s intervention in Ituri, gold exports from Uganda rose appreciably from 225 kg in 1994 to 6,819 kg in 1997. It should be noted that the Porter Commission challenged the idea that gold production from the DRC had been seized, arguing that the variations in the export figures were due to an initial under-estimation of gold production in Uganda in the official statistics, because of the prevalence of artisanal mining; (90% of artisanal mining takes place outside Uganda’s legal framework).

#### This military commercialism took different forms in Kampala and in Kigali

The Rwandan army organised its natural resources grabbing in a highly rational way, while the less disciplined Ugandan army quickly fell into the trap of this pillage, its officers taking part straight away as both “public” and private operators. In Rwanda, from the beginning of the first war, Congolese mineral imports were controlled by the “Congo desk”, an offshoot of the intelligence services. They are said to have registered US\$64 million of coltan in 2000 and US\$44 million in 2001 (according to IPIS) and to have reinvested between 60% and 70% of the profits in financing the war effort. The grabbing of natural resources was directly organised by the Rwandan army: during the coltan boom (from November 1999 to March 2001), direct flights were made from the production sites in South Kivu to Kigali. In addition, Rwandan trading companies often included high-ranking military officers in their staff (Rwanda Metals, Prime Holdings, Caldar Holdings, TriStar, Rwanda Investment Group). According to the Expert Group, the coltan boom, which lasted only 18 months, brought in US\$250 million to the Rwandan army.

74 Expression invented by IPIS.

75 G. Prunier (1999). ‘L’Ouganda et les guerres congolaises’, *Politique africaine*, No. 75, pp. 43-62.

Salim Saleh, the Ugandan President's brother-in-law, and James Kazini, the general in charge of the UPDF's campaign in the DRC, set up several companies in order to channel Congolese mineral resources towards Kampala; these included Caleb International, a trading company in Kisangani, and an airline, Air Alexander. As Commander-in-chief, James Kazini sent orders to the occupying units of the UPDF to give assistance to the Victoria Company. This company, set up in 1999 and managed by Salim Saleh, his wife and Muhoozi Kainerugabe (one of Museveni's sons), 'enjoyed the monopoly of coffee, diamond and gold exports in the area under his command'.<sup>76</sup> After breaking with Laurent-Désiré Kabila, the Ugandan army, which was present in the Orientale Province, rapidly took over positions in the gold-bearing areas of the north-east (Durba in the Haut Uélé district) and Mongbwalu (in the Ituri district) and laid its hands on about one tonne of gold taken from OKIMO's concessions. The Ugandan army's seizing control of the public company OKIMO's concessions resulted in intimidation and violence towards the Congolese staff of the company who did not want to collaborate.

This military commercialism was also carried on through the intermediary of the Congolese armed movements affiliated to Kigali and Kampala, who took over mining concessions and trading rights. Tibasima, in Ituri, one of the leaders of the RCD-ML, granted the Trinity Investment company a tax exemption covering all its trading activities in the area controlled by this movement – including the transport of gold, coffee and wood from Orientale province to Uganda. During the coltan boom, RCD-Goma granted a monopoly of export taxes on coltan to the Société Minière des Grands Lacs (SOMIGL 2000-2001), and later to the Congo Holding Development Company (CHDC), managed by Gertude Kitembo. These two companies were both **commercial arms of the RCD-Goma**.<sup>77</sup>

This military commercialism was based on the domination of the Ugandan and Rwandan armies and of their Congolese allies. It follows from this that their performance depended on the territorial control of the armies. The attempt to control the production of the mining sites in South Kivu through the CHDC, which in exchange for military protection by the RCD-Goma was supposed to hand over half of its profits to Kigali, failed. The RCD-Goma controlled only the main roads from Bukavu but never managed to exert any real control over sites far away from urban centres and frequently under attack by the FDLR and the Mai Mai. Military commercialism was thus limited by the degree of territorial control exercised by the armies on the ground.

The Ugandan and Rwandan governments rejected the accusation of military commercialism levelled at them by the Group of Experts.<sup>78</sup> They always attributed this phenomenon to isolated acts perpetrated by misguided soldiers. President Kagame accepted that some of the military had engaged in illegal exploitation of natural resources, but said they had been punished. In Uganda, the Porter Commission, set up following the Group of Experts' accusations, exonerated the government of any official involvement in the illegal exploitation of Congolese resources, but nevertheless recommended supplementary enquiries concerning General Kazini and the President's brother, Salim Saleh. The Ugandan government recounted anecdotes to the Group of Experts that gifts in kind (mineral ore) had been given to Ugandan soldiers who had married Congolese women. Military commercialism came to an end with the official withdrawal of the Rwandan and Ugandan armies in 2003), but the commercial relations established during the period 1996-2003 between the Rwandan and Ugandan political-military elites and big Congolese traders die hard. As one of the panel members remarked, 'When the spider leaves, the web remains!' (Mervin Holt). It is easy to understand that the recent Congolese-Rwandan offensive gave rise to strong suspicions that Rwandan military commercialism has returned to North Kivu.

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76 T. Raeymaekers (2003). 'Network war: An introduction to Congo's privatised war economy', IPIS.

77 Idem.

78 Group of Experts' report dated 16th January 2001.

- In spite of the end of the foreign military presence on Congolese territory, military commercialism has not completely disappeared: the FARDC and various armed groups have taken up military commercialism on their own account. It continues, then, in a much less organised form, very “decentralised” and parasitic.<sup>79</sup>

### The system of *comptoirs* (trading houses)

Informal artisanal production in the DRC gives rise to trade that is just as informal, meaning that it functions outside administrative and state regulations. This informal trade is a marketing funnel system run by a chain of traders stretching from the mining sites to the export centres where the main trading houses are located in Bukavu, Bunia, Butembo, Goma and Uvira. This chain begins with the small traders operating near the mines selling to other traders, who themselves re-sell to “big traders” at the *comptoirs*, the only ones authorised to export, at least in theory. This commercial chain is extended into the capitals of neighbouring countries such as Bujumbura, Kigali and Kampala by officially registered trading companies that are the necessary intermediaries for international trade to buyers in Europe, Asia and the United States.

The “big traders” in the DRC, those with the largest volume of business, advance the necessary funds to intermediate traders to buy mineral ores. In some mining sites, trade is dispersed among a large number of sellers (250 in Mongwalu!), whereas at other sites, trading is handled by a few persons in a dominant position. This marketing funnel commercial chain is dominated by a handful of big traders who give the orders: they have the money needed to arrange transport and purchase the minerals. The traders’ activity is largely dependent on the prefinancing provided by the exporters. There are, therefore, many small sellers, many traders, but only a few exporters. Panju, Groupe Olive, MDM, Etablissement Namukaya, World Mining Company and Etablissement Muyeye are the six main exporters dominating the South Kivu market. The principal gold traders in Bukavu are the Namukaya (Congocon) and Panju firms, which sell large amounts of gold and cassiterite from Shabunda and Kamituga. (Between April 2005 and February 2006 Namukaya declared 109.11 kg of gold exports and Panju 549.95 kg.) There are some sixty traders in Butembo, of whom a dozen enjoy a dominant position. As a result of this position, the exporters are able to influence prices in various ways, through stocking, control of transport, etc. This commercial chain is not always followed of course, since some buyers try to bypass the intermediate traders and even the *comptoirs*. In Mongwalu, for example, buyers come directly from Butembo or from Uganda.

While the production phase is totally informal, the commercial trading phase is only partly so. Of the seven diamond *comptoirs* in Butembo, only one has a licence. The traders are rarely registered – of the 60 traders in Butembo, only one third are declared – whereas the trading houses are more frequently operating legally. Whether registered or not, these commercial operators rarely respect the mining code and rarely declare their total sales.<sup>80</sup> Some of the mineral ores cross the border through smuggling – particularly gold, which is easily carried – but those that are “voluminous” and require heavy transport (aircraft or lorries) are registered by different administrative services, sometimes right at the production sites. In the export centres, a degree of formalisation of trade exists in the form of registration of quantities and the levying of taxes by various offices. Coltan from Walikale, for example, follows a relatively formal commercial circuit to the extent that the quantities of coltan sent to Goma by air are “registered” by various administrative services and are taxed. **This administrative formalisation of trade** is obviously not complete, since some coltan is smuggled out and because, as is shown in Chapter 4, there is a widespread practice of under-recording of quantities. Formalisation is more generalised in the regional export centres. Trading companies are often – though not systematically – officially registered by the authorities and they declare at least part of their sales, as can be seen from OFIDA, CEEC and OCC records.

79 On this point, see Chapter 3.3, ‘The key actors’.

80 See Chapter 4.

The formalisation of sales takes a decisive step in the capitals of the other regional countries, where buyers operate in a context of state governance that is stricter than in the eastern DRC. This means official companies are operating in conformity with the commercial legislation in force, maintain accounts, pay taxes and keep records of their sales and purchases. As has been shown by research of the Group of Experts and IPIS, these trading companies have contracts drawn up in due form with the traders based in the countries where the raw materials are processed or with totally official industrial processing companies.<sup>81</sup> At this point, the trading of Congolese minerals largely leaves the informal sector and becomes part of the world market. This integration into formal trade takes place in the transit countries (Burundi, Rwanda and Uganda), even if smuggling still goes on at the eastern borders of these states and if the concealment of the country of the minerals' origin is still current practice.

### Diagram of the gradual formalisation of trade in mining products<sup>82</sup>

Sellers at the sites
Traders
Congolese exporters
Exporters in neighbouring countries

- The upstream part of the commercial trade chain is relatively hidden but it becomes more open as it moves downstream.

## 3.2 The geo-economy of trade

The commercial chain shapes the commercial geography of the region. Intermediate traders – about 10 Indian businessmen and 30 local traders in this “exit” for Watsa gold in Ariwara)<sup>83</sup> – are located in the secondary commercial centres while the “big traders” – a handful in each town – manage their business from Congolese export centres. The commercial routes lead from the principal sites to the two main ports in Mombasa and Dar-es-Salaam.

### Commercial flows to the East<sup>84</sup>

All the mineral ores extracted from the areas under consideration in this study follow routes by road or air to the East. There are seven main commercial routes leaving from Ituri and the Kivus towards East Africa that join the two corridors leading to the Indian Ocean – one to Mombasa and the other to Dar-es-Salaam:

- The route Beni-Butembo-Kasese-Kasindi-Kampala-Nairobi-Mombasa, the best land route (wide tarred road);
- The route Goma-Gisenyi-Kigali-Dodoma-Dar es Salaam;
- The route Uvira-Bujumbura-Dodoma-Dar es Salaam;
- The route Uvira-Fizi-Baraka-Kigoma: a more difficult route which involves a lake crossing, but connects to the rail and road network in Tanzania;
- The route Bukavu-Cyangugu-Bujumbura-Dodoma-Dar es Salaam;
- The route Bunia-Kampala-Nairobi-Mombasa: air route and road transport;
- The route Aru-Arua-Kampala-Nairobi-Mombasa: land route.

Besides these international commercial routes, there are also more modest trading routes from the border towns of Ariwara and Mahagi in Ituri into Uganda. While departure points in the DRC are numerous, cargo by land always ends up on two trade routes: the one leading from Kampala to Mombasa (tarred road throughout) and the other that leads from the west of Tanzania and from

81 To learn the identity of the final buyers, see Chapter 3.3 The final buyers

82 The degree of clarity indicates the degree of formalisation of the commercial actors.

83 Ariwara is a small commercial town in Ituri, to the north of Aru, near the Ugandan border.

84 See the map: Access corridors in the eastern DRC

Burundi and Rwanda to Dar-es-Salaam (less negotiable than the first, but with the advantage of being both a road and a rail route).

Minerals follow the same trading routes as other merchandise and are part of cross-border trade. Political and especially economic considerations accord a certain degree of specialisation in these trading routes. The route from Uvira to Bujumbura is best known for gold exports and the route from Bukavu to Cyangugu for gold, cassiterite and coltan. At the beginning of the 1990s, Burundi was the most important transit country for Congolese gold, but after the regional embargo against the Buyoya regime and the creation of a tax exemption system for gold in Uganda, Uganda became the main transit country. Similarly, Tanzania has played a more important role in recent years for diamond exports (up from US\$115,392 in 2000 to US\$16,015,349 in 2004, without any particular explanation), which illustrates the vitality and development of trading routes in East Africa.

It is revealing from this angle that in its project on 'the DRC's relations with the countries of Central Africa and the Great Lakes region', the CEEC proposes purely and simply a diversion of the cassiterite traffic from the East to the West by river through Kisangani, arguing that this would cost less (!) than air freight through the East and avoid the loss of commercial opportunities for Congolese businessmen.

- **As the whole mineral trade from the Kivus and Ituri is oriented towards the East, diverting it towards the West and Kinshasa would be an economic, geo-strategic and nationalist challenge.**
- **Multiplicity of trading routes in the DRC, in spite of the poor infrastructure**

The contrast between the disappearance of transport infrastructure in the DRC and the multiplicity of commercial export routes is striking. Studied in detail in *Researching natural resources and trade flows in the Great Lakes Region*, the routes for taking gold out of Mongbwalu, an area long without any road access, provide a typical example of this situation:

- Mongbwalu-Bunia-Kampala (air route)
- Mongbwalu-Kwandroma-Mahagi-Kampala (land route)
- Mongbwalu-Watsa-Ariwara-Kampala (land route)
- Mongbwalu-Bunia-Beni-Butembo-Kampala (air route)

Human portage is often the primary means of carrying mineral ores. Bicycles and *tchukudu*<sup>85</sup> are used wherever there is a viable path. The Bisié site, for example, is isolated in the forest with no road to link it to the Goma-Kisangani route, itself barely usable. The path most used to reach the route stretches 45 km between the village of Manoiré in the middle of the mining zone and Ndjingala. The ore is carried on the backs of porters in 50 kg sacks and the trip takes 16 hours. Once it arrives in Ndjingala, the ore is taken by lorry to the improvised landing strip on a section of the tarred road in Kilambo, where small cargo aircraft carry 2 tonnes per flight.<sup>86</sup>

85% of the gold that reaches Bunia leaves by air for Kampala while the remaining 15% goes to Butembo.<sup>87</sup> From Bunia, the airport used for exporting gold from Mongbwalu, the gold follows one of two routes, an indirect one to Butembo in North Kivu, or a direct route to Kampala. Both routes lead to the same destination, Kampala. Other export centres on the Uganda/Ituri border are more direct (Ariwara, Aru, Mahagi). Ariwara is a market for gold heading towards Uganda and handles an estimated quantity of 5 kg a week. Despite the deterioration or even the absence of roads, mineral ores cover great distances. According to the CEEC's branch in Butembo, the

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85 A large home-made wooden scooter that can carry loads of over 100 kg.

86 See Map: Transport of cassiterite from Bisié to Goma.

87 See Map: Production and commercial trading of gold in Ituri.



gold traded in that town comes mainly from Orientale Province (and from Ituri in particular), from North Kivu (Lubero, Beni, Walikale), from South Kivu, but also from Katanga and from Equatorial Province. Diamonds from Kisangani, Bafwasende, Mambasa and even from the Park of the Garamba bordering Sudan come to Butembo. Another example: gold and cassiterite from Kilembwe take the road to Fizi, then to Baraka, and arrive in Uvira for export.

Air transport plays a major role in the domestic minerals trade, since some sites are completely isolated.<sup>88</sup> Butembo is an important minerals market both because of the deposits nearby and its “airport infrastructure” which enables its trading houses to move the production out from Upper and Lower Uélé. The ore from Namoya in Maniema reaches Bukavu by air, since there are no longer any usable roads. The same applies to ore from Kamituga, since the RN2 to Bukavu is in a terrible state, and also to ore from the Kahuzi Biega Park, a large part of which is taken out via the Lulingu landing strip. At the height of the coltan boom, there were around 7 to 10 flights a day between Mubi and Goma. In addition to the international connections from the border towns in Rwanda (Bukavu and Goma) or near the Ugandan border (Bunia, Beni and Butembo), there are direct “international flights” from deep inside Congolese territory – for example between Isiro and Entebbe for the export of minerals and diamonds.

- Despite their difficulty, cost and even dangers, the various domestic trade routes provide a much deeper and denser network for commerce than might be imagined.
- The mineral trade in the DRC depends on a multimodal transport system combining portage, roads and aircraft.
- The Kivus and Ituri are not only production areas, they are also exit routes for minerals that come from deep within Congolese territory in Orientale Province, Maniema and North Katanga.
- Border towns or those close to the borders, where the *comptoirs* are located, fulfil an important role in the system of commercial trading. These towns are a bridge between the informal upstream and the downstream connected to the circuits of the globalised economy.

### The final destinations<sup>89</sup>

A study of several records of commercial exchanges (EUROTRACE, COMESA, TRADEMAP, EUROSTAT) indicates that in 2005-2006, companies importing minerals from the DRC were located in Europe, North America, the Middle East and the Far East:

- Belgium (diamonds, cassiterite, wolframite, cobalt)
- Germany (coltan)
- United Kingdom (cassiterite, cobalt, wolframite)
- Dubai/UAE (gold)
- China (coltan)
- Malaysia (cassiterite)
- Israel (diamonds)
- Netherlands
- Thailand (coltan)

Recent research by the Group of Experts expands this list.<sup>90</sup> Usually through Rwanda, cassiterite, wolframite and coltan are sent to Austria, Belgium, Canada, China, India, Malaysia, Thailand, South Africa, Switzerland, Netherlands, Russia, the UAE and the United Kingdom. Gold goes

88 See map: Transport of mineral ore by air.

89 See map: Countries importing minerals from the eastern DRC.

90 See December 2008 report.

primarily to the UAE and to Europe (Belgium and Switzerland), passing mainly through Uganda and Burundi.<sup>91</sup> The commercial chains highlighted are the following:

- *Export of coltan:*

*The Kazakh connection:* Rwanda Metals – Raremet, Finconcord and Finmining (off-shore companies owned by a Swiss businessman, Chris Huber)<sup>92</sup>–Ulba Mechanical Works (processing works in Kazakhstan);

*The Russian connection:* Pan African Business Group (Goma trading house) – Eurosib Logistics (St. Petersburg-based company) – Novosibirsk Integrated Tin Works;

*The German connection:* Rwanda Metals, Grands Lacs Metals – A&M Minerals and Metals (Trading company in Great Britain) – H.C. Starck (Germany, processing works, Group Bayer AG, market leader);

*The Belgian connection:* Hua Ying, Gemico, Kivu Metal, WMC (Goma trading houses) – Traxys (Belgium);

*The Belgian-Asian connection:* Munsad, Amur, Clepad (agencies) – Trademet – re-exportations to India, China and Thailand;

*The British connection:* Socomi and Kotecha (based in Bukavu) – Afrimex – Thailand Smelting and Refining Corporation (belonging to the British company Amalgamated Metal Corporation);

*The American connection:* Eagles Wing Resources (Rwanda) – Cabott (USA), Trinitech (USA).

- *Export of gold:*

*The Emirates connection:* Machanga and UCI (Burundi and Uganda) – Emirates Gold (Dubai);

*The Swiss connection:* Machanga and UCI (Burundi and Uganda) – Metalor (Switzerland) (subsidiary officially suspended after UN sanctions);

*The Belgian connection:* Etablissements Namukaya (Bukavu) – Machanga (Burundi) – (Belgium).

It should be noted that the importing companies are either companies trading in metals or metallurgical companies directly involved in processing.

In their October 2002 report, the Group of Experts accused 85 companies of having violated OECD principles concerning the involvement of multinational firms in conflict zones. Most of these companies were European.<sup>93</sup> The links in the UN reports said to exist between some foreign economic operators and arms sales (notably by the Kazakh connection with the appearance of Victor Bout's transport company) corroborated the accusation of actively participating in the conflict that was directed to certain foreign business groups.

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91 For example, Burundi exported US\$ 55 million in gold in 2005 to the UAE, Switzerland and Belgium, according to COMESA.

92 Chris Huber, with his Russian associates, was the pivot of the Kazakh coltan network. After his Swiss company Finconcord was condemned for tax evasion in Kazakhstan, he set up two others registered in St. Kitts.

93 UN Panel of Experts Report (October 2002). Annex III, p.7.

### 3.3 The key actors

#### Armed groups and security forces

The role of armed groups in the minerals traffic has been and continues to be a subject of attention by the United Nations, which created a Group of Experts specially dedicated to this task. While the involvement of armed groups in the minerals trade has been known and documented from early on, the involvement of the security forces (FARDC, PNC) has begun to attract attention, as is indicated in the recent report by Global Witness.<sup>94</sup>

Over the years, the Expert Group has accumulated proof of how armed groups have been financed by the trade in minerals and it believes that no armed group has stood outside this system.

According to the December 2008 Group of Experts' report, the CNDP was in contact with Tutsi businessmen active in the minerals trade (such as Tribert Rujugiro Ayabatwa, Senator Mwangachuchu or the Makabusa brothers). The CNDP received taxes of US\$700,000 between September 2007 and September 2008 at the Bunagana customs posts, as well as around the coltan mine in Bibatama, exploited by two *comptoirs* whose activities it had authorised (MUNSAD and MH1). According to the UN, about 15% of the CNDP's financial resources came from the minerals trade since its financial base was quite varied, including taxation at the customs posts in Bunagana and Ishasha.

As well as being a mineral ore supplier, the FDLR collects taxes on merchandise along strategic export routes. The Group stressed FDLR's relations with the large Bukavu traders. In addition, the FDLR traders maintained close business ties with the *comptoirs*, some of which were run by Tutsis.

In its latest report, Global Witness brought to light the FARDC's involvement in mining exploitation in North and South Kivu, either by being physically present or by having local commercial agents. (For instance, the mining shafts "belong" to the provincial military authorities.) The 85th Brigade in Bisié, composed of former Mai Mai, had instituted a double system of taxation: taxes on the production of mineral ores (which brought in about US\$120,000 a month) and taxes on imported merchandise, collected at barriers along the route from Njingala to Bisié, (said to have brought in a further US\$100,000 a month).

In Ituri, the UPC, a Hema movement, exploited the gold-bearing zone of Mongbwalu, following an agreement with the OKIMO management, facilitated by their belonging to the same ethnic group. When the FNI took over, it levied a tax of US\$1 on the gold-panners, bringing in about US\$2,000 a month.<sup>95</sup>

- Armed men profit from the mining trade in at least three ways:
  - levying taxes;
  - payment for protection (the PNC and the FARDC protect the mining sites where Banro and AGK work);
  - receiving a share of mineral ores (the least common method).
- **Armed men are fiscal parasites on the mining trade at the production sites and on the transport routes. They were also implicated in human rights violations (see Chapter 5).**

<sup>94</sup> *Face à un fusil, que peut-on faire ? La guerre et la militarisation du secteur minier dans l'Est du Congo* (2009). Global Witness.

<sup>95</sup> Human Rights Watch (2005). Op. cit.

### “Administrative services”: an institutionalised maquis<sup>96</sup>

There is a **wide gap** between the authorities who hold responsibility for managing the exploitation and trade of mining products and those who levy taxes on the trade. According to Congolese regulations, the administrative services are five in number, while the number of tax collectors varied depending on the imagination of the officials and, above all, on the physical presence of the authorities in places where exploitation and trade were actually going on. (For example, the CEEC were not present at all the export centres in the East, only in Butembo and Goma). These five services include:

- OFIDA, Office of Customs and Excise. It registers and regulates exports and imports. It imposes duties of 5% of the value of products exported and also collects the fees for OGEFREM, the Office for managing maritime freight, and to FPI, the Fund for the Promotion of Industry.
- The Mining Division, whose agents regulate mining products, including weighing and storing before export, either at the *comptoirs* or at the airports. It receives 45% of a compensatory tax, estimated at 1.25% of the value of exports – the balance of 55% destined for the CEEC.
- The OCC, Congolese Control Office, was set up to check the quality and quantity of exported products, but it lost this control over gold and diamonds in 1999.
- The CEEC, Centre for Expertise, Evaluation and Certification, was created in 2003, with the purpose of implementing the recommendations of the Kimberley process for diamonds.
- The Foreign Trade Division registers documents regarding exported and imported products.

Several other services belong on this list, which also provide statistical data – in particular the BNA (Bureau of Air Traffic) and the DGM, the central migration authorities.

As a result of the lack of resources and degradation of Congolese administrative services, **predatory exactions** are imposed along the entire chain of commercial mineral trading in the name of officialdom. Monographs have highlighted this administrative parasitism which begins at the mining sites and continues to the point of export.

#### Some examples of administrative exactions

At Aru/Arua, 12 different services levy taxes on exported minerals:<sup>97</sup> OFIDA, OCC, OGEFREM, ANR, DGM, provincial authorities, territorial authorities, border police, BIC, foreign trade, hygiene and the mining division.

Between the mine in Bisié and the customs post in Goma, mining production is taxed 23 times (many times by the same administrative service: 3 times by DGRAD, 3 times by CEEC, etc.) amounting to a total of about 15% of the product's value (or US\$365 per tonne). The actual level of taxation is 40% for exporting gold exported from Ituri.

It should be noted that everyone considers it natural that the civilian and military intelligence services are involved in the taxation of mining

It is common ground that an increase in the fiscal burden on the mining sector accompanied administrative reunification – moving from the RCD-Goma's regulations to those of Kinshasa – and the creation of “reunified tariffs”.<sup>98</sup> In its day, RCD-Goma had already raised the price of cards for the diggers (US\$50) as well as operating permits for the trading houses (US\$15,000 a year), and these rates have increased even more. In North Kivu, mineral exports brought in US\$ two million (2007) and US\$4.3 million (2008) to the customs authorities, to CEEC, OCC, DGRAD and the Decentralised Administrative Entities; (OFIDA was by far the main beneficiary). Taxation by the administrative authorities is relatively arbitrary at the production sites and on

<sup>96</sup> See map: Local authorities in North and South Kivu

<sup>97</sup> Pact (June 2007). *Researching natural resources and trade flows in the Great Lakes Region*. DfID, USAID, COMESA.

<sup>98</sup> Pole Institute (2005). *Ressources minérales, la faillite de la politique minière en RDC* [Mined resources, the bankruptcy of DRC's mining policy].

the transport routes, but it has stabilised somewhat at the export centres. Still, it should be noted:

- The final recipients of administrative taxes levied on the mining trade remains obscure;
  - Taxation is generally arbitrary and not based on legal documents;
  - In addition to it being arbitrary, the export tax regime for DRC minerals is much more onerous than that in neighbouring countries;
  - The attempt to put things in order in the tax services at border posts failed. In 2002, the government decreed that only four administrative services should operate at border posts: OFIDA, DGM, OCC and the Hygiene Service. This decree has never been respected.
- **The trade in minerals represents a major part of the legal and illegal revenues of officials in charge of regulating trade, and even if the taxes levied are less than they should be because of fraud, they amount to several million dollars a year.**

### The “Big Men” of trade

The big traders are at the centre of the political-financial system that forms the backdrop to the minerals trade. Their financial power gives them access to local and national politicians, the ability to pre-finance the largest purchases of mineral ores, to control the means of transport from the mining areas with difficult access, to set the local price for minerals, to buy protection from armed groups and security forces, and sometimes to instrumentalise them in their competition with rival traders. In 2006, for example, MONUC, Global Witness and the Pole institute reported on tensions between two companies for the control of the mine in Bisié in North Kivu. Mining Processing Congo, a South African company, with good connections in Rwanda, competed with the Groupe Minier Bagandula (GMB), a company also closely tied to the members of the RCD-Goma, for access to the mine. GMB “won” by signing an agreement with the territorial administrator on 28th August 2006, ceding to him 10% of Bisié’s production, for security, i.e. the support of the local FARDC brigade. In addition, the Coopérative Minière de Mpama Bisiye (Comimpa) is a GMB creation: of its 22 founder members, 11 are GMB shareholders. GMB was set up on 23rd September 2005 and half of its shareholding belongs to the Saphir Society. One of GMB’s key people is **Alexis Makabuza**, a financial backer of CNDP.

Three other “Big Men” in the trade have been identified:

- Senator **Mwangachuchu**, the owner of the MHI Company (Mwangachuchu Hizi International), holds the mining squares (*carrés*) of the Bibatama site in Masisi – where the CNDP is active – as well as interests in the Numbi mine in South Kivu.
- Madame **Aziza Kulsum**, otherwise known as Madame Gulamali, is a mixed-race person from Bukavu, who managed SOMIGL, the company to which RCD-Goma had granted the export monopoly of minerals in South Kivu in exchange for US\$1 million a month. She owns a coltan-trading company (Shenimed) with *comptoirs* in Nukavu and Goma. Her payments to RCD-Goma enabled that movement to draw up a budget for the first time in December 2000. She also owned a tobacco factory in Bukavu (Uzabuco) and has been accused of arms trafficking with the Burundi rebel forces FDD and with RCD-Goma. Mme Gulamali is in business with Panju in Bukavu.
- Mr **Omar Oria**, a Ugandan citizen settled in Ariwara, appears to be the leading gold trader in that area, which owes its expansion to the trade. Together with James Nyakumi and Vincent Adjua, Omar Oria was one of the leading traders/financiers of the FAPC under Commander Jerome. In exchange for protection and a kind of commercial monopoly granted by the FAPC, Omar Oria arranged for gold to be moved to Kampala and helped to finance this militia.

These big traders are so powerful they can sometimes disagree with the dominant armed movements. A good example is the failure to control SOMIGL’s mineral exporting, a company that RCD-Goma had given the monopoly exports to in South Kivu. The network of Bashi traders, who were cheated by this decision, resisted and smuggled out mineral ores. As a result, SOMIGL has never been able to impose its monopoly and was abandoned in 2002.



### Tragic end of a Nande Big Man trader: The murder of Kambale Kisoni

Kambale Kisoni, the managing director of Congo Metal, was one of the biggest gold traders of Butembo. Placed on the UN sanctions list in March 2007 because of his connections with the FNI that controlled Mongbwalu, he was assassinated on 5th July 2007; he was a close associate of Mbusa Nyamwisi and an amiable contributor to the RCD-ML's war effort, indeed its main paymaster. His air company, Butembo Airlines, flew directly between Mongbwalu and Butembo and carried arms and troops for the FNI, besides gold, which earned him a spot on the UN sanctions list.

He was gunned down in his Butembo office by a team of international killers (Kenyan and Ugandan). Shortly before his death, he had taken steps to be removed from the UN sanctions list. Several theories circulated about his assassination: jealous businessmen who wanted to take over his business, and concerns in Kinshasa or Kampala about possible revelations in exchange for taking him off the sanctions list. The Butembo trading community observed a day of mourning in his memory by closing their shops. His wife took over his business and converted it into a clothing and other consumer goods business, gave up the mineral trade and moved to Uganda.

- The “big traders” are the strategic link in the system of commercial mineral trading and the point of concentration of capital and of the network of relationships that is indispensable to doing business in this environment. Who they are is still only partly known.
- The network of traders often have an ethnic base (Hemi, Bashi, Nandé and Rwandaphone traders divide the market), although no ethnic group has an exclusive hold on trade.<sup>99</sup>

### The indispensable intermediaries

The transporters and the trading companies based in neighbouring countries are the indispensable intermediaries of this trade.

TMK is the main transporter in Goma and provides transport between Beni and Goma, and then through the north corridor from North Kivu to Mombasa. The Jumbo Safari Company is in second place. The air carriers involved in the mineral trade in Bukavu include: Delta Force, Atral, Zalia (flights for Kamituga), Agefreco Air, Congocom Air and Stellavia (flights to Namoya), Agefreco Air, Congocom Air, Grace Express, Lokole and Acocha (flights to Namoya) Agefreco Air, Congocom Air, Grace Express, Lokole and Acocha (flights to Shabunda and Lulingu). Two Bolloré subsidiaries are also present in the region – Agetraf SDV in Bukavu and SDV Transami in Kigali.

Aided by very favourable policies for exporters (no import taxes) and by the Ugandan Army's control over the north-east of the DRC, Ugandan companies successfully began exporting gold. Between 2002 and 2006 the main gold exporters were:

- Uganda Commercial Impex
- Machanga Limited
- AP Bhimji Limited

UCI and Machanga have been on the UN list since 2007. Machanga Ltd. has a branch in Bujumbura and therefore also buys gold coming from South Kivu. Between 2005 and 2007, Emirates Gold bought from this company in Uganda and in Burundi 10.17 tonnes of gold, 6.61 tonnes from UCI, 1.39 tonnes from AP Bhimji Ltd. and 0.03 tonnes from Congomet. UCI has a refinery for treating the gold it imports.

The main gold export companies in Bujumbura were Farrel Trade & Investment and Gold Link Burundi Trading, managed by Mutoka Ruganyira. The first of these companies ceased trading

<sup>99</sup> See map: Ethnic groups in Kivu.

in 2009, leaving the second in a monopoly position; its director was well connected to power circles in Burundi and often travelled to Dubai. There are altogether 64 registered trading houses in Burundi.

On the Rwandan side, trading companies are numerous:<sup>100</sup>

- Africa Primary Tungsten
- Afriprom
- Albert Mupenzi
- Centrale Multi Services
- Copimar
- Ets Munsad
- Ets Mbanzabugabo
- Eurotrade International
- Harelimana Froduald Enterprises
- Imperial Trading Company
- Metal Processing Association
- Metrade Overseas
- Minerals Supply Africa
- Multiserve Consult
- NRD Rwanda
- Niobium Mining Company
- Phoenix Metal
- Pyramide
- Redemi
- Rwanda Metals
- Sodem
- Trading Services Logistics
- Valence Kalinda

It should be noted that Rwanda carries out (primary) processing of mineral ores. Gisenyi has a tin foundry – the property of Metal Processing Association, which owns Metal Processing Congo in Goma<sup>101</sup> – while in Kigali several trading houses separate out other components such as iron and tungsten from the coltan. According to the Rwandan minister of mines, 25% of Rwandan imports come from the DRC, although Global Witness estimates this figure could be closer to 80%.<sup>102</sup>

- **There is a lack of information about exporters in neighbouring countries, especially in Burundi and Uganda.**<sup>103</sup>
- **There is a lack of information about who are the real owners of trading companies in the three neighbouring countries.**

### The foreigners

The presence of **foreign business milieus** in the Great Lakes commercial trading system is a phenomenon that cannot be overlooked. Three groups of foreigners appear repeatedly during investigations into the minerals trade:

**Businessmen from the former Soviet Union:** at the time of the coltan boom, many citizens of the former Soviet Union turned up (Uzbeks, Kazakhs, Russians, etc.). Conmet, an active trading

<sup>100</sup> N. Garrett & H. Mitchell (April 2009). Op. cit.

<sup>101</sup> MPA is considered to be a South African company. Created in 2001, it produces 200 tonnes of tin ingots a year.

<sup>102</sup> Global Witness (July 2009). Op. cit.

<sup>103</sup> In their last report, the Group of Experts emphasised the lack of cooperation by the authorities in Burundi over providing information on export companies and their alleged links with FDLR networks.

house in Beni and Butembo, was run by Russians, whose managers were based in Kampala. Valentina Piskanova was the general manager of Conmet, which belonged to the Ugandan company, Kullinan Finance Investment that had supply contracts with Germany, South Africa and Kazakhstan. Valentina Piskanova also had a presence in Ituri through the Ituri Gold Mining Company Limited. This Russian presence via Uganda was part of the Kazakh coltan connection. In addition, there has been a renewal of Russian interest in niobium.<sup>104</sup>

**Lebanese diamond merchants** appeared to be closely connected to the Ugandan elite at the time when the UPDF were in the DRC. IPIS and the Group of Experts have documented their activities by showing Lebanese ties with the Victoria Company. (Khalil Nazeera Ibrahim, one of the key persons in this company, owned a restaurant jointly with Salim Saleh's wife.) They also showed the Lebanese presence in the DRC through diamond *comptoirs* in Orientale Province in Beni and Bukavu as well as their relations with Belgium (where they export diamonds and own other companies and real estate). Clearly, the Lebanese circles active in the diamond sector in eastern DRC redirected their activities to Kampala, when Uganda became the "dominant power". The trading house Sodexmines in Goma has been managed by a Lebanese businessman since 2005 on behalf of one of the big businessmen of the DRC.

**Indo-Pakistani businessmen from the Great Lakes** are highly active in the gold trade in Uganda (through the companies UCI and Machanga Ltd) and in Burundi, through Farrel Trade and Investment Corporation. Machanga is run by the businessmen Rajendra Vaya and Vipul Kumar and UCI by J.V. Lodhia. The Indo-Pakistanis of Kampala have also been accused of involvement in gold-trafficking, implicating the Pakistani UN peacekeepers in Ituri. At the moment, the Indo-Pakistanis of Uganda are the only people whose companies remain on the UN sanctions list (UCI and Machanga).

It should also be noted that SDE and Sodexmines, two Goma trading houses, belong to the Elwyn Blattner's group, an American businessman who settled long ago in the DRC and owns several companies.

- This change of direction and the appearance of Lebanese diamond merchants in Kampala's circles of power indicate the extreme flexibility and adaptability of the actors in the diamond trade.
- These business milieus often serve as a bridge between the Congolese mineral trade and the international criminal community, particularly mafia-like organisations, illustrated by the appearance of Victor Bout as a transporter and the links the UN uncovered between the arms traffic and mineral exports.

### 3.4 Distribution of benefits along the trading chain

The lack of a consistent application of fiscal regulations, the interest of the operators in maintaining a degree of opaqueness around their activities, and the various mechanisms for fraud make it impossible to calculate the real profits from mineral exploitation in the eastern DRC that are derived by those participating actively or passively in this trade. A number of studies have tried to evaluate the income of the different actors. While it is not possible to achieve a high degree of precision, there is no doubt that the diggers receive only smallest portion of the value added coming from the mine. Their daily pay is around 1 or 2 or 3 (US) dollars a day, amounts spent at once with the shopkeepers for daily necessities, particularly food. The isolation of many of the mines has a heavy impact on the cost of living, since much of the supplies are flown in. As can be seen from the various reports on the mining economy,

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104 See Chapter 2.

most of the value of production leaving the mine is divided among team leaders, managers, owners and the military.

Nevertheless, field observations confirm the impression that the higher one goes in the commercial chain, the greater the benefits obtained. The diggers at the bottom of the chain hardly earn enough to survive; the traders who control the commercial flow between the mine quarries and the trading houses are able to make a profit – approximately US\$100 per month, according to local traders. Depending on the volume of their trade, the exporters earn profits that amount to thousands, if not millions of dollars – just like the passive actors in the trade, represented by the officials and armed men. Whilst the analyses do not show how value is distributed throughout the commercial chain, they all agree on the fact that the great losers in the trade are the diggers. On the one hand, the diggers are victims of a lack of balanced information, compared with the buyers, who analyse samples and accordingly fix the price and on the other hand, the diggers have no capacity to save.<sup>105</sup>

The neighbouring countries are the real beneficiaries of this **shared income**, to the extent that mining production in the DRC enables them to increase their own exports of minerals and therefore to improve their balance of trade and strengthen their national budgets. This forced division of the Congolese mining income has been highlighted by comparing national output and exports. In a 2005 study, Global Witness<sup>106</sup> quotes OCC figures for the total exports of cassiterite from North and South Kivu: 7,591 tonnes. An analysis of data collected in Rwanda shows that it exported 1,800 tonnes more than its own nationally-produced cassiterite. This NGO drew the conclusion that ‘it is very likely that these imports came mainly from the eastern DRC, including the conflict zones.’ Similarly, a comparison between gold production and exports in Uganda is rather telling, revealing that the exported gold came mainly from the DRC, and more particularly from Orientale Province.

#### Exports and gold production in Uganda (kg)

	1994	1996	2000	2004	2006	2007
<b>Exports</b>	225	3206	7 303	5 465	6 937	3 556
<b>Production</b>	2	3	56	178	22	25

Source: D. Fahey (2008). ‘The River of Gold: gold production and trade from Mongbwalu, DRC’. pp. 357–383. *L’Afrique des Grands Lacs. Annuaire 2007–2008*. Paris: L’Harmattan.

Quite apart from the quality of the mineral ores, it goes without saying that the profitability of this trade depends on many parameters: transport costs, the extent of fraud and changes in world prices influence profitability more than the diggers’ earnings. The factor of “changing world prices” was clearly seen during a) the coltan boom that allowed for the rapid enrichment of some operators and b) the collapse of prices in 2008. Since then, the actors in the mineral trade have tried to reposition themselves in gold, whose price is stable.

- The profitability of the mining industry depends on too many parameters (particularly parameters for which information is weak) to be evaluated without an econometric model.

<sup>105</sup> See Chapter 5.

<sup>106</sup> Global Witness (2005). *Under-Mining Peace: Tin – the Explosive Trade in Cassiterite in Eastern DRC*.

## Chapter 4: Mechanisms of Fraudulent Activity

### Summary:

The minerals trade in the DRC is characterised by a high degree of fraudulent activity in terms of illegal taxation and of fraud over exporting/smuggling. The difference between legal, illegal and “deregulated” activities is often difficult to establish and most of the trade is carried on in a subterranean economy, which gradually becomes a more formalised one as the mineral ores approach closer to the borders for export to the world market. A certain number of national and international mechanisms aimed at improving the regulation of the mining sector have not yet reached the Kivus, and their success is still very limited at national level.

### 4.1 Nature of fraudulent activity

Fraud in the minerals trade in the DRC is a vast subject. A good deal of information and detailed documents are available about it. Many sources give excellent descriptions of the character of fraud in both the formal and informal mining sectors in the DRC. They contain far more elements revealing the complexity of the question than can be elaborated in the present study. The sources are as follows:

- Reports of the Pole Institute (Goma, DRC), in particular ‘Rules for Sale’;
- Documentation of the research project ‘Trading for peace’, financed by DfID, USAID and COMESA;
- The reports of the Panel of Experts and of the Group of Experts of the UN.

Other reports and comments from NGOs, such as Global Witness and Rights and Accountability in Development (RAID), go more deeply into the links between the minerals trade and violent conflicts, and emphasise the question of corruption in the process. Other writers, Hans Romkema, Koen Vlassenroot and Tim Raeymaekers, have also brought information together on fraud in the minerals trade in connection with local government and societal changes. The recent analysis, *Trading conflict for development: Using the trade in minerals from eastern DRC for development*, published in April 2009 in the context of the project ‘Trading for peace’, gives the most up-to-date perspective of the functioning of the mining sector, with a thorough-going discussion on fraud amongst the principal local actors.

According to the 2007 report entitled ‘Le commerce au service de la paix’, **the percentage of specific exports from the DRC, which officials did not record as they should have, was estimated to be 50%.** This problem can be attributed to bureaucratic inadequacies, to the poor management of the state regulatory agencies and to fraudulent conduct aimed at evading taxes and charges. Officials themselves often violate the regulations, which the 2007 report identifies as the principal reason why the traders take part in fraudulent behaviour.<sup>107</sup>

This chapter of the study deals essentially with fraudulent behaviour, although bureaucratic and regulatory inadequacies make the system particularly open to corruption.<sup>108</sup> **There are different kinds of fraudulent behaviour discussed in the resources trade literature, namely:**

107 DfID, COMESA and USAID (October 2007). ‘Le commerce au service de la paix: Instauration de la sécurité et réduction de la pauvreté par le commerce des ressources naturelles dans la Région des Grands Lacs’ [Trading for peace : bringing security and reducing poverty through the natural resources trade in the Great Lakes region], p.4-7.

108 *Ibid.* p.5.



1. Illegal taxation
2. Fraudulent exporting/contraband

### Illegal Taxation

Taxation of the mining sector is not illegal in itself, but many state officials levy heavier taxes than what is authorised by Congolese law.<sup>109</sup> Although Congolese law specifies which agencies are authorised to regulate trade at the borders, this law is not respected and quite often, more agents are present there than the law authorises. In addition, there are frequent complaints of taxation by the Congolese army, illegal in all cases, particularly in the eastern DRC.<sup>110</sup> It should be noted that taxation by armed groups is not limited to the trade in mineral ores. **In the eastern DRC in general, the strong presence of security forces (the army, the government police or members of armed groups) leads to the harassment of the population in all economic sectors.**<sup>111</sup>

In the eastern DRC, there is also the phenomenon of “legal but not recorded” trade in products not liable to tax, which the officials do not bother to list. Handicapped persons are exempt from taxation at the borders and are therefore used as traffickers. They can move whole lorry loads in a very short space of time by making multiple journeys in their wheelchairs or in specially adapted carts.<sup>112</sup> **At the height of the conflict, a large part of the mining sector operated without any regulation or formal structure, which is what we mean by “deregulation”.**<sup>113</sup> Indeed in 2001, the UN panel of experts tackled the question of the exploitation of resources from the point of view of a “financial war”, rather than that of a confrontation between legal and illegal activities.<sup>114</sup> Similarly, artisanal mining can be described as “deregulated”, even if it produces beneficial results for individuals and the state.<sup>115</sup>

The Mining Division estimates revenue received in the Kivus between January 2007 and September 2008 at US\$6 million, which means that the formal part of trade was far from negligible.<sup>116</sup> The situation is complicated at local level, however, where **even taxes legally collected (in other words by those who are legally empowered to collect them) can be utilised illegally by the same officials for personal enrichment rather than being placed in the official accounts.** According to the study ‘Le commerce pour la paix’, 30 to 40% of the taxes legally collected end up in the pockets of the officials who collect them.<sup>117</sup> In other words, there is no budgetary transparency in the administration and taxes legally collected can be used in illegal ways.

Both legal and illegal taxation is levied along the whole length of the trading chain, from the mine up to the market. Efforts have been made for years to set up a legislative framework in order to fill legal holes. As is shown in one of the Pole Institute’s reports, ‘One can never be certain, for example, if trade in a rebel area should be considered illegal if the trader pays no tax at all or if, on the other hand, he does pay it’.<sup>118</sup> To take another example, should tax evasion be seen as fraudulent even if it is common knowledge that tax receipts are used improperly by those who collect them instead of being placed in the state treasury? The Pole Institute’s report also shows that **the existing structures for exploiting resources were only made legal when the belligerents became legitimate leaders, although the resources still failed to benefit the Congolese people.**<sup>119</sup>

109 See Chapter 3, ‘Key actors’.

110 N. Garrett and H. Mitchell (2009). Op. cit., p.7.

111 A. Tegera and D. Johnson (May 2007). *Rules for sale: formal and informal cross-border trade in eastern DRC*, p.7. Goma: Pole Institute.

112 A. Tegera and D. Johnson (2007). Op. cit., p.21.

113 ‘Le commerce au service de la paix’, Op.cit., p.14.

114 T. Raeymaekers (2003). Op. cit., p.11.

115 N. Garrett and H. Mitchell (2009). Op. cit., p.7.

116 Ibid.

117 ‘Le commerce au service de la paix’, Op.cit., p.26.

118 ‘Natural Resource Exploitation and Human Security in the Democratic Republic of Congo: Seminar Report’, p. 18. (February 2004). Pole Institute & International Alert.

119 Ibid., p.24.

### Fraudulent exporting/contraband

Trade across the borders between the DRC and its eastern neighbours has existed since long before the conflict. There are strong ethnic links that cross over borders, notably between the Nande of the “Great North” in North Kivu and the Kondjo in Uganda and between the Banyarwanda of the “Little North” and the Rwandans. Another fraudulent trading practice dating from before the war: some people try not to pay taxes to the bureaucrats in Kinshasa.<sup>120</sup> Gold is apparently one of the commodities traded fraudulently, as it can easily be carried or concealed. While reliable statistical data for trade in the eastern DRC remain difficult to obtain, it is estimated that 35% of trade in the East is never reported. For cassiterite leaving the airport in Goma, this would correspond to the equivalent of around US\$9.4 million (in 2007 prices).<sup>121</sup> This figure could reach as high as 95% for gold.<sup>122</sup> According to a May 2008 World Bank report, **the whole DRC mining sector should produce about US\$200 million in revenue per year (an estimate made before the current financial crisis). Yet in 2005, the government declared that it had received US\$27 million in taxes from the mining sector.**<sup>123</sup>

The traders often avoid paying taxes and duties at the areas of control at the borders by “negotiating” with officials. They pay them something in an informal way rather than paying taxes to them. This suits both parties and has given rise to the expression of “fraud between consenting adults”.<sup>124</sup> Another possibility is for the traders to avoid the places where taxes are collected by using another means of transport. The Pole institute has identified several different forms of export fraud in the mining sector in North Kivu.

Mechanisms for fraudulent exporting
The operators and service providers in North Kivu conspire to arrange that a large proportion of goods enter the province from neighbouring countries and leave the province for these same countries informally, even at official border posts. This fraudulent transit operates in various ways:
The goods are untaxed or exempt from entry or exit duties, and thus the customs do not even bother to record them;
The incorrect usage of trade nomenclature for calculating the taxes is another way of exacting higher sums than the amounts due;
The goods are subject to tax, but to reduce the amount, the importers and exporters bribe the customs officials and other agents of the state to record lower quantities or lower value or let them pass without declaring anything at all;
The state organisations involved abuse their status and do not apply the tax or customs rules, either in part or in total, to traders or certain traders, in return for personal payments;
Taxable goods are hidden beneath non-taxable goods and only a minimum of careful inspections are made or none at all, in exchange for personal payments;
Traders benefiting from tax exemptions for certain goods conceal other goods within a consignment of exempt goods;
Traders enjoying tax exemptions act on behalf of others who are not exempted;
Goods are handled by people who know highly placed officers or other members of the army and security forces instruct the civilian service representatives to “look the other way” when vehicles pass;
Goods pass through unofficial border posts – in the open country, on minor roads or by boat, crossing the lakes.

Source: Pole Institute, Interviews with state officials and traders in Goma, January-April 2007.

Source: ‘Le commerce au service de la paix’, p.25

120 A. Tegera et D. Johnson (2007). Op. cit., p.15.

121 N. Garrett and H. Mitchell (2009). Op. cit., p.29.

122 Ibid., pp.7 and 23.

123 World Bank (May 2008). ‘République Démocratique du Congo: La bonne gouvernance dans le secteur minier comme facteur de croissance’, p.6. Report No. 43402-ZR.

124 A. Tegera et D. Johnson (2007). Op. cit., p.7.

According to the study ‘Le commerce au service de la paix’, the traders and a large number of officials would actually prefer a better system of regulation that was “fairer” than the existing one. But the current system is more economical for the traders than the formal system. The Pole Institute quotes an observer for whom, ‘If everyone paid all their taxes, everything would become too expensive for people to buy’.<sup>125</sup>

Another Goma trader explains, ‘At present, I have to pay US\$6,500 in tax to legally export a 25-tonne container of cassiterite from the DRC. If I export it from Rwanda, it costs me US\$200; from Uganda US\$40. So if I can first get my product to Rwanda or to Uganda and then export it officially from those countries, I save a lot of money. To avoid the DRC taxes costs me US\$2,000 for each container, so I save US\$4,500. The DRC is the only country in the region that still levies an export tax. It has been abolished everywhere else’.

Source: ‘Le commerce au service de la paix’, p.26.

- ‘Le commerce au service de la paix’ compared the mining sector’s recorded exports with the real figure, which revealed the gap between the two and the serious under-reporting of information. This does not apply only to minerals, but also to foodstuffs, machinery, vehicles, etc. Several official agencies collect data about trade, which explains the lack of a single reliable source.<sup>126</sup> Different agencies collect information on different products and some statistics on the same products even differ between agencies. Some goods are registered in categories in which they do not belong.

### Attempts to quantify fraud

Several efforts have been made to estimate the extent of fraud. The above-mentioned Pole Institute study tried to estimate it from the specific case of cassiterite coming from Walikale (Bisié mines) and exported through Goma, by comparing the data of different administrative agencies, including the Office of Aerial Navigation in Goma, the Walikale Mining Office and the DGM [National Migration Agency] in Walikale.

#### Estimate of cassiterite from Walikale on its way to Goma in 2006 (in tonnes)

OFIDA	Foreign Trade	OCC	Mine Division	BM Walikale	BNA Goma	DGM Walikale
2 948	2 896	2 912	2 904	4 767	4 818	10 309

These figures show little difference between the four services directly involved in exports. On the other hand, the differences between the figures provided by the Walikale mining office, the Office of aerial navigation in Goma, and particularly the office of the migration authorities (DGM) in Walikale are substantial. If the data recorded by the DGM is reliable – as the researchers of the Pole Institute believe – this implies that half the production disappears between Walikale and Goma; if one compares these data with OFIDA’s statements, more than two thirds of the production vanishes and escapes from state control and taxation. For the researchers of the Pole Institute, the DGM’s registry differs from all the others because its agents are not in a position to “negotiate” any service they can render.

This carefully-studied example shows how difficult it is to obtain satisfactory statistical information. Everyone is aware that production figures are seriously under-estimated by the official services, but by how much? The figure of 35% put forward in ‘Le commerce au service de la paix’ is only a hypothesis. Fraud is especially significant for gold, since the majority of its production is moved

<sup>125</sup> *Ibid.*

<sup>126</sup> The organisations that collect statistics are OFIDA (customs office), the provincial trade department, the OCC (Congolese control office), the Mines and Geology Division and the CEEC (Centre for expertise, evaluation and certification). The Pole Institute’s report ‘Rules for Sale’ suggests that a detailed examination be undertaken of how all these agencies carry out their tasks.

fraudulently into the neighbouring countries. According to a study of cross-border trade carried out by INICA in 2007, most of the gold produced in South Kivu leaves as contraband on its way to Bujumbura.<sup>127</sup> The authors of 'Le commerce au service de la paix'<sup>128</sup> compare official figures for North and South Kivu mineral exports with figures they think correspond to reality:

	Recorded exports	Real exports
cassiterite (2006)	6 748 t	16 870 t
gold (2005)	609 kg	10 000 kg

The table below shows the difference between the reported level of exports and the estimated real level.

**Table 1: Evaluation of real and recorded exports from the DRC**

Registered exports from the DRC	Estimated real exports	Observations
Copper (2005)		
OFIDA, 117 315 T	223 000 T	Real volume based on registered imports into Zambia, adjusted upwards by 10%
Gold (2005)		
600 kg (South Kivu); 9 kg (North Kivu)	About 10 T	Based on the quantities produced, the US Geological survey, and traders' estimates
Cassiterite (2006)		
3 599 T (DM, North Kivu) 3 149 T (OFIDA, South Kivu)	16 870 T	Estimate of real volumes based on the details of air freight loaded in Walikale, as recorded by the Mining General Management, and on estimates from traders on the levels of exports and unregistered production
Wood (2006)		
25 000 m3, see paragraph 40	50-70 000 m3 from Ituri, North Kivu	Exports from eastern DRC. Real quantities based on wood imports registered in Uganda, Rwanda and Burundi, where data collection is relatively reliable.
Imports of petroleum products (2005)		
Recorded volume, 16 264 m3	Real volume, 25 805 m3	Data compiled by the Beni branch of the national petroleum company SEP-Congo, 2005 (June to September)

Source: 'Le commerce au service de la paix', p.17.

In addition, **mineral ores are recorded several times along the commercial chain, leaving the way open to multiple possibilities for fraud.** The mineral ores dispatched from the mines to the trading centres near Walikale are recorded on their departure from the airport in Walikale, a second time when they reach the airport in Goma, and again on their leaving Goma by road for the international market. In addition, records are maintained by neighbouring and transit countries. The banking system also provides a strong potential for fraud. Income from foreign trade is indeed illegally taken

127 INICA, UNECA (2007). *Natural resources and trade flows in the Great Lakes Region*.

128 H. Sunman and Nick Bates (2007). 'Le commerce au service de la paix'. DfID, USAID, COMESA.

by the central government to finance its expenses.<sup>129</sup> All this provides a strong incentive for traders to avoid the formal sector altogether. Similarly, the traders' evaluation of the ore at the production site gives rise to fraud towards the producers, as they under-estimate the quality or manipulate prices.

- **The style of fraudulent activities is classic (swindling and fiscal confusion, abuse of power by officials, etc.) and characteristic of a predatory administration operating in the context of a failed state.**

## 4.2 Attempts at regulation/accountability in the mineral ore trade

### National initiatives

The Government of the DRC promulgated a Mining Code in 2002,<sup>130</sup> followed by Mining regulations in 2003,<sup>131</sup> defining how the Code was to be applied. The Mining Code confirmed which agencies were empowered to regulate the mining sector, namely the Minister of Mines, the Mining Survey Department, the Mining Division and the department responsible for protecting the mining environment.<sup>132</sup> The Code also established a baseline for working out taxes, customs dues and payments associated with the minerals trade. But like many laws in the Congo, the code has never been fully applied.

The Mining Code set up, among other things, a mining survey or cadastral service, under the supervision of the Mining and Finance ministries, in order to regulate the management of mining rights and titles, and thus reduce the possibilities for fraud. This service, the Cadastre Minier (CAMI) receives requests and issues permits for research and exploitation. The World Bank has noted problems in following up payments, between those billed by CAMI and those received by the Ministry of Finance and the Central Bank. The World Bank has also taken note of the accusations of pressure on the CAMI in order to obtain 'exceptional treatment with regard to the directives and established criteria within the framework for transparency in issuing mining rights'.<sup>133</sup>

A certain number of government organs are responsible for different aspects of follow-up and the regulation of the mining sector. The CEEC,<sup>134</sup> an autonomous agency, was created to implement the Kimberley process, but it is also responsible, under a recent Decree, to evaluate and supervise the quality of mineral ores before they are exported. The OCC has responsibility for supervising the quality and quantity of products imported and exported. **Given the poor capacity of all state agencies to supervise trade in an effective way, the possibilities are growing for those interests hostile to change to use the supervision process for their own benefit.** As indicated in a report from CASM in 2008, 'it is not uncommon for individuals or organisations (mining companies, politicians or military) to spread false information deliberately, to exaggerate or to seek favours from the authorities, in order to be in a good position during and after the formalisation process'.<sup>135</sup> The SAESSCAM (Service d'assistance et d'encadrement de l'artisanat minier) is a state agency set up to provide technical help and advice to artisanal miners to inform them of the law, training in mining methods, organisation of cooperatives, as well as health and safety, etc.<sup>136</sup> In principle, this initiative should help to reduce the exploitation of artisanal miners. But in addition to problems caused by insufficient funding, the SAESSCAM has faced accusations of conflicts of interest over its responsibility for collecting taxes and internal corruption. These accusations come from the artisanal miners themselves.<sup>137</sup>

129 A. Tegera et D. Johnson (2007). *Op. cit.*, p.59.

130 Law No. 007/2002 of 11th July 2002.

131 Decree No. 038/2003 of 26th March 2003.

132 'Corruption et gouvernance en RDC durant la transition (2003-2006)', p.53.

133 'République Démocratique du Congo: La bonne gouvernance dans le secteur minier comme facteur de croissance' May 2008, p.41. World Bank.

134 Decree creating this agency included in annex.

135 N. Garrett (2008). *Op. cit.*, p.24. Communities and Artisanal & Small-Scale Mining Initiative (CASM) 1st June.

136 N. Garrett (22 October 2007). 'Preliminary observations from the Democratic Republic of the Congo (DRC)'. Extractive Industries Transparency Initiative (EITI) and Artisanal & Small-scale Mining (ASM), pilot study.

137 N. Garrett (2008). *Op. cit.*, p.22.



A certain number of national initiatives have been undertaken to examine the fraudulent or abusive aspects of mining contracts. The peace agreement signed in 2003 called for setting up a multiparty parliamentary commission to investigate the exploitation of natural resources during the war from 1996 to 2003. Under the leadership of Christophe Lutundula, the “Lutundula Commission” published its 2005 report, pointing to the mining contracts that should be cancelled or renegotiated. The Commission also recommended the institution of legal procedures against certain political figures and businessmen.<sup>138</sup> At the time, some NGOs criticised the National Assembly and the Government for their lack of reaction to the recommendations in this report.

In 2007, the Congolese Government began examining 61 mining contracts, with a view to issuing recommendations over the revision or cancellation of these contracts. The aim was to put right the “imbalance towards private enterprises to the detriment of the state.”<sup>139</sup> The final report of the investigative commission, published in March 2008, recommended that 39 contracts should be renegotiated and 22 terminated. The Australian company, Anvil Mining, in whose case a cancellation was recommended, had obtained a complete exemption from taxes for itself and for one of its sub-contractors for twenty years, thanks to a contract signed in 1998. The Congolese Government began a long-term process of renegotiation with the last six mining enterprises, whose contracts had not been dealt with. This process, involving AngloGold Ashanti, Banro, First Quantum, Gold Fields, Freeport-MacMoRan and Mwana Africa, has just been extended for six months.<sup>140</sup> NGOs such as Global Witness have criticised the lack of transparency and accountability in this examination process.<sup>141</sup>

### Initiatives by the international mining sector

The Initiative for the Extractive Industries Transparency Initiative (EITI) is a coalition of governments, private companies, civil society organisations and concerned parties who support better state governance in the mining sectors through transparency and the publication of corporate tax payments and government receipts. The EITI proposes norms and guiding principles, but putting these into practice is the responsibility of member states. The DRC is a candidate member of EITI and must validate its application between now and 9 March 2010 in order to become a member in good standing. A national committee has been created and has published a work schedule.<sup>142</sup>

The OECD’s guiding principles for multinational businesses represent the norms to which governments voluntarily adhere concerning corporate behaviour on human rights questions, on the fight against corruption, on taxation, and on publishing information, amongst other things. During the conflict, the UN Panel of Experts drew on them as a reference for evaluating the role played by businesses in supporting the economic activities of the armed groups in the eastern DRC. The Panel specifically recommended that the signatory governments should make sure that businesses registered in their countries should not violate OECD principles.<sup>143</sup>

According to ‘Le commerce au service de la paix’, the Kimberley process has clarified the management of the diamond sector, but ‘production and sales remain considerably under-declared’.<sup>144</sup> Others have commented that the Kimberley process set in motion ‘commercial processes aimed at putting an end to what is essentially a problem of governance, of which insecurity is a symptom, [and is therefore] mistaken about the fundamental dynamics of the question’.<sup>145</sup>

138 Global Witness, ‘R.D. Congo: mettre fin à l’exploitation illégale des ressources naturelles’, press release. 12th February 2006. See [http://www.globalwitness.org/media\\_library\\_detail.php/422/fr/r.d.\\_congo\\_mettre\\_fin\\_a\\_lexploitation\\_illegale\\_des](http://www.globalwitness.org/media_library_detail.php/422/fr/r.d._congo_mettre_fin_a_lexploitation_illegale_des).

139 IPIS ‘République Démocratique du Congo: Contrats miniers – État des affaires’, p.1. [25th March 2008]. Antwerp.

140 The Northern Miner, ‘More delays for DRC’s big miners’. 17th April 2009.

141 See for example ‘L’examen des contrats miniers en RDC: filière rapide ou fausse piste ? [Congo Mining Contract Review: Fast Track or False Trail?], a Global Witness press release, 18th February 2008. [http://www.globalwitness.org/media\\_library\\_detail.php/629/fr/lexamen\\_des\\_contrats\\_miniers\\_en\\_rdc\\_filiere\\_rapide\\_t](http://www.globalwitness.org/media_library_detail.php/629/fr/lexamen_des_contrats_miniers_en_rdc_filiere_rapide_t)

142 See web page at <http://eitransparency.org/fr/R%C3%A9publiqueD%C3%A9mocratiqueCongo>.

143 Report of the UN Panel of Experts, October 2002, p.36.

144 ‘Le commerce au service de la paix’, Op. cit., p.24.

145 ‘Trading conflict for development’, Op. cit., p.28.

### Actions by the United Nations

The UN Security Council has passed many resolutions concerning the DRC and the exploitation of natural resources. In 2000, the Security Council set up a Panel of Experts on the illegal exploitation of natural resources and other forms of wealth in the DRC. This panel was mandated to collect information and to make recommendations to the Council about the illegal exploitation of resources in the DRC and the connections to the conflict. In 2004, the Security Council set up a Sanctions Committee and a Group of Experts to supervise the launching the arms embargo in the DRC.<sup>146</sup> In numerous reports, the Group of Experts mentions the criminal networks operating in the eastern DRC that provide support to the armed groups and goes into role of the mining sector.

To insure the improved regulation of the mining sector, the Group of Experts in its December 2008 report recommended that the Security Council call on MONUC to establish teams at the Bunagana and Kasindi border posts to carry out cross-border spot-checks.<sup>147</sup> The Group also recommended that the member states should work out and publish a map of mineral-rich regions and the position of armed groups, in order to inform businesses of the origins of the minerals they were buying. These two recommendations have been implemented. The member states were also encouraged to ensure that businesses under their jurisdiction were exercising reasonable diligence over the question of origin.<sup>148</sup> In its previous reports, the Group had recommended to neighbouring states to carefully screen and prevent economic partnerships between their national enterprises and the armed groups.<sup>149</sup>

Following the recommendations of the Group of Experts, the Security Council gave MONUC a mandate to 'prevent the provision of any support' to illegal armed groups, by means obtained through illicit economic activities' and 'to use its means of surveillance and inspection to prevent illegal armed groups from benefiting from support coming from any traffic in natural resources'.<sup>150</sup> In another resolution, the Security Council extended the ban on travel and the freezing of assets to include 'persons or organisations supporting the illegal armed groups in the eastern Democratic Republic of the Congo by means of illicit trade in natural resources'.<sup>151</sup> The same Resolution encouraged member states to ensure that importers, processing industries and consumers 'exercise all the necessary precautions in regards tot their suppliers and to the origins of minerals they purchase' and to transmit to the Sanctions Committee the names of persons or entities to be put on the list of travel bans and the freezing of assets.<sup>152</sup> As Security Council resolutions are legally binding, individuals can be prosecuted for commercial transactions benefitting armed groups. But the Group of Experts also indicated that many member states are not fully applying existing sanctions against individuals.<sup>153</sup>

- None of these attempts at regulation or enforcing a return to order has borne fruit.

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146 Security Council Resolution S/RES/1533 of 12th March 2004.

147 Report of the UN Group of Experts, December 2008, p.57.

148 Ibid, p.58.

149 See for example Report of the UN Group of Experts, S/2004/551 of 15 July 2004, p.31.

150 UN Security Council Resolution S/RES/1856 of 22 December 2008, Operative paragraphs 3(g) et (j), pp.4-5

151 Ibid., Operative paragraph 4(g), p.3.

152 Ibid., paragraphs 15-16.

153 Report of the UN Group of Experts, December 2008, p.52.

## Chapter 5: Impact of Mining Exploitation on the People and the Environment

### Summary:

Most artisanal miners are in a poverty trap, as they either choose or are compelled to work in the mines in order to survive. The economic and social impact of a massive flow of people towards the mining sites can only be evaluated by integrating all of the activities of the people, particularly agriculture, since heading for the mine is often provoked by crisis in the countryside. Mining work represents a break with traditional social organisation by changing the roles of young people and women. It is a dangerous activity with the risk of accidents as well as violent in the context of rivalries between armed groups. Sexual violence towards women is a result of this generalised insecurity more than of mining as such.

The Rwandan and Ugandan military occupation and the coltan boom transformed mining exploitation into a real pillaging of natural resources, with no respect for the natural parks and animal reserves. Wild animals have paid a heavy tribute as hunting escalates to supply game to the miners and the military. The environmental consequences of mining activity depend greatly on population densities.

The United Nations recognises the negative impact of mining exploitation on the people and on the environment, but this is more specifically documented by NGOs that have denounced the “war commerce” in the eastern DRC. Inspired by both human rights and by environmental questions, substantial literature has developed on this point, including key studies by the Pole Institute, particularly *Le coltan et les populations du Nord Kivu* [Coltan and the people of North Kivu], the reports of Human Rights Watch, Amnesty International and Global Witness, not to mention the documents published in journals such as *Congo-Afrique* by CEPAS in Kinshasa or the Annual *L’Afrique des Grands Lacs* by the Centre d’Etude de la région des Grands Lacs d’Afrique in Antwerp.

### 5.1 The mining economy as a poverty trap

#### Mining activity: Between poverty machine and economic lifeline

The artisanal mining economy is a survival economy on a grand scale affecting hundreds of thousands of Congolese. Estimates of the number of miners in the literature are somewhat random. But the figures are striking: 200,000 people are thought to be involved in the mining economy in North Kivu. This order of magnitude is not impossible for a province that already had a population of 2,434,000 inhabitants in 1984. According to the head of the Mining Division in Bunia, Ituri has at least 60,000 gold-panners, divided amongst the sites in Mahagi (10,000), Djugu (20,000), Irumu (10,000) and Mambasa (20,000). In Mongbwalu alone, artisanal exploitation involves from 50,000 to 60,000 miners on the concession, according to the recent well-documented study by Dan Fahey, ‘Le fleuve d’or’ [River of gold].<sup>154</sup> In addition, there are the South Kivu sites and in Maniema, for which there are no estimates, but which undoubtedly reach into the tens of thousands of people, given the number of known mining sites. Whilst only very rough estimates are possible, one thing is certain: **the artisanal mining force is an essential source of income for hundreds of thousands of families throughout eastern DRC.**

154 D. Fahey (2008). ‘Le fleuve d’or: The production and trade of gold from Mongbwalu, DRC’, pp.357–383. *L’Afrique des Grands Lacs*. Annuaire 2007–2008. Paris: L’Harmattan.

**Despite its effect of creating jobs, mining activity is a poverty trap.** Behind the illusory appearance of sudden enrichment, it generates a dynamic of impoverishment. Research into the human consequences of artisanal mining usually concentrates on the diggers. These are certainly the most numerous categories and the least well provided for. Other actors in the trading chain from the mine gate to the *comptoirs* are not however altogether neglected. There are winners and losers amongst them, but who are they? A detailed study would certainly show that those ethnic groups who traditionally fill the commercially dominant positions are the same as those who control the mineral trade – the Bashi in South Kivu, and the Nande in North Kivu. Both of these consider the Banyarwanda intruders and have always sought to discredit them since they are competitors.

The diggers' earnings from their work are minimal, which means they are unable to turn them into advantage. Different sources – the UN Group of Experts and the NGOs – have tried to calculate the diggers' income. For gold-panners, for example, it can vary from US\$1 and US\$6 a day, depending on the sites, which is not a poor salary by Congolese standards. The monthly income of diggers in Kamituga is close to US\$30. In 2007, a study<sup>155</sup> on gold exploitation in Ituri and Orientale Province estimated the daily production per miner to be about 0.5 grams on average. The diggers earn between US\$1 and US\$2 a day. According to the Group of Experts, of the 17 mining areas studied in Ituri, only four made net gains. Out of 39 households studied in Nord and South Kivu, 75% were indebted. Because of the remoteness of the sites, food and consumer goods were between two and three times more expensive near the mines. The diggers also spent some of their earnings on beer and women. They were often forced to incur debts with the traders who manage the commercial circuits between the quarries and the trading houses as well as the flow of consumer goods in the other direction. The miners are completely dependent on those controlling the exploitation of the mines and the sale of the ore. This indebtedness is more apparent in the rainy seasons when it is difficult to work. Overall, the median income of the miners is just enough to survive. **The Group of Experts even concluded that in the end the diggers' yearly income was negative and that they were easy prey for the money-lenders.** However, this idea of a negative income, based on an accounting approach to the problem, seems inadequate to explain this grim reality completely submerged in the informal. **The diggers' financial position appears to be similar regardless of the mineral they are mining.**

Before becoming a “poverty trap” for them, the mine represented an attractive economic alternative for many, because they saw it as a way of stepping into the modern world and a chance of making – or so it is believed – easy money. A large number of people have been displaced by the armed violence suffered by the civilian population in Kivu. When they are not looked after by the UNHCR or humanitarian NGOs, they find salvation in the mines, a local alternative to migration to some faraway town. Those who have been marginalised by being uprooted find themselves compelled into accepting the least well paid work, which is breaking up the mineral ore. Alongside these poorest of the poor, who have fled from their villages, are town dwellers, young school dropouts or officials whose salary – when they get one – is not sufficient to provide a living for their families. A number of teachers are among them, some working full time in the mine, others during the school holidays. After the MONUC-sponsored disarmament, demobilisation and reinsertion operations, former soldiers, particularly those from the Mai Mai, became miners. Mines also offers economic opportunities for women, like small canteens run by “mothers” who need only a saucepan to set up a restaurant and feed the unmarried men. The least well off women find a place in the mineral production chain by taking part in breaking up cassiterite and coltan ore, in gold-washing and in carrying water.

Koen Vlassenroot and Timothy Raeymaekers, in their study on Kamituga, noted that people dig for gold because growing manioc doesn't bring them any money. They mention the fact that the gold-washers or *garimpeiro*<sup>156</sup> who succeed are an example for their children.<sup>157</sup> This

155 K. Hayes et al. (2007). *Researching natural resources and trade flows in the Great Lakes Region*. PACT.

156 De Boeck Filip (2001). 'Garimpeiro worlds: Digging, dying and "hunting" for diamonds in Angola', pp. 549–562. *Review of African Political Economy*, 90/28.

157 K. Vlassenroot and T. Raeymaekers (2004). 'Divisé en deux. Or et identité sociale à Kamituga (Sud-Kivu)' [Split in two. Gold and social

phenomenon was already noticeable before the war, according to a 1987 study in the Bushi country, where 30% of the young men had left farming for the mines.<sup>158</sup> In the highly populous regions in the eastern edge of Kivu, difficult land access for the youth is one of the main reasons why they leave the area.

**Faced with an economy of extortion that exploits their labour power, the miners have few means of defence.** They try to reconstitute some sort of society in places where photographs and films come close to evoking penal labour. To make up for the loss of social cohesion previously rooted in family structures, new kinds of social ties emerge, similar to the dynamics in the very poorest towns, where poverty, in the words of Theodore Trefon, is transformed into the “solidarity of despair”.<sup>159</sup> But however painful the miners’ conditions, abused by the mirage of enrichment or under duress from a situation of armed conflict, in their eyes such a life is better than that of agricultural labourers stuck in their villages without any access to basic social services.

- **Whilst the artisanal mining economy provides no lasting wealth for basic workers, it does offer a means of survival to all those who either voluntarily or under duress end up working in a mine.**
- **Only with solid quantitative data – as accurate as possible – will it be possible to correctly measure the economic and social impact of artisanal mining.**

### Social transformations and artisanal mining

The artisanal labour force engaged in mining is part of a worldwide social transformation that brings with it migrations from the countryside to mines and to urban centres. Small towns develop in the largest mining areas. By shifting the geographical distribution of the population, these centres of urban growth around the mines produce changes in the economic, social and cultural arenas in the Kivus and Ituri.

This profound change does not date from the recent wars but goes back to the 1980s, when the liberalisation of mining attracted tens of thousands of young people. Social change is to be measured according to all the dynamics affecting society and the physical space it inhabits. From this angle, Kivu was not spared from the deterioration of transport infrastructures which led converting the Congo into a series of “islands”. The breakdown of links between town and country moved isolated villages backwards in time towards the sphere of self-sufficiency, jeopardising food supplies to the towns and to the mining areas. The demands of the armed groups and the pillaging of harvests have accentuated the division between towns and their hinterland. Kamituga, about 180 kilometres to the south-west of Bukavu, became impossible to reach by road, except with such difficulty that the aeroplane replaced the lorry to supply an urban centre with more than 10,000 inhabitants. The impact of the cost of transport on consumer goods weighs heavily on the personal budgets of the miners, who must bear the expenses of isolation. Older people recall with some nostalgia the days when SOMINKI used to buy part of the local food crops in order to feed its own workers. Back then the roads played their role as a link between sellers and buyers. **A return to a formal economy is only conceivable if the transport infrastructure is improved.**

The consequence of this exodus of young men from the rural economy is hard to evaluate beyond taking note of a decline in agriculture and a reduction in food security, which the reports attribute to a deficit in the male labour force. Everyone interrogated during the Pole Institute’s field studies referred to the effects of evictions on agro-pastoral activities and mining. The actual situations is often more complicated: it is not exceptional for miners to own land that members of their families are exploiting, as a safety net. Systems of agricultural production need to be carefully studied. Amongst Bantu groups living in the forest, for example, women play a central role in

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identity in Katimuga]. *L’Afrique des Grands Lacs*. Annuaire 2003-2004.

158 H. Dupriez (1987). *Bushi: l’asphyxie d’un peuple* [Bushi : the asphyxiation of a people]. Bukavu: ADI-Kivu.

159 T. Trefon (2002). ‘The political economy of sacrifice: Kinosis and the State’. *Review of African Political Economy*, No. 93/94.



labour, while men primarily prepare the fields for cultivation using slash and burn techniques. Women perform all the remaining work – sowing, planting, weeding, reaping and transporting crops from the field to the village. The men's absence is only a real problem during the period of slash and burn in the dry season. This is a critical period, but it lasts only a few weeks, or only several days if a chain saw is available. The many reports on mine conditions do not tackle or only in a very limited way the question of the work timetables. This calls for investigation, since informal production systems are often characterised by multiple activities.

It is the prolonged absence of the young men at the mines that destabilises the farms. It reduces the productive capacity of family farming, since the women and the older men are unable to carry out the work involving heavy labour such as clearing the ground. The production of food crops is thus affected quantitatively and also qualitatively. The loss of wild game resources, due above all to reckless slaughter by the armed groups, leads to protein deficiencies. Doctors point to a return of *kwashiorkor*. Isolation, the lack of health care structures and the lack of security all contribute to aggravating living conditions in the villages.

- The diggers are not a homogenous group, either socially or culturally, contrary to the conclusions of most studies focusing on their economic status, their income levels and the nature of their expenses. The sociological complexity of hundreds of thousands of diggers within the DRC must be taken into account in the perspective, even if a distant one, of their reinsertion into an economic system that is less informal than today's.
- The sustainable improvement of the miners' economic situation does not depend only on increasing their income, but also and perhaps above all on rebuilding transport infrastructure, as it is key in connecting rural areas to markets; is the disappearance of road traffic that has transformed these areas into enclaves.
- The struggle against poverty depends on re-launching all segments of the economy, reintegrating agriculture into the national market economy, as well as improving working conditions in the mines.

## 5.2 Insecurity and violence in the artisanal mining sector

The system of artisanal mining exploitation leads to direct and indirect violence. The acts of direct violence along the whole length of the trading chain of mining products can be placed into two categories: those carried out by armed men (militia or security forces) against those carrying on the trade and those carried out between traders themselves. The minerals trade is a violent business, and even when the mining areas remain "calm" they are still areas of violent peace, the "Congolese Far West", or more correctly the "Far East". The conflicts between the informal owners of mining "squares" often give rise to violence, when the intervention of the authorities regarding questions of rights is not sufficient. For example, in Mukungwe (South Kivu) two groups claiming ownership of the mining site appealed to military men to help them get the upper hand. The presence of armed groups is naturally the leading factor of violence. Even if the NGOs agree that the phenomenon of enslavement of the local populations by the armed groups is rare in artisanal mining, some cases of this have been found. The NGO Justice Plus denounced the FARDC's enslavement of the Walendu Bindi in Bhavi, forcing the young men to dig gold for them.<sup>160</sup> The Ugandan army perpetrated violence in Durba against OKIMO managerial staff from 1999 on, to force them to take part in their acts of pillage and to increase gold production. In Mongbwalu, where confrontation between the FNI and the UPC for the control of the area caused some 2,000 deaths between 2002 and 2004, it is believed that the exactions by the militia were replaced by those of the FARDC, when they took over the concession. The Groups of Experts, in its February 2007 report, confirmed that there was no difference between the militia and the

<sup>160</sup> Justice Plus (2007). *Ituri: l'armée n'a pas fait la différence*.

FARDC, who in Ituri, 'occupied the gold mining areas where they replaced the different militias and use force to impose their will and extort taxes from the mining communities'. In Ituri again, it should be noted that two military observers from MONUC, deployed in Mongbwau, have been assassinated. The traders are also the victims of armed men who often intercept them in order to steal the goods they are carrying. Banditry did not stop at the borders: the route from Entebbe to Kampala, notorious for being used by smugglers, was the scene of many bloody robberies.

The role of violence in the exploitation of and trade in minerals is controversial. The level of violence carried out by men in arms varies in fact considerably from one group to another and from one site to another. In Bisié, the 85th Brigade exercised control rather than coercion over the population by the selective use of violence. A kind of unequal exchange appears to have developed between the people who dig and upon whom the armed groups depend for their funding and the latter, who ensure the diggers' physical protection.<sup>161</sup> This phenomenon can also be seen in Kilo Moto, where during the Ugandan occupation, certain UPDF commanders invited and encouraged the population to come and work in the mines, through an agreement to divide up the gold produced: each miner had to pay one gram of gold a day in return for protection.

Indirect violence involves women and children. The social impact of mining activity is regarded in a very negative light by the Congolese who associate mining sites with the breakdown of families, the deterioration of moral standards and the emptying of the schools. The women complain of being left behind in the village and having to bring up the children and cultivate the land without any financial support, as most of the diggers are unable save any money. The men's absence not only has economic consequences, but is felt also on the level of personal security. Women on their own are less secure than when there is a man in the household. The women are the main victims of a general lack of security. Just recently, a campaign by the group Enough described the eastern DRC as the most dangerous place on earth for women.<sup>162</sup>

Sexual violence is not directly connected with the mining economy, but with the lack of security and the reigning anomie in the areas outside the law where the Kalashnikov is king. Against this background, the mine milieu is more protected than the isolated villages without defence, which are exposed to exactions of every kind by those carrying weapons. On the other hand, they are major centres of prostitution. Young girls who want to escape from the constraints of family authority are lured by making money. Others drift to the mines because they have been rejected by their families, for example after being raped. This prostitution in places with deplorable health conditions is a factor in spreading AIDS.

Children are also involved in mining production. In Kamituga, they go to school in the morning and look for gold in the afternoon. The small amount of money they earn pays for their schooling. According to reports, the dropping out of school is worse in mining areas than in rural areas, but what is in the situation today in the village schools? They too have not been left untouched by the disorganisation of education resulting from the war. Even the category of "child" is unclear without precise research work on the age and jobs that children perform. For example, at what age do youth start working underground? Young boys are often appreciated for their suppleness and agility, allowing them to slip easily into the bowels of underground exploitations. Many children present on the mining sites help their parents or their teachers because of their physical abilities. The war produced many orphans and some have found the mines to be a means of survival.

- **Relations between the labourers and the armed forces are based on a forced alliance of interests.**
- **Individuals at artisanal mining sites face a permanent state of insecurity.**

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161 Report of the Experts' Group of December 2008, and N. Garrett (2008). Op.cit.

162 Enough (2009). *Ten reasons why eastern Congo is the most dangerous place on earth for women*. Washington, DC: Center for American Progress.

### Accidents at work and health risks

Working conditions in artisanal mines are extremely dangerous. Every year, landslides sweep away their quota of diggers. The rudimentary techniques employed in the underground mines also lead to frequent accidents. Miners in Adidi, an underground mine in the Mongbwalu area, were exposed to continual risks: lack of ventilation, use of charcoal fires to weaken the rock and improvised roof supports. During the Ugandan occupation, security was the last of the military's considerations, who thought only about pillaging resources. Towards the end of 1999, about 100 miners died in the collapse of the underground mine of Gorumbwa, because of intensive exploitation methods. Several dozen miners were buried alive in Bibatama, in Kibabi in March 2001 due to inadequate roof supports. The technical side of artisanal exploitation means the risks are always high. Two miners were suffocated, for example, in the underground mine in Senzere (Mongbwaku) on 24th February 2004.

In addition to the fact that the diggers risk their lives at the mine, the physically exhausting work there affects their health. Some local initiatives are aimed at better managing the risks and minimising the nuisances created by extractive activities. Mining companies say they are concerned by these questions. In Mongbwalu, a study on the miners' living conditions carried out in 2007 by the Cadre de Concertation (CdC), set up by AGK, revealed the deterioration of the state of health of those living in mining areas: illnesses due to dust and chemical substances used (mercury and acids), sexually transmitted diseases, accidents, miscarriages among women working at the mine, without forgetting the cost to children of hard work and sexual abuse. The CdC report provides examples of social actions in favour of the diggers that include education for better use of their income, and encouragement for economic diversification. Such initiatives are still rare, and people are usually left to their own devices or seek succour for their distress from religious groups and from the sects flourishing in this atmosphere of misery. All this is a general problem, not one specific to the mining world.

### 5.3 Geo-environmental impact

The environmental consequences are all highly negative: chemical pollution of water tables, deforestation, diversion of rivers, levelling of entire hills and disappearance of arable land as well as intensive poaching in the parks to feed the miners.

The different areas protected, including national parks, game reserves, and national reserves, have all greatly suffered from the wars and from invasion by miners. The degradation of the fauna and flora has been well documented by the major international NGOs devoted to the protection of nature and by their local connections. The Institut Congolais pour la Conservation de la Nature (ICCN) has, for example, received support from GTZ for a project concerning the National Park of Kahuzi Biega (PNKB). The Wild Life Conservation Society (WCS) is also very active in the area. In the lower part of the park called "Low Altitude", covering 90% of the park's 5,400 sq. km, the WCS counted nearly 3,600 elephants and 8,000 gorillas, figures reported in *Le Gorille*, an environmental communication journal, published by the Project PNKB-GTZ.<sup>163</sup> During the coltan "fever" in 1999-2000, some 12,000 local and foreign diggers (Hutus from the current FDLR) settled inside the park on some twenty sites. The NGO, Vision Verte, from Bukavu, drew up a precise map of this.<sup>164</sup> A comparison between this map and a GTZ map several years earlier is telling: back then the park was practically uninhabited.<sup>165</sup>

Considering the park's immense size, the damage inflicted by the opening of these mines was little more than a few gashes in the gigantic mass of the forest. But the slaughter of wild animals to

163 SOS (2001). 'Le PNKB à la merci du Coltan'. *Le Gorille*, June, No. 4.

164 See map: Sites of coltan exploitation in the Kahuzi Biega Park.

165 Institut Zairois de Conservation de la Nature-GTZ (1996). *Cartes de la végétation et de l'utilisation des terres du Parc National de Kahuzi Biega et des régions avoisinantes* [Maps of vegetation and land use in Kahuzi Biega National Park and neighbouring regions].

feed the workforce has caused considerable damage, especially since part of the poached game is diverted to markets in the Kivu towns. Dried game meat (the lack of roads prevents transporting fresh meat) from the national park is for sale in Bukavu market stalls, where ivory is also easily found. **The losses caused to the environment cannot all be attributed to the mining economy, but rather to the whole predatory system that the war unleashed for which biodiversity also pays a high price.** The small mountainous part of the PNKB, called “High Altitude”, which is home to world heritage of the mountain gorillas, has also suffered, not from mining activity, but from the powerlessness of the park managers, helpless in the face of the armed bands in search of trophies. During the summer of 2000, the WCS organised a census of the gorillas, estimating their number had dropped to 130 from the 258 recorded in 1996.

The activities of the Diane Fossey Foundation, supported by the media and its publications,<sup>166</sup> have contributed towards awareness among many actors and decision-makers in the North. Created in 2003, the Durban Process fought for the protection of the Kahuzi Biega gorillas. This advocacy work made an impression on the companies in the North. The American company, Cabot, one of the largest in the tantalum industry that was targeted by the 2000 UN experts’ reports, decided to stop buying coltan coming from the DRC, in particular from the protected areas. ‘We do not and will not knowingly purchase any material containing Tantalum, including coltan, which was mined in the Kahuzi-Biega National Park and the Okapi Wildlife Reserve in the Congo’.<sup>167</sup>

The environmental consequences of mineral exploitation largely depend on population density. From this point of view, Kivu is quite varied. Its eastern part, up to a hundred kilometres from its borders with Uganda, Rwanda and Burundi, has the highest densities in the DRC, up to 250 inhabitants per sq. km, or more, whereas towards the West, the territories of Walikale and Shabunda have fewer than 10 inhabitants per sq. km, according to the 1984 census, as is shown in Henri Nicolai’s precise cartography.<sup>168</sup> Twenty-five years later, the contrast between populated or over-populated areas and those that are empty spaces remains stark. In the absence of a census, satellite imagery provides confirmation. In the meantime, the population has doubled. One of Kivu’s basic characteristics is this “oro-demographic escarpment”, which separates the populated highlands from the empty lowlands. Daily life in the mines also depends on human densities in the surrounding areas. The opening of a quarry generates conflict only in areas of dense settlement. On the other hand, feeding the miners is less difficult there than in isolated areas far from habitation that must rely on supplies being flown-in.

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166 I. Redmond (2001). Op. cit.; K. D’Souza (2003). Op. cit.

167 *Cabot Position on Tantalum and Coltan and the Democratic Republic of Congo* (August 2008). Cabot.

168 H. Nicolai (1998). *La répartition et la densité de la population du Kivu* [Population distribution and density in Kivu]. Brussels: Académie Royale des Sciences d’Outre-Mer. See map of North and South Kivu: population density by community.

### Destruction of river banks and deterioration of the landscape at the gold-bearing sites in Ituri





## Chapter 6: Summary of Recommendations

### Summary:

The current sanctions regime is not effective. The problem of “conflict minerals” gives rise to two main groups of recommendations:

- Restrict trade, more or less radically, from total embargo to selective bans;
- Formalise or regulate trade by a mixture of economic, institutional and security initiatives.

Several initiatives are underway, including one on traceability (Germany) and another on the obligation to certify the origin of mineral ores (USA).

All the actors (NGOs, UN, Parliamentary groups, etc.) are looking for a solution to “conflict minerals” and combine their reports with recommendations. The first generation of reports, which coincided with the coltan boom, suggested a boycott of Congolese mining products and sanctions against those involved in the trade. These recommendations were applied in some respects and ten years later it is possible to draw some conclusions. A second generation of reports now calls for a “**global strategy**” which would link sanctions, an improvement in security and the formalisation of the mining sector. The most recent version of this second generation of recommendations was produced by the American NGO, Enough. It proposes in its ‘comprehensive approach to the DRC’s conflict minerals’,<sup>169</sup> a four-pronged strategy:

- transparency in the supply chain;
- making strategic mines secure;
- reforming governance;
- developing economic opportunities for the diggers.

### 6.1 Main recommendations, classified by theme

In this chapter, recommendations are classified according to the thematic order of this report, and their originating organisation is indicated in brackets.

#### Recommendations relating to the system of production

Recommendations	Methods of implementation
Break the territorial control of armed groups over the production of minerals	Deploy FARDC and MONUC in the principal mines and trade routes (Resource Consulting Service) Prevent access to mining sites and trade routes to the belligerents by means of surveillance by MONUC (Global Witness) Legal action against soldiers involved in minerals trading (Global Witness) Cautious reindustrialisation (bring in responsible mining companies, while leaving room for artisanal miners) (Resource Consulting Service)
Reform the security system	Training, discipline and regular payment of the PNC and FARDC (UN, DfID, APPG, SARW, Global Witness)

<sup>169</sup> Enough. *Comprehensive approach to Congo’s conflict minerals*. Washington, DC: Center for American Progress. 23rd April 2009.

Formalise the artisanal mining sector	Set up mining cooperatives (World Bank, Global Witness, Pact) Develop SAESSCAM (register diggers, issue cards, etc.) (Resource Consulting Service, World Bank, Global Witness) Officially designate areas for artisanal mining (Resource Consulting Service, World Bank) Develop CEEC controls in artisanal mines (Resource Consulting Service, CEEC)
Restore legal security	Review land titles, mining contracts and local community rights (DfID) Simplify and clarify mining rights, particularly to distinguish the roles of traders and agencies (UN) and resolve conflicts between customary rights, land rights and mining rights (Pact) Extend CAMI's services in the provinces (World Bank, Global Witness)
Reinforce the application of mining rights	Set up an independent mining authority (national and international) to supervise application of the mining law and especially the attribution of concessions in the Kivus (APPG) Create a Congolese parliamentary commission on natural resources (APPG)

### Recommendations relating to the system of commercial trading and the struggle against fraud<sup>170</sup>

Recommendations	Method of implementation
Reduce the revenue taken out of the minerals trade by armed groups	Total ban on the import of certain minerals from the eastern DRC (IPIS, HRW) Implementation of reasonable diligence (UN, Global Witness, Enough)
Simplify, harmonise and clarify customs tariffs in the Great Lakes region	Negotiations in the framework of the CEPGL (DfID, Resource consulting services) Establish a regional customs organisation (DRC, Rwanda, Burundi, Uganda, Tanzania) (INICA)
To ensure traceability along the supply chain	Obligation on the importing companies to publish the origin of their mineral ores (Enough, IPIS) Effective application of "due diligence" (Global Witness, HRW) Setting up of an administrative procedure for identifying mineral ores <sup>170</sup> (ITRI) Statutory obligation for independent audits on importing companies on the origin of mineral ores, with fines for violations (Global Witness, Enough, IPIS, HRW) Developing an administrative certification throughout the supply chain (DfID, Global Witness, Pact, Resource consulting services, UN) Developing a geochemical certification (Pact, Institut fédéral de géosciences) Monitoring of mining activities by civil society (APPG, HRW)
To formalise cross-border trade	Publish accounts and of export taxes paid by the trading houses (DfID, Resource consulting services) Institutionalise a forum for regional dialogue (Resource consulting services, Pact) Establish joint customs posts (Resource consulting services) Set up a regional EITI or apply the national EITI to the Kivus (Global Witness, DfID, Resource consulting services)

<sup>170</sup> 'Progress report: towards a responsible cassiterite supply chain'. Available at [www.itri.co.uk](http://www.itri.co.uk).

<p>To fight against customs fraud</p>	<p>Independent monitoring of administrative services' behaviour at the borders by observatories of cross-border trade (DfID, INICA, UN) Training of and regular salary payment to customs officers Reform of customs procedures (DfID) Reduce the number of administrative services involved in cross-border trade (DfID) Privatise customs services (UN, APPG) Reveal the identities of corrupt officials and prosecute them (Pole Institute) Define the payment at source of 40% of receipts, according to the Constitution (Pole Institute, SARW)</p>
<p>Ensure that OECD principles and UN sanctions are respected</p>	<p>Publish maps of the mining production areas under the control of armed groups (UN) Surveillance of trading and industrial companies by their governments (IPIS, UN, Global Witness, HRW) Prosecution by the IPC of traders involved in "conflict minerals" (Global Witness) Systematic commitment to criminal prosecution of companies violating sanctions (Global Witness, HRW, Resource consulting services) Boycott by Western consumers of products made with "conflict minerals" (Enough) Stop the exploitation of minerals in certain zones occupied by armed groups (HRW, IPIS, Global Witness) Create a "gold observatory" in Ituri (HRW)</p>

### Recommendations relative to the impact on people and the environment

Recommendations	Methods of implementation
<p>Diversify local economic opportunities</p>	<p>Agricultural development (SARW, INICA, Pole Institute, Pact, Global Witness) Development of infrastructure (particularly roads to serve agriculture) (INICA, Pole Institute, SARW, Global Witness) Create local markets (INICA, Pact)</p>
<p>Develop social responsibility among mining companies present in the DRC</p>	<p>Develop a code of conduct for mining enterprises (UN)</p>
<p>Adopt Congolese environmental standards suitable for artisanal and industrial mining activities</p>	<p>Law or Decree (INICA)</p>
<p>Improve the diggers' safety</p>	<p>Surveillance of working conditions in artisanal mines by SAESSCAM (World Bank)</p>
<p>Increase the awareness of the diggers about their rights and market prices</p>	<p>Mobile telephones (INICA) Dissemination of the Mining Code (INICA, World Bank) Training of diggers by SAESSCAM (World Bank)</p>
<p>Reduce child labour</p>	<p>Programme of education for children employed in the mines (Pact)</p>



## 6.2 Moving from the ineffectiveness of the current sanctions regime to certification/traceability

Emerging from the work of the Group of Experts, the first generation of measures passed consisted of targeted sanctions, decreed by the UN Security Council. These took the form of:

- **Blacklisting** (individuals or companies appearing on the UN List are no longer to be used as suppliers or traders by mining sector companies);
- **Freezing assets;**
- **Ban on visas.**<sup>171</sup>

Even the United Nations conceded that these sanctions, which do not target trade in itself but only certain actors in illegal trade, have not had the intended effect. The ‘sanctions bother their targets, (but) their general effect is to reduce hardly at all the activities they aim to put an end to’.<sup>172</sup> In other words, they did not stop the illegal exploitation of the DRC’s natural resources, nor prevent the armed groups from profiting from the mineral trade, nor put an end to violence. The multiplicity of traders, of *comptoirs* and of export possibilities render ineffective sanctions targeting a few traders who conduct business with armed groups. In other words, the present sanctions are incapable of:

- Limiting the recourse to force in the extraction of mineral resources;
- Discouraging fraud;
- Punishing all the mining operators who are guilty of having relations with the militias.

According to the UN, one of the great weaknesses of the present sanctions systems is the lack of cooperation among the states that have responsibility for implementing the sanctions. Although the UN put the two largest Ugandan gold exporters on their list in 2007, these companies were never bothered by the Kampala authorities: one of big traders in Ariwara, Ozia Mazio, who died in 2008 and was on the list of people violating the embargo by supplying arms to the FAPC -- blacklisted by the US Treasury and the Bank of England for gold trading -- continued to buy gold in Mongbwalu in 2008 and went regularly to Kampala to sell it. (He is said to have learned that he was on the list from UN officials). The Group of Experts’ December 2008 report emphasises the reluctance of the Ugandan Central Bank and of several other banks in Kampala to freeze the accounts of Ugandan gold-trading companies blacklisted by the UN. In Uganda, the Porter Commission recommendations to initiate further enquiries have never been carried out. The Rwandan and Burundian Governments do not exercise any “due diligence” towards gold importers or importers of other minerals who were operating on their territory.

The governments of the region are not the only ones at fault; European governments are also very reluctant to police the European companies denounced by the United Nations. Up until now, not one of them has been found guilty by a court; at a maximum a few of them have been called to “hearings” (more by parliamentary investigative commissions than by judges). The heaviest “sanction” so far imposed has been an official declaration of having violated OECD principles concerning the activities of multinationals in conflict zones. Even those companies who have been caught “red handed” (AngloGold Ashanti with the FNI, Traxys and Trademet with the trading houses that buy from the FDLR) in dealings with armed groups have not been pursued. The Belgian authorities made known their concern to Trademet and Traxys, but refuse to go any further for the moment. AngloGold Ashanti, who had provided logistic and financial support to the FNI militia, in exchange for guarantees of security,<sup>173</sup> has faced no legal actions in consequence, and the company, while admitting its inappropriate relationships with a militia, had mainly relied on public relations statements to handle this problem. No European government seems at present willing to impose any obligation of “due diligence” on companies, NGOs have insisted. Another limit to the effectiveness of sanctions is that exporting companies named by the

171 The travel ban and the freezing of assets date back to 2005 (Resolution 1596) and have invariably been renewed.

172 Group of Experts’ Report of 8th February 2008

173 Human Rights Watch (2005). Op. cit.

UN reorganise to carry out their activities clandestinely or hide themselves behind other names.<sup>174</sup> In the absence of sanctions against companies, the UN's measures are reduced to a sort of moral embargo on "conflict minerals". **Observing these measures is left to the good will of private companies who at present exercise hardly any control over their suppliers.**<sup>175</sup>

#### The case of Afrimex: Denunciation without condemnation

In Europe, only the United Kingdom has dared to declare one of its enterprises as having violated the OECD principles, following a complaint by Global Witness in February 2007. The British National Point of Contact for implementing these principles indicated in 2009 that Afrimex, which figured on the UN list since 2002 because of its links with the shadow company RCD-Goma, had violated the OECD principles. But this did not lead to any legal action. Afrimex claimed to have stopped acquiring any mineral ores in the DRC, and in its latest report, Global Witness demanded that the British Government independently verify this statement.

For the time being, the most serious result of being put on the UN list has been the **suspension of some purchasing contracts** by importing companies. Some Western companies have officially kept their distance from their Congolese suppliers. In 2001, following the Group of Experts' report, American Cabot stopped importing Congolese coltan and Eagles Wing Resources gave up importing coltan from the DRC and turned to Rwanda. After the large Ugandan exporters and the AngloGold Ashanti scandal were placed on the UN list, the Swiss company Metalor Technologies SA stopped buying Ugandan gold from 2005 onwards; the Ugandan companies involved (UCI and Machanga) then found a new buyer in the Gulf, Emirates Gold, based in Dubai. This company bought 18 tonnes of gold from Uganda and Burundi, but in 2007, the Emirates authorities requested that it to stop these purchases and Emirates Gold blocked the accounts of UCI and Machanga. Nevertheless, the Group of Experts brought to light in its December 2008 report the fact that Emirates Gold had continued to buy gold from doubtful sources even after 2007. The same reaction came from Hussar Ltd to UCI, which it accused of not having revealed the real origin of its gold. The most striking result was the financial retaliation by the buyers against their suppliers, because of the **risk of damaging their reputation**. Very recently (May 2009), the Belgian company Traxys announced its intention to stop purchasing in Kivu following the revelations by IPIS of the links between one of its trading suppliers (World Mining Co) and two armed groups (the Mai Mai of Pareco and the FDLR). The risk to reputation is a lever that may have some effect, but it has its limits. The large electronic companies (Ericsson, Hewlett Packard, Intel and Motorola) have reacted to the "No blood in my mobile phone" campaign by turning mainly to public relations (by developing codes of conduct), by blaming their suppliers and by trying to pass blame and responsibility down the supply chain.<sup>176</sup>

The notion that the ineffectiveness of the present sanctions regime gives cause for considering a second generation of measures that moves away from the idea of blocking trade in minerals was recognised by the United Nations in a report that makes a show of "soul searching" and was reaffirmed in the December 2008 Group of Experts report.<sup>177</sup> The idea of an embargo or of a boycott of mineral products from the eastern DRC was put forward in reaction to the ineffectiveness of the sanctions in question. In 2001, IPIS called for a complete embargo on coltan from this area. In the same perspective, the American NGO Enough along with Amnesty International argue that the UN should adopt resolutions in order to prohibit the buying and selling of minerals coming from the conflict zones in the Democratic Republic of the Congo. Amnesty International

174 In its December 2008 report, the Group of Experts indicated that the blacklisted gold-trading company, Machanga Limited, based in Kampala, had created a shadow company in Nairobi, Usindi Exports, through which its exports transited to Emirates Gold.

175 Global Witness (2009). Op. cit.

176 The electronic companies are prepared to accept responsibility for their immediate suppliers, but not for those lower on the chain, who should be monitored by other supplier companies in the chain. In other words, these companies refuse to accept responsibility for the whole chain of their suppliers.

177 Chapter 196, p.50 'If steps are not taken by Member States to enforce compliance with the sanctions regime and relevant Security Council resolutions, the work of the Group will have little impact.'



called for dismantling the mafia-like networks behind the wars and that maintain armed groups, considering that the end of the war depends on ending the illegal exploitation and the fraudulent sale of the country's wealth.

Even if the option for a trade ban without a ban on named traders continues to be raised, there is now a consensus between the United Nations and the NGOs not to pursue the trade embargo angle, because it could lead to:

- penalising artisanal miners, who are among the poorest people;
- penalising the Congolese government;
- discrediting legitimate exports of minerals from neighbouring countries;
- a risk of reprisals against the MONUC;
- armed groups substituting other resources;
- avoiding the embargo by falsifying the real origins of mineral ores;
- an expansion of smuggling (particularly of gold, which is easily exported in small quantities).

“Due diligence” (checking the blacklist during any commercial transactions) remains therefore the currently favoured solution, but to be fully effective, it assumes a) that it will be obligatory b) that the precise origin of mineral can be ascertained. This could be achieved by administrative means (certificates of origin) or physical means (geochemical traceability of the mineral ore). Drawing on the Kimberley process, Germany has developed a pilot project for certification of the “business chain” in Rwanda for coltan and it hopes to extend it to the DRC. This project is part of the industrial logic of labelling, which does not concern the quality of the ore but its “**political ownership**”. From across the Atlantic, an American initiative is designed to make “due diligence” obligatory for companies listed on a stock exchange, and this could be an important step in moving from a regime of good intentions to a system of contradictory obligations that could be reviewed (verification of declarations by auditors independent of the supply chain).

- **Sanctions supporters look for suitable pressure points in the supply chain: the western NGOs consider that pressure should be applied to the end-user companies through consumers and legislators, so that they can apply pressure in return on the suppliers. This strategy, some fear, may be too indirect to make a real impact on the ground, since the suppliers can always find other buyers and/or conceal the origin of the minerals.**
- **The technical, financial and institutional feasibility of certification/traceability, as a kind of transposition of the Kimberley process to the “conflict minerals”, remains in question.**

### 6.3 A new paradigm: Make trade formal to make it moral

Opinions differ on the usefulness of systems of banning trade in minerals, whether selectively or not, since bans depend on capacities for due supervision and verification (“due diligence” and “certification schemes”). Some organisations (INICA, DfID, USAID, etc.) remain sceptical about the possibility of reducing insecurity by restricting trade and offer another alternative, which involves no longer placing sanctions on trade but trying to formalise it in order to give it discipline and morality. Their reports favour a formalisation/ return to order of the mineral trade in the region, which implies a wide range of economic measures (clarification and simplification of Congolese customs regulations, reindustrialisation, publication of legal taxes, regional customs system, etc.). Whilst these reports distance themselves from systems of constraint (embargo, targeted sanctions and certification measures), they acknowledge the need to have recourse to constraint, particularly in order to drive armed groups away from the mining sites (simultaneously bringing in Congolese forces of order and industrial mining operators). The report, *Trading conflict for development*, recommends, for example, a strategy of constraint against the FDLR: targeted sanctions against the leadership, military operations against their mining sites, legal prosecutions, etc.

The period of economic solutions has replaced the period of legal solutions (sanctions) with the move towards formalising the mining trade. This formalisation should achieve what sanctions have not been able to do, that is gradually marginalising armed groups in this sector. This solution through the economy is opposed, for example, to targeted sanctions, which lead to strengthening the informalisation of the sector by driving trade activity into clandestinity. From restricting trade in the eastern DRC, there would be a move to formalisation, which implies a whole range of measures:

- Reforming the security sector;
- Reforming customs;
- Fighting corruption in the mining police, the OFIDA, the intelligence services and the Ministry of Mines;
- Developing legislation on transparency and ethics of companies operating in conflict zones;
- Creating a cross-border commission to set up mechanisms for joint control, or even privatising customs control;
- Certifying mineral ores by the CEEC;
- Harmonising regional customs regimes, to reduce incentives for smuggling;
- Setting up joint customs posts.

To ensure its effectiveness any move towards formalisation would mean the consensual involvement of a multitude of actors (Congolesse government, the governments of neighbouring countries, international actors and private sector operators) in long-term actions, dealing with complex subjects and various structural reforms (security, customs, etc.). This formalisation must rely on a strategy of incentives, and it is not easy to see at this stage what they might be. (What, for example, would be Rwanda's motivation for introducing transparency in its imports from the DRC?) Writers sidestep this problem by insisting on the traders' willingness to operate legally, if the government improves its performance.

- **Inspired by the EITI and by the strenuously developmental Kimberley process, the formalisation of trade is an attractive alternative to ineffective sanctions, but it opens up a vast field of activity, all of the parameters of which are far from being controllable, much less identified.**

## 6.4 Past and present initiatives

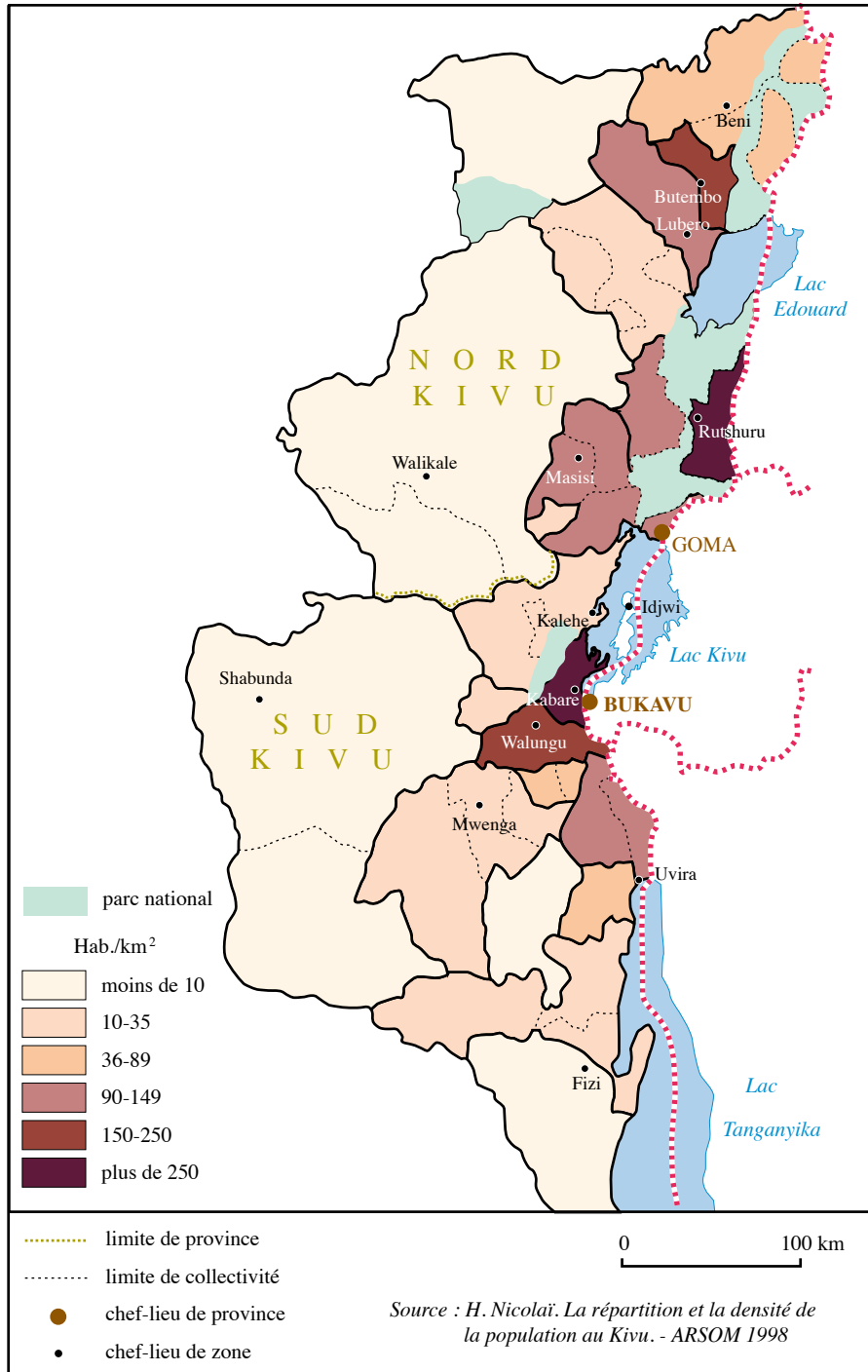
The discussions taking place at the United Nations or amongst NGOs about what measures might be effective do not imply total inertia concerning attempts to regulate the mining trade in the Great Lakes region. In addition to national processes (EITI etc.), referred to in Chapter 4, the International Conference on the Great Lakes Region has taken up the question of illegal exploitation of natural resources. Particular measures have been implemented inside the DRC, such as the suspension of exports of mineral ores in 2007, closing the customs posts in Bunagana and Ishasha in 2008, closing the mines in Walikale and Adidi in 2008, etc., and a more structured course of action is underway.

Past Initiatives	Commentary
Closing the customs posts in Bunagana and Ishasha (2008)	These closures aimed at depriving the CNDP of customs revenues, but according to the latest reports from the UN, this post is still used by the CNDP. <sup>178</sup>
Closing the mines in Walikale and Adidi (2008)	Setback. The mine in Walikale was reopened in April 2008, under pressure from the traders.
Suspension of mineral ore exports (April 2007)	Reassignment of licences to 11 trading houses.

Ban on importing unprocessed ore	Setback, as there is no processing capacity in the DRC. In 2005, when Kabila visited China and South Korea, projects for a coltan processing plant were submitted to him.
Demand by the Deputy Governor of South Kivu to demilitarise the mining sites (2008)	No result.
Establishing a single window	Setback, as a multitude of administrative services for customs formalities persists.
Rwandan-Congolese military operation against the FDLR (2009)	The Congolese-Rwandan offensive was meant to cut off the FDLR from the mining production areas. After withdrawing, the FDLR returned. Operation limited to North Kivu – no impact on their mining resources in South Kivu and use of gold easily transportable. Setback from mining standpoint.
Initiatives underway	Commentary
Pilot project for certifying the commercial chain (CTC) begun in September 2008 in Rwanda by Federal German Institute for geosciences and natural resources (BGR). The project concerns Colombo-tantalite, cassiterite and wolframite.	18-month project, could be extended to the DRC. Certification depends on good will in the countries of origin. Possibility of sidestepping it by mixing ores from various sources. Determining the source of tantalum by geochemical processes (Fingerprint), tried out by BGR in another project, is long and costly.
Random MONUC inspections of loading mineral ores (Resolution 1856)	These inspections should be made in the presence of Congolese authorities who are not always available and MONUC has no powers of arrest if it discovers trafficking.
Preparation of a draft law in the US Congress imposing “due diligence” on companies and obligations to declare origins	Three US Senators, with the support of the NGO Enough, Republican Sam Brownback and Democrats Dick Durbin and Russell Feingold initiated a draft law on conflict metals in the DRC, which aims to control the purchase of metals for the manufacture of high technology products (radar, mobile phones, etc.) that enable armed groups in the DRC to be financed. If this draft law were accepted, companies registered on American stock exchanges would be under the obligation to ‘declare annually to the ASEC, gendarme for the US stock exchange, the countries of origin of these raw materials. If these countries were the DRC or its neighbours, the company would have to state which mine the ore came from,’ according to the draft law. In addition to this obligation to make a declaration of origin, the companies would also have to submit to independent audits of their supply chains. Enough is conducting a public campaign in support of this draft law ( <a href="http://www.raisehopeforcongo.org">www.raisehopeforcongo.org</a> ).
Extending the competence of certification of the CEEC to all mineral ores	The CEEC has received authorisation to certify all mineral ores and is seeking support to expand its work. It is now present in Bukavu, Goma and Butembo.
Regional struggle against the illegal exploitation of natural resources (meeting in Bujumbura in April 2009)	A meeting of the Regional Initiative against illegal exploitation was held in Burundi in April and the agenda included a draft regional mechanism for certification, and a regional protocol on illegal exploitation and on capacity-building. This plan remains quite vague.

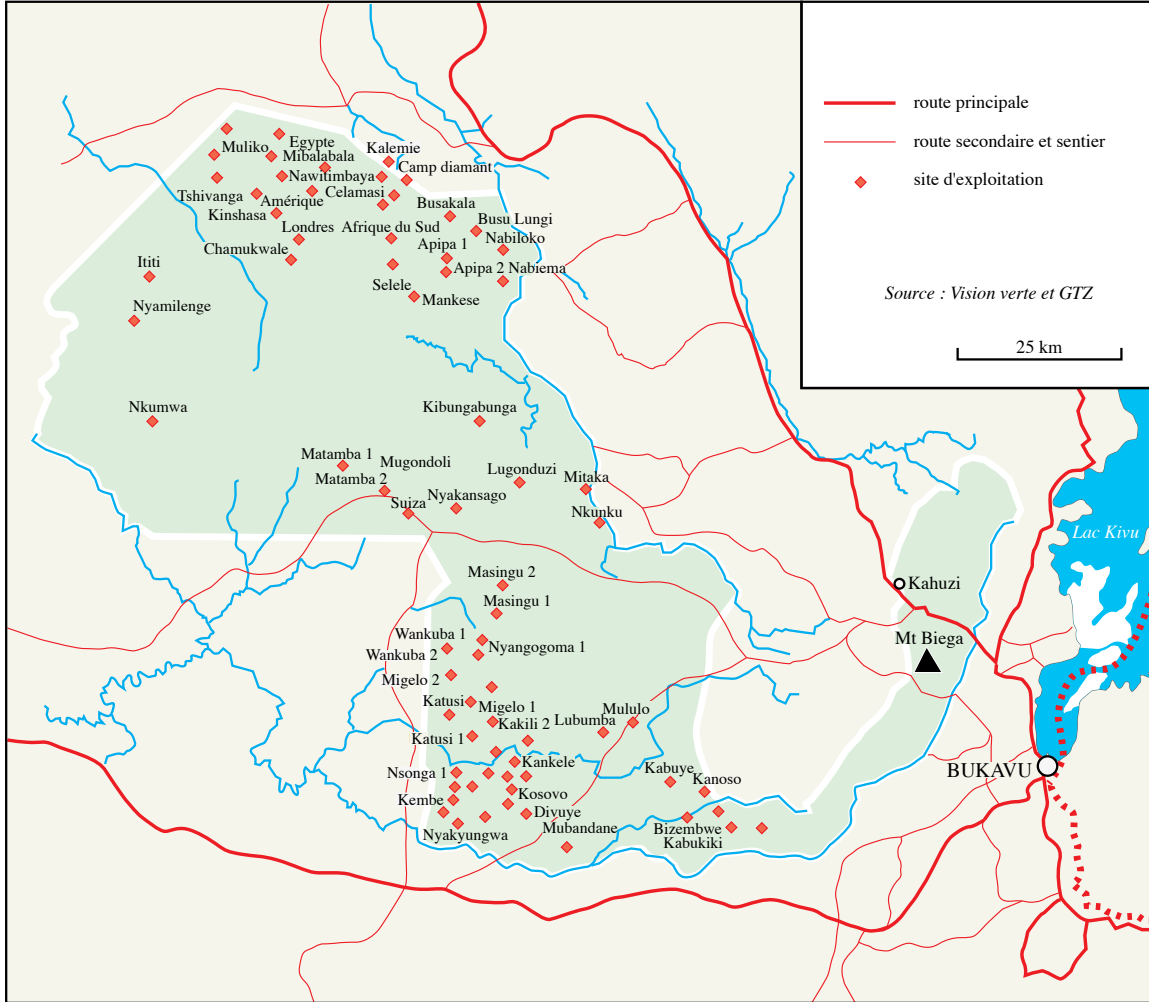
- Congolese initiatives have been blocked by Congolese interests; the regional initiative remains unclear and slow; bilateral initiatives (American and German) are the most likely to be completed within a reasonable timescale.
- Two main schools of thought are contending over the problem of the illegal exploitation of minerals:
  - Restricting trade (in a more or less radical way, from complete embargo to selective bans);
  - Reforming trade through a combination of economic, institutional and security measures.

## NORTH AND SOUTH KIVU: POPULATION DENSITY BY ADMINISTRATIVE DISTRICT (1984 CENSUS)



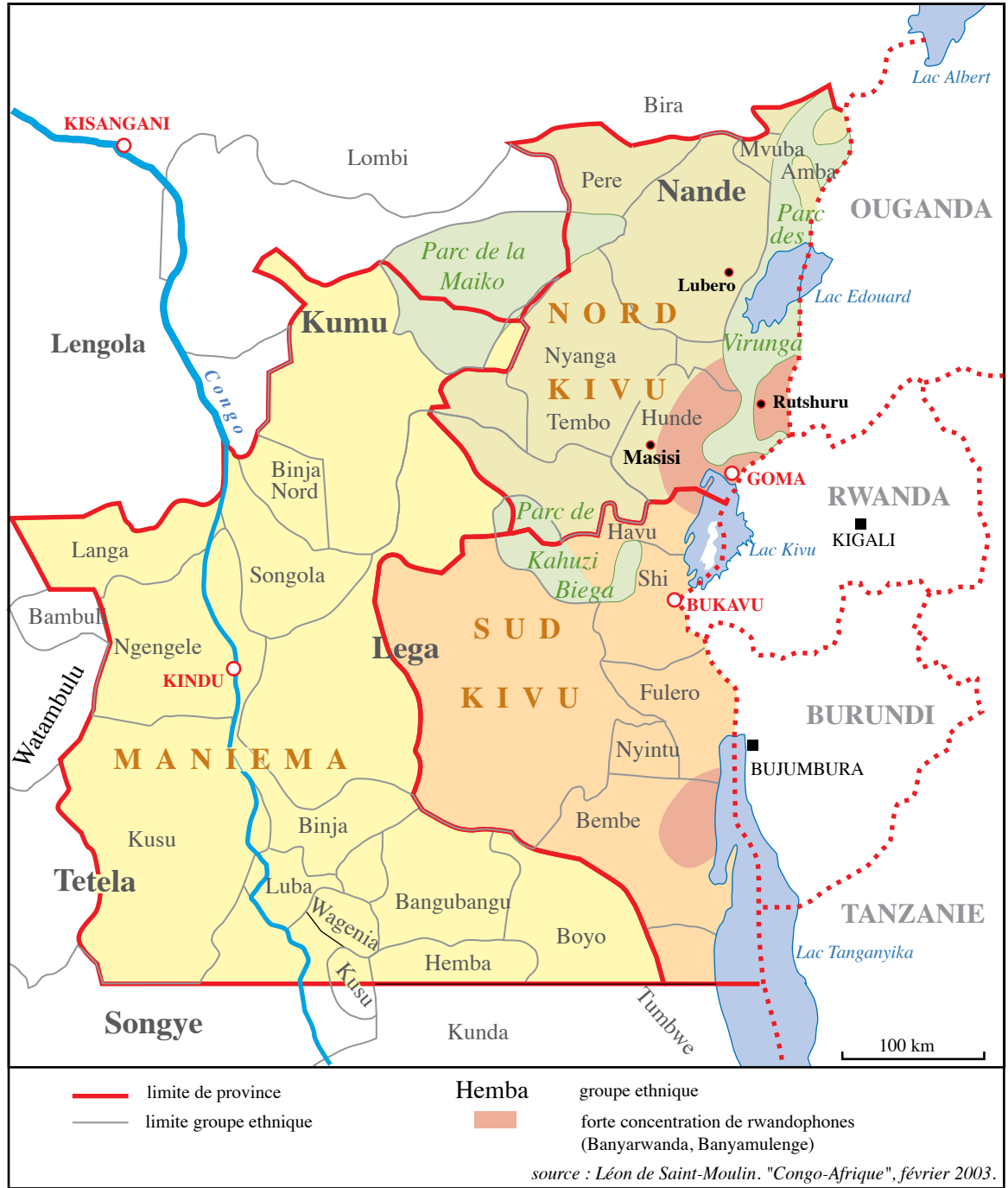


### SITES OF EXPLOITATION OF COLTAN IN THE KAHUZI BIEGA PARK (SITUATION AT THE END OF 2001)

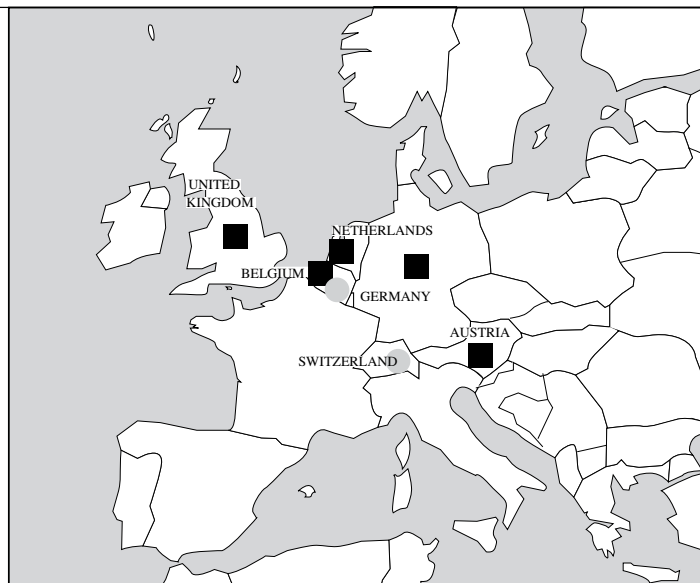
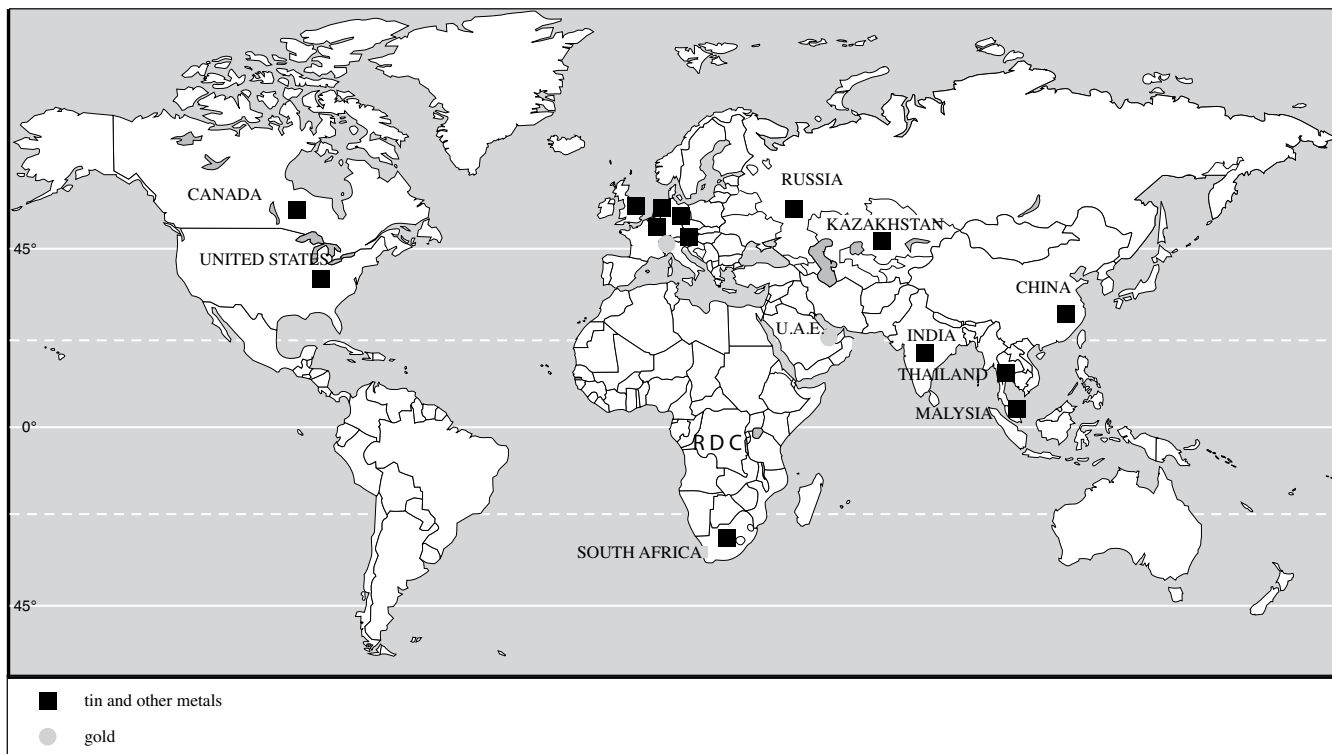


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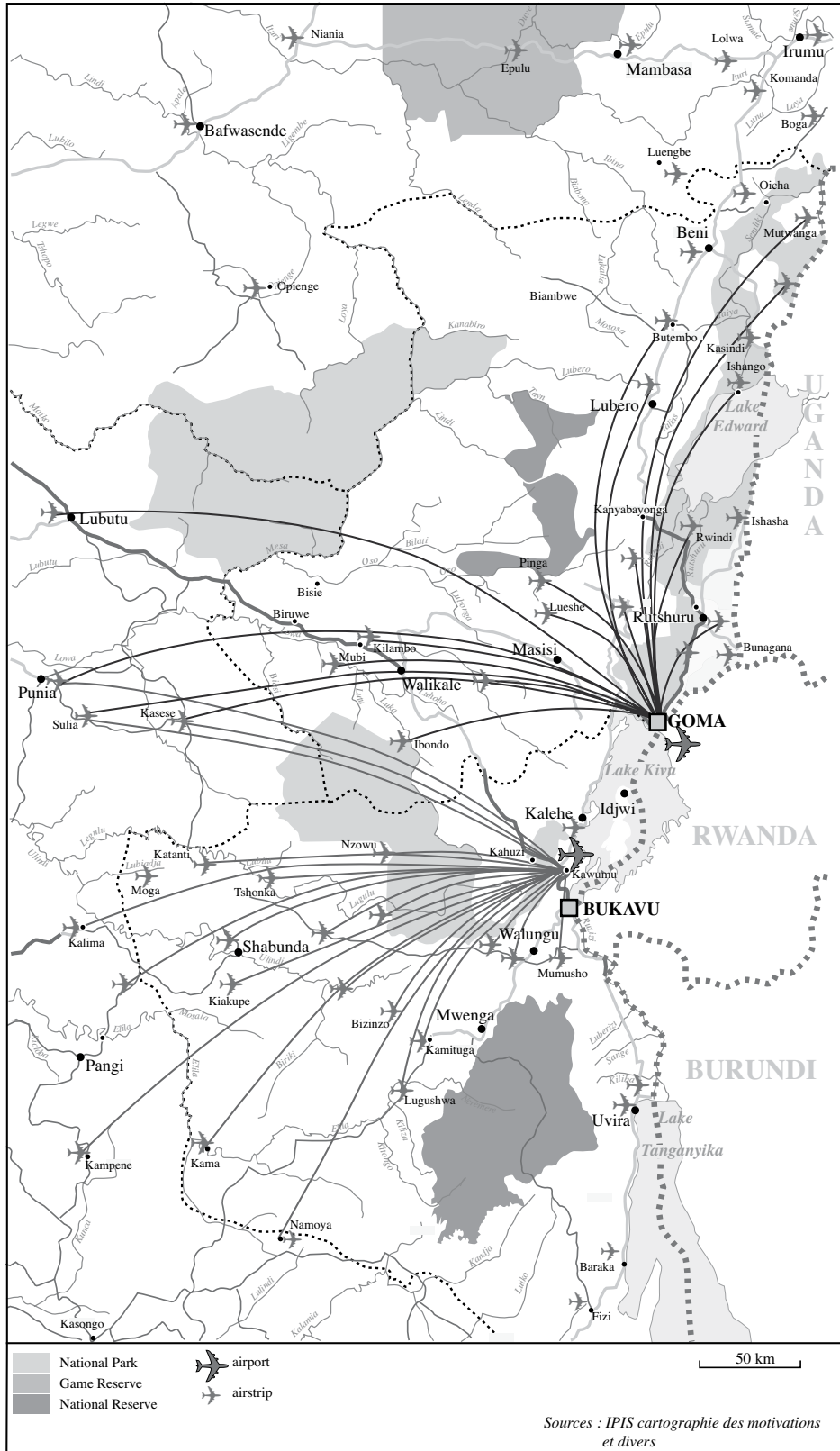
ETHNIC GROUPS IN KIVU



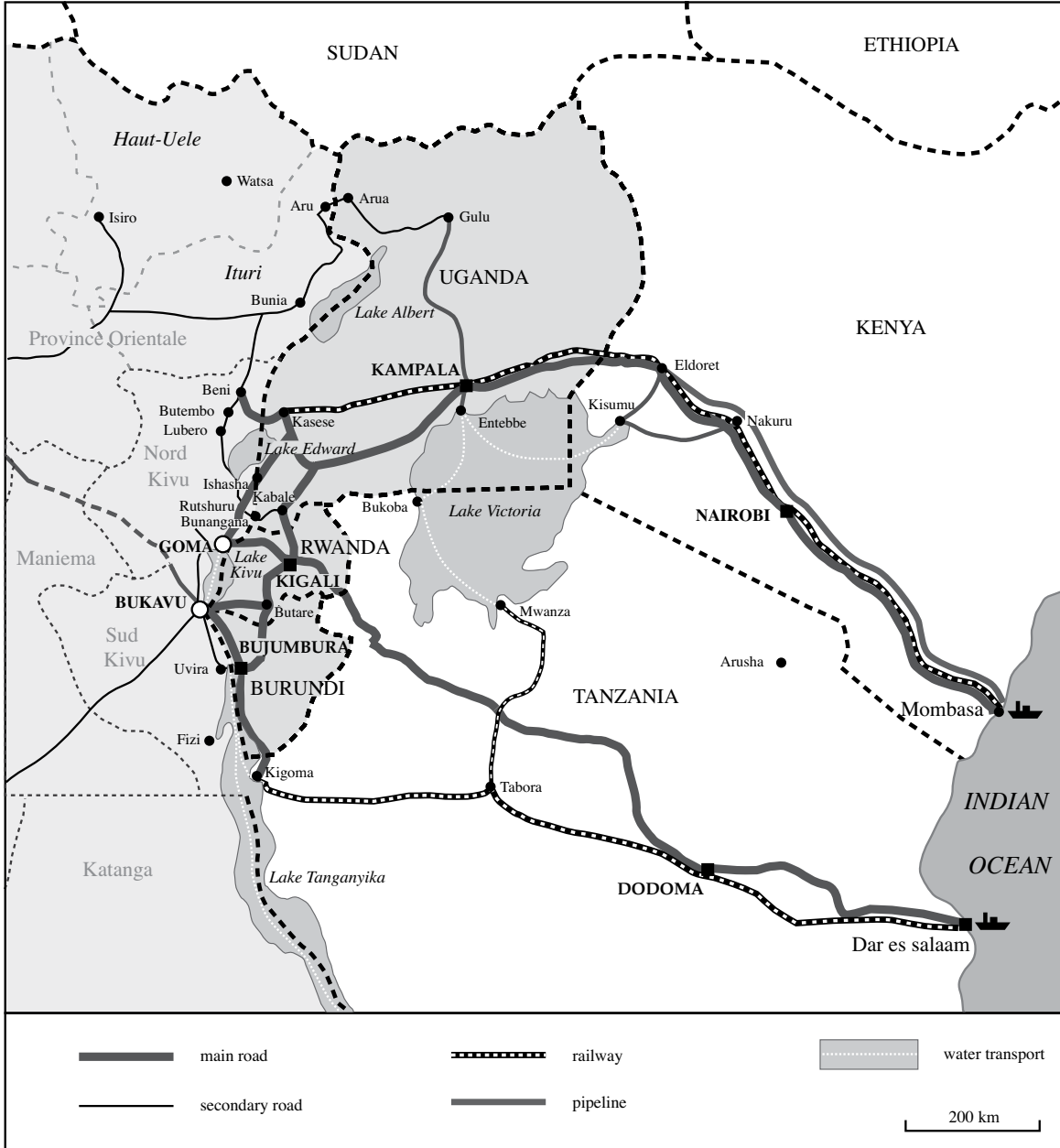
## COUNTRIES IMPORTING MINERALS FROM THE EASTERN DRC



### TRANSPORT OF MINERALS BY AIR

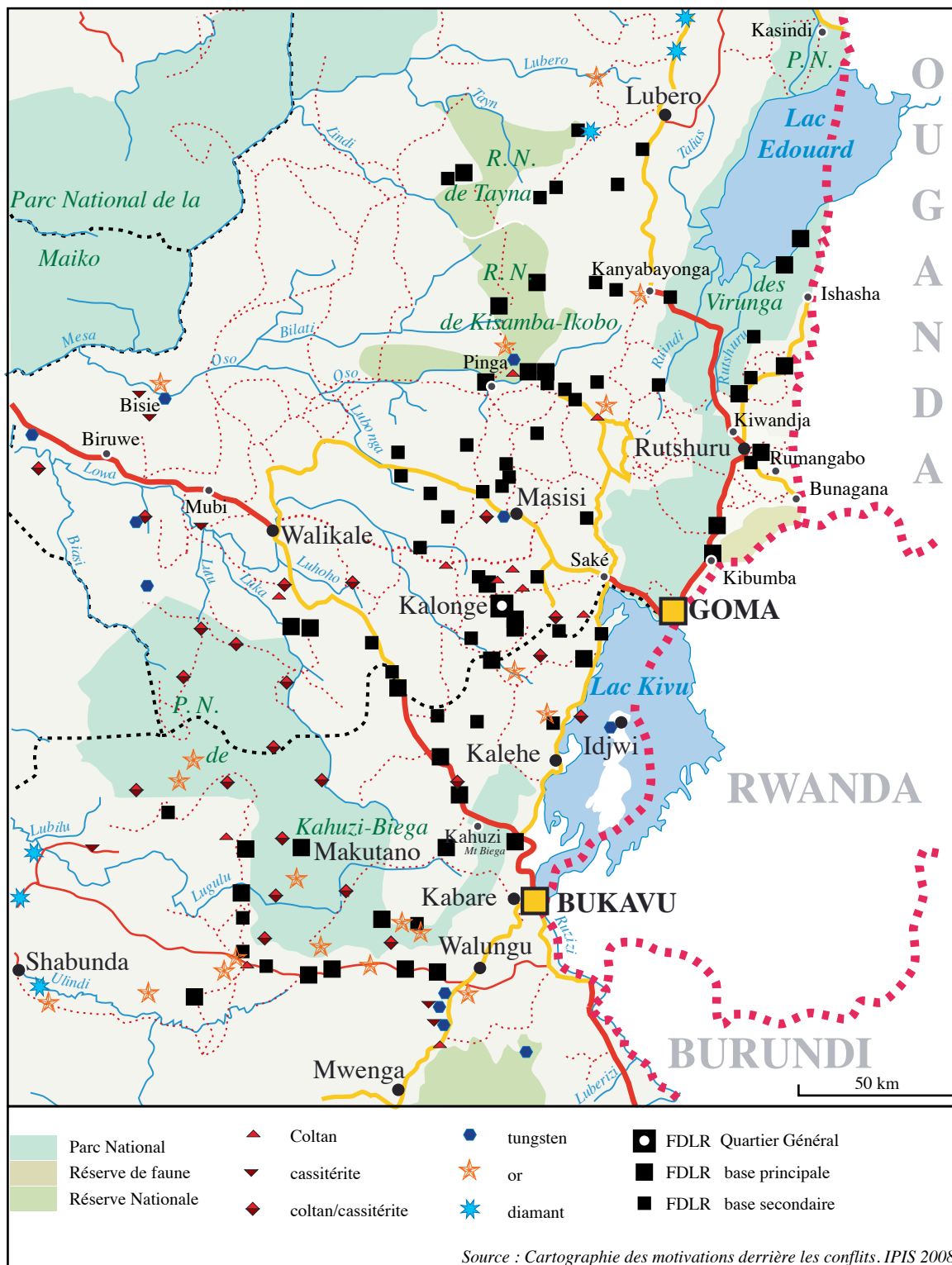


### ACCESS ROUTES TO AND FROM THE EAST OF THE DRC

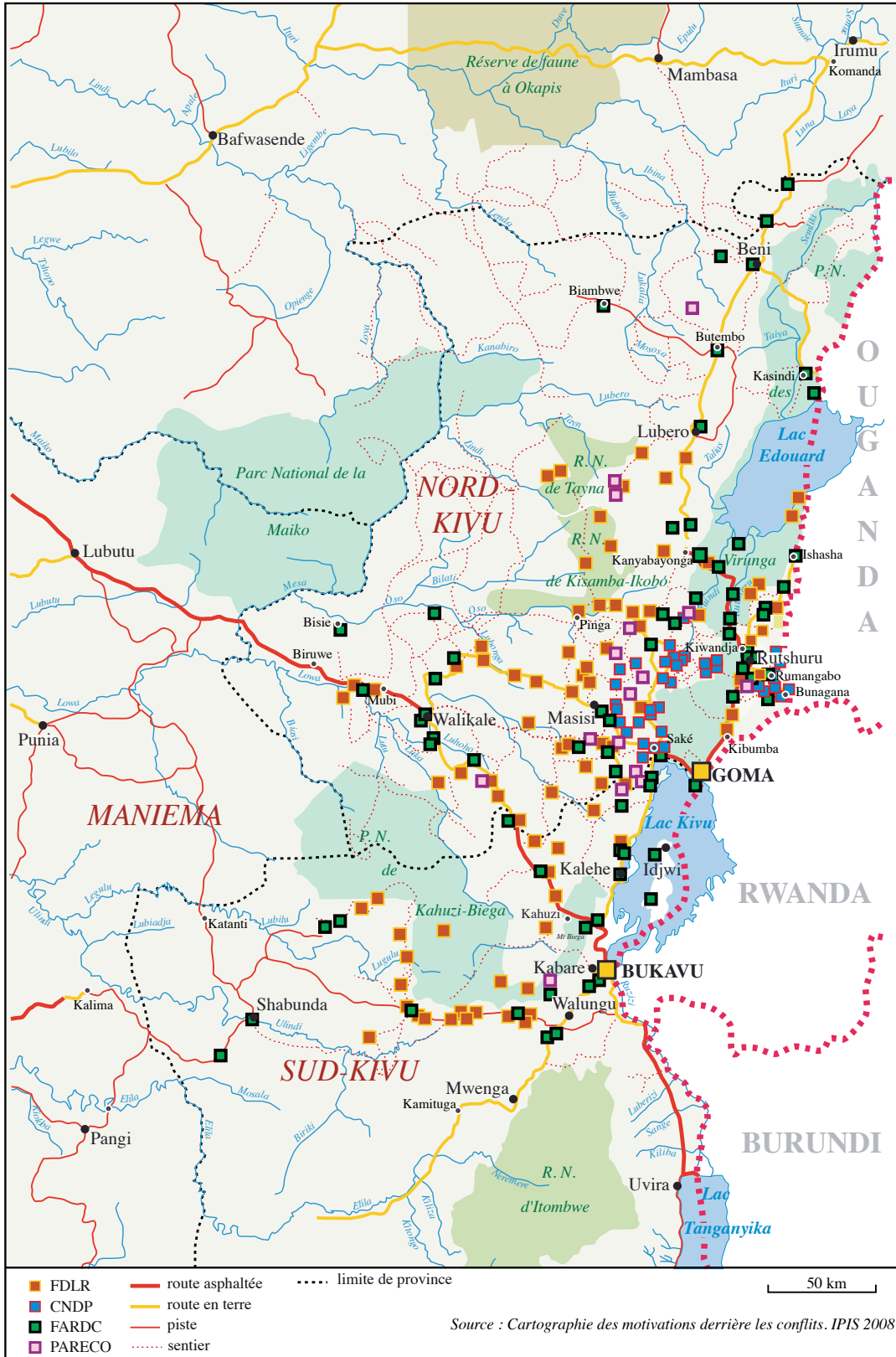




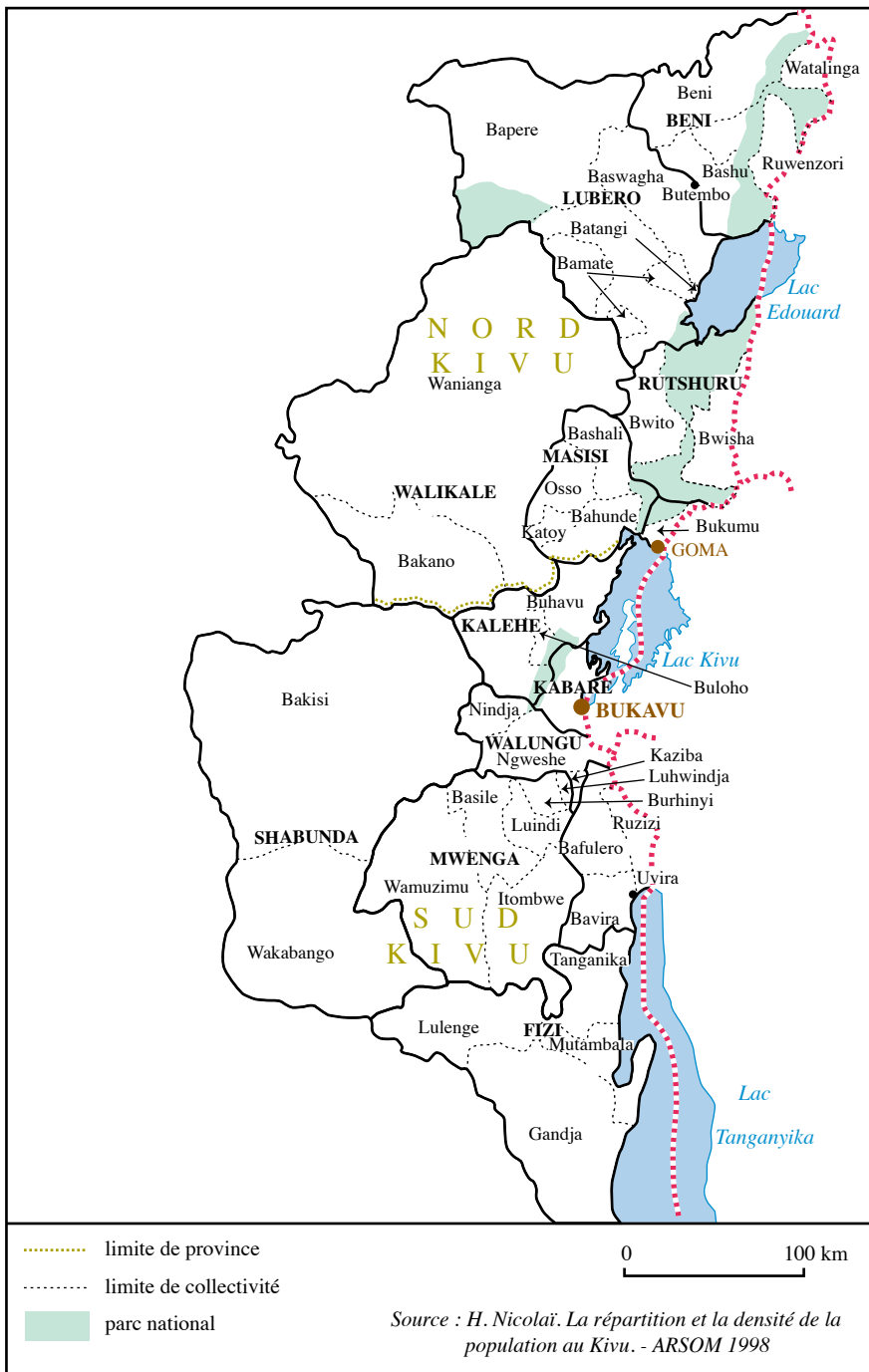
LOCALISATION OF FDLR (END OF 2007)



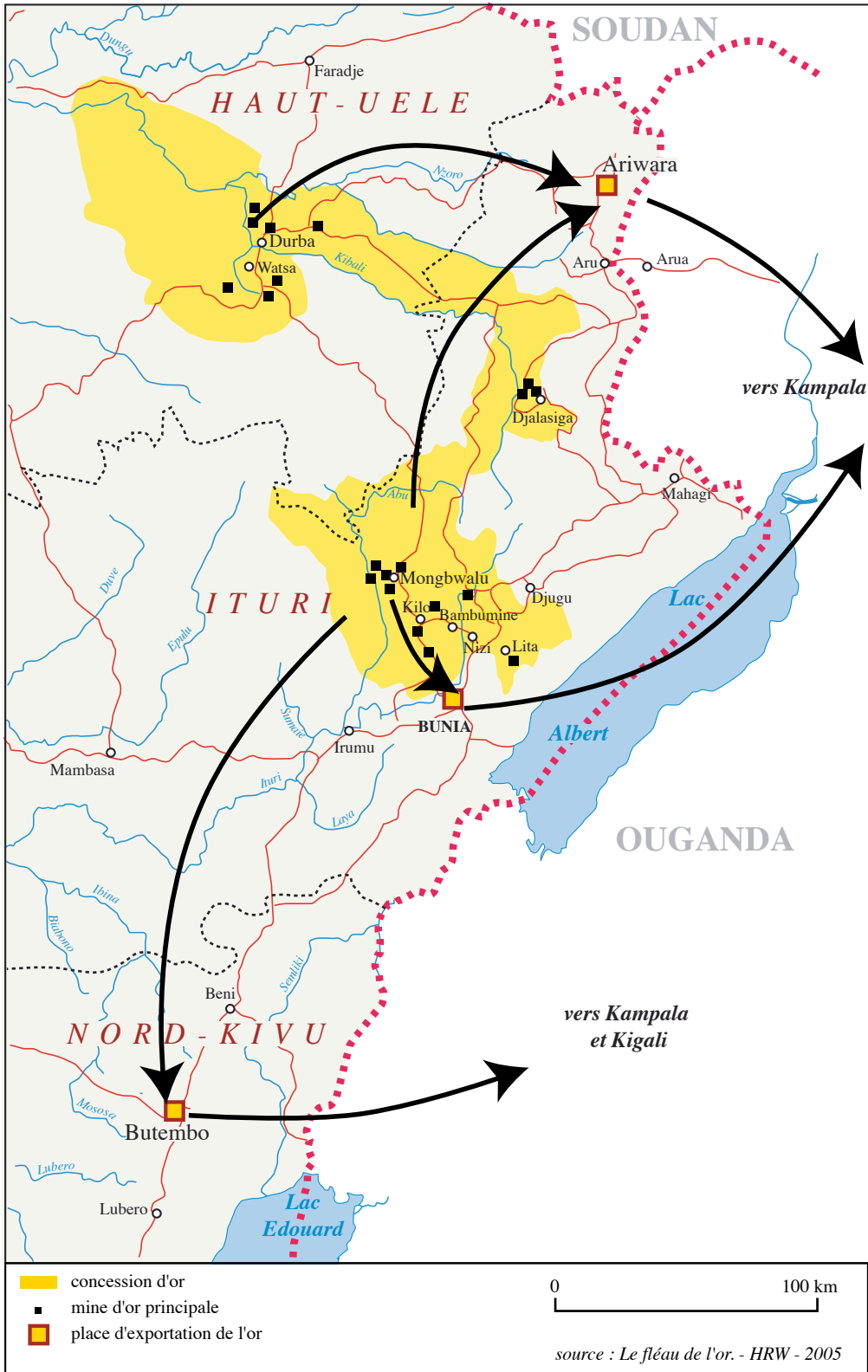
### ARMED GROUPS IN KIVU (END OF 2007)



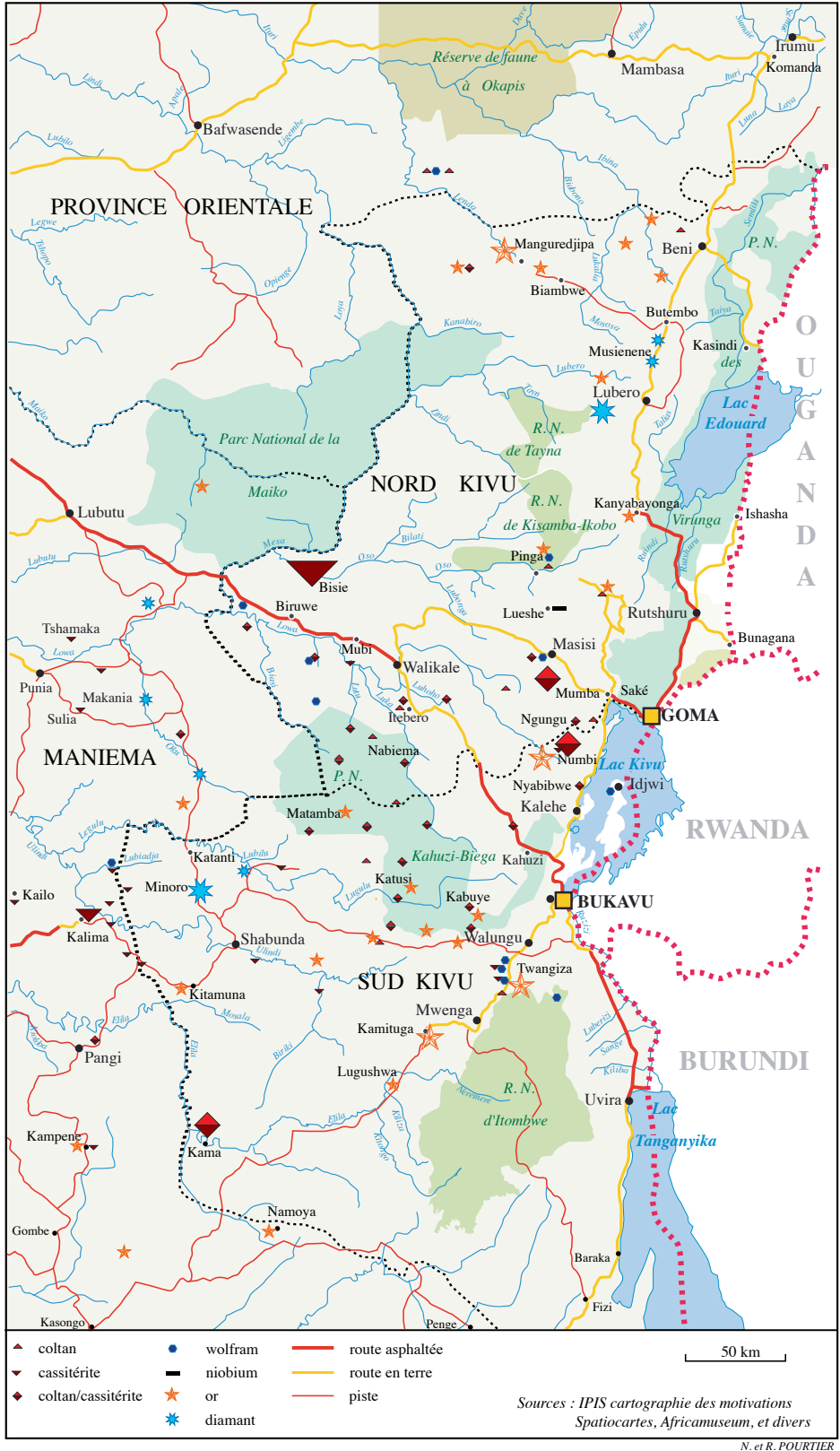
### ADMINISTRATIVE DISTRICTS IN NORTH AND SOUTH KIVU



## PRODUCTION AND COMMERCIALISATION OF GOLD IN ITURI

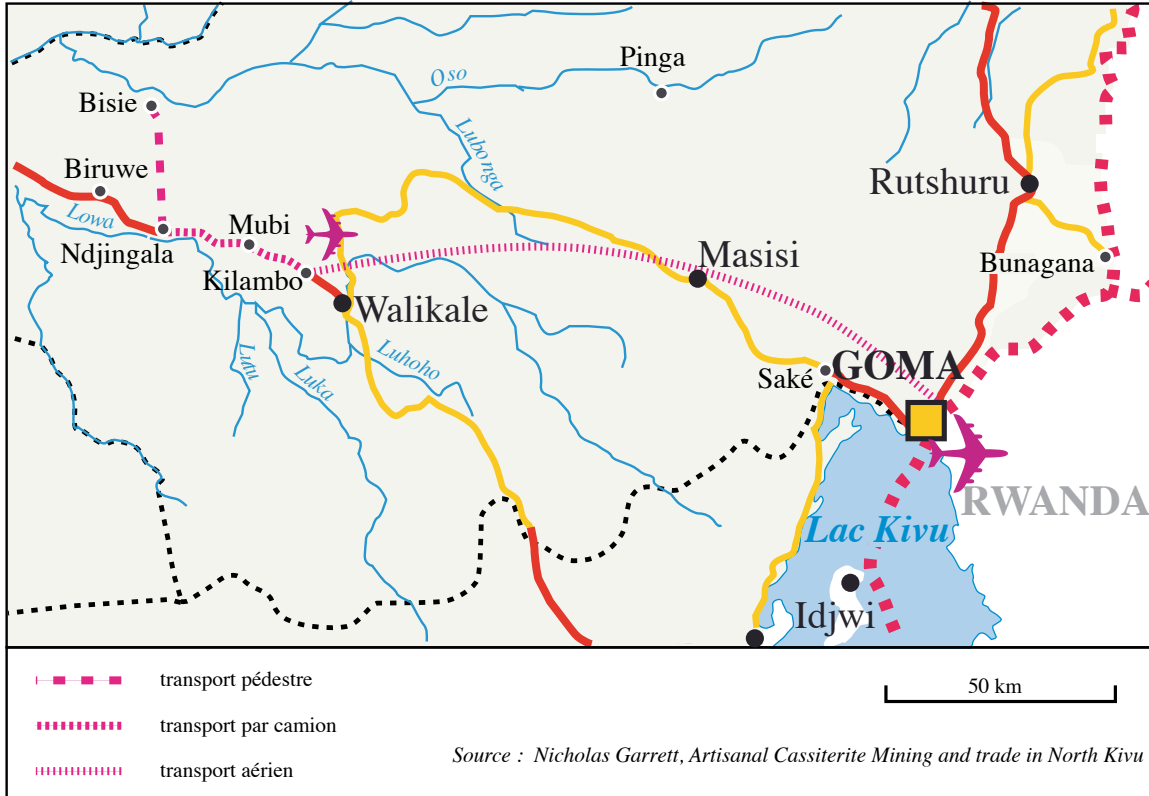


SITES OF MINERAL EXPLOITATION

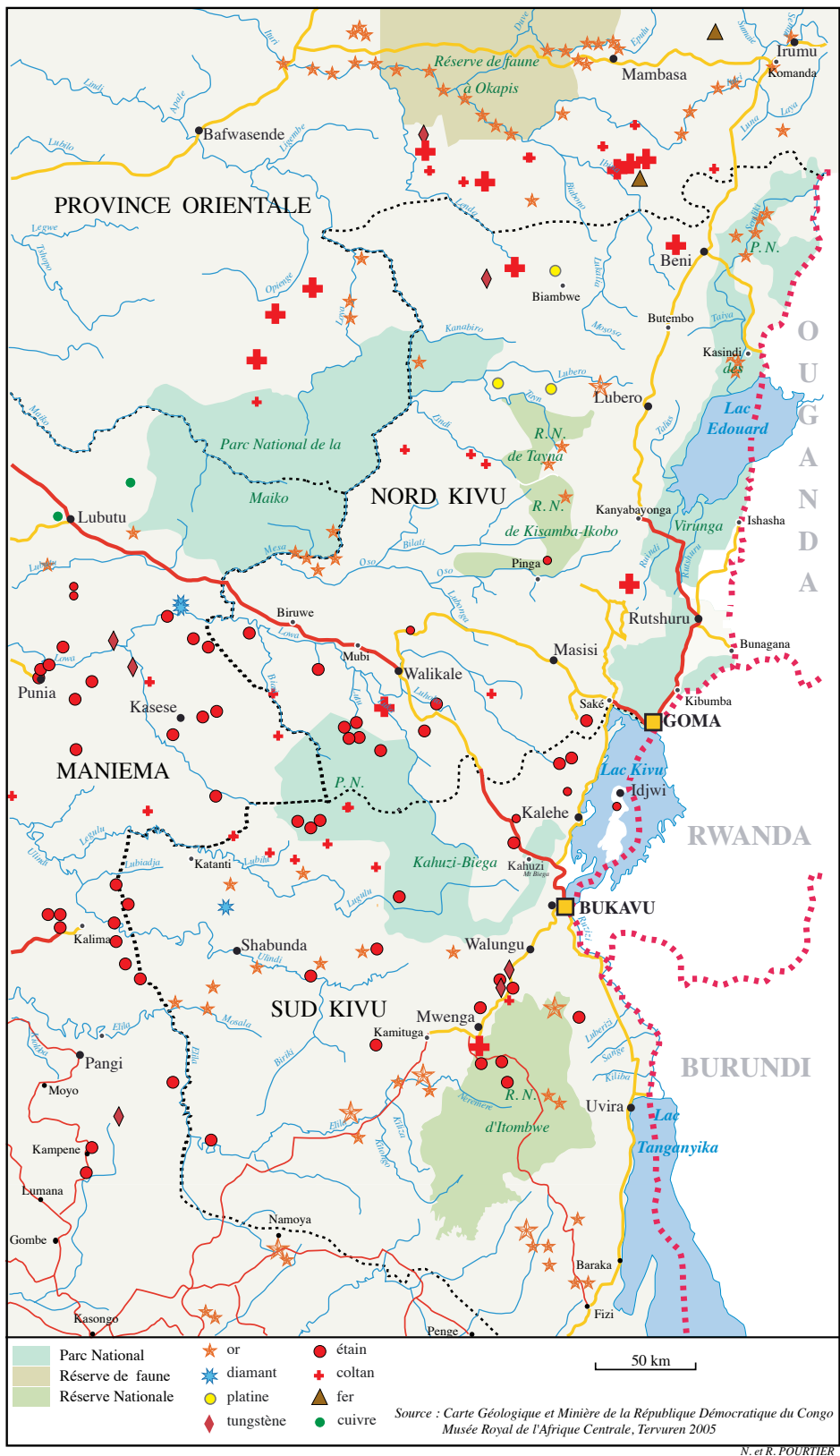




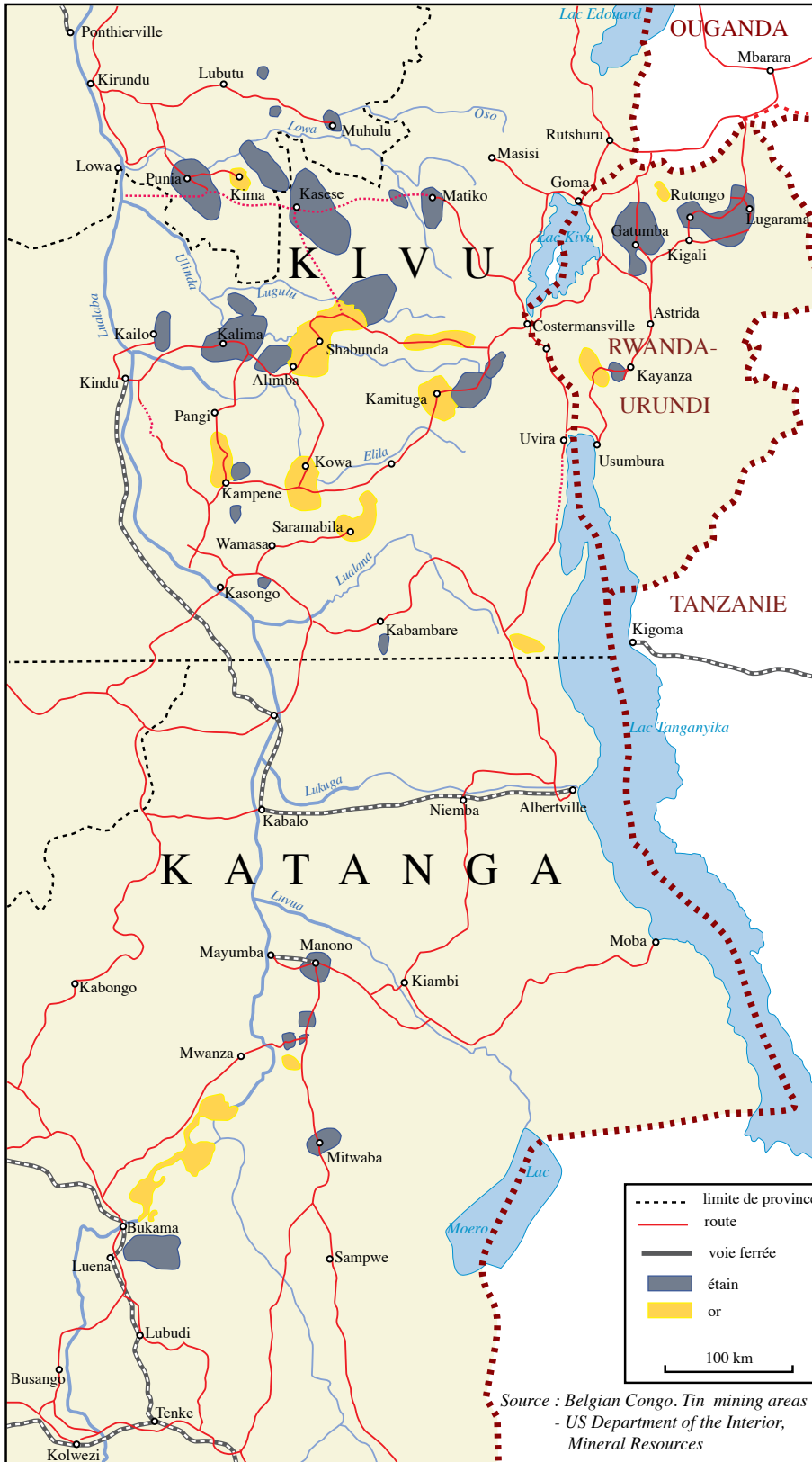
## TRANSPORT OF CASSITERITE FROM BISIE TO GOMA



MINERAL DEPOSITS



## THE TIN BASIN IN THE BELGIAN CONGO AND IN RWANDA-URUNDI IN 1945



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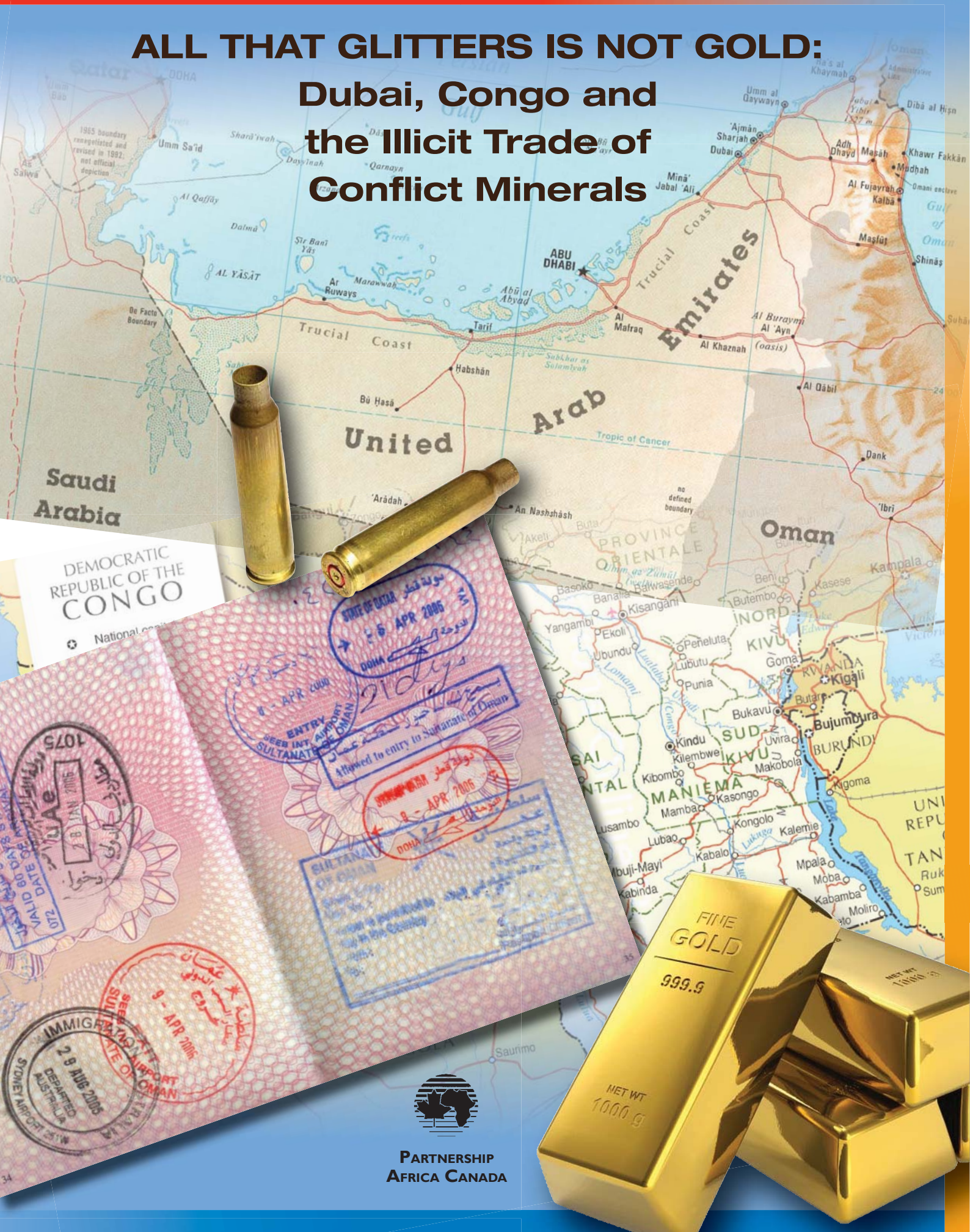
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**ANNEX 5.7**

**Partnership Africa Canada, *All that Glitters is Not Gold: Dubai, Congo and the Illicit Trade of Conflict Minerals*, May 2014**



# ALL THAT GLITTERS IS NOT GOLD: Dubai, Congo and the Illicit Trade of Conflict Minerals



PARTNERSHIP  
AFRICA CANADA





**All that Glitters is Not Gold: Dubai, Congo and the Illicit Trade of Conflict Minerals**

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# **ALL THAT GLITTERS IS NOT GOLD: Dubai, Congo and the Illicit Trade of Conflict Minerals**

## **Introduction**

Problems of conflict financing, tax evasion and corruption have tainted the gold and diamonds trade from the Democratic Republic of Congo (DRC) for more than a decade, scaring off investors and depressing trade throughout the region. Gold is considered the most persistent 'conflict mineral' today, with more than half of the estimated 800 artisanal gold mines in eastern DRC under illegal rebel or army control.<sup>1</sup> Almost the entire production of these mines—98% according to the United Nations—is smuggled out of the country, implying enormous tax losses to the Congolese fiscus.<sup>2</sup> While the majority of DRC's diamonds are produced outside the notorious conflict zones in the east, and certified as conflict-free through the Kimberley Process (KP), the sector's contribution to state revenues is hampered due to rampant smuggling and undervaluation. Poor internal controls in DRC also make it highly vulnerable to smuggled goods from conflict affected areas, most recently the Central African Republic.

This report is a contribution to a growing body of research that seeks to better understand the illicit trade of gold (and to a lesser degree, diamonds) emanating from the Democratic Republic of Congo, and the role industry and state actors play (primarily in neighbouring countries and the United Arab Emirates) in facilitating this illegality.

The focus on DRC is not accidental. It is the second biggest diamond producing country by volume, and has been the site of a corrupt and often violent extraction of valuable natural resources for over a century. More recently, gold mines in eastern DRC have been at the epicentre of a protracted armed conflict that has claimed millions of lives and economically destabilized the Great Lakes region for the last decade. Despite being mineral rich, DRC's underdevelopment is directly linked to a myriad of inter-related factors including corruption, armed conflict, political instability, poor domestic enforcement capacity and a lack of fiscal instruments to realize the full potential of its mineral wealth.

But just as important is how sophisticated international smuggling syndicates have exploited—and in some case encouraged—these vulnerabilities for their benefit. Our investigations explore the illicit trade of these minerals from mine site to leading gold refiners and diamond trading centres in UAE (Dubai)—and finally for onward travel to the jewellery factories of India, and beyond.

1 "Analysis of the interactive map of artisanal mining areas in Eastern DR Congo", International Peace Information Service (IPIS), November 2013

2 Final Report, UN Group of Experts on DRC, S/2014/41, 23 January, 2014, para 171.

This report explains how Dubai came to play such a central role in this trade, and the way it has managed to attract an ever-increasing proportion of the worldwide gold and rough diamonds trade over the last decade. In 2013, 40% of the world's gold trade, worth an estimated \$75 billion, passed through Dubai<sup>3</sup>, a 12-fold increase in value over a decade previous<sup>4</sup>. In 2013, over 15% of the world's rough diamonds, worth \$12.4 billion, were traded through the Emirate, compared with \$690 million in 2003.<sup>5</sup>

Part of this increase is due to rising flows of Congolese gold and diamonds making their way into the Dubai market. Prior to 2006, Congolese gold (most of which is artisanally mined) was exported primarily to Switzerland or South Africa, but it is now almost exclusively sent to UAE, after transiting through neighbouring countries like Uganda, Burundi, Tanzania or Kenya.<sup>6</sup> While the European Union remains the principal export destination for Congolese diamonds, close to a third of legal exports now go to UAE, up from 3% in 2003.<sup>7</sup>

Faced with declining oil reserves, the UAE has sought to diversify its economy, and central to that is an aggressive strategy to woo business away from traditional gold and diamond centres in Europe. UAE generally owes its rise as a commodity trading hub to its zero-tax regime, on imports and exports, as well as its lack of corporate taxes. Some commodity-specific factors not in play in other jurisdictions also explain the rise. Documentary requirements for hand-carried gold imports are minimal, mineral related deals (some worth millions of dollars) are allowed to be transacted in cash rather than through formal banking channels, and a lack of transfer pricing legislation offers opportunities for associated companies to route undervalued diamonds mostly from African producers through UAE to trading centres like Antwerp and Tel Aviv, and the diamond factories of Surat, India.



Artisanal gold miners,  
Orientale province, DRC.  
Photo credit: Joanne Lebert/PAC

3 "Dubai gold trade grows to \$70bn", The National, April 9, 2013; <http://www.thenational.ae/business/industry-insights/economics/dubai-gold-trade-grows-to-70bn>

4 "Dubai gold trade reached \$75 billion in 2013," Mining.com, April 7, 2014 <http://www.mining.com/dubai-gold-trade-reached-75-billion-in-2013-26806/>

5 Kimberley Process Rough Diamond Statistics, Annual Global Summary 2004 and 2012; [https://kimberleyprocessstatistics.org/public\\_statistics](https://kimberleyprocessstatistics.org/public_statistics)

6 UN Comtrade

7 KP statistics on DRC, 2003 & 2013.



While the Congolese gold and diamonds trade are not under embargo, companies in UAE and elsewhere have the obligation under the UN arms embargo to ascertain that their purchases do not indirectly finance armed groups. To help companies mitigate this risk, the Organisation of Economic Cooperation and Development (OECD) issued a set of voluntary due diligence guidelines to encourage responsible sourcing practices for tin, tungsten and tantalum (colloquially known as the 3Ts) and gold in 2010.<sup>8</sup>

While the KP certificate offers assurance of conflict-free sourcing, appeals for diligent diamond sourcing increasingly go beyond KP certification, to include issues such as tax evasion, under-valuation and organized criminality. The credibility of KP certification has also come into question in recent years over resistance by member states to accept a broadened conflict-diamond definition that includes abuses perpetrated not only by rebel groups (as defined at the KP's inception in 2000), but also abuses committed by state actors or private security companies. While due diligence guidances developed for the 3Ts have begun to take effect, gold and diamonds continue to lag behind international requirements—something this report concludes is a major reputational vulnerability for the gold and diamond sectors and a significant factor in the on-going insecurity and economic underdevelopment in the Great Lakes region.

With this in mind this report situates the illicit trade of gold and diamonds into an increasingly established and harmonized international framework of due diligence efforts for conflict-affected minerals. In addition to the OECD, other complementary due diligence processes are currently under way in the African Great Lakes Region. Smelters and end users operating in the 3T sector have started to track and trace their supplies to conflict-free mines of origin in places like Rwanda, North Katanga and South Kivu in DRC. The International Conference on the Great Lakes Region (ICGLR) has also developed a Regional Certification Mechanism for 3T minerals and gold, which sets the standards and procedures for countries to issue regional certificates for conflict-free exports.<sup>9</sup> PAC is also currently piloting the first-ever clean artisanally mined gold supply chain in DRC (Orientale province) and expects to expand the project to three more later in 2014.

In the Emirates, the free zone's regulator for precious metals and gems, the Dubai Multi Commodities Centre (DMCC), also implemented mandatory requirements on refiners with respect to responsible sourcing in 2012 through the Dubai Good Delivery (DGD) standard. This standard is also based on the OECD Due Diligence Guidance. Three refiners have thus far undergone independent audits and were found compliant, although the thoroughness and integrity of the audit of the biggest refiner, Kaloti Jewellery International, has been brought into question after an auditor alleged his former firm (Ernst and Young), Kaloti and the DMCC colluded to whitewash unfavourable findings, including smelting sizeable amounts of gold that originated from either high-risk or unknown sources<sup>10</sup>.

One of the main findings of this report is that the gold sector in Dubai has yet to develop a coherent, comprehensive and universally applied strategy to apply due diligence or implement a chain of custody over its gold supply. Due diligence efforts by UAE refiners, for example, are primarily focused on stopping direct supplies of mined gold from DRC and known transit countries, but little has been done to set up traceable supply chains that extend back to mine sites.

8 <http://www.oecd.org/daf/inv/mne/GuidanceEdition2.pdf>

9 Rwanda issued the first ICGLR certificate for its 3T exports in November 2013.

10 "City of Gold: Why Dubai's first conflict gold audit never saw the light of day," Global Witness, February 2014; [http://www.globalwitness.org/sites/default/files/library/dubai\\_gold\\_layout\\_lr.pdf](http://www.globalwitness.org/sites/default/files/library/dubai_gold_layout_lr.pdf)



Moreover, efforts of the DMCC and some of its member companies notwithstanding, the trade of gold (and to a lesser extent diamonds) from DRC to UAE lacks transparency and due diligence engagement of most companies and individuals involved. DRC's smuggling economy has been described in much detail, but the working methods of regional exporters are poorly understood, while importing jewellers and traders are seldom identified and engaged in the matter. In the diamond sector DRC has routinely been identified as a country through which conflict affected diamonds have fraudulently obtained KP certificates, for onward travel to trading centres, including Dubai. This was the case with sanctioned Marange diamonds from Zimbabwe that first appeared in Kinshasa comptoirs in 2008-2009<sup>11</sup>; while more recently there are concerns DRC's internal controls have been breached by embargoed stones from neighbouring and war-torn Central African Republic<sup>12</sup>.

This report further concludes that due to weak chain of custody procedures in Uganda, Kenya, Burundi and DRC, exporters deliberately disguise or fail to know the origin of their exported gold. Weak export procedures similarly allow for gross under-declaring of gold, particularly in Uganda, as well as undervaluation of diamond exports in DRC. This represents a significant deprivation to the region's economies.

The number of individuals responsible for the organized export of illicit Congolese gold to Dubai is quite small. Previous reports of the UN Expert Panel on DRC have identified some of the central players, such as Ugandan-based Rajendra Vaya Kumar and Jamnadas VasANJI Lodhia, and his son, Kunal; however, despite them being red-flagged they continue to export gold without administrative or legal sanction by either exporting through countries in East Africa or Dubai. Part of this could be due to the aforementioned lack of traceable supply chains, but in some instances the impunity with which rogue exporters operate may be due to political protection they enjoy. This is especially believed to be the case with Sibtejn Alibhai, a Canadian national who is considered "a key channel" behind gold exports from Africa and Dubai.

Another key finding is that misrepresented gold and undervalued diamonds from the region freely enter the UAE. Documentary checks are minimal in the case of hand-carried gold imports, and buyers are not verified. Gold from the region can be sold anywhere in Dubai as long as Customs are cleared. While the larger share is sold to jewellers, there is a considerable and credible risk that gold from the region is sold on to UAE's main refiners disguised as scrap or hidden in supplies from "accepted" countries of origin.

Transfer pricing also poses significant ethical and enforcement challenges to Dubai's diamond sector. Re-exported diamonds are on average valued at 44% higher than what they were valued at import—a figure that is over five times greater than Dubai's next closest competitor, Switzerland. A conclusion of a seminal study by the Financial Action Task Force and the Egmont Group that looked at the intersection between diamonds, money laundering and terrorism financing—and shared by this one—is that Dubai's status as a free trade zone makes its diamond trade particularly vulnerable to abuse by criminal and terrorist networks.<sup>13</sup>

11 "Reap What you Sow: Greed and Corruption in Zimbabwe's Marange Diamond Fields," Partnership Africa Canada, November 2012; [http://www.pacweb.org/Documents/diamonds\\_KP/Reap\\_What\\_You\\_Sow-eng-Nov2012.pdf](http://www.pacweb.org/Documents/diamonds_KP/Reap_What_You_Sow-eng-Nov2012.pdf)

12 "Behind the Headlines: Drivers of Violence in the Central African Republic," Enough Project, May 2014; <http://www.enoughproject.org/files/CAR%20Report%20-%20Behind%20the%20Headlines%205.1.14.pdf>

13 "Money Laundering and Terrorism Financing Through Trade of Diamonds," FAFT-Egmont Group, October 2013, p. 63 <http://www.fatf-gafi.org/media/fatf/documents/reports/ML-TF-through-trade-in-diamonds.pdf>

We make several recommendations, the full list of which can be found at the end of this report.

The Governments of Uganda, Burundi, Kenya and DRC and other ICGLR countries should:

- Integrate due diligence and the ICGLR Regional Certification Mechanism in national mining sector legislation, and operationalize implementation in the gold sector.
- Harmonize policies and practices with an aim to interrupt illicit trading. This should include further harmonization of tax regimes, and greater enforcement strategies and trans-border cooperation.
- Investigate and prosecute individuals and companies involved in illegal gold trade from the DRC, including the beneficiary owners of UN sanctioned entities and their front companies.
- Finalize the institution of the ICGLR's Independent Mineral Chain Auditor office, meant to investigate illicit mineral activity, as well as the ICGLR's exporter third part audit system.

The Kimberley Process should:

- Create a special taskforce to investigate the issue of transfer pricing in the diamond industry, with a view to recommend ways African diamond producing countries can secure fairer and more accurate diamond valuations, and predictable tax revenues.

The Government of the UAE should:

- Tighten regulatory controls on gold imports, particularly on hand carried gold, including verification of the consignee, the (authenticity of) certificate of origin or export permit, and customs clearance documents (including tax receipts).
- Address transfer pricing of diamonds through federal legislation and introduce frequent and routine inspections of the value of imported parcels by the DMCC, with a rejection threshold of 15% undervaluation.
- Send shipments above the 15% threshold back to the country of origin so authorities there can tax them appropriately, after having been accurately appraised by an independent evaluator.
- Participate constructively in efforts to design a due diligence guidance for diamonds and precious stones commensurate with Dubai's leadership role in the diamond industry.
- Proactively disclose on a quarterly basis all data related to the import and export of gold.

UAE traders and jewellers and refiners that are directly or indirectly sourcing mined gold from the ICGLR region should:

- Adopt and implement due diligence policies in line with the OECD guidance supplement on gold, i.e. through on-the-ground inspection of circumstances of mineral extraction and trade, and establishment of a chain of custody and/or traceability system with local exporters.

This paper is divided in four parts. The first section compares export statistics of principal transit countries for Congolese gold with UAE import statistics from these countries in order to estimate the volume of legal and illegal trading activity. It also describes the players, practices, procedures and main evolutions involved in the legal and illegal gold trade in Uganda, Kenya, Burundi and DRC. The second part considers the ways gold enters and circulates in UAE, and is exported, mainly to India. The third part focuses on the issue of undervaluation of DRCs diamonds and associated transfer pricing in UAE. The fourth and final part takes stock of supply chain policies and legislation in selected African countries and UAE, and provides policy recommendations for governments and companies in countries discussed.

## Section One

## CASE STUDIES IN THE GOLD TRADE

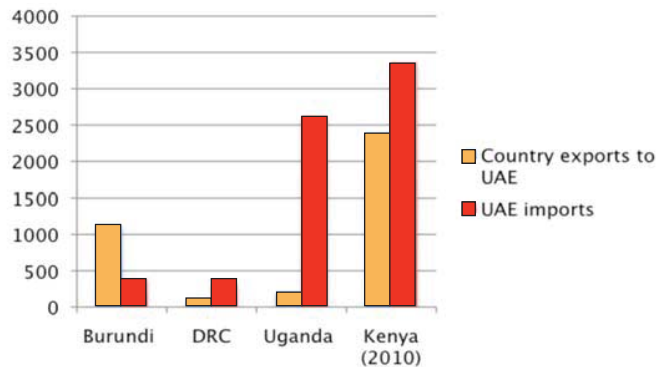
This section examines regional and bilateral trade statistics for gold exports between the Great Lakes region and Dubai, and some of the discrepancies reconciling official trade figures. It lays out some of the practices and loopholes by which mostly Congolese gold evades local export regulations before being shipped to Dubai. The section also explores some of the reasons why traders are resistant to adopting responsible sourcing at the initial point of export. The findings presented here are based on first hand interviews with exporters, mining and customs officials and an analysis of export documentation found in the relevant countries.

The DRC is estimated to produce at least 12 tons of artisanal gold each year, representing a value of up to \$500 million.<sup>14</sup> In 2006 combined exports from Uganda and Burundi amounted to 11.5 tons,<sup>15</sup> despite having minimal gold production of their own. UN sanctions against two principal Kampala-based gold exporters in March 2007 led to a sharp decline in official exports, from almost seven tons in 2006 to 165 kilograms in 2013.<sup>16</sup> The decline of Uganda’s official trade does not imply that real volumes transiting through Kampala dropped as much. Official import records list as much as three tons from Uganda entering UAE in both 2010 and 2011, placing the real decline of traded gold closer to 50%.<sup>17</sup>

The decline of Burundian official exports has been less pronounced than in Uganda, dropping from 4.5 tons in 2006 to 313 kilograms in 2010, but rebounding to over 2.5 tons in 2013.<sup>18</sup> Kenya’s gold exports figures are rather erratic, but appear to have settled at about 2.5 tons per year in recent years.

Tanzania is another conduit for illicit Congolese gold transiting to Dubai. Unlike most of its neighbours, Tanzania is an established industrial producer of gold, mining almost \$2billion a year. Like Kenya, the majority of its industrial production is exported to either Switzerland or South Africa for refining; however its supply chain is nonetheless compromised by illicit Congolese flows that enter through the border-town of Kigoma and exit through Dar es Salaam. However, due to logistical and time constraints Tanzania was not included in the scope of this research.

Figure 1: Export statistics of for gold (in kilos) from selected countries compared to UAE import statistics from those countries (2011).



Source: Comtrade, Reuters<sup>19</sup>

14 "Striking Gold: How M23 and its Allies are Infiltrating Congo's Gold Trade", Enough Project, October 2013; p 1.

15 De Koning, R., "Conflict Minerals in the Democratic Republic of the Congo: Aligning Trade and Security Interventions" Stockholm International Peace Research Institute, June 2011, p 12.

16 Ibid., and gold export statistics for 2013 from the Ugandan Department of Geological Surveys and Mines, unpublished data.

17 <http://comtrade.un.org/db/dqBasicQueryResults.aspx?px=H2&cc=7108&r=784&y=2011>

18 De Koning, Ibid; Final Report, UN Group of Experts on DRC, S/2014/41, 23 January, 2014, p. 196; <http://comtrade.un.org/db/dqBasicQueryResults.aspx?px=H2&cc=7108&r=108&y=2010>;

19 <http://comtrade.un.org/db/mr/daCommoditiesResults.aspx?px=H2&cc=7108>; and "Conflict gold trade continues in face of U.S. law", Reuters, 29 June, 2012; <http://www.reuters.com/article/2012/06/29/us-gold-conflict-idUSBRE8551A420120629>

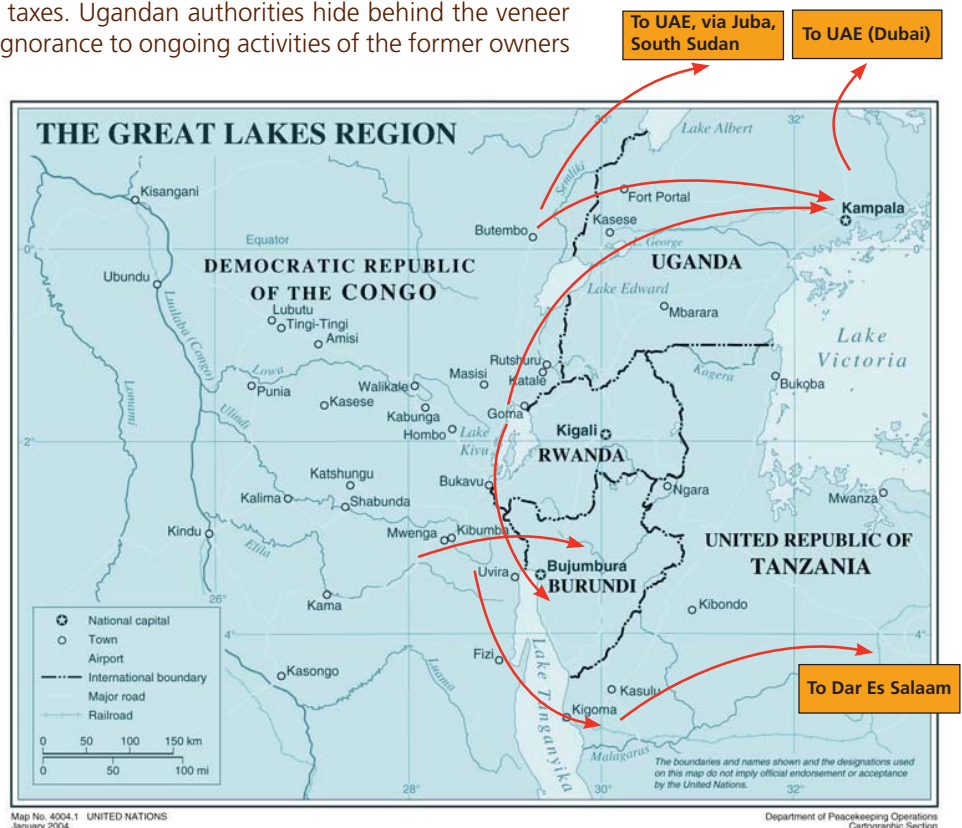
The large discrepancy between Ugandan exports to UAE, and UAE declared imports from Uganda, suggests significant under-declaring or smuggling. This discrepancy is smaller in Kenya, suggesting that the larger share of real exports to UAE is declared upon export. In Burundi more gold is declared exported to UAE than what appears from UAE import statistics. Possibly part of Burundi's gold takes another direction, or transits through another country that is considered the country of origin upon entry into UAE. Hardly any Congolese gold exports are declared and only a small volume is imported in UAE as originating from DRC.

It is unclear whether the above-mentioned discrepancies reproduced themselves after 2011. For the purposes of this research, PAC received Ugandan and Congolese export data from mining authorities, and retrieved Burundian statistics from other reports, but UAE import statistics per country of origin are not publicly available for 2012 and 2013. PAC requested such data from the UAE government, but was unsuccessful. DMCC and UAE customs representatives told PAC that, considering stricter import procedures, discrepancies observed in 2011 for countries like Uganda would be less likely.<sup>20</sup> Without any UAE import data, it is impossible to verify whether this is the case or not.

### UGANDA

As indicated above, the Ugandan gold trade moved largely underground following UN sanctions on its two leading export firms in 2007. It would be wrong, however, to suggest that the ongoing trade between DRC, Uganda and UAE is entirely illegal. Traders operate through legal entities and follow import and export procedures in Uganda. At the same time they misrepresent the origin of gold, falsify documents, under declare gold and thus evade taxes. Ugandan authorities hide behind the veneer of legality dealers put up, claiming ignorance to ongoing activities of the former owners of sanctioned entities and their family members.<sup>21</sup>

The use of front companies, of which the ownership structure remains obscure, is common practice for gold traders that wish to disguise their involvement. In 2012 the UN Group of Experts to DRC alleged that Rajendra Vaya Kumar, of the sanctioned entity Machanga Ltd, used the company Mineral Impex Uganda to ship out his gold.<sup>22</sup> According to intermediary traders, two other defunct gold exporting companies use Mineral Impex as a cover for their ongoing exports. From 2011 to 2013 Mineral Impex exported 240 kilograms of gold, according to statistics of the Ugandan Department of Geological Survey and Mines.<sup>23</sup>



20 Interviews, DMCC and UAE Customs officials, Dubai, 4-7 February, 2014.  
21 Final Report, UN Group of Experts on DRC, S/2014/41, 23 January, 2014, para 187.  
22 [http://www.un.org/sc/committees/1533/pdf/1533\\_list.pdf](http://www.un.org/sc/committees/1533/pdf/1533_list.pdf)  
23 Unpublished government document.

### UGANDAN GOLD DEALERS' RECORD KEEPING

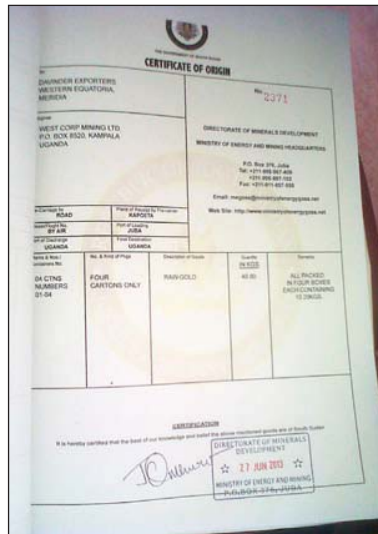
According to Article 72 of the 2003 Ugandan Mining Act mineral dealers are, inter alia, supposed to keep a register showing (1) the name and address of the vendor and his or her right to be in possession of such minerals, and (2) the name and address of the purchaser or consignee to whom minerals are sold. Records are to be submitted periodically to the Department of Geological Surveys and Mines.

When domestically sourcing from artisanal, unlicensed producers, the first point would pose a problem for dealers. In reality, the problem of right of possession of suppliers is circumvented through representing suppliers as goldsmiths and retail shopkeepers or by letting supplies run through them. Both entities have the right to possess minerals, but do not need to demonstrate the right of possession of minerals of their suppliers. On the second point, the Department of Geological Surveys and Mines claims not to possess any details of the foreign purchaser or consignee of dealers' exports. Only the export destination is retrieved from the dealers export permit application and represented in trade statistics.

Ugandan export companies like Mineral Impex and Silver Mineral, which has also been alleged to source from DRC, used to claim that the gold they exported came from South Sudan, an emerging gold producing country. By doing so, they would pay a 1% import tax, rather than 3% royalties on domestically sourced gold.<sup>24</sup> At the same time they routinely disguised the real origin of the gold. Since May 2013 the Mines Commissioner no longer issues import permits on the basis of commercial invoices alone, but insists on certificates of origin from source countries.<sup>25</sup> Silver Mineral failed to produce these and now claims to source domestically<sup>26</sup>. Mineral Impex has not exported since documentary requirements were raised.

One company, Westcorp Mining, imported 40 kilograms of gold after May 2013, presenting a Southern Sudanese certificate of origin that Ugandan mining officials consider to be genuine.<sup>27</sup> PAC could not reach relevant authorities in South Sudan to comment on the authenticity of the certificate, but it should be noted that the name of the issuing ministry is wrong. It should have been the ministry of petroleum and mining rather than energy and mining. The website mentioned on the certificate is an investor website not hosted by the government of South Sudan. The email address and telephone number mentioned on the certificate were not in service.

In June 2013, a new company called Treasure Highland Caves also requested a Ugandan import permit for 156 kilograms of gold from Butembo in North Kivu, showing several Congolese certificates of origin. One certificate appears genuine, but mining authorities in North Kivu did not know the company and denied it having been issued any certificate.<sup>28</sup> The other certificates are copies of the original, with the same registration number and supposedly signature of a former Mining Department official in Butembo. This official told PAC he could never have signed the certificates because he was transferred to another part of the country three years prior.<sup>29</sup>



Fake South Sudanese certificate used by Westcorp Mining to export 40kg of gold in May 2013.

Eventually Ugandan authorities did not issue any import permit because Treasure Highland Caves did not pay the 1% tax. PAC contacted the company's managing director who said that he had not yet consolidated the total amount of gold for export and that he had wanted to see whether he would be able to obtain a Ugandan import permit.<sup>30</sup> He now intends to operate through a yet-to-be-licensed exporting house in Butembo, Northern Gold, and get genuine export documents in order in DRC.

24 Uganda Mining Act (2003), Mining regulations Part B (7), prescribes import fees. If minerals are imported, from DRC or South Sudan for example, dealers are supposed to pay 0.5 % fee for precious metals and stones and 1% for base metals at London Metal Exchange (LME) prices. In reality gold imports are taxed at the rate for base metals. PAC also saw calculations for import fees of gold by the Department of Geological Surveys and Mines set at a 1 % rate.

25 The 2003 Mining Act is silent on the documentary requirements for mineral imports; however, a 2010 government statistics report cites a requirement that dealers produce verifiable certificates of origin of minerals before they can be issued with import permits—the first time this has been publicly disclosed. "Mines Division Annual Statistics Report, 2010", April 2011, unpublished government document.

26 Uganda's official exports from domestic gold production is still minimal, 12 kilograms per year on average since 2011. Calculated from export statistics for 2011-2013, compiled by the Department of Geological Surveys and Mines, unpublished government documents.

27 Interview, official from Department of Geological Surveys and Mines (Uganda), Kampala, 27 January, 2014.

28 Email correspondence, chief of the Congolese Mines Division of North Kivu, 28 January, 2014.

29 Telephone interview, former antenna chief of the Congolese Mines Division in Butembo, 28 January, 2014. The Chief of the Mines Department in Goma confirmed his account.

30 Telephone interview, managing director of Treasure Highland Caves, 1 February, 2014.



PAC visited the premises of Treasure Highland Caves and received the telephone number of the director of another company called Midas Ltd., whom we were told could provide us with information regarding the former company. The director of this company told PAC that he only advised the company and had no stakes in it.<sup>31</sup> He further told PAC that his former company Midas All Minerals stopped exporting gold after running into financial difficulties after his gold was stolen at Entebbe airport in November 2011.

Like the managing director of Treasure Highland Caves, the director of Midas Ltd. is aware of the need to start-up legal exports of Congolese gold from Congo, rather than from Uganda, as a first step to conduct due diligence on the supply chain. However, he considers the lengthy licensing process, the 2% export tax<sup>32</sup>, and corruption and insecurity as principal obstacles to start-up legal trading from DRC.



Fake export certificate used by Treasure Highland Caves to export gold from DRC to Uganda

Besides operating through front companies, some gold traders also appear to bypass mining authorities entirely. Officially traders must show their export permit and dealers license, both obtained from mining authorities, in order to clear gold with customs.<sup>33</sup> However, Ugandan Customs statistics of 2011 and 2012 show a larger number of dealers exporting than statistics from the Department of Geological Surveys and Mines.<sup>34</sup> This would suggest that some dealers are able to clear customs without obtaining their export permits.

Indeed, a gold consignor told PAC that some Customs agents at Entebbe airport do not ask for any permit other than the dealer license, clearing gold after "tax" payment of "a percentage".<sup>35</sup> More dealers are likely to bypass the Department of Geological Surveys and Mines, now that the Department insists on certificates of origin when re-exporting gold. Indeed, sources close to Rajendra Kumar told PAC that he intends to stop obtaining export permits via Mineral Impex and "settle" with customs only.<sup>36</sup>

After clearing customs gold is either shipped out as (value) cargo or hand-carried, in both cases on regular commercial flights. According to a representative of a cargo service operating between Kampala/Nairobi and Dubai, hand carrying has practically become the sole option because most commercial airlines are refusing gold as cargo.<sup>37</sup> This is mainly because freight-forwarding companies are unable to insure the gold on these routes, putting the liability on the airliner in case of loss or theft.

31 Interview, director of Midas Ltd, 28 January, 2014.

32 Although the official tax is 2%, many exporters say it is closer to 10% once various levels of corruption by officials are factored in.

33 Documentary requirements also include an export certificate from the Ministry of Tourism Trade and Industry. But since issuance of the export certificate relies on the export permit, it appears to be optional. "Required Documents at the Point of Entry", Uganda Revenue Authority, 2011/12;

[http://www.ura.go.ug/openFile.do?path=/webupload//upload//download//staticContent//RGTMENU//307//312\\_Required\\_Doc.pdf](http://www.ura.go.ug/openFile.do?path=/webupload//upload//download//staticContent//RGTMENU//307//312_Required_Doc.pdf)

34 Ugandan Revenue Authority (URA) customs statistics January 2011-April 2012, unpublished government document.

35 Interview, gold consignor, Kampala 29 January, 2014.

36 Telephone Interview, gold trade insider, 13 February, 2014

37 Interview, cargo handler, Dubai, 6 February, 2014.

Ugandan Customs data show an average of just over three kilograms for each gold consignment. According to industry experts with experience shipping gold from Africa these figures are bogus, as exporters need shipments of at least five kilograms just to recover logistical costs.<sup>38</sup> Two cases of theft also suggest that consignments from Uganda tend to be much larger than reported. In one incident a \$800,000 shipment belonging to Midas All Minerals was stolen at Entebbe airport in November 2011,<sup>39</sup> putting the export at about 20 kilograms. Customs records, however, show the company legally exported only 2.5 kilos during the entire year.<sup>40</sup> Another more recent case at the Dubai airport concerned a Ugandan jeweller who was robbed of 25 kilograms during a delivery to Dubai's gold souk.<sup>41</sup>

Both examples point to considerable underreporting or illegal exports of gold from Uganda, which, if practiced across the board, could explain the large discrepancy between official exports from Uganda to UAE and registered imports from Uganda into UAE.

## KENYA

Two companies, Skyhawk International Limited and Ushindi Exports Limited, have for several years dominated Kenya's gold exports. Ushindi has been active since 2005, officially exporting an average of about one ton per year, while Skyhawk has been active since 2010, exporting an average of 1.7 tons per year until 2013.<sup>42</sup> Kenyan Customs data for 2010 and 2011 show exports are exclusively to UAE.<sup>43</sup> The discrepancy between recorded Kenyan exports and UAE imports is much smaller compared to Uganda (see figure 1), which suggests relatively little under-declaring or illegal exports. Kenyan Customs data for 2011 show individual consignments of gold by the two companies averaging 23 kilograms, which is a realistic amount for hand-carried gold consignments.<sup>44</sup>

In August 2013 mineral royalty rates in Kenya changed, introducing a flat 2% rate on the value of all exported gold. Hitherto royalty rates were separately fixed for the country's two industrial concessions – 2.5% for Karebe Gold and 5% for Kilimapesa Gold<sup>45</sup> – payable in principle by licensed dealers exporting the gold but, subject to any agreement, to be recovered from the company on whose behalf gold was exported.<sup>46</sup> Gold from both concessions goes to South Africa for refining<sup>47</sup>, not UAE, and thus does not appear to make up any of the gold exported by Skyhawk and Ushindi.<sup>48</sup>

38 Interview, gold importer, Dubai, 3 February, 2014.

39 "Airport staff jailed over stolen gold", Daily Monitor, 28 January, 2012; <http://mobile.monitor.co.ug/News/-/691252/1314966/-/format/xhtml/-/pgoc9/-/index.html>

40 URA customs statistics January 2011-April 2012, unpublished government document

41 "Four cops in dock over Dhs1.2m gold theft", The Gulf Today, 20 December, 2013; <http://gulftoday.ae/portal/b4568825-bd93-4b9c-a28a-03f23a46c8c0.aspx>

42 "DCI wants suspended mining boss charged", The People, 14 August, 2013; [http://www.ipsos.co.ke/NEWBASE\\_EXPORTS/Bamburi/130814\\_The%20People%20-%20Wednesday\\_2\\_5a600.pdf](http://www.ipsos.co.ke/NEWBASE_EXPORTS/Bamburi/130814_The%20People%20-%20Wednesday_2_5a600.pdf)

43 Kenya Revenue Authority, customs statistics, January 2010-April 2011. Unpublished government document.

44 Ibid.

45 Press Statement on the status of Mining in the country, Hon. Najib Balala, 5 August, 2013; <http://www.mining.go.ke/index.php/2013-06-10-13-08-38>

46 Republic of Kenya, "Trading in Unwrought Precious Metals Act (1987)", Chapter 309, T12-9.

47 "Goldplat Kilimapesa Gold Project, Kenya", Mining Technology, no date; <http://www.mining-technology.com/projects/golplat-kilimapesa/>; and Kenya Revenue Authority, customs statistics, January 2010-April 2011. Unpublished government document.

48 Karebe and Kilimapesa produced 536 kilograms of gold between January and June 2013, according to evidence submitted by the Criminal Investigation Department to the Parliamentary Committee on Environment and Natural Resources in August 2013. See "CID wants mines boss prosecuted over gold exports", Business Daily, 11 August, 2013; <http://www.businessdailyafrica.com/CID-wants-mines-boss-prosecuted-over-gold-exports/-/539546/1944352/-/pdfyiz/-/index.html>

In May 2013, the activities of Ushindi and Skyhawk were suspended, when the Parliamentary Committee on Environment and Natural Resources started an inquiry into their gold dealings. A report submitted to the Committee by the Criminal Investigation Department (CID) raised a number of issues regarding both companies' sourcing practices. Concerns about corruption were also raised after it was revealed that consecutive Commissioners of Mines allegedly wrote letters—in 1997 and again in 2012—exempting the two exporters from revealing the sources of gold as well as the identity of their suppliers.<sup>49</sup>

Kenyan mining authorities informed PAC that they had always emphasized that exporters maintain and transmit records about the place, date, quantity and prices of purchases (although did not mention the identity of any sellers).<sup>50</sup> Through field visits authorities also claim they were able to estimate production levels of different areas and assess the truthfulness of the stated origin of exported consignments.<sup>51</sup>

Ushindi claims it kept records through issuing payment vouchers, and had supplied these to the investigation team,<sup>52</sup> but dismisses the requirement to register and verify the identity of sellers as unworkable, because many artisanal miners fear arrest because they operate without a license—a point conceded by mining authorities.

Where do Ushindi and Skyhawk get their gold from, then? The chairmen of both companies allegedly admit to buying some of it from traders from neighbouring countries like DRC, Tanzania and Uganda.<sup>53</sup> One Ushindi director similarly told PAC that the company bought its gold from artisanal miners in places all over Kenya like Turkana, Lodwar, Logorien and Migori, but that it would be impossible to give assurances that no gold from outside Kenya entered their chain of custody. The director also argued the 2% royalty rate is too high, and acts as a disincentive to legal gold exports.

## BURUNDI

For many years, Berkenrode and its successor, Ntahangwa Mining, dominated Burundian gold exports. However, several new companies sprung up in 2012 and 2013 and exported significant quantities of gold, boosting exports to over 2.5 tons in 2013, practically all of which went to UAE.<sup>54</sup> Burundi's favourable tax regime of 0.3% was changed in October 2013 with the adoption of a new Mining Code, lifting it to 2%, thereby making it the same as in DRC.<sup>55</sup> The two fastest growing newcomers in the market are Golden Gold and SCEEMB with about half a ton of exports each between January and October 2013.

The image shows a French export declaration form titled 'DECLARATION N° 104/2012 POUR EXPORTATION D'OR'. The form is filled out with the following details:

Nom et adresse du Comptoir	: GOLDEN GOLD, BP 597 BUJUMBURA-BURUNDI
N° et date d'agrément	: 39/2012, le 30/04/2012
Nom et adresse du représentant au Burundi	: KARIM SOMBI
Exportation n°	: 002/2012
Poids net (en kg)	: 5,097 kg
Teneur (en ‰)	: 87‰
Cours de l'or au finage de clôture à Londres (Ville)	: 1.558 USD
Valeur à l'exportation (en toutes lettres)	: 176.995 USD (Cent septante six mille neuf cent Nonante cinq USD)
Taxe ad valorem minier de 0,3% (en chiffres et toutes lettres)	: 530,99 USD (Cinq cent trente dollars nonante neuf centimes)
Droits de sortie de 0,2% (en chiffres et toutes lettres)	: 353,99 USD (Trois cent cinquante trois dollars, nonante neuf centimes)
Bureau de douane de sortie	: Aéroport de Bujumbura
Compagnie de transport	: Kenya Airways
Lettre de transport	: Bagage accompagné
Coursier	: AZAD Somali
Numéro et date de voi	: du 31/07/2012

At the bottom, there is a signature and stamp area. The text reads: 'Je soussigné GOLDEN GOLD en signe attesté par la présente que les informations ci-dessus sont sincères et conformes à la réalité.' The date is 'Bujumbura, le 28/07/2012'. There are two stamps: one from the 'REPUBLICQUE DU BURUNDI' and another from 'POLICE NATIONALE ACCORDS D'EXPORTATION'. A signature is present over the stamps.

Export declaration form of a company affiliated with Sibtein Alibahai, indicating gold exported through airplane carry-on.

49 Interview, CID Director, Nairobi, 31 January 2014.

50 Interview, officials at the Mines and Geology Department (Kenya), Nairobi, 30 January, 2014.

51 PAC requested documentary evidence of this working method, but was told the investigating team had taken many of the records and ongoing investigations prevented the sharing of any available information.

52 Telephone interview, director of Ushindi Exports, 30 January, 2014.

53 Op cit. Business Daily, 11 August, 2013.

54 Final Report, UN Group of Experts on DRC, S/2014/42, 23 January, 2014, para 196; [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2014\\_42.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_42.pdf)

55 Ibid., para. 193

Another major player is Etablissement Jean Jbeili, even though official statistics do not fully capture its prominence. In 2013 Jbeili told the UN Expert Group that it had not exported any gold, although official export documentation showed otherwise. The company legally exported 45 kg between January and October, including 1 kg to Lebanon; even though Lebanon did not report any imports from Burundi for 2013. Jbeili is also unusual in that it has a license and facilities to refine gold, although it is forbidden from doing so until it conforms to government traceability regulations.<sup>56</sup>

According to Burundian mines authorities the boost in exports is due to the rapid expansion of artisanal mining in the northeastern province of Muyinga.<sup>57</sup> However, Burundian production capacity was estimated to be around 750 kilograms in 2011,<sup>58</sup> making a tripling of production in two years unrealistic. The UN Group of Experts to DRC have repeatedly alleged that Berkenrode's owner (Mutoka Ruganyira) sources his gold mostly from DRC with the help of the rebel group FDLR. They also concluded that Mutoka is able to continue trading without any legal hindrances thanks to the protection of top security officials in both Burundi and the DRC.<sup>59</sup>

Golden Gold, registered in Bujumbura, has been alleged to export gold on behalf of AR Gold in Goma without the authorization of Congolese authorities.<sup>60</sup> The principal owner of AR Gold is Sibtein Alibhai, while his associate Karim Somji runs Golden Gold. Alibhai is variously described as having Canadian<sup>61</sup> and Mozambican<sup>62</sup> nationality. Before venturing into the African mineral trade Alibhai was a real estate developer with his brother, Mohamed Aquil Ali, in Costa Rica. Alibhai was forced to flee when he was implicated in providing material support to a suspected money launderer fleeing American prosecutors.<sup>63</sup> He is also known to control Alfa Gold (based in Bukavu, DRC), Alfa Gold Corp (headquartered in the DMCC in Dubai) and Alfa Gems Corp (Manica, Mozambique). The location of the latter company is notable: while there is a modest artisanal gold sector in that part of Mozambique, the town is infamous for being one of the leading smuggling hubs for Marange diamonds during the 2009-2012 KP embargo.<sup>64</sup> In Dubai, Alibhai is considered politically untouchable thanks to close relations with members of the Royal family.

## DEMOCRATIC REPUBLIC OF CONGO

The exporters in transit countries rely on smugglers to bring gold in from DRC. Many of the smugglers have been identified through the work of UN Groups of Experts. While several of them have licenses to trade within DRC, and at times they do sell to Congolese export houses, they are primarily tied to exporters outside DRC. Having controlled the business for many years, Kampala and Bujumbura based exporters are said to have a much larger cash flow than Congolese exporters and are thus able to pre-finance Congolese suppliers in larger amounts and temporarily offer above-market prices to assure their loyalty.<sup>65</sup>

56 Ibid para. 192

57 Telephone interview, official at the Geology and Mining Ministry (Burundi), 10 February 2014.

58 Yager, T.R., "The Mineral Industry of Burundi", U.S. Geological Survey, 2011.

59 Final Report, UN Group of Experts on DRC, S/2009/603, 23 November 2009, para. 140-154;

60 "Striking Gold: How M23 and its Allies are Infiltrating Congo's Gold Trade", Enough Project, October 2013; p 6.

61 [http://www.portaldogoverno.gov.mz/Legisla/boletinRep/boletins-da-republica-2010/br-n-o-48-iii-serie-2010/BR\\_48\\_III\\_SERIE\\_2010.pdf](http://www.portaldogoverno.gov.mz/Legisla/boletinRep/boletins-da-republica-2010/br-n-o-48-iii-serie-2010/BR_48_III_SERIE_2010.pdf)

62 [http://www.portaldogoverno.gov.mz/Legisla/boletinRep/boletins-da-republica-2012/br-n-o-48-iii-serie-2012/BR\\_48\\_III\\_SERIE\\_3.o%20SUPLEMENTO\\_2012.pdf](http://www.portaldogoverno.gov.mz/Legisla/boletinRep/boletins-da-republica-2012/br-n-o-48-iii-serie-2012/BR_48_III_SERIE_3.o%20SUPLEMENTO_2012.pdf)

63 Enough Project, October 2013; p 31.

64 "Diamonds and Clubs: The Militarized Control of Diamonds and Power in Zimbabwe," Partnership Africa Canada, June 2010; [http://www.pacweb.org/Documents/diamonds\\_KP/Zimbabwe-Diamonds\\_and\\_clubs-eng-June2010.pdf](http://www.pacweb.org/Documents/diamonds_KP/Zimbabwe-Diamonds_and_clubs-eng-June2010.pdf)

65 Interim Report, UN Group of Experts for DRC, S/2012/348, para 157.

Although most Congolese artisanal gold is smuggled across its porous borders, DRCs official exports are slowly increasing: from 112 kilograms in 2011<sup>66</sup> to at least 203 kilograms in 2013 (see table 1). A number of new export houses have also been established in recent months in places like Bunia and Bukavu. Part of the explanation for this upward trend may be the reduction of export tax from 3.5% to 2% in 2012, in line with Burundi and Kenya.<sup>67</sup>

Congolese export houses can only legally purchase gold from licensed intermediary traders. For each sale the latter must produce a transport authorization issued by mine authorities from where gold is purchased or transported. Such authorizations usually refer to either the territory where gold was supposedly produced or the town from where it was transported. To be compliant with the DRC Mining Code, export houses make sure that the volume of their legal purchases reflects the volume they legally export.

Although helping to formalize exports, the establishment of new buying houses generally does not appear to lead to more diligent sourcing. Several companies, such as Mining Congo, DTA, Glory Minerals, AR Gold and Namukaya (in previous years), are alleged to buy indiscriminately from mining areas that are entirely or partly controlled by armed groups.<sup>68</sup>

This is not to say there is no potential for, or interest in, diligent sourcing. PAC was shown an elaborate due diligence strategy from the new buying house Metaux Precieux in Bunia, to assure legal purchases from cooperatives in conflict-free areas in Orientale province, involving screening of intermediate traders and insisting on bank transfers, chain of custody documentation, and photographic evidence of sources of gold.<sup>69</sup>

Table 1: DRC official gold exports for 2013

Location	Exporter	Weight (kg)	Period	Destination
Kinshasa	SatisRessources	3.16	Jan-Oct	
	Centauris	1.02	Jan-Oct	(Switzerland)
	Metal Aurum	37.43	Jan-Oct	
	Eda Velma	9.55	Jan-Oct	Ramp International (UAE)
Bukavu	DTA	10.66	Jan-Dec	Al Refaa Star Trading (UAE)
	Mining Congo	49.28	Jan-Dec	Viren Jewellers (UAE)
	Namukaya	7.08	Jan-Dec	Economic Exchange Centre, Sharjah (UAE)
	Cavichi	12.19	Jan-Dec	Cavichi Jewellery (UAE)
Kisangani	Metal Aurum	44.31	Jan-Oct	
	Centauris	11.84	Jan-Oct	
	Eda Velma	2.65	Jan-Oct	
	Divas	2.57	Jan-Oct	
Butembo	Glory minerals	2.1	Jan-Oct	Sakshi Jewellery (UAE)
Bunia	MetauxPrecieux	8.99	Jan-Oct	
Total		202.83		

Source: Final Report, UN Group of Experts on DRC, S/2014/41, 23 January 2014, p. 165; Centre d'Evaluation, d'Expertise et de Certification (CEEC) Bukavu, export statistics for September-December 2013.

66 Hogg, J. and Harvey, J. op cit.

67 "The poverty of the DRC's gold miners," Irin News, 29 January, 2013; <http://www.irinnews.org/report/97356/the-poverty-of-the-drc-apos-s-gold-miners>

68 Final Report, UN Group of Experts on DRC, S/2009/603, 23 November, 2009, para. 130; Final Report, UN Group of Experts on DRC, S/2012/843, 15 November, 2012, para. 186; Final Report, UN Group of Experts on DRC, S/2011/738, 2 December, 2011, para. 200; Final Report, UN Group of Experts on DRC, S/2014/41, 23 January, 2014, para. 168.

69 Telephone Interview, Managing Director, Metaux Precieux, 21 February, 2014.



## Section Two THE UAE CONNECTION

In 2011 gold imports in UAE totalled 834 tons, the large majority of which came to Dubai.<sup>70</sup> The Emirate imported 745 tons of gold that year, worth over \$32 billion, and exported 451 tons, leaving 383 tons to be sold locally.<sup>71</sup> Congolese gold alone represents a fraction of total UAE gold imports. The ICGLR region together – including also North Sudan and Tanzania that are equally “high-risk countries” by OECD standards – makes up about a tenth of total UAE gold imports.<sup>72</sup>

Documentary requirements for importing gold in UAE appear to have become more stringent in recent years. The 2009 Inspection Procedures of the Dubai Customs Gold Office require cargo agents bringing in gold to present: Import Declaration, Airway Bill, Delivery Order and Original Invoice.<sup>73</sup> Procedures make no reference to certificates of origin, customs declaration forms from the port of exit or proof of payment of export tax in the country of origin. However, according to gold consignors shipping gold into Dubai from Africa, cargo gold now has to be accompanied with certificates of origin and customs declaration forms.<sup>74</sup> PAC could not retrieve any official procedures for hand-carried gold, but from experiences of gold consignors it appears that only a customs declaration is required.

The predominance of hand carried gold (as opposed to shipping it via cargo) from the countries in question limits the possibility to trace it through the supply chain after entry into UAE. For gold shipped by cargo, the commercial invoice must specify the consignee, i.e. a licensed trader or refiner, who is notified and is supposed to collect the shipment from the Gold Office at Customs at the Dubai airport. In contrast, the commercial invoice in a hand carry scenario does not need to be made out to the consignee, but is usually in the name of the consigner.<sup>75</sup> And if a consignee is mentioned on the invoice it is not certain whether this is the actual buyer of the gold, since the consignee is not supposed to collect it. In practice, the consigner can go to any jeweller in the souk.



Gold dust gets weighed at a comptoir in Mangi, Orientale Province, DRC

Credit: Joanne Lebert/PAC

PAC contacted five out of ten jewellers and gold trading companies indicated as consignee on export records from customs or mine authorities in DRC and Uganda, and asked whether they accept mined gold from DRC and neighbouring countries.<sup>76</sup> The exact origin and circumstances under which gold was produced was immaterial to all of them. The only criteria they had in accepting gold was whether it has been cleared by customs at the port of exit and at the port of entry.

70 UN Comtrade statistics for 2011; <http://comtrade.un.org/db/dqBasicQueryResults.aspx?px=H2&cc=7108&r=784&y=2011>

71 <http://www.dmcc.ae/gold-overview>

72 UN Comtrade statistics for 2011; <http://comtrade.un.org/db/mr/daCommoditiesResults.aspx?px=H2&cc=7108>

73 “Inspection procedures at the gold office”, Dubai Customs, 2009; <http://www.dubaicustoms.gov.ae/en/Procedures/CustomsDeclaration/Pages/InspectionProceduresGold.aspx>. Customs authorities did not respond to PACs information request for (updated) inspection procedures for gold imports.

74 Interviews, gold consignors and importers, Dubai, 4-7 February 2014.

75 Ibid.

76 Interviews, Jewellers, Dubai, 3-7 February 2014.

One jeweller told PAC that most gold from the ICGLR region is sold in the souk because it has become more difficult to sell such gold on to DMCC refiners since audits on their responsible sourcing practices began. Refiners supposedly request customs clearance for the exact amount supplied, refusing any gold shipped from DRC or neighbouring countries. However, Kaloti appears not to be the only refiner in Dubai with compromised due diligence systems. The same jeweller admitted slipping a small quantity of mined gold from DRC into a DMCC refiner, along with mined gold from accepted countries of origin like Ghana and South Africa.

Another jeweller told PAC that he could mix mined gold, from DRC or anywhere else, with scrap gold and sell it to refiners without this being detected. According to an industry expert this would be possible as long as the mined gold does not represent more than 10 per cent of a jewellery scrap bar, when it would pass x-ray testing.<sup>77</sup> To prevent such gold entering legal channels, some refiners ask scrap suppliers to show photos of the jewellery that was melted into scrap, produce invoices of their suppliers, and explain why the jewellery was melted down and not delivered to them as such.<sup>78</sup>

While some mined gold from DRC and neighbouring countries still enters audited DMCC refiners – misrepresented as scrap gold or as mined gold from another country – testimonies from jewellers suggest that this gold is more likely to be absorbed in the jewellery market, or exported to countries like India (see box UAE Gold Trade to India). Besides the jewellers consulted by PAC, and clear evidence of gold appearing on Congolese and Ugandan export statistics, Congolese traders in Dubai provided names of another six jewellers who regularly buy Congolese gold.<sup>79</sup>

This suggests two things. The first is that with the current focus on refiners, the UAE is overlooking vulnerabilities in its jewellery sector, and it needs to design a strategy to address conflict gold entering the global market through this loophole. Secondly, due diligence efforts, whether at the refiner or jeweller level, should not seek to simply “avoid” Congolese gold. Rather efforts need to prioritize engagement with all actors in the ICGLR, including key exporters, government officials and mining communities. Doing so will set in place necessary due diligence systems that extend back to the mine site, create greater flows of legal gold exports (from all countries) and, most importantly, contribute to regional political and economic stability.

77 Telephone interview, gold industry expert, 9 February, 2014

78 Interview, gold refiner, Dubai, 3 February 2014.

79 Interviews, Congolese traders, Dubai, 3-7 February 2014

80 UN Comtrade, op cit.

81 “Dubai precious metals conference (6-7 April 2013) live update”; <http://dpmc.ae/liveupdates.aspx>

82 “Import of Gold by Nominated Banks/Agencies/Entities,” Reserve Bank of India, Circular No. 25, 14 August, 2013; <http://rbi.org.in/scripts/NotificationUser.aspx?Id=8312&Mode=0>

83 Arnold, T. ‘Dubai feels the pain from India’s gold taxes’, The National, 13 October, 2013; <http://www.thenational.ae/business/industry-insights/economics/dubai-feels-the-pain-from-indias-gold-taxes#ixzz2tBVlxGW>

84 Interviews with Dubai based gold traders, 3-7 February, 2013.

## UAE GOLD TRADE TO INDIA

In 2011, about half of UAE’s gold exports went to India, with Switzerland ranking second with 22%, followed by Iran and Turkey with 5% each, according to UN Comtrade data.<sup>80</sup> Agencies nominated by the Reserve Bank of India (RBI) to import gold for use in the domestic sector are permitted to buy from DMCC refiners that been successfully audited for responsible sourcing practices.<sup>81</sup> But other gold from UAE can, and does, enter special economic zones where nominated agencies are not involved. As such, gold trade with India can involve bullion gold produced by DMCC refiners, as well as jewellery and jewellery scrap. In 2013 India increased its import duties on gold three times to a record 10% for bullion and 15% for jewellery, in a bid to discourage gold imports that are generating enormous currency account deficits and were pushing down the rupee. In addition, in August 2013 the RBI made it mandatory for nominated importers to set aside 20% for re-export as jewellery.<sup>82</sup> As a consequence of this, formal exports from Dubai based companies to India dropped by almost 20% in 2013.<sup>83</sup>

These import measures, however, seem to have affected India’s jewellery trade less than its bullion trade. Squeezed supplies and steady Indian consumer demand for jewellery has driven up local prices in India, still making it profitable for Dubai-based jewellers (who are not bound to reserve 20% for re-export) to either ship jewellery or individual gold bars with expatriate passengers and pay required taxes.<sup>84</sup> Smuggling is allegedly also on the rise, either over land through neighbouring countries like Nepal and Pakistan, or by transiting from an international to a domestic airport, thus avoiding strict controls.

## Section Three      **DIAMONDS TRADE FROM DRC TO UAE**

Geographically, Dubai lies at a crossroads in the world diamond trade. At the eastern end of the Arabian Peninsula, it straddles the divide between southern producing countries, the Western “old world” diamond centres of Antwerp, Tel Aviv and London, and the “new world” promise of Mumbai and Shanghai.

Since 2003, Dubai has emerged from obscurity to be the third largest diamond trading centre in the world, trading almost \$42 billion worth of stones in 2013—\$12.4 billion of which were rough.<sup>85</sup>

Location is not the only reason for the UAE’s success. Faced with declining oil reserves, Dubai successfully set out to reinvent itself as a regional trading hub, guided by laissez-faire regulations and generous 50-year tax holidays that its main rivals like Antwerp could not match. Its dual role as a transit hub where diamonds can be re-exported and revalued makes Dubai extremely attractive to those seeking to give illegitimate diamonds a new lease on life, or to cheat African producing countries out of taxes that they would otherwise have to pay.

According to the Kimberley Process Certification Scheme, all rough diamonds traded in the world are to be accompanied by certificates detailing the value and origins of the stones. Operating properly, the system should be able to stop stones with questionable origins or values that do not match the geological footprint of the country of export. Unfortunately, those seeking to cover their tracks can easily circumvent this system through the use of certificates of mixed origin, gained by routing such diamonds through trading hubs such as Dubai.

Companies, individuals or criminal networks seeking to disguise problematic diamonds will initially ship their stones—more often than not with valid certificates obtained in third countries—to Dubai where the parcels can then be mixed with other shipments. From there, stones are sent on to other jurisdictions for cutting and polishing, only this time accompanied by a KP certificate from Dubai, rather than the initial country of export. By repeating this process such diamonds become extremely difficult, if not impossible, to trace. This practice is problematic not only because it can be used to disguise purchases from legal, yet reputationally challenged sources (like Zimbabwe’s Marange diamond fields); it can also be used to hide the origins of diamonds which do not meet KP certification requirements.

Prior to the advent of the KP, African diamonds were routinely bought at bargain prices, and re-priced more accurately as they passed through the diamond supply chain. Doing so minimized export taxes and disguised the margins between the purchase and real price of the stones. The KP’s requirement that diamonds be accompanied by certificates stating the price of a given parcel and issued at the point of origin was intended to make this practice more difficult. In reality, however, the problem continues.

UAE's biggest draw is its tax-free status. Diamonds imported to the UAE from the country of origin can be revalued closer to market price, and re-exported without tax consequences. KP statistics from 2013, for example, show that the average per carat value of diamonds entering the UAE was \$74.40, yet the average re-export was \$107.05 per carat – a 43.8% increase. The difference was even more dramatic in 2011, reaching 74%, according to a ground-breaking study by the Financial Action Task Force and the Egmont Group looking at the intersection between diamonds, money laundering and terrorism.<sup>86</sup>

In 2012, the DRC was the second largest diamond producer in the world by volume, producing over 21 million carats. In value, however, it ranks 10th place.<sup>87</sup> Despite its prominence, the DRC contributed only 7% of the almost 67 million carats UAE imported in 2013. In value terms, this translated into just over 1% of the total value of UAE imports that year (\$5.1 billion).<sup>88</sup>

The average value of Congolese industrial diamonds has been steadily decreasing in the past decade along with the total volume. Congolese diamond exports are grossly undervalued by exporters and the government valuation office, the Centre d’Evaluation, d’Expertise et de Certification (CEEC), largely to minimize paying the 3.75% export taxes.<sup>89</sup> For example, exporters declared their diamonds at an average value of \$10 per carat in 2013, while CEEC valuers averaged \$14 per carat.

Table 2: CEEC Export statistics for 2013

	Exporter	Quantity, cts	Declared value \$US	Average per carat	Value after expertise \$US	Average per carat	Destination
1	Afrogem	1,317,454.67	31,226,296	23.70	41,848,275	31.76	UAE and Belgium
2	Kasai wa Balengela	8,284,051.69	32,520,255	3.93	56 905 220	6.87	UAE and Belgium
3	Saga	2,839,584.82	56,781,649	20.00	77,196,662	27.19	Israel and Belgium
4	Solidiam	3,125,684.28	35,829,705	11.46	44,867,025	14.35	UAE and Belgium
	<b>Total</b>	<b>15,566,775</b>	<b>156,357, 905</b>	<b>10.04</b>	<b>220,817,182</b>	<b>14.19</b>	

Source: Centre for Evaluation, Expertise and Certification, Kinshasa

According to a diamond trade expert the latter average value is still suspiciously low considering the fact that since 2010 Congolese exporters are obliged to deoxidize diamonds to improve their appearance.<sup>90</sup> This process can increase the value of gemstone diamonds by up to 40% and industrial diamonds by 25%. In reality, the per carat value of industrial diamonds decreased by 30% compared to the average per carat value over three years preceding 2010, while gem quality diamonds saw a 20% improvement over the same time period.<sup>91</sup>

86 “Money Laundering and Terrorism Financing Through Trade of Diamonds,” FAFT-Egmont Group, October 2013, p. 34; <http://www.fatf-gafi.org/media/fatf/documents/reports/ML-TF-through-trade-in-diamonds.pdf>

87 Kimberley Process statistics, annual global summary 2012; [https://kimberleyprocessstatistics.org/public\\_statistics](https://kimberleyprocessstatistics.org/public_statistics)

88 Kimberley Process statistics for DRC and UAE, 2013; unpublished industry data

89 Email communication, diamond trade expert, Kinshasa, 31 January, 2013.

90 Ibid.

91 Calculated from Kimberley Process statistics for DRC; unpublished industry data

In theory, part of the higher valuation in Dubai can be attributed to mixing or “sorting” parcels to make them more attractive to onward buyers. Generally this process can result in a 10-15% increase. However, in practice the “trades” taking place in Dubai are effectively just revaluations occurring within the same family of companies. Basically the same rough diamonds go in and out but at a much higher price. This phenomenon known as transfer pricing enables associated companies to under declare the value of their diamond exports in producer countries, thereby minimising due taxes.

As one diamond consultant noted: “In essence, diamond multinationals will channel their rough diamond purchases...through Dubai. Often, the parcels are not even opened and, after re-invoicing, are shipped to the final destination, often Belgium, India or far-east cutting centres. The invoice will inevitably provide a higher figure...As a result, the local company produces a profit – which is a purely paper profit, because it generally remains a transaction between affiliated companies.”<sup>92</sup>

To African governments the difference between tax avoidance (which many consider a legal practice) and tax evasion (which is illegal) is a semantic one. In 2013 alone, price manipulations due to transfer pricing generated in excess of \$1.6 billion in “profits” in the UAE, and represents a major deprivation for African treasuries, which lost much needed tax revenues. In the Congolese diamond context transfer pricing cost the treasury an estimated \$66.2 million in 2013. Perhaps one of the worst affected countries is Zimbabwe, which lost an estimated \$770 million in taxable revenues on exports to UAE between 2008 and 2012 due to an average 50% undervaluation of its diamonds.<sup>93</sup>

For the international law enforcement community, it spells a concern of a different kind. The Financial Action Task Force (FATF) is one of the world’s leading agencies studying the issue of money-laundering (ML) and terrorism financing (TF), and its October 2013 report concluded that transfer pricing in Dubai posed unique reputational risks to the diamond trade and could be enabling terrorist organizations:

“Diamond trade centres like Dubai, which operate as Free Trade Zones (FTZ) are susceptible to [money-laundering] vulnerabilities...This, in combination with the specific vulnerabilities of the diamond trade and the mechanism of transfer pricing, creates a significant vulnerability for ML and TF activities. By way of over or under invoicing with affiliate diamond companies located in FTZ, it is possible to illegitimately shift profits from diamond companies in high tax rate countries to FTZs and thus avoid taxes. It is also possible to use the same scheme for ML/TF purposes. The combination of a lack of transparency in the diamond trade with a lack of transparency in a FTZ provides an excellent atmosphere to conduct large volume transactions without being detected.”<sup>94</sup>

92 Even-Zohar, C. (2004), *Diamond Industry Strategies to Combat Money Laundering and Financing of Terrorism*, ABN AMRO, p. 101 .

93 KP statistics

94 FATF-Egmont Group, op cit, p. 63



Compounding these concerns is Dubai's practice of allowing diamond deals—often worth many million dollars—to be transacted in cash, rather than formal banking channels. While UAE is not the only jurisdiction that allows this, it is worrying that Dubai was especially vocal in opposing KP efforts in 2013 to bring such transactions within the banking system, where anti-money laundering screening initiatives such as “know your customer” could provide added assurance to who may be behind the transaction.

For its part, the Dubai Multi Commodities Centre (DMCC), which implements the KP certification in the UAE, claims it conducts independent valuation of the imported parcels on an ad hoc basis. According to the Director for the UAE Kimberley Process, undervaluations of over 30% are not accepted for gemstone diamonds, while the margin of acceptable difference is only a few per cent for industrial diamonds.<sup>95</sup> While an unknown number of shipments were rejected eight years ago when random checks started, no parcels have been rejected due to unacceptable levels of undervaluation in the past five years.

The huge discrepancies between the average import and export value also sets Dubai apart from the other main rough diamond trading centres: in the European Union it averages 5%, while in Switzerland and Israel it is 8% and 6%, respectively.<sup>96</sup> In Belgium and Israel the diamond industry is subjected to a very small presumptive tax for the net income calculated as a percentage of turnover. This would naturally reduce the incentive to practice transfer pricing, as this would inflate presumed taxable income. Under a zero-tax regime, UAE would need to introduce transfer-pricing regulation to tackle the issue. Currently, there are no provisions relating to transfer pricing in the UAE.<sup>97</sup>



An artisanal miner shows off a diamond he found. Credit: Shawn Blore/PAC

95 Interview, Director, UAE Kimberley Process, Dubai, 5 February 2014.

96 Kimberley Process statistics for Switzerland, Israel and the EU for 2013; unpublished industry data

97 'Taxation of Cross-Border Mergers and Acquisitions, United Arab Emirates', KPMG International, 2012;

## Section Four ANALYSIS AND RECOMMENDATIONS

### DUE DILIGENCE IN THE GOLD SECTOR

The US Congress passed the The Dodd–Frank Wall Street Reform and Consumer Protection Act in July 2010. Section 1502 of the Act requires US-listed companies using minerals, including gold, from DRC and neighbouring countries to conduct due diligence on their supply chain.<sup>98</sup>

Later that year the UN Security Council and the Organisation for Economic Cooperation and Development (OECD), published compatible guidance documents outlining a five-step approach to ensure that companies, like gold refiners are not contributing to conflicts or human rights violations through their mineral purchases:<sup>99</sup>

1. Establish strong company management systems, including maintaining inventory and transaction documentation, and specifying the nature of gold (i.e. mined or scrap) and supplier details
2. Identify and assess risks in the supply chain, including making a reasonable determination of origin, and investigating the circumstances of mineral extraction, trade and export of mined gold from conflict-affected and high-risk areas
3. Design and implement a strategy to respond to identified risks
4. Carry out an independent third-party audit
5. Report annually on supply chain due diligence.

The DMCC's Practical Guidance for Responsible Sourcing of Precious Metals, which was introduced in April 2012, is based on the OECD Due Diligence Guidance.<sup>100</sup> In October 2013, the DMCC signed a cross-recognition agreement with the Responsible Jewellery Council (RJC). As a result, RJC members – including companies like Tiffany & Co, Signet and JC Penney – seeking compliance with Dodd-Frank can rely on DMCC accredited refiners as sources of conflict-free gold.

Smuggling, underdeclaring and undervaluation practiced across the Great Lakes Region undermines diligent sourcing of Congolese gold and diamonds, fosters conflict financing and deprives the DRC government of critical tax revenues. The lack of verification of importers of gold and their paperwork, and the failure to further address transfer pricing of diamonds in UAE perpetuates the problems in the Great Lakes Region. The list of efforts needed to stem illicit and undervalued gold and diamonds trading and facilitate diligent sourcing is long, both on the supply and demand side.

Supplier countries must move to formalize the gold trade, integrate due diligence obligations (See box Due Diligence in the Gold Sector) in national policies and legislation, and take legal action against exporters that violate chain of custody and export procedures. ICGLR Member States also need to further harmonize tax regimes and improve enforcement cooperation as means by which to tackle smuggling. The political will of Uganda and Burundi to take action is particularly weak and evident. Kenya is doing better in many respects, while progress in the DRC remains limited due to the lack of administrative capacity and political will to address smuggling and formalize trade.

The Ugandan Ministry of Energy and Mineral Development is proposing a legal and regulatory review for the mining sector although follow through on plans to operationalize the ICGLR Regional Certification Mechanism have been very slow to materialize.<sup>101</sup> Funding for the review, which is to run from 2014 to 2019, has yet to be secured. In terms of actual control measures, no seizures or arrest have been made in relation to gold smuggling from DRC, allowing the owners of UN-sanctioned entities to continue to export with impunity. Official indifference also extends to Ugandan mining authorities that do not inspect gold parcels upon export, and do not reconcile statistics with their counterparts in customs.<sup>102</sup> As stated earlier this has led some exporters to bypass mining authorities altogether and thus avoid obtaining export permits and paying taxes.

98 Dodd-Frank Wall Street Reform and Consumer Protection Act, 2010; <http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf>

99 "Due diligence guidelines for the responsible supply chain of minerals from red flag locations to mitigate the risk of providing direct or indirect support for conflict in the eastern part of the Democratic Republic of the Congo", UN Security Council, 2010; [http://www.un.org/sc/committees/1533/pdf/due\\_diligence\\_guidelines.pdf](http://www.un.org/sc/committees/1533/pdf/due_diligence_guidelines.pdf); "OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, Second Edition", OECD, 17 July, 2012, <http://www.oecd.org/daf/inv/mne/GuidanceEdition2.pdf>.

100 "Practical Guidance for Market Participants in the Gold and Precious Metals Industry", Dubai Multi Commodities Centre, 2012; <http://www.dmcc.ae/gold-responsible-sourcing-precious-metals>; The OECD Guidance Supplement on Gold formed the basis for guidance documents developed by the London Bullion Market Association (LBMA) for their respective member refiners to implement.

101 "Strengthening mineral sector through inspection for legal and environmental compliance", Uganda Department of Geological Surveys and Mines, 11 April, 2013, unpublished government project proposal document.

102 Interview, official from Department of Geological Surveys and Mines (Uganda), Kampala, 27 January, 2014.

Kenya has a new Mining Bill in draft, which should be ratified in parliament in mid-2014. According to mining officials the new bill makes reference to ICGLR certification and provides for proper identification of artisanal and small-scale miners and recording of production and sales.<sup>103</sup> These elements are supposed to remedy the loopholes Kenya's two main exporters are alleged to have taken advantage of in recent years. Ongoing investigations of the companies demonstrate a welcomed commitment by the Kenyan government to enforce existing chain of custody procedures. While illegal or under-declared exports appear to have been minimal in Kenya in recent years, mining officials attribute this to the fact both mining and customs officials are required to put their seal on exported parcels, and statistics from both institutions are reconciled prior to export.

Burundi passed a new mining code in 2013 that introduced high penalties for mineral smugglers, while authorities tightened export controls at the airport to combat smuggling. However, there is still no verified or plausible production data for gold in Burundi, or, at the time of writing, initiatives to launch traceability in the gold sector, making it difficult to detect and address exporters that illegally source gold from elsewhere. The government has yet to develop any strategies to address its biggest vulnerability: illegal flows of Congolese gold entering Burundi. It is equally unclear how, or when, the government plans to implement due diligence practices for gold or the ICGLR Regional Certification Mechanism.<sup>104</sup>

In the country at the heart of this issue—the Democratic Republic of Congo—small steps are being taken in the right direction. In February 2012, the Ministry of Mines adopted the OECD due diligence standards into national law by administrative order, as part of its conformance with the ICGLR Regional Certification Mechanism.<sup>105</sup> Failure to conduct due diligence led to the temporary suspension of two export houses in the 3T sector in May 2012<sup>106</sup>, but so far no gold export houses have been suspended on the same basis—likely in an attempt to attract companies to open a gold export house rather than scare them away with regulation.

Another administrative order, issued by the Ministry of Mines in 2010, launched a traceability procedures manual for mining products, including gold, from extraction to exportation. However, the manual itself has yet to be harmonized with the ICGLR's standards.<sup>107</sup> Extension of services to provide chain of custody documentation in remote gold mining areas has, however, been too limited to allow exporters to trace back their gold purchases to the exact mine of origin. Reports of smuggling by intermediate traders has so far not led to any formal investigations or suspensions of licenses.

103 Interview, officials at the mines and geology department (Kenya), Nairobi 30 January, 2014.

104 Final Report, UN Group of Experts on DRC, S/2014/41, 23 January 2014, para. 193.

105 Administrative Order, No. 0057.CAB.MIN/MINES/01/2012, 29 February 2012, Article 8.

106 Interim Report, UN Group of Experts for DRC, S/2012/348, para. 142.

107 Administrative Order, No. 0711/CAB.MIN/MINES/01/2010, 15 October 2010.

During its chairmanship of the Kimberley Process in 2011, DRC sought to make undervaluation of diamonds one of its legacy issues. Although it received support from many African producers, as well as civil society groups, the issue stalled in the face of industry resistance, and was largely overshadowed by the debate about whether or not to lift export restrictions on Marange diamonds from Zimbabwe. However, DRC is currently serving as part of a team of KP members (which includes PAC) that is looking at creating a regional approach to KP compliance in the Mano River Region of West Africa. Tackling transfer pricing and ensuring fairer diamond valuations are key components of that work, which is envisioned could be expanded to other diamond producing areas in Africa, most notably Central Africa.

On the demand side, the Dubai Multi Commodities Centre extended the application of its responsible sourcing guidance beyond its refiners in 2013, through a so-called Responsible Market Participant accreditation initiative aimed at member traders, jewellers and manufacturers.<sup>108</sup> As in the case of refiners, accreditation is subject to audits on the basis of the DMCC review protocol, but application is not mandatory as in the case of DMCC refiners.

PAC is not aware of any public or private initiatives to promote due diligence in the gold sector beyond the DMCC, for example in the gold souk. Jewellers interviewed seem unaware of any responsibility other than seeking legal compliance of their gold suppliers.

In 2012 the DMCC started to reach out to UAE federal Customs authorities on the topic of responsible sourcing.<sup>109</sup> From discussions with the DMCC and with customs authorities it remains unclear whether and to what extent detailed gold import data are shared with the DMCC to facilitate the tracking of supplies to imports from DRC and neighbouring countries. In any case refiners do not have access to such data.<sup>110</sup>

With respect to undervaluation or mitigating reputational vulnerabilities in the diamond sector—most notably the sourcing of diamonds from conflict-affected areas other than those in the midst of traditional civil wars, enabling money laundering or terrorism financing—the DMCC has yet to publicly disclose what steps it has or would take to address these issues. During a two-year internal discussion on ways to reform the Kimberley Process, as well as current deliberations on whether to establish an OECD due diligence for diamonds and other precious stones, Dubai's position can best be described as hostile and dismissive.

108 <http://www.dmcc.ae/gold-responsible-sourcing-precious-metals>

109 Sharma, C. "DMCC's responsible sourcing initiatives", presentation at Dubai Precious Metals Conference, 6 April 2013; available at [http://www.dpmmc.ae/dpmmc2013/Presentation/3Masterclass\\_Responsible\\_sourcing\\_Chirag\\_Sharma\\_DMCC.pdf](http://www.dpmmc.ae/dpmmc2013/Presentation/3Masterclass_Responsible_sourcing_Chirag_Sharma_DMCC.pdf)

110 Interview, gold refiner, Dubai, 3 February, 2014.

In the light of the policy analysis above PAC makes the following recommendations to governments and private sector operators:

The Governments of Uganda, Burundi, Kenya and DRC and other ICGLR countries should:

- Integrate due diligence and the ICGLR Regional Certification Mechanism in national mining sector legislation, and operationalize implementation in the gold sector.
- Carry out mine inspections as defined in the ICGLR RCM for the gold sector, in order to establish a national mine site and production database and a regional tracking database. This national database should be used to support and protect legitimate domestic mineral production, such as by being used to verify the mine of origin upon export and to justify national gold production.
- Harmonize policies and practices with an aim to interrupting illicit trading. This should include further harmonization of tax regimes, and greater enforcement strategies and trans-border cooperation.
- Further clarify chain of custody procedures for “conflict-free” mineral trading and build state capacity to carry out certification export procedures in accordance with the ICGLR standards, including the issuance, transmission and verification of required documentation, particularly in gold producing areas.
- Tighten controls on gold and diamond exports, involving crosschecking of documentary requirements by issuing authorities upon export, and accurate independent valuation.
- Investigate and prosecute individuals and companies involved in illegal gold trade from the DRC, including the beneficiary owners of UN sanctioned entities and their front companies.
- Through the ICGLR Secretariat in Bujumbura, finalize the institutionalization of the ICGLR’s Independent Mineral Chain Auditor office that is meant to investigate illicit mineral activity and evaluate the chain of custody systems in operation to ensure compliance with ICGLR standards.

Gold exporting companies in Uganda, Burundi, Kenya and DRC and other ICGLR countries should:

- Relocate or open up branch offices in the DRC, if involved in trading Congolese gold, and seek full legal compliance when exporting such gold.
- Adopt and implement due diligence policies in line with OECD guidance, demand state mining authorities deliver necessary chain of custody documentation, and/or develop traceability systems, preferably with support from client companies.
- Adhere to all five steps in the OECD Due Diligence Guidance, in particular Step 5 that requires annual public reporting on due diligence in order to generate public confidence in the measures adopted by gold exporting companies.

The Kimberley Process should:

- Create a special taskforce to investigate the issue of transfer pricing in the diamond industry, with a view to recommend ways African diamond producing countries can secure fairer and more accurate diamond valuations, and predictable tax revenues.



The government of the UAE should:

- Tighten regulatory controls on gold imports particularly on hand carried gold, including verification of the consignee, the (authenticity of) certificate of origin or export permit, and customs clearance documents (including tax receipts).
- Make verified data on consignees of gold imports available to the DMCC and other economic free zone regulators to help registered companies further investigate their supply chain.
- Proactively disclose on a quarterly basis all data related to the import and export of gold.
- Address transfer pricing of diamonds through federal legislation and introduce frequent and routine inspections of the value of imported parcels by the DMCC, with a rejection threshold of 15% undervaluation.
- Send shipments above the 15% threshold back to the country of origin so authorities there can tax them appropriately, after having been accurately appraised by an independent valuator. Exporters who consistently engage in gross undervaluation should have their names shared with authorities in the country of origin, with a view to prosecute them.
- Demonstrate what safeguards it intends to introduce to its system to mitigate against associated risks related to diamonds, money laundering and terrorism financing. Consideration should be given to discontinuing the current practice that permits diamond transactions to be made in cash, rather than through formal banking channels.
- Participate constructively in efforts to design a due diligence guidance for diamonds and precious stones commensurate with Dubai's leadership role in the diamond industry

UAE traders and jewellers and refiners that are directly or indirectly sourcing mined gold from the ICGLR region should:

- Adopt and implement due diligence policies in line with OECD guidance supplement on gold, i.e. through on-the-ground inspection of circumstances of mineral extraction and trade, and establishment of a chain of custody and/or traceability system with local exporters.
- Adhere to all five steps in the OECD Due Diligence Guidance, in particular Step 5 that requires annual public reporting on due diligence in order to generate public confidence in the measures adopted by gold exporting companies.

UAE refiners found to be compliant with the DMCC responsible gold guidance could:

- Improve on gold fingerprinting techniques on supplies of recycler/scrap gold in order to detect potentially misrepresented mined gold and conduct due diligence accordingly.
- Provide financial support to multi-stakeholder commissions to assess mine sites, transportation routes, and points where gold is traded; and chain of custody and/or traceability schemes (as per OECD guidance) in ICGLR countries.
- Re-engage in the ICGLR region through purchases from assessed mines and transportation routes with chain of custody and/or traceability systems in place.

## Partnership Africa Canada Publications

Partnership Africa Canada is working to strengthen good governance and respect for human rights, prevent conflict related to natural resource exploitation, and promote sustainable development.

The following PAC reports related to diamonds can be found on PAC's web site.

- Reap What You Sow: Greed and Corruption in Zimbabwe's Marange Diamond Fields
- Diamonds Without Borders: An Assessment of the Challenges of Implementing and Enforcing the KP Certification Scheme
- Diamonds and Clubs: The Militarized Control of Diamonds and Power in Zimbabwe
- Paddles for Kimberley: An Agenda for Reform
- Zimbabwe, Diamonds and the Wrong Side of History
- Loupe Holes: Illicit Diamonds in the Kimberley Process
- Land Grabbing and Land Reform: Diamonds, Rubber and Forests in the New Liberia
- The Lost World: Diamond Mining and Smuggling in Venezuela
- Killing Kimberley? Conflict Diamonds and Paper Tigers
- Triple Jeopardy - Triplicate Forms and Triple Borders: Controlling Diamond Exports from Guyana
- Fugitives and Phantoms: The Diamond Exporters of Brazil
- Implementing Kimberley Process - 5 years on - how effective is the Kimberley Process and what more needs to be done?
- The Failure of Good Intentions
- Rich Man, Poor Man – Development Diamonds and Poverty Diamonds: The Potential for Change in the
- Artisanal Alluvial Diamond Fields of Africa
- The Key to Kimberley: Internal Diamond Controls-Seven Case Studies
- Diamonds Without Maps: Liberia, the UN, Sanctions and the Kimberley Process
- Motherhood, Apple Pie and False Teeth: Corporate Social Responsibility in the Diamond Industry
- West Africa: Rocks in a Hard Place. The Political Economy of Diamonds and Regional Destabilization
- Diamonds in the Central African Republic: Trading, Valuing and Laundering
- No Problems Here: Success, Complacency and Suspicion in the Indian Diamond Industry
- War and Peace in Sierra Leone: Diamonds, Corruption and the Lebanese Connection
- The Kimberley Process: The Case for Proper Monitoring
- Hard Currency: The Criminalized Diamond Economy of the Democratic Republic of Congo and its Neighbours
- Diamonds: Forever or for Good? The Economic Impact of Diamonds in Southern Africa
- Fire in the Ice: Benefits, Protection and Regulation in the Canadian Diamond Industry
- Destabilizing Guinea: Diamonds, Charles Taylor and the Potential for Wider Humanitarian Catastrophe
- The Heart of the Matter - Sierra Leone, Diamonds and Human Security

**ANNEX 5.8**

**Judicial Commission of Inquiry into Allegations into Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo 2001 (“Porter Commission”), *Final Report*, November 2002**

*[Original English: not reproduced]*

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**ANNEX 5.9**

**Location of exclusive prospecting areas and concessions**

*[Annex not translated]*

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**ANNEX 5.10**

**United Nations Security Council, *Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo*, document S/2001/357, 12 April 2001**



## Security Council

Distr.: General  
12 April 2001

Original: English

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### Letter dated 12 April 2001 from the Secretary-General to the President of the Security Council

I wish to refer to the presidential statement dated 2 June 2000 (S/PRST/2000/20) in which the Security Council requested me to establish a Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo for a period of six months. The Council also requested that the expert panel, once established, submit to the Council, through me, its final report at the end of the mandate.

Further to my letter dated 2 April 2001, I have the honour to transmit to you the report of the Panel, submitted to me by the Chairperson of the Panel. I should be grateful if you would bring the report to the attention of the members of the Security Council.

*(Signed)* Kofi A. Annan





# Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo

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## I. Introduction

1. By the statement of its President of 2 June 2000 (S/PRST/2000/20), the Security Council requested the Secretary-General to establish an expert panel on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo, for a period of six months, with the following mandate:

- To follow up on reports and collect information on all activities of illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo, including in violation of the sovereignty of that country;
- To research and analyse the links between the exploitation of the natural resources and other forms of wealth in the Democratic Republic of the Congo and the continuation of the conflict;
- To revert to the Council with recommendations.

2. The Secretary-General, in his letter to the President of the Security Council dated 31 July 2000 (S/2000/796), notified the President of the Security Council that the composition of the Panel was as follows:

Mme Safiatou Ba-N'Daw (Côte d'Ivoire)  
(Chairperson);

Mr. François Ekoko (Cameroon);

Mr. Mel Holt (United States of America);

Mr. Henri Maire (Switzerland);

Mr. Moustapha Tall (Senegal).

3. The Panel was assisted by a technical advisor, an associate political officer, an administrator and a secretary.

### A. Summary

4. Illegal exploitation of the mineral and forest resources of the Democratic Republic of the Congo is taking place at an alarming rate. Two phases can be distinguished: mass-scale looting and the systematic and systemic exploitation of natural resources.

5. **Mass-scale looting.** During this first phase, stockpiles of minerals, coffee, wood, livestock and money that were available in territories conquered by the armies of Burundi, Rwanda and Uganda were

taken, and either transferred to those countries or exported to international markets by their forces and nationals.

6. **Systematic and systemic exploitation.** Planning and organization were required for this phase. The systematic exploitation flourished because of the pre-existing structures developed during the conquest of power of the Alliance of Democratic Forces for the Liberation of Congo-Zaire. These pre-existing structures were improved over time and new networks for channelling extracted resources were put in place. However, the systemic exploitation used the existing systems of control established by Rwanda and Uganda. In both cases, exploitation was often carried out in violation of the sovereignty of the Democratic Republic of the Congo, the national legislation and sometimes international law, and it led to illicit activities. Key individual actors including top army commanders and businessmen on the one hand, and government structures on the other, have been the engines of this systematic and systemic exploitation.

7. The consequence of illegal exploitation has been twofold: (a) massive availability of financial resources for the Rwandan Patriotic Army, and the individual enrichment of top Ugandan military commanders and civilians; (b) the emergence of illegal networks headed either by top military officers or businessmen. These two elements form the basis of the link between the exploitation of natural resources and the continuation of the conflict. Other contributing factors however exist — the roles played by some entities and institutions, and the opportunistic behaviour of some private companies and influential individuals, including some decision makers in the Democratic Republic of the Congo and Zimbabwe. Some leaders in the region bear a direct responsibility. The Panel concludes that tough measures must be taken to bring to an end the cycle of exploitation of the natural resources and the continuation of the conflict in the Democratic Republic of the Congo.

8. The Panel's recommendations revolve around six broad themes: (1) sanctions against countries and individuals involved in the illegal activities; (2) preventive measures to avoid a recurrence of the current situation; (3) reparations to the victims of the illegal exploitation of natural resources; (4) design of a framework for reconstruction; (5) improvement of international mechanisms and regulations governing some natural resources; and (6) security issues.

## B. Methodological framework

9. **Methodology.** Owing to the nature of the work and the complexities of the issues, a methodology that allows flexible data collection was essential in order to complete this project. The Panel has therefore utilized:

(a) **Primary data collection.** Official documentation from ministries and other institutions as well as recorded minutes of meetings involving various relevant actors;

(b) **Secondary sources.** Reports, workshop proceedings, published and unpublished literature;

(c) **Interviews.** Structured, semi-structured and open interviews as well as interviews resulting from various network referrals.

10. A vast amount of data was obtained from three essential sources:

(a) Countries and other entities involved in the conflict in the Democratic Republic of the Congo, namely: Angola, Burundi, the Democratic Republic of the Congo, Namibia, Rwanda, Uganda, Zimbabwe, RCD-Goma and RCD-ML;

(b) "Third-party" sources such as Belgium, Cameroon, China, Denmark, France, Germany, Kenya, the Netherlands, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, the United States of America, Switzerland, various United Nations agencies, the International Monetary Fund, the World Bank, the World Trade Organization, OECD, the International Coffee Organization, De Beers, the Diamond High Council, the International Diamond Manufacturers Association, the University of Maryland, the World Resource Institute and CIFOR;

(c) Various individual actors and stakeholders who expressed an interest for various reasons in sharing their knowledge and understanding with the Panel.

11. The production and export data series available for the analysis cover the period 1995-2000. Data were systematically analysed separately and then compared with one another. Comparative analysis thus contributed to the Panel's ability to develop a good understanding of the issues. In addition, the Panel sought to cross-check every item of information received. In relation to this and to the extent possible, Panel members attempted to speak to individuals

against whom serious allegations were made. When access to those key witnesses or primary actors was denied, Panel members often relied on their closest collaborators for insight. The Panel however faced a problem of imbalance in the acquisition of data. Indeed data was abundant for Rwanda, Uganda, RCD-Goma, RCD-ML and MLC. This is partly due to the high number of insiders living in the Democratic Republic of the Congo and in Europe who were directly involved with those entities and who offered to share almost everything they knew or had experienced or gathered as documentation while they were involved with them. The same quantity and quality of data were not available for Angola, Namibia or Zimbabwe, although the Panel visited those countries. This constraint can be felt in the report. Overall the report was written using the empirical method combined with the economic analysis of data collected, supported by elements of evidence.

12. **Establishing boundaries.** Geographically, data were gathered for occupied and non-occupied territories within the Democratic Republic of the Congo as well as for any country involved in the conflict or of other strategic importance, geographic, financial or other. With respect to natural resources, the Panel focused on minerals, forest and agricultural products and other forms of wealth, primarily taxes. Given the high number of natural resources found in the Democratic Republic of the Congo, the high level of exploitation by numerous parties, and the limited time and resources available to the Panel, the following criteria for the selection of resources to be examined were developed:

- The commercial value of the resources in absolute terms;
- The interest of parties in the resources;
- The scale of exploitation.

13. Based on these criteria, three categories of products were of primary consideration: (a) mineral resources, primarily coltan, diamonds, gold and cassiterite; (b) agriculture, forests and wildlife, including timber, coffee and ivory; and (c) financial products, mainly in regard to taxes. Copper, cobalt, livestock, gorillas, okapis, tobacco, tea, palm oil and land allocation deserved to be among the resources and products to be studied. Some did not meet established criteria, however, and for others, such as copper and cobalt, time constraint was the main reason for a lack

of study. These resources are touched upon in the report for illustrative purposes, but were not systematically studied.

14. **Defining the key concepts.** In determining the parameters of the project the definition or interpretation of illegality and exploitation was vigorously debated.

15. *Illegality.* The most contentious concept in the mandate has been the term "illegality" with regard to exploitation. Almost all actors in the conflict and observers requested a clear definition of illegality. In the Panel's view, the understanding of illegality is underpinned by four elements all related to the rule of law, namely:

(a) Violation of sovereignty. The first element is based on the Security Council's understanding of illegality as described in the Panel's mandate (see the statement of the President of the Security Council of 2 June 2000 (S/PRST/2000/20)). This posits that all activities — extraction, production, commercialization and exports — taking place in the Democratic Republic of the Congo without the consent of the legitimate government are illegal. This interpretation suggested that only non-invited forces and their nationals are carrying out illegal activities in the Democratic Republic of the Congo.

(b) Respect by actors of the existing regulatory framework in the country or territory where they operate or carry out their activities. The Panel considers that if authorities exerting effective power and control over their sovereign area recognize or set up a regulatory framework to govern the use or exploitation of resources, this framework shall be respected. Failure to do so may lead to the infringement of the law and, therefore, activities considered illegal or unlawful. In this case, the Panel deems illegality to be the carrying out of an activity in violation of an existing body of regulations.

(c) The discrepancy between widely accepted practices in trade and business and the way business is conducted in the Democratic Republic of the Congo. In this category, the Panel has considered that the use and abuse of power by some actors fall into the category of illegality. This includes forced monopoly in trading, the unilateral fixing of prices of products by the buyer, the confiscation or looting of products from farmers, and the use of military forces in various zones to

protect some interests or to create a situation of monopoly.

(d) The violation of international law including "soft" law. The Panel considers that business activities carried out in violation of international law are illegal.

The Panel utilized the aforementioned elements in a complementary manner, refusing to be exclusive or to focus on one single element. On the basis of discussions with different members of the Security Council, the Panel has interpreted the wish of the Security Council to be a broad interpretation of the concept of illegality.

16. *Exploitation.* The Panel opted for a broad understanding and interpretation of exploitation. Exploitation was used beyond the mere consideration of production and extraction. It was viewed as all activities that enable actors and stakeholders to engage in business in first, secondary and tertiary sectors in relation to the natural resources and other forms of wealth of the Democratic Republic of the Congo. The broad interpretation enabled the Panel to look into extraction, production, commercialization and exports of natural resources and other services such as transport and financial transactions.

### C. Overview

17. This section offers a general overview of the report. Initially, the Panel examined the pre-existing structures that have facilitated the illegal exploitation of natural resources in the Democratic Republic of the Congo. These elements encompass the financial/commercial links and the transportation networks that essentially laid the foundation for the current situation of illegal exploitation.

18. The Panel then reviewed the primary processes by which the natural resources are physically exploited by the occupying forces, primarily Rwanda and Uganda, in conjunction with their respective rebel counterparts in the Democratic Republic of the Congo. Subsequently, the current structures of exploitation were discussed in order to demonstrate the evolution of the process to its present state. Selected individuals were then profiled to illustrate the extent to which this is an organized and embedded venture. Economic data were then analysed to confirm the findings described above.



19. The focus then moved to exploring the complexities of the links between the continuation of the conflict and the exploitation of resources through the use of specific country examples. The aim is to demonstrate the varying means by which power structures can manipulate situations for the most favourable outcome. This section is directly linked to the previous one and, in some cases, information overlapped. This was unavoidable because of the intricate nature of the problem at hand.

20. The report goes on to discuss more incidental elements in this exploitation, which are nonetheless important and relevant: official and non-official fronts utilized as well as the facilitators or passive accomplices within the processes. The report concludes with a summary of the findings and recommendations for action.

#### **D. Background**

21. The Democratic Republic of the Congo is located in the heart of equatorial central Africa and has an area of 2,267,600 square kilometres and a current population estimated at 50 million. The Democratic Republic of the Congo is endowed with a unique biodiversity, vast mineral and forest resources, and rich soils conducive to agriculture (see map). These favourable conditions, concentrated in the eastern regions, are the setting for the current ongoing occupation and struggle to exploit these natural resources.

22. The initial disruption, predominantly affecting the eastern Democratic Republic of the Congo, began with the 1994-1995 refugee crisis in the region, spawned by the war in neighbouring Rwanda. The sudden influx of hundreds of thousands of refugees, including members of the Interahamwe, created a new demographic dynamic in the subregional population, abruptly disturbed the delicate balance of the ecosystems and generated a new security situation along the border between the Democratic Republic of the Congo and Rwanda.

23. The situation further deteriorated in 1996 with the war between the Zairian forces and the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), the rebel movement led by the late Laurent-Désiré Kabila and supported by the Angolan, Rwandan and Ugandan forces. This AFDL-led conquest of then

eastern Zaire fundamentally altered the composition of the regional stakeholders and the distribution of natural resources. Previously, the distribution norm was (via legal and illegal channels) through locally based Congolese, mostly civilian-managed, business operations. However, these traditional modes were quickly overtaken by new power structures. Along with new players came new rules for exploiting natural resources. Foreign troops and their "friends" openly embraced business in "liberated territories", encouraged indirectly by the AFDL leader, the late President Kabila.

24. In August 1998, fighting erupted again in the northern, western and eastern parts of the Democratic Republic of the Congo, this time between Rwandan and Ugandan troops and the Congolese army, with the assistance of Angolan, Namibian and Zimbabwean armies, as well as Sudanese and Chadian forces. The last two countries have since withdrawn their soldiers from the Democratic Republic of the Congo.

## **II. Illegal exploitation of natural resources and other forms of wealth**

25. The illegal exploitation of resources by Burundi, Rwanda and Uganda took different forms, including confiscation, extraction, forced monopoly and price-fixing. Of these, the first two reached proportions that made the war in the Democratic Republic of the Congo a very lucrative business. Prior to defining the type and manner of illegal exploitation, however, it is important to examine the pre-existing structures which facilitated this process.

### **A. Pre-existing structures that facilitated illegal exploitation**

26. Illegal exploitation<sup>1</sup> by foreigners aided by the Congolese began with the first "war of liberation" in 1996. The AFDL rebels, backed by Angolan, Rwandan and Ugandan soldiers conquered eastern and south-eastern Zaire. As they were advancing, the then AFDL leader, the late Laurent-Désiré Kabila, signed contracts with a number of foreign companies. Numerous accounts and documents suggest that by 1997 a first

<sup>1</sup> In the context of the Panel's mandate.



wave of "new businessmen" speaking only English, Kinyarwanda and Kiswahili had commenced operations in the eastern Democratic Republic of the Congo.<sup>2</sup> Theft of livestock, coffee beans and other resources began to be reported with frequency. By the time the August 1998 war broke out, Rwandans and Ugandans (top officers and their associates) had a strong sense of the potential of the natural resources and their locations in the eastern the Democratic Republic of the Congo. Some historians have argued that Ugandan forces were instrumental in the conquest of areas such as Wasta, Bunia, Beni and Butembo during the first war.

27. Numerous accounts in Kampala suggest that the decision to enter the conflict in August 1998 was defended by some top military officials who had served in eastern Zaire during the first war and who had had a taste of the business potential of the region. Some key witnesses, who served with the Rally for Congolese Democracy rebel faction in early months, spoke about the eagerness of Ugandan forces to move in and occupy areas where gold and diamond mines were located. Other sources informed the Panel that, late in September 1998, they were already engaged in discussions with General Salim Saleh on the creation of a company that would supply the eastern Democratic Republic of the Congo with merchandise, and on the import of natural resources. The project never materialized in this form, but the sources reportedly also discussed this and other business venture possibilities with the President of Uganda, Yoweri Museveni.

28. There are strong indications that, if security and political reasons were the professed roots of the political leaders' motivation to move into the eastern Democratic Republic of the Congo, some top army officials clearly had a hidden agenda: economic and financial objectives. A few months before the 1998 war broke out, General Salim Saleh and the elder son of President Museveni reportedly visited the eastern Democratic Republic of the Congo. One month after the beginning of the conflict, General James Kazini was already involved in commercial activities. According to very reliable sources, he knew the most profitable sectors and immediately organized the local commanders to serve their economic and financial objectives.

<sup>2</sup> Cross-border commercial exchanges between people of the region have traditionally existed.

29. **Financial and commercial links.** During the early months of the rebellion, the financial setting and networks were already in place. At the heart of the financial setting is the Banque de commerce, du développement et d'industrie (BCDI) located in Kigali. According to some sources, there was an understanding between the President of Rwanda, Paul Kagame, President Museveni and the late Laurent-Désiré Kabila on the collection and use of financial resources during the time of the AFDL rebellion. This collaboration led many sources to believe that the three leaders were shareholders in BCDI. But this was not the case.

30. The following example illustrates the nature of the financial transactions and links involving BCDI, Citibank New York as a corresponding bank, and some companies and individuals. In a letter signed by J. P. Moritz, General Manager of Société minière de Bakwanga (MIBA), a diamond company, and Ngandu Kamenda, the General Manager of MIBA ordered a payment of US\$ 3.5 million to la Générale de commerce d'import/export du Congo (COMIEX),<sup>3</sup> a company owned by late President Kabila and some of his close allies, such as Minister Victor Mpoyo, from an account in BCDI through a Citibank account. This amount of money was paid as a contribution from MIBA to the AFDL war effort.

31. **Transportation networks.** Illegal activities also benefited from the old transportation network that existed prior to the 1998 war. This network consists of key airlines and trucking companies, a number of which aided AFDL troops in their war against the Mobutu regime. The pattern of transport remains similar today: merchandise or arms are flown in and natural resources or their products are flown out. For example, Aziza Kulsum Gulamali, a businesswoman operating within the region for some time, utilized this network even in the 1980s. She contracted Air Cargo Zaire to transport arms to the FDD Hutu rebels in Burundi and smuggled cigarettes on the return flight. Since 1998, aircraft also fly from the military airports at Entebbe and Kigali, transporting arms, military equipment, soldiers and, for some companies, merchandise. On the return flights, they will carry coffee, gold, diamond traders and business representatives and, in some cases, soldiers. The Panel

<sup>3</sup> COMIEX is registered as follows: immatriculé No. 43797, identification nationale No. 31837T, Siège sociale Kinshasa/Gombé No. 4 Avenue de la Justice. Administrateur Directeur générale: Frédéric Kabarele.

concludes that these pre-existing networks and structures constitute the basis for the current exploitation of the natural resources of the Democratic Republic of the Congo.

### **B. Mass-scale looting**

32. Between September 1998 and August 1999, occupied zones of the Democratic Republic of the Congo were drained of existing stockpiles, including minerals, agricultural and forest products and livestock. Regardless of the looter, the pattern was the same: Burundian, Rwandan, Ugandan and/or RCD soldiers, commanded by an officer, visited farms, storage facilities, factories and banks, and demanded that the managers open the coffers and doors. The soldiers were then ordered to remove the relevant products and load them into vehicles. The Panel received numerous accounts and claims of unlawful removal of products by Rwandan or Ugandan armies and their local RCD allies. The Panel has chosen to illustrate this point with some examples.

33. In the mining sector, SOMINKI (Société minière et industrielle du Kivu) had seven years' worth of columbo-tantalite (coltan) in stock in various areas. From late November 1998, Rwandan forces and their RCD allies organized its removal and transport to Kigali. Depending on the sources, between 2,000 and 3,000 tons of cassiterite and between 1,000 and 1,500 tons of coltan were removed from the region between November 1998 and April 1999. A very reliable source informed the Panel that it took the Rwandans about a month to fly this coltan to Kigali. The Panel, however, received official documents including one in which RCD acknowledged removing 6 tons of coltan and 200 tons of cassiterite from SOMINKI for a total of US\$ 722,482.

34. Late in late August 1998, General Kazini's soldiers absconded with the stockpiles of timber belonging to the logging company Amex-bois, located in Bagboka. In December that year, the same General ordered the confiscation of all the stocked timber belonging to the logging company La Forestière. General Kazini was reportedly seen in the area at least twice during the period when the looting occurred and temporarily established his headquarters in the area.

35. Then, in January 1999, in Equateur Province, Jean-Pierre Bemba and General Kazini organized a

large operation for the confiscation of coffee beans. Mr. Bemba initiated, encouraged and perpetuated such practices in the Province. In a written letter to one of his commanders, he urged him to release a bigger vehicle he was using because it was needed urgently. The source indicated that this was later used to carry away tons of coffee beans. A participant in this operation, who has since left the movement, explained that two months were required to remove the enormous quantities of coffee. In the past, this province produced 60 per cent of the country's robusta coffee. The localities of Bumba, Lisala, Bosonzo, Binga and Mindembo for a year did not have coffee stocks to export because of these seizures. The Société congolaise du café, the largest owner of coffee stocks in the area, went bankrupt. The mass-scale looting reached such levels that, in one instance, Mr. Bemba seized 200 tons of coffee beans from the SCIBE company, which was owned by his father, Saolona Bemba. The matter remains unresolved in court.

36. In some cases, factories were dismantled or machinery spare parts were taken away, as in the case of the sugar factory of Kaliba in South Kivu. When the Panel asked about the dismantling of some factories, the RCD cabinet replied that investors were free to dismantle their factories and relocate wherever they wanted. In essence, RCD recognized the phenomenon, but explained it in terms of the investors' decision to relocate the factories while taking the raw materials from the Democratic Republic of the Congo. Cars and other items were apparently also taken from the country, as statistics on Ugandan registered cars reflected an increase of about one quarter in 1999.

37. The financial sector was not left untouched either. A defector from RCD who participated in some looting informed the Panel that Rwandan soldiers systematically targeted local banks as soon as they conquered a town. In many cases, they would use the RCD soldiers to collect the money while those who were armed would surround the bank. For example, the Kisangani Bank, a branch of the central bank, received a visit of RCD staff accompanied by Rwandan soldiers. Depending on the source (central bank in Kinshasa or eyewitness), anywhere between \$1 million and \$8 million worth of Congolese francs was taken. The Panel was told that the operation took place a couple of days after the central bank and Ministry of Finance officials deposited money to pay civil servants and old Congolese franc notes were replaced by new ones.

38. Under the escort of soldiers, the money was taken to the Palm Beach Hotel. The hotel management recalled that bags full of money were stored in one of the rooms and that during those few days armed soldiers who could not speak Lingala (the most commonly spoken Congolese language) guarded the hotel premises. Could such an operation involving a number of armed soldiers be carried out without the knowledge and consent of the highest Rwandan commander in the Democratic Republic of the Congo?

39. Aides of Jean-Pierre Ondekane (an RCD leader) reportedly collected the money from the Palm Beach Hotel, flew with it to Goma and handed it over to Emmanuel Kamanzi (former chief of the Finance Department of RCD), who then flew on to Kigali. The Panel could not identify the final recipient of the money or how much disappeared between Kisangani, Goma and Kigali. However, some sources told the Panel that Mr. Kamanzi was imprisoned briefly at some point after this transaction. According to the same sources, he had apparently helped himself to the money he was ordered only to transport. Mr. Kamanzi told friends that he simply took a break of two months in Kigali.

40. During the period when this operation was under way, in Equateur Province, Mr. Bemba's men visited several banks. According to a reliable source Mr. Bemba's instructions to his soldiers were to systematically empty the bank once a town was captured. His troops took an equivalent of \$400,000 from the Banque commerciale du Congo branch in Bumba, \$500,000 in Lisala, and approximately \$600,000 in Gemena.

41. The pilfering was also occurring in Kinshasa. The Panel has evidence of a widespread practice by which the late President Kabila would by proxy have companies give a certain percentage of their profits. For example, certain oil companies in the Democratic Republic of the Congo, under the umbrella of *taxe parafiscale*, were delivering sums of money, in hard cash, daily or weekly to the late President via his Minister, friend and right-hand man, Mr. Mpoyo. Other companies, such as MIBA, were asked to hand over part of their profits to the late President's regime, and all parastatals and important private companies were invited to open bank accounts in the Banque de commerce et du développement (BCD) (see para. 78).

42. However, over time the mass-scale looting described above diminished and theft by individual soldiers became more visible. For example, in Bunia, during Panel discussions, local non-governmental organizations, eyewitnesses and victims mentioned cases in which Congolese civilians were injured or murdered for resisting the attempted seizure of property by the RCD rebels and foreign soldiers. In Bukavu, individuals have told Panel members how Rwandan soldiers confiscated their life savings in dollar notes and some of the gold they were buying and keeping as *monnaie refuge* in the face of the repeatedly devalued Congolese franc. Partially, this has contributed to the increasing resentment felt by the Congolese population towards foreign soldiers and some rebels.

43. The lootings of manufacturing plants, stocks and private property were not only acts of isolated individual soldiers but were encouraged, sometimes organized and coordinated, by the highest army commanders of both Rwanda and Uganda.

44. General Kazini used the same method to facilitate looting activities. He would appoint loyal commanders and reliable civilian Congolese in the civil administration in areas potentially rich in natural resources in order to secure his networks. This was exactly the case in Ituri, where he appointed Adele Lotsove in 1999 (see para. 71). In turn, these top layers of collaborators, colonels and majors utilized their right-hand men to carry out the actual looting.

45. The Panel has strong indications after talking to numerous witnesses (key and others) that key officials in the Governments of Rwanda and Uganda were aware of the situation on the ground, including the looting of stocks from a number of factories. In some cases, the level of production of mineral resources would have alerted any government, such as those of gold for Uganda and coltan for Rwanda (from 99 tons in 1996 to 250 tons in 1997).

### C. Systematic and systemic exploitation

46. **Extraction phase.** The mass-scale looting carried out on many levels within the Democratic Republic of the Congo by rebels and foreign soldiers overshadowed extraction activities during the first 12 months of the second war. When resource stockpiles were looted and exhausted by occupying forces and their allies, the



exploitation evolved to an active extraction phase. Both Congolese (civilians and soldiers) and foreigners (civilians and soldiers) became involved in the extraction of natural resources. This section highlights one particular case study rather than offering a number of shorter illustrative examples. The study will in effect demonstrate how a company used illicit business practices and complicity with occupying forces and the Government as well as its international connections to exploit the natural resources of the Democratic Republic of the Congo.

47. **DARA-Forest case study.** A Ugandan-Thai forest company called DARA-Forest moved to the Ituri area late in 1998. In March 1998, DARA-Forest applied for a licence to carry out logging activities in the Democratic Republic of the Congo, but was denied a forest concession by the Kinshasa authorities. In 1999, the company began to buy production by hiring individuals to harvest timber and then sell it to the company. Initially, these individuals were Congolese operating in partnership with Ugandans. The same year, DARA engaged in industrial production with the construction of a sawmill in Mangina. By 2000, it had obtained its own concession from RCD-ML. Analysis of satellite images over a period of time reveals the extent to which deforestation occurred in Orientale Province between 1998 and 2000. The most harvested forests in the areas were around Djugu, Mambassa, Beni, Komanda, Luna, Mont Moyo and Aboro. This logging activity was carried out without consideration of any of the minimum acceptable rules of timber harvesting for sustainable forest management or even sustainable logging.

48. Timber harvested in this region, which is occupied by the Ugandan army and RCD-ML, has exclusively transited or remained in Uganda. Our own investigation in Kampala has shown that mahogany originating in the Democratic Republic of the Congo is largely available in Kampala, at a lower price than Ugandan mahogany. This difference in price is simply due to the lower cost of acquisition of timber. Timber harvested in the Democratic Republic of the Congo by Uganda pays very little tax or none at all. In addition, customs fees are generally not paid when soldiers escort those trucks or when orders are received from some local commanders or General Kazini. Timber from the Democratic Republic of the Congo is then exported to Kenya and Uganda, and to other continents. The Panel gathered from the Kenyan port authorities

that vast quantities of timber are exported to Asia, Europe and North America.

49. The Panel also discovered during its investigation that individual Ugandan loggers violated forestry legislation, recognized by their ally RCD-ML, by logging (extracting) the timber directly. According to the Congolese legislation on the *permis de coupe*, only individual Congolese nationals are allowed to harvest timber and only in small quantities. Foreigners must apply for the larger concessions. Initially, Ugandans operated in partnership with a Congolese permit holder. Soon, the Ugandans began to pay the Congolese to sub-lease the permit and, subsequently, to obtain the licence in direct violation of the law.

50. Timber extraction in the Democratic Republic of the Congo and its export have been characterized by unlawfulness and illegality. Besides extracting timber without authorization in a sovereign country and in violation of the local legislation, DARA-Forest consistently exported its timber without any certification procedure. It tried to approach some certification bodies licensed by the Forest Stewardship Council. These bodies requested documentation and elements that the company failed to provide. Yet DARA-Forest exported timber in violation of a normal procedure generally required and accepted by the international forest community and gradually considered to be international "soft law". Companies importing this uncertified timber from DARA-Forest were essentially in major industrialized countries, including Belgium, China, Denmark, Japan, Kenya, Switzerland and the United States of America.

51. The Panel also realized that DARA Great Lakes Industries (DGLI), of which DARA-Forest is a subsidiary, along with a sister company in Uganda, Nyota Wood Industries, is in collusion with the Ministry of Water, Land and Forests of Uganda in establishing a scheme to facilitate the certification of timber coming from the Democratic Republic of the Congo. In May 2000, DGLI signed a contract for forest stewardship certification with SmartWood and the Rogue Institute for Ecology and Economy in Oregon, United States of America. On 21 March 2000, the Director of the DARA group, Prossy Balaba, sent a letter to the Commissioner asking him to allow an official of SmartWood to visit certain forests, such as Budongo and Bugoma; he was due to visit the region in mid-April. The visit was meant to deceive the official by presenting those forests as the ones for which

certification was sought and to convince SmartWood to work for the certification of their timber. Indeed, when the visit took place, from 14 to 16 April, the DARA group had not even applied for the concession of the Budongo forest (Uganda). It was only on 5 July 2000 that John Kotiram of the DARA group wrote to the Commissioner to request the concession on the Budongo forest.

52. The idea behind this is to use Budongo forest as a model of forests from which timber is harvested and which comply with the international requirements for certification, in order to certify timber coming from the Democratic Republic of the Congo for which basic elements of certification do not exist. Future plans for beating the international system are already in place. According to internal documents of DGLI, DARA-Forest will import timber from the Democratic Republic of the Congo into Uganda, which will be processed for different types of products in the new plant in Namanve for the sawmilling of hardwood, both imported from the Democratic Republic of the Congo and harvested in Uganda. DGLI partners in this new scheme include DARA Europe GmbH Germany, Shanton President Wood Supply Co. Ltd China, President Wood Supply Co. Ltd Thailand, DARA Tropical Hardwood, Portland, Oregon, United States of America. The distribution of sales of the company is thought to remain the same, about 30 per cent to the Far East, China, Japan and Singapore, 40 per cent to Europe and 25 per cent to North America. DARA Great Lakes Industries shareholding and management is between Thai and Ugandan nationals, among them John Supit Kotiran and Pranee Chanyuttasart of Thailand and Prossy Balaba of Uganda. Some unconfirmed information indicates that members of President Museveni's family are shareholders of DGLI, although more investigation is needed.

53. The DARA group also established another scheme to carry out fraudulent activities in the Democratic Republic of the Congo. The objects of DGLI range from logging to financial and industrial activities. Because of the confusion created between DARA-Forest, which received a concession from RCD, and DGLI, DARA-Forest has also been dealing in diamonds, gold and coltan. The Panel has received reports from the custom posts of Mpondwe, Kasindi and Bundujyo of the export from the Democratic Republic of the Congo of minerals such as cassiterite and coltan in trucks. During the Panel's visit to Bunia it

was reported that other products were loaded in trucks which are supposed to carry timber only; it is likely that coltan and cassiterite were these products. Moreover, the fraud extends to the forging of documents and declarations "originating" in Kinshasa.

54. The logging rate was alarming around Butembo, Beni, Boga and Mambassa. The RCD-ML administration acknowledged its lack of control over the rate of extraction, the collection of taxes on logging activities and the customs fees at the exit points. On the basis of eyewitness accounts, satellite images, key actors' acknowledgements and the Panel's own investigation, there is sufficient evidence to prove that timber extraction is directly related to the Ugandan presence in Orientale Province. This has reached alarming proportions and Ugandans (civilians, soldiers and companies) are extensively involved in these activities. In May 2000, RCD-ML attributed a concession of 100,000 hectares to DARA-Forest. Since September 1998, overall DARA-Forest has been exporting approximately 48,000 m<sup>3</sup> of timber per year.

55. **Other extraction schemes.** Burundians and Rwandans have also extracted timber or have been associated with Congolese loggers. Roads to evacuate timber from places deeper in the forest are in a very bad state. Yet Congo timber, as it is referred to in Bujumbura, is readily available in Burundi and Rwanda. Some Burundians, however, are also involved in the harvesting of bark from *Prunus Africana*. This tree is known and used in medicine for prostate treatment. Statistics gathered from the Tanzanian Port Authority clearly indicate that Burundi exported those barks in 1998 and 1999. *Prunus Africana* is not found in Burundi, however, but rather in the forests of South Kivu.

56. **Mining sector.** In the mining sector, direct extraction was carried out in three ways, namely (a) by individual soldiers for their own benefit; (b) by locals organized by Rwandan and Ugandan commanders; and (c) by foreign nationals for the army or commanders' benefit.

57. The Panel came across a number of cases in which soldiers were directly involved in mining in Watsa. In September 1999, the UPDF local commander demanded the extraction of gold on the pillars of the Gorumbwa mine galleries in which dynamite was used. On 9 September, the galleries collapsed, leading to the death of a number of Congolese miners. Some months



later, Ugandan soldiers who came to mine in the same area contracted respiratory disease. Other returning UPDF soldiers have themselves told friends how they operated in order to acquire the gold. From these accounts, it appears that, even when the local commanders were informed about these activities, there was an acceptable level of tolerance. Although the Panel qualifies this behaviour as passive complicity on the part of some commanders, it is not clear whether soldiers shared the acquired minerals with their allies.

58. Local Congolese have been mining for years for their own benefit. The novelty of their involvement lies in the fact that some of them were used as "convincible labour" to mine gold, diamonds or coltan. In the Bondo locality within Equateur Province, young men from 12 to 18 years were recruited by Jean-Pierre Bemba. The Ugandan allies trained the recruits and shared with them the idea that the Ugandan army was an "army of development" that aimed at improving ordinary people's living conditions. After the one-hour morning physical training session, they were sent to gold mines to dig on behalf of the Ugandans and Mr. Bemba. According to eyewitnesses, in Kalima, RPA commander Ruto enrolled two teams of local Congolese to dig coltan; these Congolese worked under the heavy guard of Rwandan soldiers.

59. In the Kilo-Moto mineral district, Ugandan local commanders and some of the soldiers who guarded the different entry points of the mining areas allowed and encouraged the local population to mine. The arrangement between the soldiers and the miners was that each miner would leave at the entry/exit point one gram of gold every day. A key informant of the Panel indicated that on average 2,000 individuals mined this large concession six days a week. This source, confirmed by other sources, informed the Panel that it was so well organized that the business ran smoothly. On average 2 kg of gold are delivered daily to the person heading the network.

60. The last pattern of organized extraction by the occupying forces involves the import of manpower for mining. Occupying forces brought manpower from their own countries and provided the necessary security and logistics. In particular, Rwanda utilized prisoners to dig coltan in exchange for a sentence reduction and limited cash to buy food. The Panel was recently informed that there is a presence of 1,500 Rwandan prisoners in the Numbi area of Kalehe. According to the same report, these prisoners were seen mining

coltan while guarded by RPA soldiers. Human Rights Watch also reported the same information in March 2001. This recent report confirms numerous other reports and eyewitness accounts of the involvement of prisoners, some of whom are former refugees.

61. **Impact on wildlife.** Wildlife has also suffered a great deal from the conflict. Numerous accounts and statistics from regional conservation organizations show that, in the area controlled by the Ugandan troops and Sudanese rebels, nearly 4,000 out of 12,000 elephants were killed in the Garamba Park in north-eastern Democratic Republic of the Congo between 1995 and 1999. The situation in other parks and reserves is equally grave, including Kahuzi-Biega Park, the Okapi Reserve and Virunga Park. The number of okapis, gorillas and elephants has dwindled to small populations. In the Kahuzi-Biega Park, a zone controlled by the Rwandans and RCD-Goma and rich in coltan, only 2 out of 350 elephant families remained in 2000. There is serious concern among conservationists that the rest fled of their own accord or were killed, as two tons of elephant tusks were traced in the Bukavu area late in 2000. Already by April 2000, about three tons of tusks were temporarily seized by RCD-ML in Isiro. After strong pressure from Uganda, the cargo was released and transferred to Kampala.

62. The Panel has indications that, in most cases, poaching of elephants in violation of international law (Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)) was well organized. Either soldiers hunted directly with the consent of the commander or they provided equipment and protection to local villagers to execute the task with the objective of collecting elephant tusks. For example, in August 2000, UPDF Colonel Mugeni and a crew of his soldiers were discovered with 800 kg of elephant tusks in their car near Garamba Park. The Government of Uganda received detailed notification of this incident. Eyewitnesses reported to the Panel several incidents that involved Rwandan soldiers in the trading of elephant and buffalo meat. In the Bukavu and Goma areas, there appears to be a pattern: high commanders take the tusks, soldiers negotiate the wholesale price with some locals, and the locals sell the meat in the market place as retailers.

63. Harvesting of coffee by non-owners has been another feature of the exploitation of natural resources. Jean-Pierre Bemba, the leader of MLC and now the

President of the Front de libération du Congo, a partner in the coffee business with General Kazini, has been harvesting coffee directly from plantations he does not own. During our visit to Gbadolite, some locals mentioned that coffee was harvested by Mr. Bemba's men from some private plantations that belonged to individuals who had fled the region.

64. **Monopolies and price-fixing.** In addition to looting and extracting resources, rebels and Rwandan and Ugandan troops have abused the commerce and trade system. In some cases, they forced locally owned and some foreign-owned businesses to close down. The methods used varied from looting to harassing the owners. The end objective was to gain control of local commerce. The result is unprecedented control of the economy of the eastern and north-eastern Democratic Republic of the Congo. During its field visit, the Panel noted that consumer goods and other merchandise found in Gbadolite and Bunia originated mostly in Uganda. During its field visit to Bunia, the Panel members witnessed the unloading of beer crates from an aircraft coming from Uganda. In Gbadolite, most cigarettes, beverages, toilet paper etc. are imported from Uganda. Equally, goods in Kisangani, Bukavu and Goma come mainly from Burundi or Rwanda. Imported goods for the occupied zones arrive via the ports of Mombasa and Dar es Salaam. This was confirmed during the Panel's visit to the customs services (Internal Revenue Authority) in Kampala. Furthermore, depending on the importer of the goods, taxes are not paid. The failure to pay taxes, especially in Orientale Province, was acknowledged to the Panel by RCD-ML during our discussions in Bunia in October 2000.

65. Rwandan and Ugandan troops and their Congolese allies have also been exploiting local farmers. They have imposed prices and conditions on the farmers. In one instance, a farmer living near the Ubangi River, 20 km from Gbadolite, explained to a member of the Panel how he is dependent on the coffee dealers for the supply of the bags imposed by the coffee collectors (buyers). Failure to use these bags leads to an automatic reduction in the price of the coffee. These bags are not produced in the eastern Democratic Republic of the Congo and they have to buy them.

66. In another instance, one woman explained how she and her husband could no longer sell their palm oil to the neighbouring Central African Republic or ship it

to Kinshasa for a better price. The control of trade and other business networks for commercial crops, such as coffee and palm oil, is almost total within the occupied zones. This translates into a de facto monopoly like the one Jean-Pierre Bemba has on coffee exports in Equateur Province. The locals who desperately remain in the villages work more for less, if anything at all. Humanitarian organizations working in the occupied zones told the Panel stories of a number of women in some villages who have simply stopped taking their children to the health centres because they no longer possess simple items of clothing to preserve their dignity.

67. Exploitation of resources becomes even more questionable, as some of the players not only produce counterfeited Congolese francs, but use them to purchase natural resources. According to reliable sources, the Victoria Group, whose key shareholder is General Khaleb Akandwanaho, alias Salim Saleh, was involved in the making of counterfeit Congolese francs. These notes are used for the purchase of commercial crops, primarily coffee. A very reliable source told the Panel that in mid-1999 Jean-Pierre Bemba ordered the production of 100-franc Congolese notes. Simultaneously the Victoria Group also produced counterfeit Congolese francs. By the end of 1999, Equateur Province was flooded with counterfeit Congolese currency so that Mr. Bemba decided to suspend all 100-franc notes, including the ones he had produced, so as to stop inflation in the areas he controlled.

68. The Panel has evidence that the illegal exploitation of natural resources goes beyond mineral and agricultural resources. It is actively occurring also in respect of financial transactions, taxes and the use of cheap labour, which our mandate qualified as other forms of wealth. Local banks and insurance companies operating in Goma, Bukavu, Kisangani, Bunia and Gbadolite deal directly with Kigali or Kampala. A system of tax collection — enforced in some cases — has been implemented by MLC, RCD-ML and RCD-Goma with their established Ugandan and Rwandan counterparts. In the rebels own words, these taxes are aimed at "financing or supporting the war effort". Indeed, part of the funds collected is sent to Kigali (in the case of RCD-Goma). In the case of the former RCD-ML and MLC, not only was part of the taxes sent to Kampala but also individual colonels would claim direct payment from RCD-ML. In Bunia and Bukavu,

people protested, demonstrated and denounced this practice of abuse. In areas controlled by Mr. Bemba, peasants carrying palm oil on bicycles have to pay taxes on the bicycles.

69. The use of child labour is also rampant in the occupied territories. Some children are reportedly mining gold in the Kilo Moto mines. In Equateur Province, some children were seen in the diamond mines. The Panel members witnessed the presence of young MLC recruits at Gbadolite airport and in the city. They were at the airport waiting for a flight, having recently completed their military training.

70. The aforementioned demonstrates that the procedures and processes for exploiting the natural resources of the Democratic Republic of the Congo are continuously evolving. Occupying forces began with the easiest method, looting stockpiles. As the wells ran dry, they developed efficient means of extracting the additional resources necessary to keep the coffers full. Eventually, any means necessary was recognized as a legitimate mode of acquisition. From all the evidence offered above, it appears that this process will continue to evolve as is deemed necessary.

#### **D. Current structures of illegal exploitation**

71. **Administrative structures.** The illegal exploitation of natural resources is facilitated by the administrative structures established by Uganda and Rwanda. Those countries' leaders directly and indirectly appointed regional governors or local authorities or, more commonly, appointed or confirmed Congolese in these positions. Typical examples are, on the Ugandan side, the appointment of the Governor of Ituri Province. On 18 June 1999, Ugandan General Kazini appointed as Governor of this Province Adele Lotsove, a Congolese who had already been employed by the Mobutu and Kabila administrations. Information gathered clearly indicates that she was instrumental in the collection and transfer of funds from her assigned administrative region to the Ugandan authorities in 1999. According to some sources, she also contributed to the reallocation of land from Lendus to Hemas. On the Rwandan side, according to one reliable source, Rwandan authorities have helped secure the appointment of Gertrude Kitembo as Governor of Maniema.

72. **Modes of transportation.** Illegal activities have benefited from the evolution of the means of transportation in the region. Prior to the second war most exchanges of goods and products were conducted through road transportation. To a large extent, smugglers utilized Lake Kivu and Lake Tanganyika to smuggle goods and products to and from the Democratic Republic of the Congo and, in limited circumstances, used aircraft. The shift over the past four years has been noticeable. An increasing number of aircraft are utilized to transport products and arms into the Democratic Republic of the Congo, while transferring out vast quantities of agricultural products and minerals, in particular to Kampala and Kigali. The other novelty of increased air transport has been the use of aircraft leased by the army for commercial and non-military functions. Different categories of people, including soldiers, journalists and traders, have told the Panel about their journeys in aircraft alongside bags of coffee and other non-military products.

73. This change in mode of transportation was accompanied by a change in players as well as a redefining of transportation companies. Traditional and well-established companies such as TMK saw their share of the market erode while others simply disappeared (Air Cargo Zaïre). At the same time, new companies emerged and expanded, such as Air Navette and Jambo Safari; they are owned or controlled by the relatives and friends of generals, colonels and Presidents. At the other end, outsiders who entered the region with the AFDL "conquest" of Kinshasa during the first war, by transporting troops, remained and consolidated their position; that is the case of Victor Butt, a notorious arms dealer in the region. Most flights to and from Equateur and Orientale Provinces originate from the Entebbe military airport. During a visit to Kampala, the Panel was informed about the concern expressed by the Ugandan Internal Revenue to the Ministry of Defence. This complaint raised the issue of revenue loss to the treasury due to the fact that products entering or leaving the Democratic Republic of the Congo by air to and from Entebbe military airport are not checked, and taxes are not levied by the customs services.

74. On the Ugandan side, three main private companies are involved:

- Air Alexander, whose owner is Jovia Akandwanaho, the wife of Salim Saleh and sister-in-law of President Museveni. Her company



mainly operated between Entebbe and Kisangani before the last battle of Kisangani. According to some sources, the company continues to operate in the territory held by Ugandan troops.

- Air Navette has dealings with General Salim Saleh and Jean-Pierre Bemba. The company flies to Gbadolite, Gemena, Kisangani, Bunia and Kampala. This company uses an Antonov 26 and an Antonov 12.
- Uganda Air Cargo, which mainly deals with the Ugandan Ministry of Defence. Previously, it was using a C-130, but currently uses an Ilyushin 76 and an Antonov 12. This company flies to Entebbe, Gemena, Basankasu, Isiro and Buta.

The Panel has indications that most private air companies do not own the aircraft they use; the owners are usually people like Victor Butt.

75. On the Rwandan side, a number of private companies operate in the territory. These are:

- New Gomair, which flies to Kisangani-Goma and Kigali. According to some sources, the wife of the current Minister of Finances of Rwanda is a shareholder.
- Air Navette flies to Goma, Bukavu, Kisangani and Kigali. According to some sources, one of the major shareholders, Modeste Makabuza, also owner of Jambo Safari, is a known figure in the entourage of President Kagame.
- Air Boyoma is a shuttle between Goma and Lodja; according to some sources Mr. Ondekane, former first Vice-President of RCD-Goma, is a shareholder.
- Other companies, such as Compagnie aérienne des Grands Lacs et Cargo fret international, Sun Air Services and Kivu Air Services, operate in the area.

76. Clients and other very reliable sources have indicated that Sabena Cargo is transporting illegal natural resources extracted from the Democratic Republic of the Congo. Sabena Cargo is said to carry coltan extracted from the Democratic Republic of the Congo from Kigali airport to European destinations. The Panel asked to meet with the management of Sabena in Kampala and in Brussels, but no one was made available to speak to the Panel members.

77. **Financial network.** All illegal activities in the eastern Democratic Republic of the Congo, primarily the commercial and trade operations, utilize the financial network to some extent. One of the characteristics of this network has been its ability to quickly adapt to the new political and economic environment. Cities like Kisangani and Goma were already big trading centres for diamonds and consumer goods. Most banks operating in the occupied zones were already in operation in the Democratic Republic of the Congo before the August 1998 war. Their headquarters or corresponding banks were generally in Kinshasa. With the occupation, headquarters and corresponding banks tended to move to Kigali. Some of these banks are:

- Union des banques congolaises. Although the headquarters remains in Kinshasa, it has ongoing operations in areas controlled by Rwanda.
- Banque commerciale du Congo. The headquarters is in Kinshasa and it has branches in the eastern Democratic Republic of the Congo. The Director was transferred to Kigali in order to oversee operations in the eastern Democratic Republic of the Congo. This bank is linked to the Belgolaise, a Belgian bank consortium.
- Banque commerciale du Rwanda. The headquarters is in Kigali, but it has operations in Kisangani, Bukavu and Goma. The Government of Rwanda is said to be one of the shareholders.
- Banque à la confiance d'or (BANCOR). One of the newest banks in Kigali which started its activities in 1995. It was family owned until 1999 but early in 2000 a businessman, Tibere Rujigiro, purchased the bank at a very low price according to various sources.

78. **Special cases: BCDI and BCD.** The Banque de commerce, du développement et d'industrie is the newest bank, created in November 1996 and headquartered in Kigali. Its involvement with the Democratic Republic of the Congo dates back to the beginning of the AFDL conquest of the former Zaire. BCDI operated most AFDL financial transactions before Laurent-Désiré Kabila took power. The Panel was told that its shareholders are essentially the Rwandan Patriotic Front, COMIEX, Alfred Khalissa and some Angolans. The real shareholders are the allies, except Uganda. Some documents, receipts for payments and authorization for payments made by

some large companies in the Democratic Republic of the Congo between early and late 1997 clearly indicate that payments are to be made through BCDI for the contribution to "the war effort". When the late President Kabila came to power, he created the Banque de commerce et du développement, which has the peculiarity of having as shareholders Tristar, COMIEX and Alfred Khalissa of BCDI. The Rwandan Patriotic Front remains, through BCDI and Tristar, a shareholder in BCD in spite of the war situation.

79. **Other private companies.** A number of companies were created to facilitate illegal activities in the Democratic Republic of the Congo. Others have existed in the region for decades and joined the bandwagon to pursue the obvious financial windfalls involved in the exploitation of the country. On the Ugandan, MLC and RCD-ML side, rebel leaders and/or Ugandan military officials created new companies and businesses using *prête-noms*. Most, if not all, of these companies are privately owned by individuals or a group of individuals.

80. Among the companies involved in the illicit acquisition of natural resources in the Democratic Republic of the Congo, Trinity and Victoria seem to be the most interesting given their modus operandi, activities and respective shareholders. Victoria Group is chaired by Mr Khalil and its headquarters is in Kampala. According to reliable sources, Mr. Khalil deals directly with Mrs. Akandwanaho on diamond issues. Mr. Khalil has two collaborators in the Democratic Republic of the Congo, based in Kisangani and Gbadolite. Both are said to be from Lebanon, they are Mohammed Gassan and Mr. Talal. During its visit to Gbadolite, the Panel received confirmation of the presence of one of them and his leading role in the purchase of diamonds in the region. A reliable source told members of the Panel that the Victoria Group belongs jointly to Muhoozi Kainerugabe, son of President Museveni, and Jovia and Khaleb Akandwanaho. Victoria Group is involved in trading diamonds, gold and coffee. The Group purchases these mineral and agricultural products in Isiro, Bunia, Bumba, Bondo, Buta and Kisangani. The company paid taxes to MLC, but failed to do so with RCD-ML. When counterfeit currencies (Congolese francs and United States dollars) were found in areas where the company buys the natural resources, fingers were pointed at the Victoria Group. Other sources have confirmed to the

Panel the involvement of the Victoria Group in the making of counterfeit currency.

81. Trinity is an equally interesting case. Ateenyi Tibasima, second Vice-President of RCD-ML and now the *Commissaire général adjoint* of FLC, was the "manager" of the company. According to reliable sources, Trinity is a fictitious company and a conglomerate of various businesses owned by Salim Saleh and his wife. Its primary purpose was to facilitate their business activities in Orientale Province. To this end, Mr. Tibasima granted a tax holiday to all Trinity activities in the areas controlled by Uganda and administered by RCD-ML in November 1999. Trinity has imported various goods and merchandise and has taken from Orientale Province gold, coffee and timber without paying any tax. Different individuals, Ugandans as well as Congolese, have taken the opportunity created by the confusion over Trinity to export from the Democratic Republic of the Congo (on behalf of Trinity) various natural resources, also without paying taxes.

82. On the Rwandan side, most companies with important activities related to the natural resources of the Democratic Republic of the Congo are owned either by the Government or by individuals very close to the inner circle of President Kagame. Rwanda Metals, for example, is a company involved in coltan dealing. It purchases coltan and exports it out of the continent. The Panel has strong indications that RPF controls Rwanda Metals. In mid-January 2001, some very reliable sources met with the senior management of Rwanda Metals in Kigali. During these discussions, the Director told them that Rwanda Metals was a private company with no relation to the army. He further explained that he was expecting key partners that very morning for discussions. As discussions continued, the so-called partners arrived as planned; unfortunately they were in Rwandan army uniforms and were top officers. This incident confirms accounts from various sources indicating that Rwanda Metals is controlled by RPF. Meanwhile there are also indications that RPA is a shareholder of Grands Lacs Metals, a company also dealing in coltan.

83. Jambo Safari is another company whose emergence and growth has raised some eyebrows in Goma and Bukavu. When the August 1998 war started, Modeste Makabuza was buying oil from Kenya and selling it in the eastern Democratic Republic of the Congo. Jambo Safari has benefited from an internal



network of false receipts within RCD-Goma and RPA. According to a very reliable source, Jambo Safari would charge RCD-Goma for three times the quantities of oil delivered and any attempt to question the figures would be suppressed. In a rare attempt to clarify the situation, some members of RCD-Goma during the last General Assembly meeting, in June 2000, requested that a commission be set up to conduct an internal audit. Kigali agreed to send a colonel to conduct the audit along with an RCD team. When the issue of false receipts and overpayment was established, Kigali recalled the colonel and suspended the inquiry. Some sources have confirmed the close ties between Mr. Makabuza, the apparent owner of Jambo Safari, and President Kagame. Jambo Safari has diversified since its original business venture, is now dealing in coffee, recently purchased a fleet of new trucks and is also involved in air transport with Air Navette.

84. Other minor companies also operate with the protection of some local commanders. For example, Établissement Habier is involved in the distribution of oil and petrol in Goma and Bukavu. This company is said to belong to Ernest Habimana, who is closely linked to RPA, especially to Major Karasira and Mr. Gakwerere. STIPAG, a company owed by Mr. Mbugiye operating in collaboration with Major Kazura (chief of security of the Rwandan Army in the Democratic Republic of the Congo) and Major Gatete, is among those junior companies involved in coffee and diamond dealing. Finally a myriad of small companies was created and their shareholders are invariably powerful individuals in the Rwandan nomenclature or in RCD structures. That is the case of Grands Lacs Metals, where Majors Gatete, Dan and Kazura are reportedly shareholders. In other cases, foreign companies incorporate local potentates on their board, as in the case of Gesellschaft für Elektrometallurgie (GFE), with Karl Heinz Albers and Emmanuel Kamanzi as partners, or MDM with Mr. Makabuza.

85. The Panel, on the basis of the data, accounts and documents received and analysed, came to the conclusion that the systems of illegal exploitation established by Ugandans and Rwandans differ from each other. In the case of Uganda, individuals, mainly top army commanders, using their hold over their collaborators and some officials in rebel movements, are exploiting the resources of the Democratic

Republic of the Congo. However, this is known by the political establishment in Kampala.

86. In the case of Rwanda, things are more systemic. There are linkages and bridges between some key companies, as in the case of Tristar and BCDI and, above all, the relationship between RPA, RPF, BCDI, Rwanda Metals, Grands Lacs Metals and Tristar. The senior management of these companies seems to report separately to the same people at the top of the pyramid. On the other hand, all key managers have personal relationships with different army commanders who themselves report to the leadership. This pyramidal and integrated structure coupled with the strict discipline of the group has made the exploitation of the resources of the Democratic Republic of the Congo more systematic, efficient and organized. There is equally a bridge between the internal Rwandan structures of illegal exploitation and the RCD-Goma structures. The Government of Rwanda made arrangements with RCD-Goma to drain resources from the Democratic Republic of the Congo. There is a case of loans made by BCDI to RCD to pay suppliers whose business is related to RPA. This "financial bridge" is statutory; indeed the RCD statute indirectly recognizes the role of Rwanda in overseeing the finances of the movement and its participation in decision-making and control/audit of finances.

### **E. Individual actors**

87. The list that follows is not exhaustive, but the Panel's choice was based on the crucial roles played by these persons and their direct involvement in either providing support, entertaining networks or facilitating the exploitation of natural resources within the Democratic Republic of the Congo. On the Ugandan side, some familiar names surface frequently, such as Major General Salim Saleh, Brigadier General James Kazini, Colonel Tikamanyire, Jovia Akandwanaho, Colonel Utafire, Colonel Mugeni, Mr. Khalil, Ateenyi Tibasima, Mbusa Nyamwisi, Nahim Khanaffer, Roger Lumbala, Jean-Yves Ollivier, Jean-Pierre Bemba, Adele Lotsove, Abdu Rhaman and latecomers such as Colonel Muyombo.

88. The Panel has selected to focus on three key actors. First and second are Major General (retired) Salim Saleh and his wife, Jovia Akandwanaho. Khaleb Akandwanaho, alias Salim Saleh, and his spouse Jovia are at the core of the illegal exploitation of natural

resources in areas controlled by Uganda. He is the younger brother of President Museveni (very popular in the army) and he pulls the strings of illegal activities in areas controlled by Uganda and allies. James Kazini is his executing arm and his right hand. He controls and protects Mbusa Nyamwisi and Ateenyi Tibasima. In return, they protect his commercial and business interests in regions controlled by the former RCD-ML. He used both the Victoria Group and Trinity for the purchase and the commercialization of diamonds, timber, coffee and gold. Very reliable sources have told the Panel that behind Salim Saleh there is Jovia Akandwanaho, who is more aggressive on the issue of exploitation of the natural resources of the Democratic Republic of the Congo. She is particularly interested in diamonds. According to very reliable sources, she is at the root of the Kisangani wars. She wanted control of the Kisangani diamond market after having confirmation from Mr. Khalil, "Director" of the Victoria Group, that it was a good idea and that it was feasible to control the Kisangani market.

89. The third is Brigadier General James Kazini, former Chief of Staff of UPDF and former commander of military operations in the Democratic Republic of the Congo. He is the master in the field; the orchestrator, organizer and manager of most illegal activities related to the UPDF presence in north and north-eastern Democratic Republic of the Congo. He is the right hand of Salim Saleh. He very much relies on the established military network and former comrades and collaborators, such as Colonels Tikamanyire and Mugeni. He has been close to Messrs. Nyamwisi, Tibasima and Lumbala and to Jean-Pierre Bemba, all of whom have facilitated his illegal dealings in diamonds, coltan, timber, counterfeit currency, gold and coffee, and imports of goods and merchandise in Equateur and Orientale Provinces. He is said to have a good relationship with Mr. Baramoto, a former general of President Mobutu. In spite of being discharged from his responsibilities as commander of UPDF forces in the Democratic Republic of the Congo, his networks remain in place. The Panel asked to meet with these key actors, but the request was turned down.

90. Actors from Rwanda and RCD-Goma involved in the illegal exploitation of natural resources in the Democratic Republic of the Congo cannot be separated from the structure they serve. Most of these people serve a system. The Panel has, however, noticed a recurrence of some names or the particular role that

some individuals have played at a given time and for some operations. In addition to the names mentioned in the paragraphs on main companies, certain names can be highlighted.

91. First, Ali Hussein, who plays a major role in diamond and gold deals in Bukavu and Kisangani. Those who have dealt with him in the past have mentioned the presence of a Rwandan national during commercial negotiations. There are indications that the Rwandan citizen attending the meetings is a civil servant working in the President's office in Kigali. Second is Colonel James Kabarebe, who is the RPA facilitator for some deals. According to some sources he has been in contact with Victor Butt [or Bout] for the lease of an Ilyushin 76 that served to carry coltan from the Democratic Republic of the Congo to Kigali. He is said to be a partner to Mohamed Ali Salem, manager of the company Global Mineral. This company is involved in coltan purchasing in Bukavu and Goma. Third, Tibere Rujigiro, member of RPF, who is considered to be one of the main money providers to the party during the 1990-1994 war. He is a major shareholder in Tristar Investment, a company equally close to RPF. He is said to be also involved in the tobacco business.

92. The fourth, Aziza Kulsum Gulamali, is a unique case among key actors in the illegal exploitation of the natural resources of the Democratic Republic of the Congo. Mrs. Gulamali is said to hold several passports. She lives in Bukavu, Brussels or Nairobi, depending on her schedule. Mrs. Gulamali has acknowledged having been involved in the past in the Burundi civil war. According to reliable sources she armed and financed the Hutu rebels of FDD in Burundi. Yet she built new alliances with the Government of Rwanda and has become a major ally of the Kigali regime and RCD-Goma. Mrs. Gulamali is involved in gold, coltan and cassiterite dealings in territories controlled by the Rwandans. Prior to that, she was involved in arms trafficking for the benefit of the Burundian Hutus and was equally involved in gold and ivory trafficking. Her name was also mentioned in connection with cigarette smuggling. Very reliable sources told the Panel that she covered her illegal dealings by her cigarette factory, now in bankruptcy. In the coltan business, her clients include Starck, Cogecom and Sogem; the Bank Bruxelles Lambert handles some of her financial transactions. The Panel requested RCD-Goma several times for a meeting with Mrs. Gulamali and also

contacted her aides, but she never arranged a meeting with the Panel.

93. She was recently appointed by RCD-Goma as General Manager of SOMIGL, a conglomerate of four partners, which obtained the monopoly for the commercialization and export of coltan. This monopoly has strengthened her position as a major player in the trade in coltan in the region. RCD-Goma, in an attempt to explain this partnership, said that she is a very useful person and would bring \$1 million to RCD monthly. Some sources have told the Panel members that her network of contacts is impressive and that she controls almost every official in RCD-Goma. According to some sources, she is also involved with her daughter Djamila in counterfeiting currency. Mrs. Gulamali is famous for forging customs declarations, especially for the products she exports. Confronted recently with a false customs declaration where coltan was declared as cassiterite, she replied, "in this business everybody does that". Her declaration alerted the Panel to the extent to which fraud is prevalent among the companies that export coltan.

#### **F. Economic data: confirmation of the illegal exploitation of the natural resources of the Democratic Republic of the Congo**

94. All the empirical evidence provided above is complemented by the economic analysis of data provided by different sources.

##### **Uganda**

95. At the request of the Panel, the Ugandan authorities provided extensive data, including production and export values for agricultural products such as coffee, cotton, tea and tobacco. In terms of minerals, the data also cover gold and coltan production and export figures.

96. The official data contain substantial discrepancies. First, export figures for gold are consistently greater than production values, as shown in table 1 and figure 1.

97. The gap between production and export could originate from the exploitation of the natural resources of the Democratic Republic of the Congo. The Central Bank of Uganda has reportedly acknowledged to IMF

officials that the volume of Ugandan gold exports does not reflect this country's production levels but rather that some exports might be "leaking over the borders" from the Democratic Republic of the Congo. The central bank reported that, by September 1997, Uganda had exported gold valued at \$105 million, compared with \$60 million in 1996 and \$23 million in 1995.

98. Second, the data from the Ugandan authorities are silent with regard to diamond production and export. Several third party sources (WTO, World Federation of Diamond Bourses, Diamond High Council) indicate diamond exports from Uganda during the last three years. These diamond exports are suspicious for many reasons:

(a) Uganda has no known diamond production;

(b) Diamond exports from Uganda are observed only in the last few years, coinciding surprisingly with the occupation of the eastern Democratic Republic of the Congo as shown in table 2 and figure 2;

(c) Finally, these facts corroborate the Panel's findings from field investigation, discussions and external observers on the need to control the rich diamond zone near Kisangani and Banalia.

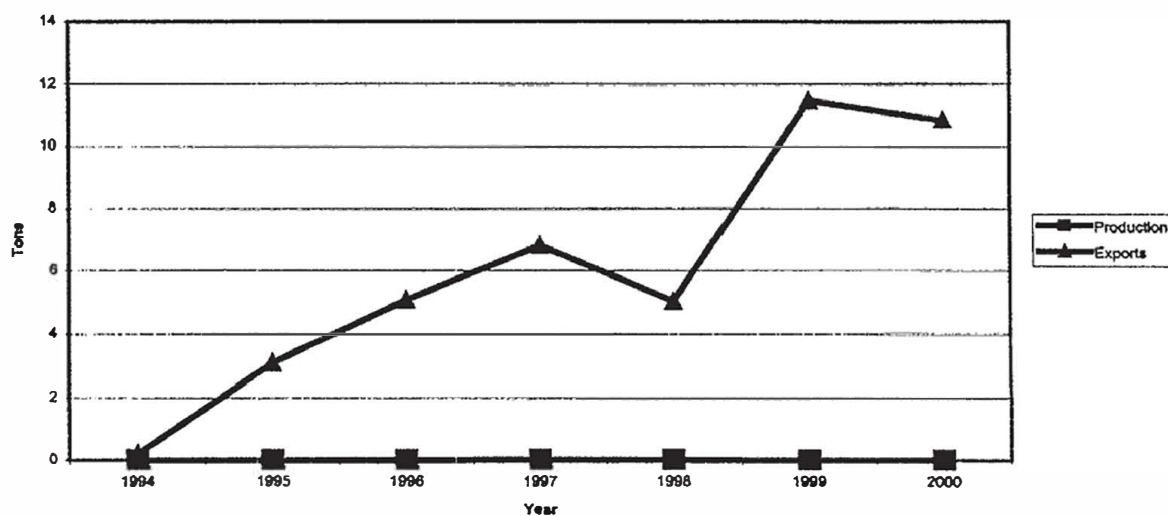
99. These figures are understated and there are indications that Uganda exported more diamonds. However, this is not well captured in the statistics because of the loose regulations governing the free zone areas. These regulations permit diamonds originating in any country to be repackaged, and then to be sold from any country as diamonds from a country of origin that is not necessarily the one mentioned in the statistics.

**Table 1**  
**Uganda: mineral exports and production, 1994-2000**

<i>Year</i>	<i>Gold</i>	<i>Tin</i>	<i>Coltan</i>	<i>Cobalt</i>
<b>A. Mineral exports (tons)</b>				
1994	0.22	-	-	-
1995	3.09	-	-	-
1996	5.07	3.55	-	-
1997	6.82	4.43	2.57	-
1998	5.03	-	18.57	-
1999	11.45	-	69.5	67.48
2000	10.83	-	-	275.98
<b>B. Mineral production (tons)</b>				
1994	0.0016	3.704	0.435	-
1995	0.0015	4.289	1.824	-
1996	0.003	0.38	-	-
1997	0.0064	1.81	-	-
1998	0.0082	1.102	-	-
1999	0.0047	-	-	76.74
2000	0.0044	-	-	287.51

*Source:* Uganda, Ministry of Energy and Mineral Development. 2000 data are from January to October.

**Figure 1. Uganda: gold production and exports, 1994-2000**





**Table 2**  
**Uganda: rough diamond exports, 1997-October 2000**

<i>Year</i>	<i>Volume (carats)</i>	<i>Value (United States dollars)</i>
1997	1 511.34	198 302
1998	11 303.86	1 440 000
1999	11 024.46	1 813 500
2000	9 387.51	1 263 385

Source: Diamond High Council.

100. Data collected from any third party consistently show that Uganda has become a diamond exporting country; they also show that diamond exports from Uganda coincide with the years of the wars in the Democratic Republic of the Congo, that is from 1997 onward.

101. As far as niobium is concerned, the pattern appears to be the same: no production prior to 1997 followed by a series of increases in exports as shown in table 3 and figure 3.

**Table 3**  
**Uganda: niobium exports, 1995-1999**

(thousands of United States dollars)

<i>Year</i>	<i>Niobium</i>
1995	0
1996	0
1997	13
1998	580
1999	782

Source: World Trade Organization (aggregated data).

102. Third, the Ugandan authorities, in their response to the Panel's questionnaire, stated that there was no record of transit of mineral products. However, the Panel received information from one Ugandan customs post at the border between the Democratic Republic of the Congo and Uganda. Records for 1998, 1999 and 2000 reveal that mineral products as well as other commodities left the Democratic Republic of the Congo and entered Uganda (presumably this would also prove true for the other dozen or so points of entry). The following three examples show an increase

in the transboundary movement of natural resources between 1998 and 1999.

Coffee	1998: 144,911 bags
	1999: 170,079 bags
	2000: 208,000 bags
Timber	1998: 1,900 m <sup>3</sup>
	1999: 3,782 m <sup>3</sup> and 46,299 pcs
	2000: 3,272 m <sup>3</sup> and 3,722 pcs
Cassiterite*	1998: None
	1999: 30 kgs
	2000: 151 drums

\* The sudden increase in the import of cassiterite may also mean an increase in the import of coltan. The Panel discovered that cassiterite is often listed in lieu of coltan, as coltan possesses a higher value, which implies high import taxes in Uganda.

#### Rwanda

103. In response to the request for statistics by the Panel, the Rwandan authorities provided the following data:

**Table 4**  
**Rwanda: mineral production, 1995-2000**

<i>Year</i>	<i>Gold (kg)</i>	<i>Cassiterite (tons)</i>	<i>Coltan (tons)</i>
1995	1	247	54
1996	1	330	97
1997	10	327	224
1998	17	330	224
1999	10	309	122
2000	10	437	83

Source: Rwanda Official Statistics (No. 227/01/10/MIN).



Figure 2. Uganda: rough diamond exports, by volume, 1997-October 2000

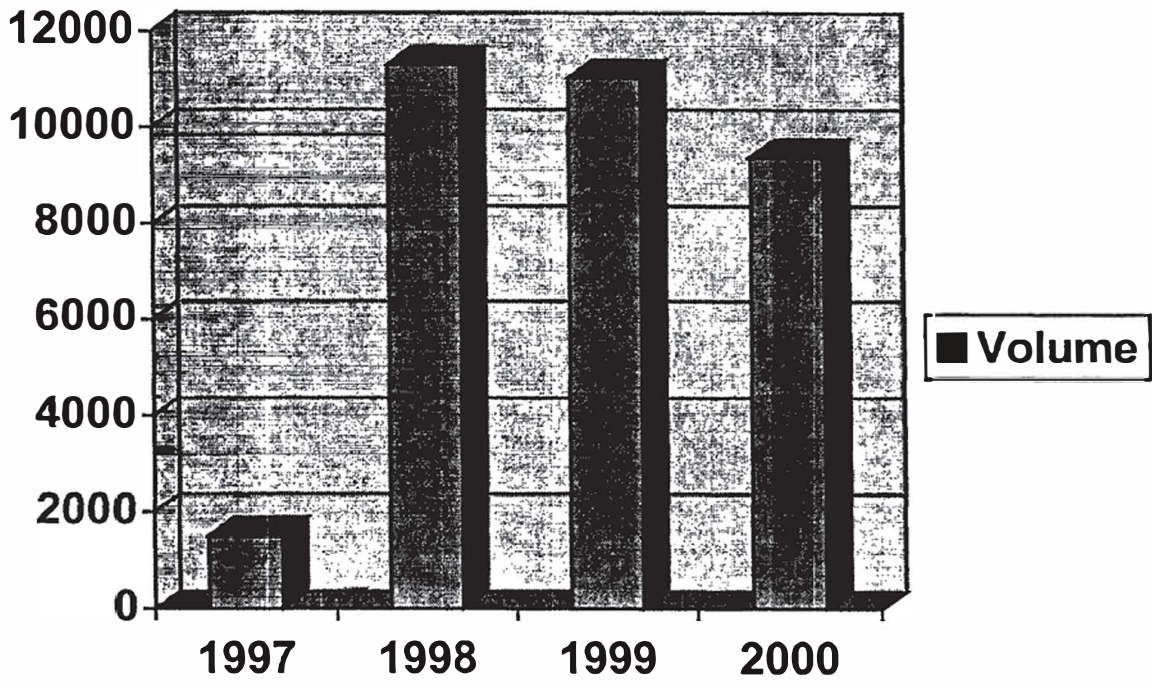


Figure 3. Uganda: niobium exports by volume, 1995-1999

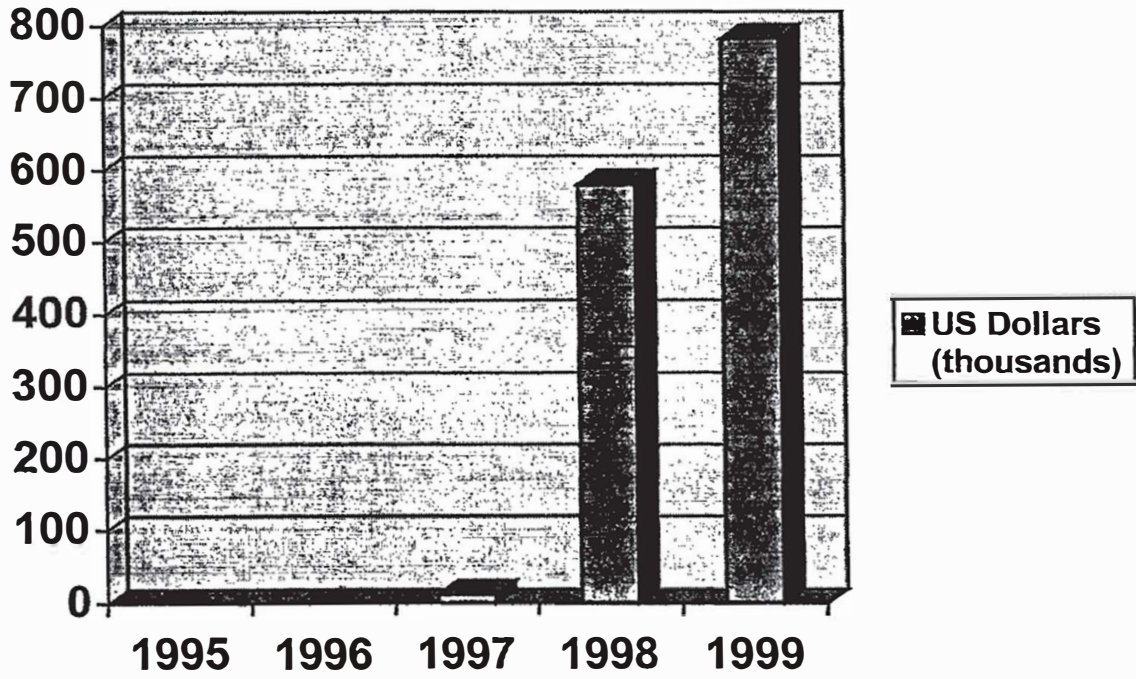


Figure 4.A. Rwanda: mineral production, 1995-2000

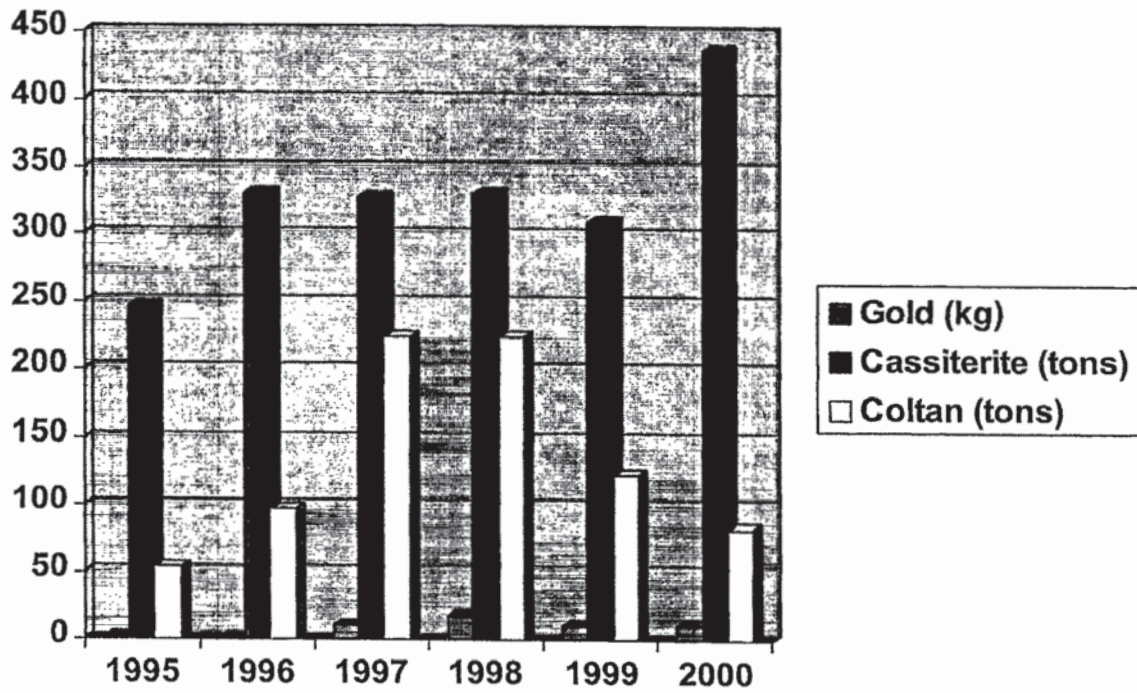
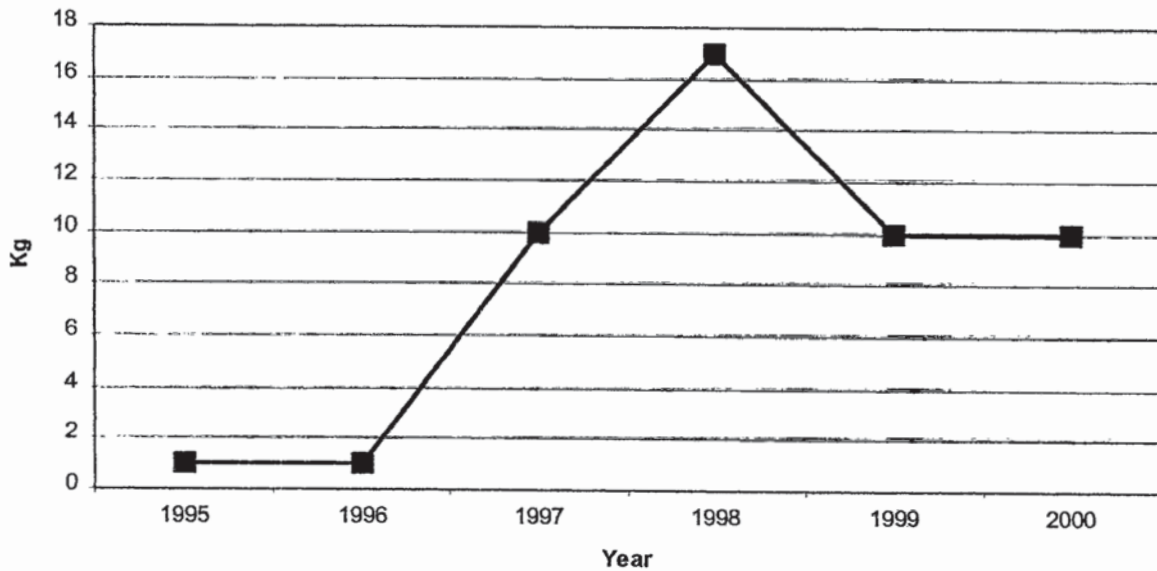


Figure 4.B. Rwanda: gold production, 1995-2000 (kg)



104. The Rwandan authorities also underline the fact that "Rwanda has no production of diamond, cobalt, zinc, manganese, and uranium". However, in spite of this statement, there is substantial evidence that Rwanda has been exporting diamonds. In fact, several organizations such as WTO and the High Diamond Council, and Belgian statistics, have computed import data for selected commodities and provide support for the fact that Rwanda has been exporting diamonds (see table 5 and figure 5). Production figures display some irregular patterns for gold and coltan starting from 1997 (see figures 4.A and B). It is revealing that the increase in production of these two minerals appeared to happen while AFDL, backed by Rwandan troops, was taking over power in Kinshasa.

Table 5  
**Rwanda: rough diamond exports, 1997-October 2000**

<i>Year</i>	<i>Volume (carats)</i>	<i>Value (United States dollars)</i>
1997	13 060.39	720 425
1998	166.07	16 606
1999	2 500.83	439 347
2000	30 491.22	1 788 036

Source: Diamond High Council.

105. **Burundi.** An IMF office memorandum indicates that "Burundi does not produce gold, diamonds, columbo-tantalite, copper, cobalt, or basic metals". Burundi however has been exporting minerals it does not produce. As in the case of Uganda and Rwanda, Burundi's export of diamonds dates from 1998, coinciding with the occupation of the eastern Democratic Republic of the Congo. The coltan exports span a longer period (1995-1999), perhaps suggesting that this might be a regular activity.

106. **Angola, Namibia and Zimbabwe.** Only third party sources were used to determine whether production and export trends in these countries displayed abnormalities. Available production and export statistics relative to Angola, Namibia and Zimbabwe were fairly normal in terms of trend. They did not reveal any suspicious behaviour. Additional data are however needed for a definite stand on the issue. In the case of Zimbabwe, accounts of ongoing

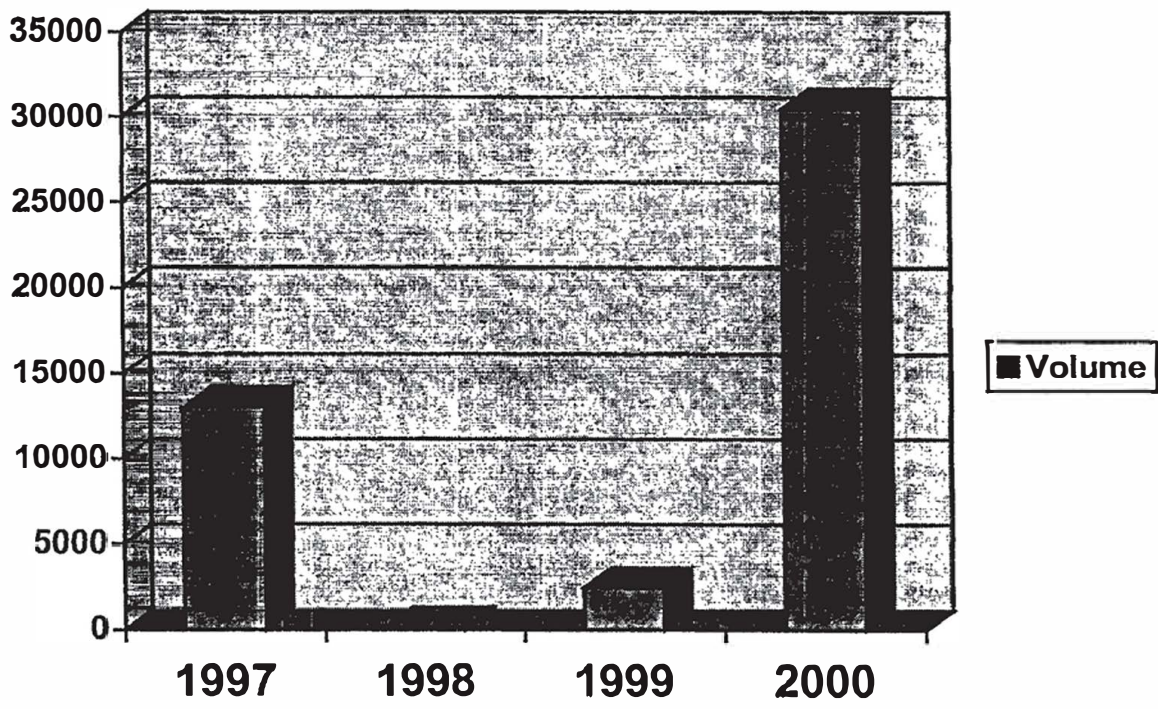
and pending deals give clear indications of their potential impact on the balance of payments.

107. The economic and resource-based analysis above, by using the figures given by the respective Governments, reveals that Uganda and Rwanda have been exporting diamonds, and that this activity is hidden and does not appear in the statistics they disseminate. They do not produce diamonds, nor do they officially export this mineral. It is probable that these minerals are coming from the Democratic Republic of the Congo and would constitute the basis for the re-exportation economy.

108. Regarding the Democratic Republic of the Congo, mineral production and export display a declining trend, imputable partly to the occupation of the eastern side of the country. However, the deterioration of the rural infrastructure represents a limiting factor for mining as well as for agricultural activities.



Figure 5. Rwanda: rough diamond exports, by volume, 1997-October 2000





### III. Links between the exploitation of natural resources and the continuation of the conflict

109. The following sections explore the links between the exploitation of natural resources and the continuation of the conflict in the Democratic Republic of the Congo. The sections are interrelated, but separated for clarity. The first section outlines the countries' budget allocations for their respective armed forces versus the actual expenditures. It will be demonstrated that military expenditures far outweigh the supposed money allocated for such expenses. The subsequent section will explore in depth the means by which these countries find the necessary additional financial resources to continue the war.<sup>4</sup> The panel finds a link between the exploitation of the natural resources of the Democratic Republic of the Congo and the continuation of the conflict.

#### A. Budgets compared to military expenditures

##### Rwanda

110. Rwanda spends about 3 per cent of its GDP or 29 per cent of its annual budget on its defence needs. In the current fiscal year, \$70 million was allocated to defence in the national budget. These official figures provided by the Minister of Finance comprise every single expense of the army, including, soldiers' pay and bonuses and the maintenance and acquisition of new military equipment.

111. Military specialists with a great deal of experience in the region agreed on the fact that Rwandan soldiers use light equipment, so that expenses on equipment have for a long time been limited. They also recognize that, given the size of the Democratic Republic of the Congo and the portion of the territory under Rwandan control, there is a minimum number of soldiers needed to cover this area, which could be estimated at 25,000 soldiers on average during the period of the conflict. Moreover, the use of aircraft for the transport of troops and some types of equipment and supplies may be costly.

<sup>4</sup> The number of soldiers has fluctuated during the period of the war; the numbers used are therefore average estimates.

112. An aircraft owner operating in the region has indicated that he charges on average \$2,000 per hour. Based on his experience of three rotations per day in a smaller area, the Panel estimates five rotations for Rwanda at an average of six hours each. A simple calculation gives a figure of \$1.8 million per month and \$21.6 million per year.

113. Based on the minimum number of 25,000 soldiers in the Democratic Republic of the Congo and an average \$100 for pay and bonuses, the Panel has calculated a total of \$2.5 million per month and \$30 million per year. Transportation and pay of troops alone in the Democratic Republic of the Congo amount to \$51.6 million per year, which is about three quarters of the total Rwandan official defence budget. By taking into consideration the remaining 20,000 soldiers stationed in Rwanda and their average pay of \$50 per month, almost the total defence budget (\$63 million) is used on two items. RPA soldiers in the Democratic Republic of the Congo have other basic needs, however, such as ammunition for even their light equipment, and maintenance and replacement of the equipment.

114. All military experts consulted suggested that the official defence budget of Rwanda cannot alone cover the cost of their war and presence in the Democratic Republic of the Congo. The Panel concurs with President Kagame, who described the conflict in the Democratic Republic of the Congo as "a self-financing war".

##### Uganda

115. Uganda officially spends about 2 per cent of its GDP on defence, which is being monitored by the Bretton Woods institutions. For the fiscal year 2000, the defence budget was about \$110 million. This budget covers pay of about \$70 per month for 50,000 soldiers, 10,000 of whom are stationed in the Democratic Republic of the Congo, pays for the pension of retired soldiers, buys equipment and addresses other needs.

116. According to various sources, UPDF has on average 10,000 soldiers in the Democratic Republic of the Congo out of the 50,000 total. Indeed, the budget line for pay alone for a year is about \$41 million for the 50,000 Ugandan soldiers. If a bonus of \$20 is paid to each of the 10,000 soldiers, that would amount to

\$200,000 per month (in 1998 and 1999), a total of \$2.4 million per year.

117. On the basis of a rate of \$2,000 per hour and six hours on average for a return journey and three rotations a day, UPDF spends on average \$12.96 million per year on transportation alone. Other expenses for purchase, maintenance and replacement of equipment are important. According to some sources, Uganda spent about \$126 million on its armed forces in 1999, an overspending of about \$16 million.

#### **Democratic Republic of the Congo**

118. Of all the warring parties, the Democratic Republic of the Congo presented the greatest challenge as far as defence budget figures and number of troops were concerned. Lack of reliable data and the barely existent State apparatus have made the collection of data very difficult. The country has been at war since 1996 and prior to that the army was already disintegrating. Various military experts that the Panel members met agree on one point: the extreme difficulty of giving an estimate of the Democratic Republic of the Congo army. Those who try to give an estimate speak of 50,000 to 55,000 soldiers.

119. According to some government sources, the Democratic Republic of the Congo relies on Chinese and Eastern European companies to supply its military arsenal and required equipment. The Panel has strong indications that the Government, despite its economic problems, has invested a great deal in the defence of its territory.

#### **Zimbabwe**

120. Zimbabwe's overall defence budget has been decreasing at the very moment ZDF has troops engaged in the Democratic Republic of the Congo. A reduction was announced early in January 2000, lowering the budget from Z\$ 15.3 billion in 2000 to Z\$ 13.3 billion in 2001. Yet, ZDF with approximately 10,000 troops engaged in the Democratic Republic of the Congo spent on average about \$3 million per month, a total of \$36 million in a year.

#### **Angola and Namibia**

121. Angola's presence is smaller than Zimbabwe's in terms of troops. According to some sources, Angolan troops number about 3,000. Namibia's presence is limited to 2,000 troops. The defence budget of

N\$ 24 million has remained at the same level since 1999 in spite of the support given to the Democratic Republic of the Congo. However, the emergency or additional budget for the armed forces has decreased from N\$ 89 million in 1999 to N\$ 76 million in 2001.

#### **Rebels**

122. The rebel movements MLC, RCD-Goma and RCD-ML have their own troops. MLC troops are evaluated at 12,000 to 15,000 men. They usually use light military equipment bought from Kampala. In some cases, deals are done between Jean-Pierre Bemba and other traders and businessmen. These deals consist of giving them the opportunities to carry out business activities or granting a mining concession, in exchange for which the beneficiary would supply some military items. In 1999, when Mr. Khalil demanded of Mr. Bemba a concession for a diamond mine, he obtained a concession in exchange for military fatigues and socks, all made in Uganda.

123. The pay of these soldiers is unknown. The Panel gathered however that these young men were not paid, but could receive from time to time some money as "help". The consequence has been their involvement in the exploitation of natural resources. The cost of war appears to be minimal. The war expenses are the purchase of ammunition and light weapons, transport of soldiers by air and the money MLC paid to UPDF and individual top officers for their support. A similar scenario was played out with RCD-ML, which has approximately 3,000 soldiers.

124. The RCD-Goma troops are estimated to be around 12,000 to 15,000. According to some sources, the Rwandan army until recently used to supply the RCD-Goma troops with military equipment. The military budget was not offered to the Panel in spite of its request, and the estimates are very difficult to make. Military equipment and the transport of troops as well as supplies of oil and petrol are the major expenses. Pay is apparently uncertain, so that the soldiers when possible try to survive, even at the expense of the local population and the wildlife. For all parties involved in the conflict in the Democratic Republic of the Congo, this war seems to be expensive by African standards. The question is: how do the different parties finance their war effort?

## B. Financing the war

125. There are three primary means of financing this war: (a) purchase of arms and equipment through direct payment; (b) barter (arms for mining concessions); and (c) creation of joint ventures. The economies of Rwanda and Uganda, unlike those of Angola and Namibia, have to varying extents financially benefited from the conflict. Zimbabwe is a special case given the potential of concessions attributed to Zimbabwean companies. Data received from various sources, including the countries involved in the conflict, OECD and the Bretton Woods institutions, demonstrate that in broad terms the mineral production of those three countries has decreased. However there are some interesting peaks between 1997 and 1999 (see sect. II.F above). Isolated and varied examples of how these countries finance their military presence in the Democratic Republic of the Congo are given below.

### Rwanda

126. Rwanda's military appears to be benefiting directly from the conflict. Indeed, the Panel has noted a great integration between the military apparatus, the State (civil) bureaucracy and the business community. RPA finances its war in the Democratic Republic of the Congo in five ways: (a) direct commercial activities; (b) profit from shares it holds in some companies; (c) direct payments from RCD-Goma; (d) taxes collected by the "Congo desk" and other payments made by individuals for the protection RPA provides for their businesses; and (e) direct uptake by the soldiers from the land.

127. Since 1998, the Department of External Relations, through the Congo desk has been receiving substantial amounts of money from various *comptoirs*. Several diamond *comptoirs* were operating in Kisangani before the monopoly was given to two in July 2000. According to very reliable sources, taxes were paid directly to the Congo desk. On average, a *comptoir* with a turnover of \$4 million per month would pay \$200,000 per month to the Congo desk. Every diamond dealer who intends to purchase diamonds in the eastern Democratic Republic of the Congo or at Kigali would pay 5 per cent of the diamond value to the Congo desk before the transaction. This amount is consistent with the so-called mandatory 5 per cent of the value of purchased diamonds that the Congo desk takes from

the two *comptoirs* controlling the Kisangani diamond market. Messrs. Nassour and Arslanian, the "conflict diamond dealers" in the eastern Democratic Republic of the Congo, provided on average \$2 million per year, each directly to the Congo desk. A similar percentage is applied for other mineral resources in the area controlled by RCD-Goma.

128. Before July 2000, monopoly holders used to pay the sum of \$200,000 per month in its entirety to Kigali; this has changed slightly since RCD-Goma claimed its share. The larger diamond *comptoirs* would therefore pay \$100,000 to the Congo desk and \$100,000 to the RCD-Goma authority. The Panel believes that over a period of two years the Congo desk would have received about \$4 million as direct payment for granting the authorization to operate in the areas under its control.

129. Some documents point to a direct implication of the Rwandan Patriotic Army in commercial activities. As mentioned earlier, RPA, through the companies Rwanda Metals and Grands Lacs Metals, has big stakes in the coltan business. Most of the coltan extracted by civilians and prisoners is sold to intermediaries (civilians or soldiers) who in turn sell it to *comptoirs*, some of which are controlled by the Rwandan military. The quasi-totality of this coltan is sent to Kigali, and generally stored in facilities owned by the Government. A good portion goes to Rwanda Metals and the rest is exported directly by some professionals. Rwanda Metals and Grands Lacs Metals, directly or through Congo desk, contact clients on the availability of coltan. Some of the letters sent to potential clients in Europe and the United States of America are signed Dan, who was the head of the Congo desk.

130. Given the substantial increase in the price of coltan between late 1999 and late 2000, a period during which the world supply was decreasing while the demand was increasing, a kilo of coltan of average grade was estimated at \$200. According to the estimates of professionals, the Rwandan army through Rwanda Metals was exporting at least 100 tons per month. The Panel estimates that the Rwandan army could have made \$20 million per month, simply by selling the coltan that, on average, intermediaries buy from the small dealers at about \$10 per kg. According to experts and dealers, at the highest estimates of all related costs (purchase and transport of the minerals), RPA must have made at least \$250 million over a period of 18 months. This is substantial enough to



finance the war. Here lies the vicious circle of the war. Coltan has permitted the Rwandan army to sustain its presence in the Democratic Republic of the Congo. The army has provided protection and security to the individuals and companies extracting the mineral. These have made money which is shared with the army, which in turn continues to provide the enabling environment to continue the exploitation. The last illustration of how Rwanda finances its war deals with the financial transactions involving Rwandan banks, RPA suppliers and RCD institutions. In these particular cases, Rwanda has used BCDI and SONEX to pay RPA suppliers.

131. SONEX was founded in March 1999 in Kigali. It belonged to RCD-Goma and was managed by Emmanuel Kamanzi, former chief of the Finance Department of RCD-Goma. Its primary purpose was to serve as the commercial and financial arm of RCD, handling most commercial and financial deals. SONEX was dissolved late in 2000, but it had sufficient time to put in place a pattern for the transfer of resources from RCD to Kigali. The Panel received documents highlighting the financial transactions of SONEX and BCDI. According to those documents, BCDI released \$1 million in mid-1999 for SONEX as a loan to pay fuel bills to Jambo Safari. SONEX was to repay this loan with the money obtained from the selling of coltan and cassiterite. By February 2000, \$200,000 to \$300,000 had already been reimbursed to BCDI. This loan seems to be part of the financial transaction by which money is transferred to Kigali, and some individuals in RCD take their own substantial cut.

132. The same year, SONEX requested another loan of \$10 million from BCDI in Kigali, and \$5 million was approved. According to one of the actors at the time, the \$5 million loan was not physically paid to SONEX. Instead, BCDI ordered Citibank in New York to pay RCD suppliers with the loans technically given to SONEX. This financial arrangement is suspicious in many ways.

133. First, RPF through Tristar is a shareholder in BCDI. Second, the suppliers of RCD are mostly Rwandan companies whose owners are closely acquainted with RPA or RPF. Third, the deal with SONEX is handled by Major Dan, at the Congo desk, who is related by marriage to Mr. Kamanzi, head of the Finance Department and mastermind of the whole operation.

134. The BCDI loans to SONEX could be well-crafted operations to transfer money from BCDI to RPA and to pay RPA suppliers by using SONEX. Paying RPA suppliers is one way of financing the war without taking from the official budget. Reliable sources report that about \$700,000 has already been paid back by RCD. According to a RCD-Goma document explicitly detailing how debts should be repaid with money made out of the coltan sale, part of the \$1 million per month in taxes that Mrs. Gulamali pays to RCD for the monopoly on coltan could also be used to pay back the BCDI loan.

#### **Uganda**

135. Uganda unlike Rwanda did not set up an extrabudgetary system to finance its presence in the Democratic Republic of the Congo. The regular defence budget is used and broadly the deficit is handled by the treasury. However, the Ugandan economy benefited from the conflict through the re-exportation economy. In turn, the treasury benefited and this allowed an increase in the defence budget.

136. The re-exportation economy implies that natural resources imported from the Democratic Republic of the Congo are repackaged or sealed as Ugandan natural resources or products and re-exported. That is the case for some gold, diamonds, coltan and coffee exported by Uganda. The re-exportation economy has had a tremendous impact on the financing of the war, in three ways.

137. First, it has increased the incomes of key businessmen, traders and other dealers. In the coffee sector, gains have been substantial for the traders in Kampala and Bujumbura. According to an expert in the sector who lives in the region, there is a trick used by coffee exporters in the region. Arabica coffee produced in Bujumbura is of a higher grade than the one produced in Kivu. The difference in price could be in some cases one third. Burundian dealers by importing Congolese coffee and mixing it, then presenting it as Burundian coffee, gain a higher price. The Ugandan traders use the same schemes. In the case of Uganda, the dealers gain both ways. The trader buys inexpensive coffee in the Democratic Republic of the Congo, often with counterfeit currency, eventually mixes it with Uganda coffee, and then re-exports this coffee as Ugandan robusta, which is of better quality than Congolese robusta.

138. Second, the illegal exploitation of gold in the Democratic Republic of the Congo brought a significant improvement in the balance of payments of Uganda. This in turn gave multilateral donors, especially IMF, which was monitoring the Ugandan treasury situation, more confidence in the Ugandan economy. Third, it has brought more money to the treasury through various taxes on goods, services and international trade. Discussions with the Deputy Commissioner of the Ugandan Revenue Authority revealed that the tax collection level has increased dramatically over the past five years. IMF figures on Ugandan fiscal operations confirm this positive evolution over the past three years. A detailed analysis of the structure and the evolution of the fiscal operations reveals that some sectors have done better than others, and most of those tend to be related to the agricultural and forestry sector in the Democratic Republic of the Congo. Logs, sawn wood or planks destined for Uganda, Kenya or for export out of the continent pay customs duties as they enter Uganda.

139. Between 1998 and 2000, about 1,800 trucks carrying logs, timber, coffee, medicinal barks, cassiterite, pyrochlore, iron ore, tea and quinina have transited through Uganda. The official figures from the Government of Uganda show an average of 600 lorries per year, all registered by customs officers. As Mrs. Lotsove once noted, the tax exoneration given to the Victoria and Trinity companies represents a net loss of \$5 million per month (there are 15 points of entry). The Panel concludes that, given the absence of the exoneration on the Ugandan side, and a higher level of taxes in Uganda, customs duties related to the transiting of Congolese natural resources exploited by Ugandans and some Congolese in Equateur and Orientale Provinces would bring the treasury at least \$5 million every month.

140. Another way of financing the presence of the army in the Democratic Republic of the Congo was to purchase military supplies on credit. The Ugandan army has purchased petrol on credit from a number of private companies. The accruing debt is treated as internal debt.

141. The Panel also gathered that the local commanders of UPDF turn a blind eye to soldiers' racketeering among the populations or their involvement in small business. This is seen as a way to pay their bonuses and this has proved to be a very successful method. Information received from friends

and relatives of UPDF soldiers who served in the Democratic Republic of the Congo clearly shows that there were elements of self-payment much more satisfactory than the official bonus. Overall, the military, its leaders and other involved individuals manage to manipulate budgetary and other factors to retain their control in the occupied territories.

142. The Ugandan situation can be summarized as follows: the re-exportation economy has helped increase tax revenues, allowing the treasury to have more cash. Businesses related to the conflict and managed by Ugandans have contributed to an extent to generate activities in the economy in a sector such as mining (gold and diamonds). The growth in these sectors has had a trickle-down effect on the economy and permitted Uganda to improve its GDP in 1998 and maintain it somewhat in 1999.<sup>5</sup> The improvement in GDP has permitted, according to Ugandan officials, an increase in absolute terms of the military budget while keeping the level of the military budget at the agreed 2 per cent of GDP. The apparent strength of the Ugandan economy has given more confidence to investors and bilateral and multilateral donors who, by maintaining their level of cooperation and assistance to Uganda, gave the Government room to spend more on security matters while other sectors, such as education, health and governance, are being taken care of by the bilateral and multilateral aid.

#### **MLC, RCD-Goma and RCD-ML**

143. Officially, the rebel movements receive the bulk of their military equipment through UPDF and RPA. During discussions with the Ugandan Minister of Defence and the Chief of Staff of UPDF, the Panel was informed that weapons seized from the Congolese armed forces are usually given to MLC and RCD-ML. According to other sources, some military equipment is acquired by these groups through direct purchase and barter. The Panel came across a very interesting case in which Mr. Bemba, at the instigation of General Kazini, bargained with the highest authorities of Uganda for the release of some Ukrainian pilots whose Antonov has been captured. A very reliable source told the Panel that in exchange Mr. Bemba received military fatigues, boots and medical supplies for his soldiers from a third party.

<sup>5</sup> Uganda's GDP has been increasing since the early 1990s. However, a slight decrease was noted in 1999.



144. RCD-Goma has designed a fiscal system based mainly on the mining sector. About six different forms of tax exist in this sector, and they are applied on approximately eight different types of minerals, including the most important (coltan, gold and diamonds). From RCD official statistics the Panel notes that in 1999 on average 60 kg of gold was extracted every month from the area controlled by RCD. That is about 720 kg a year. In 2000, the extraction was higher, up to 100 kg a month. With regard to coltan, 27 tons were extracted every month in 1999, while 29 tons were produced every month in 2000. Given the number of *comptoirs* (19 for coltan), and the six types of tax, the Panel concludes that substantial revenues through tax collection are available to RCD. It is however difficult to estimate the figures, although some insiders have told the Panel that the financial situation has been improving since late 2000, and the prospects for a balanced budget are better than two years ago. Information obtained from documents and individuals suggests that, in addition to taxes levied and shares it holds in SOMIGL, RCD-Goma has given a monopoly of coltan to SOMIGL, in exchange for which it receives \$1 million monthly.

145. **Illustration of the commercial activities of RCD.** A preponderance of information obtained from documents and individuals regarding the activities of RCD-Goma in the Democratic Republic of the Congo, Dar es Salaam, United Republic of Tanzania, and elsewhere during the current hostilities overwhelmingly suggests that RCD-Goma and others are marketing the natural resources of the Democratic Republic of the Congo — gold, diamonds and timber — through Dar es Salaam. Gold and diamonds belonging to RCD-Goma are shipped through their financial and logistical network, via Dar es Salaam, for sale on the international market. In order to facilitate the movement of the commodities and to give the appearance of legitimacy, RCD-Goma obtains documents to hide or cover their ownership. The documents covering the shipments of gold and diamonds are completed forms of the Democratic Republic of the Congo. The forms indicate issuance from a government organization, complete with the required stamps and signatures indicating approval and issuance in Kinshasa and Lubumbashi. RCD-Goma's representatives in Dar es Salaam coordinate the receipt, forwarding and sale of gold and diamond shipments. The gold shipments transit through Dar es Salaam international airport for sale to buyers in Sri Lanka and

elsewhere. The diamond shipments are held at the Bank of Tanzania before being forwarded to Belgium, the Netherlands and South Africa.

146. The gold and diamonds are being sold by RCD-Goma in exchange for cash or bartered for armaments and medicines to support continuation of the current hostilities. RCD-Goma's representatives in Dar es Salaam also arrange for the purchase of foodstuffs and other logistical needs for the war effort. In addition, timber resources from the Democratic Republic of the Congo are being shipped through Dar es Salaam to Greece and Belgium. In the case of Greece, the timber transaction is being partially arranged by an import/export business located in Goma. The shipments of gold, diamonds and timber are also processed in Dar es Salaam in cooperation with RCD representatives by a company believed to be a covert business entity created for the purpose of facilitating support for the financial and logistical operations of RCD-Goma. It is important to note that the activities described above represent an RCD-Goma operation and are exclusive of operations handled by the Government of Rwanda, via Kigali.

147. The Panel concludes on this point that the major rebel groups are gradually becoming autonomous (MLC/FLC and RCD-Goma) in terms of supply of military equipment. They are capable of raising substantial amounts of cash, enough to buy the light equipment they use. Equally they have put in place their own network and contacts, which would allow them to purchase their own equipment when necessary. This growing autonomy has manifested itself recently as RCD-Goma has requested that money usually given to the Congo desk by diamond dealers be shared equally between both entities. Equally, RCD-Goma has initiated some military attacks on RCD-ML positions in order to occupy mineral-rich areas as shown earlier. As the need for an autonomous supply of weapons grows, so does the need to find additional resources, and therefore clashes for the control of mineral-rich areas will be recurrent; so goes the vicious circle of war and exploitation of natural resources on the side of the rebellion.

#### **Democratic Republic of the Congo**

148. The Government of the Democratic Republic of the Congo has relied on its minerals and mining industries to finance the war. Between 1998 and early 2001, the strategy for financing the war was based on

three pillars, namely (a) search for cash through the attribution of monopolies; (b) direct and indirect uptake of funds from parastatals and other private companies; and (c) creation of joint ventures between parastatals and foreign companies in countries allied with the Democratic Republic of the Congo.

149. **Search for cash.** The late President used different schemes to raise funds. He instituted the *tax parafiscale* (see para. 41) and also implemented schemes such as the creation of a monopoly for the commercialization of diamonds.

150. **Monopoly on diamonds granted to International Diamond Industries (IDI).** According to government sources, the objective of this monopoly was twofold: first, to have fast and fresh money that could be used for the purchase of needed arms, and address some of the pending problems with the allies. Second, to have access to Israeli military equipment and intelligence given the special ties that the Director of International Diamond Industries, Dan Gertler, has with some generals in the Israeli army.

151. This deal turned out to be a nightmare for the Government of the Democratic Republic of the Congo and a disaster for the local diamond trade as well as an embarrassment for the Republic of the Congo, which is currently flirting with illicit diamonds. According to different sources, IDI paid only \$3 million instead of \$20 million and never supplied military equipment.

152. President Joseph Kabila has expressed willingness to liberalize the diamond trade in the Democratic Republic of the Congo, and IMF and the World Bank are very supportive of this move. IDI is, however, threatening to sue the Government of the Democratic Republic of the Congo. The IDI deal also turns out to be a disaster for the local diamond trade. As the monopoly was granted to IDI, most diamond dealers operating in the Government-controlled area crossed to Brazzaville to sell their diamonds. It is estimated that during the first three months of the monopoly, \$60 million worth of diamonds from the Democratic Republic of the Congo were sold on the international market, and the Republic of the Congo was mentioned as the country of origin. This smuggling of diamonds deprived the already ailing economy of the Democratic Republic of the Congo of substantial sums of money and the treasury of substantial tax revenues. This case shows that the desperate need for quick cash to finance the defence of

its territory has instead brought other problems to the Government and has paradoxically deprived the treasury of substantial revenue.

153. **Uptaking money from parastatals.** Another way of financing the war has been the direct and indirect uptake of money from parastatals and other private companies, mainly the Société minière de Bakwanga and the Générale des carrières et des mines (Gecamines). The Government has claimed from MIBA since August 1998 on average two fifths of their earnings. The Panel was told that in some cases three fifths, the equivalent of \$4 million per sale, was sent to the President's office. The Panel has also confirmation that oil companies gave important sums of money as *taxes parafiscales* to the Government. In most cases, this cash in Congolese francs was delivered to Victor Mpoyo, who then reported to the late President Kabila. This money was used for the salary and bonuses of Congolese soldiers in the battlefield. According to some Congolese officials, the *taxes parafiscales* were never used for the purchase of weapons.

154. MIBA receives from the Government the equivalent of two fifths of its sales of diamonds in Congolese francs changed at the official rate, which is only one quarter of the black market rate. It is believed that about 75 Congolese francs for each dollar changed is unaccounted for and possibly used for defence needs.<sup>6</sup>

155. The contribution of Gecamines to the war effort appears to be on two levels. On the one hand, one third of the company's profit was taken directly by the Government in 1999 and in 2000. On the other, the Government contributed indirectly to the expenses of the Zimbabwe Defence Forces between May 1999 and October 2000.

#### **A special case: Zimbabwe**

156. Zimbabwe has financed its involvement in the conflict in two different ways: (a) by using the defence budget — the bulk of Zimbabwe's military expenses seem to be covered by the regular budget; (b) by indirect financing of the war through direct payment by some Congolese entities, mainly companies. According to two very reliable sources, during the tenure of Billy Rautenbach money from Gecamines paid bonuses to the Zimbabwean soldiers. These payments might be

<sup>6</sup> In 2000, the official exchange rate was one dollar for 23 Congolese francs.

linked to the contract between the Government and Ridgepoint. Indeed, part of the rights to exploit Gecamines mines was transferred to Ridgepoint without apparent compensation. According to some sources, the compensation, which is not mentioned in the contract, could be the sharing of profits between the Government of the Democratic Republic of the Congo and Ridgepoint, on the basis of 80 per cent for the Government and 20 per cent for Ridgepoint. According to some sources, curiously, Mr. Mpoyo, the Congolese minister, signed the contract as one of the officials of Ridgepoint rather than signing on behalf of the Government. Two months after the contract of Mr. Rautenbach as Director of Gecamines came to an end, discontent among Zimbabwean soldiers in Katanga over their lack of bonuses was reported.

157. The Panel has, however, noted a practice which is neither the financing of war nor the provision of direct assistance. The practice is qualified in this report as "incentives for assistance". The former Government of the Democratic Republic of the Congo often used the potential of its vast resources in the Katanga and Kasai regions to secure the assistance of some allies or to cover some of the expenses that they might incur during their participation in the war. Among all of its allies, Zimbabwean companies and some decision makers have benefited most from this scheme. The following examples illustrate how different schemes were implemented and benefited the decision makers, the very group of officials who can decide about ZDF assistance to the Democratic Republic of the Congo. The most utilized scheme has been the creation of joint ventures.

158. **Joint ventures.** One way of securing the engagement of some allies in the war has been the provision of financial incentives by way of creating business opportunities in the mining sector. At least three features emerged from the scheme: (a) Zimbabwean companies received interesting mining concessions; (b) Zimbabwean companies using their influence with the Government of the Democratic Republic of the Congo developed business partnerships with private companies and parastatals; and (c) in turn, received preferential treatment for their businesses.

159. **Sengamines: example of a joint venture.** The Panel gathered that, late in 1998, a private Zimbabwean company, Operation Sovereign Legitimacy (OSLEG), whose shareholders are Lieutenant General Vitalis Musungwa Zvinvashe, Job

Whabira, former Permanent Secretary in the Ministry of Defence, Onesimo Moyo, President of Minerals Marketing Corporation of Zimbabwe, and Isaiiah Ruzengwe, General Manager of Zimbabwe Mining Development Corporation, got into a partnership with COMIEX; COSLEG was born of this partnership. Through COSLEG, Zimbabwe (ZANU-PF) could exploit and market minerals, timber and other resources of the Democratic Republic of the Congo.

160. Reliable sources told the Panel that a Zimbabwean delegation headed by the then Minister of Justice, Emmerson Munangagwa, visited the Kasai region to see the various mining concessions given by the late President Kabila to ZDF as barter payment for its military support. The team was composed of the former Permanent Secretary in the Ministry of Defence, Moven Mahachi; the Chief of the Armed Forces, General Zvinvashe; and the President of MIBA, Kadende Muya. President Kabila's gift to the Zimbabwean military was causing a problem, however, as they did not have the financial and technical expertise to exploit their mining concessions. Late in 1998, Thamer Al Shanfari, Chairman of Oryx Natural Resources, was asked to provide the needed financial and technical expertise. Mr. Al Shanfari decided to create Oryx Zimcon, Ltd., a joint venture between Oryx Natural Resources and COSLEG.

161. Instead of selecting one of the various mines belonging to COSLEG to start its investment, Oryx Zimcon wanted the best mines which initially belonged to MIBA. At the request of ZDF and on the advice of Victor Mpoyo and Mwenze Kongolo,<sup>7</sup> the late President Kabila transferred two of MIBA's richest concessions — the kimberlite deposits in Tshibua and the alluvial deposits in the Senga Senga River, to Oryx Zimcon. Oryx Zimcon and COSLEG together created Sengamines.

162. As promised, Mr. Al Shanfari started investing in Sengamines and used the Breco group of companies of John Bredenkamp to transport mining equipment to the mines. As the technical and financial partner, Oryx was to receive 40 per cent, OSLEG 40 per cent and COSLEG 20 per cent. As the need for money grew,

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<sup>7</sup> According to some sources, Mwenze Kongolo is involved in most COMIEX dealings. Most importantly, it is said to be the main bridge between Zimbabwean officials such as the influential Emmerson Munangagwa and the Government of the Democratic Republic of the Congo.



Mr. Al Shanfari decided to launch Oryx on London's Alternative Investment Market under the name Oryx Diamonds. Upon strong objections from various stakeholders, Oryx Diamonds was withdrawn from the market. The new statute of the company does not mention the name OSLEG.<sup>8</sup> The Panel was informed, however, that the increase in the shares of COMIEX as seen in the new statute was meant to preserve the interests of Zimbabweans. The Panel was also told that payment would be made to the Government of the Democratic Republic of the Congo only after the loan taken for this operation (about \$25 million) was repaid.

163. The ease with which the Tshibua and Senga Senga River concessions were given to Oryx without due regard for the legal requirements and the preferential treatment given to Oryx show the determination of the former Government of the Democratic Republic of the Congo to reward some of its allies.

#### **Attribution of concessions**

164. According to some sources, a very recent (26 February 2001) concession of cobalt and copper in Kambove-Kakanda was to be given KMC Group of the Zimbabwean Billy Rautenbach. According to very reliable sources, different ministers had signed the concession two days before the assassination of the late President Kabila and only his signature was missing. The trade unionist of Gecamines has indicated that the concession was completed, but President Joseph Kabila told the Panel that the deal has not been signed yet. If it is signed, there could be a rapprochement of activities.

165. This case shows rapprochement of the activities and interests of some Zimbabwean businessmen, and a possible link between arms dealing and mining activities in the Democratic Republic of the Congo. Indeed Mr. Bredenkamp is said to have an interest in this venture, although he was alleged to be an arms dealer. In November 2000, a month after the departure of Mr. Rautenbach from Gecamines, Mr. Bredenkamp is said to have established a direct link with Mr. Rautenbach. According to three reliable sources, Mr. Rautenbach, Mr. Bredenkamp and Mr. Munangwana, the current Speaker of the House of Zimbabwe, Chairman of ZANU-PF and director of many

companies belonging to ZANU-PF, met with the late President Kabila to negotiate this contract of the central part of the Gecamines concessions. The Panel does not draw any conclusions, but wishes to highlight the quality of the people involved in the negotiations, their past records, current activities and position in Zimbabwe.

166. Many other deals are ongoing such as the one concerning the supply of foodstuffs to the Congolese army, for which General Zvinvashe's company is said to have been attributed the transport. President Robert Mugabe once told interlocutors that the late President Kabila had given him a mine concession.

167. The Government of the Democratic Republic of the Congo, in its effort to defend its territory and secure the supply of military equipment, has signed a contract worth several million United States dollars with the Government of China. Official sources in Kinshasa, while confirming this deal, have informed the Panel that in exchange a mining concession was awarded to a joint venture between a Chinese company and a parastatal of the Democratic Republic of the Congo.

168. In the same vein, the Government of the Democratic Republic of the Congo has made a deal with the Democratic People's Republic of Korea, which trains troops of the Democratic Republic of the Congo and in exchange, it is believed, has received a mining concession around Shinkolobwe, very rich in uranium. The Americans in the past extracted uranium from this mine. Challenged on this issue, officials of the Democratic Republic of the Congo mentioned high radioactivity in the area, making it impossible for anyone to work there.

169. According to some officials, the Democratic Republic of the Congo has asked the United States of America to consider addressing the problem of radioactivity in the area, given their historical presence in mining that particular area for uranium. The official denial of a deal between the Democratic Republic of the Congo and the Democratic People's Republic of Korea was based on the fact that the Government of the Democratic Republic of the Congo has sought United States assistance — which it cannot receive if the Koreans are mining the same area.

170. The Panel has enough elements and evidence to suggest that the Government of the Democratic Republic of the Congo under the late President Kabila,

<sup>8</sup> The distribution of shares is as follows: Oryx 49 per cent, COMIEX 33 per cent, MIBA 16 per cent and Congolese partners 3 per cent.

gave strong incentives in the form of access, exploitation and management of mineral resources. These incentives in turn have "convinced" the Zimbabwean authorities to remain engaged in the Democratic Republic of the Congo. The incentives have, however, been so important that the whole balance of the mining industries is likely to be affected. The question in the region is which course of action will sidelined companies take in the future to guarantee their presence in the mining sector? Will it be another cycle of war or intensification of war in relation to the securing of access to the rich cobalt and copper area of the Democratic Republic of the Congo?

#### **Angola and Namibia**

171. These two countries have financed their participation in the conflict with their regular defence budget. In the case of Angola, some deals, minor compared to those of Zimbabwe, have been signed, such as the creation of Sonangol, in which Sonangol Angola has 60 per cent of shares and COMIEX 40 per cent. Sonangol Angola is a 100 per cent State-owned company (Sonangol supplies oil to the Democratic Republic of the Congo). The two countries have also signed a letter of intent to jointly exploit crude oil off their coast when peace returns to the region.

172. In the case of Namibia, the Panel was informed by the Namibian authorities of the existence of a joint venture between a Namibian company called August 26, whose main shareholder is the Ministry of Defence, an American company and a "company" of the Democratic Republic of the Congo. Other deals involving individuals have been signed. At this point, the Panel has not found substantial evidence that Angola and Namibia have signed commercial deals in the nature of "arms and support for natural resources". Their motivation seems to be solely political and strategic (for Angola). According to very reliable sources, joint ventures proposed to these two countries were a sign of gratitude rather than an incentive for their support and they never pressed for it.

#### **C. Special features of the links between the exploitation of natural resources and the continuation of the conflict**

173. It is often said that the conflict in the Democratic Republic of the Congo is low-intensity warfare, as

armies do not confront each other on a daily basis and battles or rather serious battles are not frequent. The Panel noted that the conflict, especially in occupied zones, is fought on three levels:

(a) Government forces and the allies versus the rebels and their Ugandan-Rwandan and Burundian allies;

(b) RCD-Goma and its Rwandan allies versus MLC or RCD-ML and their Ugandan allies;

(c) Rebel movements and their allies (Rwanda or Uganda versus the so-called negative forces: Interahamwe, Maï-Maï and other dissident groups).

174. Indeed, the conflict in the Democratic Republic of the Congo is being fought on two fronts, official and unofficial. The official front is that of classic warfare — two or more armies confronting each other. This front goes from Pweto to Mbandaka on an uneven line crossing various localities. The unofficial front is concentrated inside zones controlled by rebels and their Ugandan and Rwandan allies.

175. The analysis of battles and skirmishes recorded from mid-1999 to 2001 shows that:

(a) Overall, the number of battles on the official front with the engagement of the army is lower than the number of skirmishes, about 96 between 1999 and 2001;

(b) The number of battles has been decreasing over the years. In the first quarter of 2001, only eight confrontations were reported on the official front line;

(c) Current big battles have been fought in areas of major economic importance, towards the cobalt- and copper-rich area of Katanga and the diamond area of Mbuji Mayi. Military specialists argue that the Rwandan objective is to capture these mineral-rich areas to deprive the Government of the Democratic Republic of the Congo of the financial sources of its war effort. Without the control of this area, the Government of the Democratic Republic of the Congo cannot sustain the war. This rationale confirms that the availability of natural resources and their exploitation permits the continuation of the war. This may be true for all the parties. In view of the current experience of the illegal exploitation of the resources of the eastern Democratic Republic of the Congo by Rwanda and Uganda, it could also be thought that the capturing of this mineral-rich area would lead to the exploitation of



those resources. In that case, control of those areas by Rwanda could be seen primarily as an economic and financial objective rather than a security objective for the Rwandan borders.

176. The number of skirmishes between rebel forces and their allies, and the armed group Maï-Maï has increased. From May to December 2000, about 177 clashes were reported. The battlefields are generally around coltan- and diamond-mining or coltan-rich areas. The Panel has strong indications that most of the fights between Rwandan soldiers and Maï-Maï have occurred in the so-called "coltan belt". Some areas experienced up to 10 skirmishes in 2000. According to some sources, numerous reports and accounts of eyewitnesses mention the presence of Rwandan and Ugandan soldiers providing security around coltan and diamond mines. Officials of RCD-Goma have confirmed the risk posed by the Maï-Maï and "negative forces" in those areas. A senior RCD official specified that only very well organized entities with the necessary security infrastructure can carry out the exploitation of coltan in those areas. In this particular case, the Rwandan army is the only institution with that capability in the eastern Democratic Republic of the Congo.

177. **Rwanda's "unusual" tactics.** The Rwandan forces will attack the same area for two days then pull back. According to our sources, these attacks seem to coincide with the period when coltan has been extracted and put in bags for evacuation by the Maï-Maï. Attacked, the Maï-Maï abandon their coltan, which is then taken away by small aircraft. The Rwandan soldiers retreat again waiting for the next information on available coltan. In the areas where their grip is weaker, Rwanda in particular has designed strategies to retain control within certain echelons of the existing local hierarchies. In those areas controlled by the Interahamwe and Maï-Maï forces, either RPA, from time to time, mounts military operations that allow it to capture the areas temporarily and evacuate the coltan, or else middlemen are used for the purchase of coltan from the Maï-Maï and "negative forces".

178. Battles between rebel movements are also reported in areas rich in mines. On 18 November 2000, RCD-Goma and its Rwandan allied troops based in Kisangani attacked positions of MLC in Bengamisa, 50 km north-west of Kisangani, and took control of this rich diamond area. On 31 December 2000, RCD-Goma and its allies launched an attack on the area controlled

by RCD-ML and captured Kandole, an area rich in diamonds and with some coltan. Also late in December 2000, RCD-Goma initiated an attack from Lindi to conquer Lakutu, another diamond-rich area.

179. Finally, in areas where the risks are too high, adversaries, if not enemies, become partners in business. That is the case of the Maï-Maï doing business with RPA civilian coltan dealers, who in turn sell to *comptoirs* controlled by Rwandans and their companies Grands Lacs Metals and Rwanda Metals. The most famous case was when the Maï-Maï chief, General Padiri, informed people in Kigali in November 2000 that he was selling 60 tons of coltan.

180. **Strategies to sustain the vicious circle of war and exploitation: the example of Uganda.** Top UPDF commanders have essentially used the Hema/Lendu conflict. The Panel has received very reliable information clearly showing how General Kazini and Colonels Kyakabale and Arocha assisted in training different Hema militia, and manipulated those groups to fight each other. Reports clearly showed that while the Kazini camp was helping with the training of the Hemas, the Colonel Peter Karim camp was assisting in training the Lendus. Both camps belonging to UPDF. There are strong indications that some UPDF elements may spark violence so as to remain in the region in an attempt to control the gold-rich area and the potentially coltan-rich areas of Nyaleki. There is, therefore, a clear intent of the military commanders to control these mineral-rich areas and keep them for long-term exploitation. The Nia-Nia confrontation in October 2000, in which UPDF General Kazini and Roger Lumbala fought another UPDF group and RCD-ML is a variation of the fighting inside UPDF for control of coltan-rich areas. According to different sources, Roger Lumbala, of RCD-national, has been used by General Kazini to control the Bafwasende area, rich in diamonds and coltan.

#### **D. Facilitators or passive accomplices?**

181. The link between the continuation of the conflict and the exploitation of natural resources would have not been possible if some entities, not parties in the conflict, had not played a key role, willingly or not. Bilateral and multilateral donors and certain neighbouring and distant countries have passively facilitated the exploitation of the resources of the Democratic Republic of the Congo and the

continuation of the conflict; the role of private companies and individuals has also been vital.

182. The Panel has gathered information showing that linkages between different actors and stakeholders are very well structured to the point that Governments and large reputable companies operate in confidence. In the case of coltan, all the needed documentation for its export is provided in Kigali, but there are accomplices in Kinshasa in the Ministry of Mines. The importing companies and their facilitators are aware of the real origin of the coltan, however. According to manifests that the Panel received, Sabena Cargo as well as SDV of the Bollore group have been among the key companies in this chain of exploitation and continuation of war. Thousands of tons of coltan from the Democratic Republic of the Congo were carried from Kigali or through the port of Dar es Salaam.

183. The Panel also has indications of the direct and indirect involvement of some staff of the embassies and cooperation agencies of developed countries. They have facilitated the purchase of illegal minerals. The United States honorary consul in Bukavu, as he presented himself, Ramnik O. Kotecha, in addition to promoting deals between American companies and coltan dealers in the region, is himself Chairman of the Kotecha group of companies based in Bukavu and deals in coltan.

184. On the basis of the facts and their analysis, the Panel reaches the conclusion that the increase in revenues of the Rwandan army from coltan sales was made easy by three key factors:

(a) The passive role of some private companies such as Sabena and SDV for the transport of coltan, Citibank for the financial transaction as the corresponding bank of BCDI, the self-proclaimed United States honorary consul in Bukavu and some staff in various embassies in Kigali;

(b) The rush to profit of some foreign companies that were ready to do business regardless of elements of unlawfulness and irregularities (see annex I for a sample of companies);

(c) The political legitimization provided by some developed countries. In November 2000 in Kigali, the Panel was told that the illegal exploitation of resources and the financial gains of RPA were justified as the repayment for the security that Rwanda provides.

#### **Bilateral donors**

185. The main bilateral donors to Rwanda and Uganda have been the United Kingdom of Great Britain and Northern Ireland, Denmark, Germany and the United States of America in various sectors. The analysis of their cooperation shows that sectors benefiting from this assistance are related to poverty, education and governance. Priority sectors have been water and sanitation, health and governance, including institutional reforms, justice and human rights, especially for Rwanda. In some cases, direct aid to the budget is provided. The balance of payments of Rwanda shows that budget support has steadily increased, from \$26.1 million in 1997 to \$51.5 in 1999. While such support is legitimate, the problem is that expenditures and services which were supposed to be provided and covered by the Governments of Rwanda and Uganda and which are covered by the bilateral aid constitute savings in the national budget. Were these savings used to finance this war?

186. The German Ambassador in Kigali told the Panel about German support to German business dealing in pyrochlore and coltan in the occupied Democratic Republic of the Congo. In this particular case, German cooperation has given a preferential loan of DM 500,000 to Karl Heinz Albers, a German citizen, to expand his coltan business in the Democratic Republic of the Congo (SOMIKIVU) and Mr. Albers's business is guarded by RCD-Goma soldiers.

#### **Multilateral donors**

187. The World Bank has praised Uganda for its economic performance and the reforms under the structural adjustment programme as a success story and has promoted its case for the new debt relief programme, the Highly Indebted Poor Countries initiative.

188. The Panel has however indications that this economic performance was driven in part, especially over the past three years, by the exploitation of the resources of the Democratic Republic of the Congo. Notes exchanged between World Bank staff clearly show that the Bank was informed about a significant increase in gold and diamond exports from a country that produces very little of these minerals or exports quantities of gold that it could not produce (see para. 97). Internal discussions of the World Bank staff also confirm this knowledge of the situation: in one of those

internal exchanges, a staff member warned his colleague that the World Bank silence would blow up in the Bank's face.

189. In the case of Uganda and its exploitation of the natural resources of the Democratic Republic of the Congo, the World Bank never questioned the increasing exports of resources and in one instance a staff member even defended it. During the Panel's visit to Uganda, the representative of the Bank dismissed any involvement of Uganda in the exploitation of those resources. The Bank not only encouraged Uganda and Rwanda indirectly by defending their case, but equally gave the impression of rewarding them by proposing these countries for the Highly Indebted Poor Countries debt relief initiative.

190. The Bank's shadow on the conflict in the Democratic Republic of the Congo is even more apparent on the budget. The balance of payments of both Uganda and Rwanda shows a significant increase in long-term borrowing in support of the budget. The defence budget however has increased in absolute terms, allowing Uganda and Rwanda to continue the conflict. There seems to be a precedent for the Bank's behaviour. During the Cambodian crisis in the 1980s, the Bank turned a blind eye to the illicit exploitation of Cambodian timber; the question is whether it is World Bank policy to ignore broad governance issues (hard or soft) while dealing with its clients.

#### **Transit countries**

191. Countries in the region have indirectly and passively facilitated the cycle of exploitation of the natural resources of the Democratic Republic of the Congo and the continuation of the conflict. This has usually happened without any intent to cover up or protect some interests. That is particularly the case of countries with seaports. Those countries have served as the hub for the export of natural resources. They were bound by regulations and agreements signed within the framework of subregional organizations such as COMESA for the seaports of Mombasa and Dar es Salaam and UDEAC/CEMAC for the port of Douala. Mombasa and Dar es Salaam were the main ports used by Uganda, Rwanda and Burundi to export some natural resources, such as timber, cassiterite, coffee and various barks. Douala seaport was also used for coffee from Equateur Province and transported from Bangui.

192. According to some sources, the Government of the Central African Republic was aware of the commercial activities of MLC in Bangui. Jean-Pierre Bemba's friends, Jean-Yves Ollivier, Jean-Pierre Dupont and Jean-Pierre Saber, have all used Bangui as the *arrière-base* for their diamond and coffee deals. The Government never prevented MLC from using the Central African Republic for economic activities. In addition, some individuals were using the territory of the Central African Republic to carry out their illegal activities, as was the case with Victor Butt, who used Bangui airport to load and offload coffee and arms.

193. According to some sources, some countries in the region have been very attractive to Rwandan families with an acceptable level of wealth. Army salaries cannot sustain such lucrative properties and standards of living. How do they sustain these families? Where did the money come from?

194. Kenya has played a different role in the exploitation of the resources of the Democratic Republic of the Congo. It has been the base for the supply of counterfeit United States dollars and also the venue of financial transactions of various traders who export their resources (timber, coffee and tobacco) through the port of Mombasa.

#### **The pivotal role of leaders**

195. This section aims to show how Presidents and other decision makers tolerate, organize or put in place the framework and conditions to maintain the status quo of exploitation and war. The Panel refrains from making allegations about the personal involvement of Presidents in the illegal and financial activities until further investigation is carried out. For instance, the Panel received but dismissed, for lack of evidence, allegations of the involvement of President Kagame's family in diamond dealing; it focused rather on the objective elements of the President's political responsibility. In some reports and accounts, the name of President Museveni was mentioned as a shareholder in a specific company. The Panel refrains from citing these accounts until further research is conducted.

196. **President Paul Kagame.** His position in the State apparatus with regard to the exploitation of the natural resources of the Democratic Republic of the Congo and the continuation of the war has evolved, yet his role has remained pivotal. This role can be situated on three levels: his relations with the Rwandan



business community operating in the Democratic Republic of the Congo, control over the army, and the structures involved in the illegal activities.

197. According to some reliable sources, President Kagame has close relationships with top Rwandan businessmen. For instance, he maintains good relations with Modeste Makabuza, "owner" of Jambo Safari. He is also close to Alfred Khalissa, the "founder" of BCDI and former manager of BCD. The same sources told the Panel that President Kagame is very close to Tibere Rujigiro, who is known for generous financial support to RPF during the 1990-1994 war. Mr. Rujigiro is one of the shareholders of Tristar Investment, with very close ties to RPF. This close aide to President Kagame has business relationships with Faustin Mbundu, who is known for his arms dealing activities. What all these businessmen have in common is their direct involvement in the exploitation of natural resources in the areas that Rwanda controls. Different sources have told the Panel that each of these businessmen has at a certain point benefited from the President's "help".

198. President Kagame, when he was Minister of Defence, reorganized or approved the reorganization of the Rwandan army and the Ministry of Defence, which subsequently led to the creation of the Department of External Relations in which the Congo desk is located. This unit has been the cornerstone of the financial transactions of RPA. The former Minister of Defence should have been aware of the functioning of RPA as well as the daily operations of the army.

199. Two very reliable sources told the Panel that in September 1998 the then Vice-President, during a meeting with various officials of RCD and RPA top commanders, informed the participants that there was a need to raise \$50 million to make it possible to reach Kinshasa in two months.

200. Finally, when faced with the question of the involvement of RPA in the exploitation of the resources of the Democratic Republic of the Congo, the President announced in a radio interview that private Rwandan citizens were carrying out commercial activities in the Democratic Republic of the Congo. Was this a deliberate act to mislead various partners or was it translating the President's lack of information on the issue? Meanwhile, the President has admitted in the past that the conflict in the Democratic Republic of the Congo was self-financing. All these elements combined suggest the President's degree of knowledge

of the situation, his implicit approval of the continuation of the illegal exploitation of the resources of the Democratic Republic of the Congo and somehow his complicity as well as his political and moral responsibility.

201. **President Yoweri Museveni.** President Yoweri Museveni's role in the exploitation of the natural resources of the Democratic Republic of the Congo and the continuation of the war can be situated at the following levels: his policy towards the rebel movements, his attitude towards the army and the protection provided to illegal activities and their perpetrators.

202. He has shaped the rebellion in the area controlled by Uganda according to his own political philosophy and agenda. He opted for a more decentralized authority and only intervenes when major problems arise, but he has a very good knowledge of the situation on the ground.

203. Messrs. Mbusa Nyamwisi and Tibasima, former first and second Vice-Presidents close to General Salim Saleh and General Kazini, are more inclined to business and the extraction of natural resources. In December 1999, a report was handed over to the President of Uganda, specifically pointing out the embezzlement of \$10 million by Mr. Nyamwisi and \$3 million by Mr. Tibasima. Another report was handed to President Museveni in February 2000, specifically denouncing the collusion between Trinity Group and Mr. Tibasima and the impact on the collection of customs duties. President Museveni chose to give the direction of the Congolese Liberation Front to those who are the accomplices of illegal cartels.

204. President Museveni was also informed of the situation on the ground, the exploitation being carried out and the involvement of officials of MLC and RCD-ML, including the conflict between Hemas and Lendus.

205. The President's family has also been very involved in business in the Democratic Republic of the Congo in the occupied zones. General Salim Saleh and his wife, shareholders in Victoria and Trinity, have confidently carried out their activities undisturbed.

206. The Panel concludes that when the information is passed to the President and he chooses not to act, when he appoints the very people who carry out criminal activities, and when his family members get away with

criminal activities, it becomes overwhelming that the President has put himself in the position of accomplice.

207. **The late President Laurent-Désiré Kabila.** His role in the continuation of the war has survived his death. On three levels, he bears part of the responsibility for the current situation. First, as the chief of AFDL, he created a precedent in giving a character of "legality" or legitimacy to otherwise illegal operations. During his advance on Kinshasa, he granted concessions even though he did not have authority to do so. These are the same methods being used by some armed groups to fight for power.

208. Second, he allowed and tolerated some unlawful ventures as a way of rewarding allies. He also initiated the barter system in order to defend his territory. This is gradually becoming the normal practice for the rebel groups.

209. Third, he offered a good excuse and a pretext to those who had carefully planned the redrawing of the regional map to redistribute wealth. Many sources have told the Panel how they were approached and asked to think about the distribution of wealth of the Democratic Republic of the Congo in terms of their personal enrichment.

210. According to the facts, accounts and information gathered, the pivotal roles of the Ugandan and Rwandan leaders reside in the way in which they diverted the primary mission of their armies from protection of their territory and made them armies of business. By the same token, they indirectly created within their armies conditions for top officers to put in place networks that they controlled. These networks are becoming cartels, which will take over the war for natural resources.

211. Presidents Kagame and Museveni are on the verge of becoming the godfathers of the illegal exploitation of natural resources and the continuation of the conflict in the Democratic Republic of the Congo. They have indirectly given criminal cartels a unique opportunity to organize and operate in this fragile and sensitive region. Finally, the attitude of the late President has possibly planted the seeds for another round of war for resources in the Democratic Republic of the Congo. Politicians such as Jean-Pierre Bemba, Mwenze Kongolo, Victor Mpoyo, Adolphe Onusumba, Jean-Pierre Ondekane and Emmanuel Kamanzi are ready to make any deal for the sake of power or for personal enrichment. Companies such as

IDI and Sengamines some of which reportedly have ties with arms dealers, are likely to create a more troubling situation in the Democratic Republic of the Congo. Equally, joint ventures and concessions given to some allies as rewards may cause some problems given the nature of the shareholders who are either armed forces or powerful and influential politicians. The situation is now deeply embedded and the regional power structures are consequently not stable.

212. The link between the exploitation of natural resources and the continuation of the conflict in the Democratic Republic of the Congo does exist, and it is based on five factors which are not mutually exclusive. First, the capacity of countries to use their own resources to sustain the war up to a certain stage, as in the case of Angola. Second, the ability of countries to take resources from enemies and use it to fight the so-called "self-sustaining" war, as in the case of Rwanda. Third, the intent of some Governments to take advantage of the war situation and use it to transfer wealth from one country to their national economy, as is the case with Rwanda and Zimbabwe. Fourth, the will of private citizens and businesses who endeavour to sustain the war for political, financial or other gains; for example, generals and other top officers in the Ugandan and Zimbabwean army and other top officials and unsavoury politicians (Victor Mpoyo, Gaëtan Kakudji, Mwenze Kongolo) in the Government of the Democratic Republic of the Congo. Fifth, the capacity of one of the warring parties to give incentives (mineral and others) to its allies and soldiers, for example the Democratic Republic of the Congo.

#### IV. Conclusion and findings

213. The conflict in the Democratic Republic of the Congo has become mainly about access, control and trade of five key mineral resources: coltan, diamonds, copper, cobalt and gold. The wealth of the country is appealing and hard to resist in the context of lawlessness and the weakness of the central authority.

214. Exploitation of the natural resources of the Democratic Republic of the Congo by foreign armies has become systematic and systemic. Plundering, looting and racketeering and the constitution of criminal cartels are becoming commonplace in occupied territories. These criminal cartels have ramifications and connections worldwide, and they



represent the next serious security problem in the region.

215. The role of the private sector in the exploitation of natural resources and the continuation of the war has been vital. A number of companies have been involved and have fuelled the war directly, trading arms for natural resources. Others have facilitated access to financial resources, which are used to purchase weapons. Companies trading minerals, which the Panel considered to be "the engine of the conflict in the Democratic Republic of the Congo" have prepared the field for illegal mining activities in the country.

216. Bilateral and multilateral donors have sent mixed signals to Governments with armies in the Democratic Republic of the Congo.

217. Top military commanders from various countries, for different reasons, needed and continue to need this conflict for its lucrative nature and for temporarily solving some internal problems in those countries as well as allowing access to wealth. They have realized that the war has the capacity to sustain itself, and therefore have created or protected criminal networks that are likely to take over fully if all foreign armies decide to leave the Democratic Republic of the Congo.

218. The conflict in the Democratic Republic of the Congo, because of its lucrative nature, has created a "win-win" situation for all belligerents. Adversaries and enemies are at times partners in business (Maï-Maï and Rwandans and Congolese rebels), prisoners of Hutu origin are mine workers of RPA, enemies get weapons from the same dealers and use the same intermediaries. Business has superseded security concerns. The only loser in this huge business venture is the Congolese people.

## V. Recommendations

### Prerequisite

219. The Panel acknowledges the validity of Security Council resolutions 1304 (2000) and 1341 (2001), as well as the Lusaka Agreement, and puts its report and recommendations within their broad framework. The Panel believes its report and recommendations are consistent with those resolutions.

### Follow-up

220. The Panel recommends that the Security Council extend the mandate of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, to allow it to conduct a follow-up investigation and report on the structures and networks put in place or facilitated by warring parties to illegally exploit the natural resources of the Democratic Republic of the Congo, including the situation after the withdrawal of foreign military forces.

### Sanctions

221. The Security Council should immediately declare a temporary embargo on the import or export of coltan, niobium, pyrochlore, cassiterite, timber, gold and diamonds from or to Burundi, Rwanda and Uganda until those countries' involvement in the exploitation of the natural resources of the Democratic Republic of the Congo is made clear and declared so by the Security Council. All countries should abstain from facilitating the import or export of these resources. Any country breaking this embargo should face sanctions; Governments should take the measures necessary to ensure that companies registered in their territory and individuals breaking the embargo are punished.

222. The Security Council should decide that all Member States without delay should freeze the financial assets of the rebel movements and their leaders. Member States should take the necessary measures to ensure that their public and private financial institutions stop doing business with banks named in this report that are located in Burundi, Rwanda and Uganda.

223. The Security Council should strongly urge all Member States to freeze the financial assets of the companies or individuals who continue to participate in the illegal exploitation of the natural resources of the Democratic Republic of the Congo immediately after the publication of this report.

224. The Panel recommends that the Security Council declare an immediate embargo on supply of weapons and all military materiel to the rebel groups operating in the Democratic Republic of the Congo and consider extending this embargo to the States that support or assist those groups.

225. The Panel recommends that the Security Council decide that all military cooperation with States whose military forces are present in the Democratic Republic of the Congo in violation of its sovereignty be suspended immediately until those armies withdraw from the Democratic Republic of the Congo.

#### **Financial and economic matters**

226. The Panel recommends that the Security Council urge Member States to suspend balance of payments support to the countries of the region involved in the illegal exploitation of the natural resources of the Democratic Republic of the Congo, until the Security Council has evidence to its satisfaction that the illegal exploitation of natural resources has stopped.

227. The Panel recommends that the Security Council requests the World Bank and IMF to consider suspending their support to the budgets of these countries until the end of the conflict. If, within two months after the publication of this report, clear evidence and signs of the disengagement of these countries from the exploitation of the natural resources of the Democratic Republic of the Congo are not given to the Security Council, cooperation between those institutions and the countries involved should be suspended. The World Bank and IMF should design a policy guideline on cooperation between each institution and countries involved in conflicts.

228. The Panel recommends that the Security Council urge Member States sharing a common border with the Democratic Republic of the Congo or serving as transit countries for goods and natural resources from the Democratic Republic of the Congo to form a commission to investigate financial and economic activities conducted on their territories in connection with the war in the Democratic Republic of the Congo, and take the necessary action to curb or halt activities that contribute to the continuation of hostilities.

#### **Diamond business**

229. The Security Council should call upon the Democratic Republic of the Congo to take the necessary steps to curb the flow of illicit diamonds by liberalizing the diamond trade. A clear signal in this regard should be sent to all companies that resist and obstruct the liberalization of the mineral markets.

230. All diamond dealers operating in the territories occupied by foreign forces should immediately stop

doing business with rebels and Burundi, Rwanda and Uganda. Failure to do so should lead to action through the World Diamond Council. The Republic of the Congo and the Central African Republic should take the necessary measures to stop abetting the trade in illicit and conflict diamonds.

231. Furthermore, the Panel endorses all the relevant recommendations on diamonds made by the Panel of Experts established by resolution 1306 (2000) in relation to Sierra Leone in its report (S/2000/1195, paras. 155 to 166), in particular:

(a) A certification scheme similar to that adopted by Sierra Leone should be required of the Democratic Republic of the Congo and all other diamond-exporting countries in the region, within a period of six months;

(b) Major trading centres should agree on a recording and public documentation system for rough diamond imports that clearly designates countries of origin and provenance;

(c) All countries importing rough diamonds must apply a "rough control" system whether they have free trade zones or not;

(d) The European Union should have few entry points for diamonds;

(e) The United Nations and the World Diamond Council should form a commission to conduct an annual review of the proper implementation of the certification system;

(f) An annual statistical production report should be compiled by each exporting country and gathered into a central annual report, compiled by the World Diamond Council and/or by the certification body that is expected to emerge from the "Kimberley process".

#### **Forest and timber**

232. The Panel proposes that countries with seaports and those with transit facilities report to the United Nations Forum on Forests on the transit of timber through their territory. As the timber from the Democratic Republic of the Congo transits through the ports of Mombasa and Dar es Salaam, the Governments of Kenya and the United Republic of Tanzania should declare to the Forum on Forests the origins of the

timber that is being shipped from their seaports, as well as the certification documents of such timber.

233. The Panel recommends that the United Nations Forum on Forests unify the different schemes and procedures for timber certification. The certification scheme should be based on the broad framework of principles, criteria and indicators promoted by the International Panel on Forests and the International Forum on Forests. New criteria on "conflict timber" should be considered. The Forum on Forests should become or designate one single accrediting body for timber certification. The composition of such a body should reflect the diversity of actors and interests as well as the specificity of regions. Such a unified mechanism would prevent some "loose codification" and purely commercial certifying bodies from delivering or attempting to deliver certificates. The Panel urges the Security Council to declare timber and non-timber forest products coming from warring areas, "conflict timber and non-timber forest products". Countries importing non-certified timber should put in place minimum guidelines and sanctions for companies that import timber and non-timber forest products from countries at war or experiencing civil war related to the allocation or distribution of natural resources.

234. The Panel proposes, following the declaration on the control of illegal logging made by the Group of Eight in 1998, and the ongoing discussions on "conflict timber products", that a mandate be given to the United Nations Forum on Forests:

- (a) To compile information in collaboration with various non-governmental organizations on illegal logging and "conflict timber products" in the world;
- (b) To publish annually a list of countries involved in illegal and "conflict timber products" trade;
- (c) To submit an annual report to the General Assembly of the United Nations.

235. The Panel recommends that countries of transit and final destination of the timber trade request from logging companies certificates of origin for the timber that is transiting through or arriving in their territory. Those countries should send copies of these certificates to Governments of countries of origin within three days. Failure to abide by this should be considered to be complicity on the part of those countries and they should be listed as countries facilitating "illicit timber"

and "conflict timber product" trade in the report of the Forum on Forests.

#### **Reparation and compensation**

236. The Panel recommends that individuals, in particular farmers, religious groups and companies whose properties, livestock and crops were damaged, looted or expropriated by the Burundian, Rwandan or Ugandan armed forces and their allies should be compensated by the States concerned. Properties confiscated should also be returned to their legitimate owners. The Governments of Burundi, Rwanda and Uganda and their allies should pay compensation to the companies whose properties and stocks of coltan, cassiterite, gold, timber and other materials which were confiscated or taken between 1998 and 2000. The Security Council may consider how the Office of the United Nations Resident Coordinator in Kinshasa could help in gathering information on the claims.

237. UNESCO, in collaboration with UNEP, the secretariat of CITES and non-governmental organizations working in the Democratic Republic of the Congo should assess the extent of damage to wildlife in Garamba Park, Kahuzi-Biega Park, the Okapi Reserve and Virunga Park, and propose sanctions to be taken against those Governments whose soldiers were involved in the mass killing of endangered species.

#### **Framework for reconstruction**

238. The Security Council would give mandate and means to a United Nations commission created to help the Government of the Democratic Republic of the Congo manage the transition in the formerly occupied regions. The Commission will help design and put in place the legal and administrative framework and create an enabling environment for economic activities. The Commission will also help put in place the necessary conditions for the enhancement of State authority and security over its territory.

#### **General**

239. The Panel recommends that the Security Council consider establishing an international mechanism that will investigate and prosecute individuals involved in economic criminal activities (such as Khaleb Akandwanaho alias Salim Saleh, Jean-Pierre Bemba, James Kazini, Mbusa Nyamwisi, Ateenyi Tibasima,

Roger Lumbala, Aziza Kulsum Gulamali and others named in this report), companies and government officials whose economic and financial activities directly or indirectly harm powerless people and weak economies.

240. The Panel recommends that the Security Council consider establishing a permanent mechanism that would investigate the illicit trafficking of natural resources in armed conflicts so as to monitor the cases which are already subject to the investigation of other panels, such as those of Angola, the Democratic Republic of the Congo and Sierra Leone.

241. Member States should be encouraged to adopt legislation that will forbid companies registered in their territory from importing or exporting natural resources to or from invading countries.

### **Security**

242. The Panel urges the Security Council to hold Governments of countries parties to the conflict in the Democratic Republic of the Congo, rebel movements and those military representatives cited in the report responsible if any harm is done to any member of the Panel. The Security Council should encourage individual countries to assist the Panel members by providing security to each of them well after the Panel is dissolved. The Security Council should urge the Secretary-General to make the necessary arrangements to ensure the security of the Panel members well after the Panel is dissolved. The Panel has received information of harassment in Bunia and other localities of individuals who may have been in contact with the Panel members. The Security Council should hold the authorities of Rwanda, Uganda, RCD and FLC responsible for any harm to witnesses who shared their knowledge with the Panel.



## Annex I

### Sample of companies importing minerals from the Democratic Republic of the Congo via Rwanda

<i>Company</i>	<i>Country of destination</i>	<i>Merchandise</i>
Cogem	Belgium	cassiterites
Muka-Enterprise	Belgium	cassiterites
Issa	Germany	cassiterites
Chpistopa Floss	Germany	cassiterites
Redemi	Rwanda	cassiterites
Banro-Resources Corp.	Malaysia	cassiterites, coltan
	Canada	cassiterites
Bharat	United Republic of Tanzania	cassiterites
Extano-Office	Rwanda	coltan
Coopimar	Rwanda	coltan
Geologistics Hannover	Germany	coltan
Rwasibo-Butera	Switzerland	coltan
Eagleswings	Netherlands	coltan
Veen	Netherlands	coltan
Soger	Belgium	coltan
Patel Warehouse	Netherlands	coltan
Afrimex	United Kingdom of Great Britain and Northern Ireland	coltan
	Netherlands	cassiterites
Chimie Pharmacie	Netherlands	coltan
	Belgium	coltan
Sogem	Belgium	coltan, cassiterites, tin
Cogecom	Belgium	coltan, cassiterites
Cogea	Belgium	coltan
Panalpina	Kenya	coltan



<i>Company</i>	<i>Country of destination</i>	<i>Merchandise</i>
Tradement	Belgium	coltan, cassiterites
Ventro Star	United Kingdom of Great Britain and Northern Ireland	coltan
Raremet	India	coltan
Finconord	Pakistan	coltan
Finiming Ltd.	Belgium	coltan
Finconcorde	Russian Federation	cassiterites, coltan
Patel	India	cassiterites
Cicle International	Belgium	coltan
Masingiro	Germany	coltan
Union-Transport	Germany	coltan
Specialty Metal	Belgium	coltan
MDW	Belgium	cassiterites, coltan
Transintra	Belgium	cassiterites

*Source:* The Rwandan Revenue Authority.

## **Annex II**

### **Countries visited and representatives of Governments and organizations interviewed**

The Expert Panel on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo wishes to express its deep appreciation to the government officials, diplomats, non-governmental organizations, individual relief workers, journalists, and others who assisted it in its enquiries and helped to make this report possible.

The Panel further wishes to extend special thanks to the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), in particular Ambassador Kamel Morjane; to the United Nations Office at Nairobi, in particular Klaus Töpfer and Alexander Barabanov; and to the Office of the Special Representative of the Secretary-General for the Great Lakes Region of Africa, in particular Ambassador Berhanu Dinka.

Among countries involved in the conflict in the Democratic Republic of the Congo, the Panel would like to make special note of the cooperation received from the Republic of Uganda, which provided the Panel with all information that was requested.

The following list is incomplete in deference to the wishes of those who requested anonymity, in particular Congolese individuals who put their lives at risk in order to provide the Panel with information.

#### **Angola**

##### **Government officials**

Vice-Minister of External Relations  
Vice-Minister of Finance  
Minister of Petroleum  
Minister of Geology and Mines

##### **United Nations agencies and offices**

Representative of the Secretary-General and Head of the United Nations Office in Angola  
United Nations Office in Angola

#### **Belgium**

##### **Government officials**

Ministry of Foreign Affairs  
Ministry of Communications, Civil Aviation Administration  
Ministry of Finance  
Ministry of Economy and Finance  
Cabinet of Deputy Prime Minister and Minister for Foreign Affairs  
Department of Customs and Accounts  
Office belge du commerce extérieur  
Département de douanes et droits indirects

##### **International organizations**

Eurostat  
World Customs Organization

**Other**

Belgolaise  
BHP Diamonds and Minerals  
BHV  
Diamond High Council  
Independent Diamond Valuers  
Institute of Politics and Development Management  
Langer Diamonds  
Nordiska Afrikainstitutet (Nordic Africa Institute)  
Royal Museum for Central Africa, Department of Geology and Mineralogy  
SwissCargo  
World Federation of Diamond Markets

**Burundi**

**Government officials**

His Excellency Major General Pierre Buyoya, President of the Republic of Burundi  
Minister of Agriculture and Livestock  
Ministry of Finance  
Minister of International Relations and Cooperation  
Minister of National and Regional Development and Environment  
Minister of Transportation, Post and Telecommunications

**Representatives of States**

Belgium  
Democratic Republic of the Congo  
France  
United States of America

**United Nations agencies and offices, and international organizations**

MONUC  
Office of the Special Representative of the Secretary-General in Burundi  
UNDP  
World Bank

**Democratic Republic of the Congo**

**Government officials**

His Excellency Major General Joseph Kabila, President of the Democratic Republic of the Congo  
Commissariat général du Gouvernement chargé des affaires de la MONUC  
Banque nationale du Congo  
Banque centrale  
Département des Forêts  
Direction générale des contributions (DGC)  
Direction générale des recettes administratives, judiciaires, domaniales et de participations (DGRAD)  
Institut congolais pour la conservation de la nature (ICCN)  
Ministre des affaires foncières de l'Environnement, de la conservation de la nature et du développement touristique  
Ministre de l'agriculture et élevage  
Ministre des droits humains

Ministre de l'économie, du commerce, et de l'industrie  
Ministre de l'énergie  
Ministre des finances et du budget  
Ministère des mines  
Ministre d'Etat chargé du pétrole  
Ministre des transports et communications  
l'Office des douanes et accises (OFIDA)

**Representatives of States**

Belgium  
China  
France  
Italy  
United States of America  
Diplomatic Corps of Kinshasa

**United Nations agencies and offices**

FAO  
Office of the Special Representative of the Secretary-General  
MONUC  
Office for the Coordination of Humanitarian Affairs  
Office of the United Nations High Commissioner for Human Rights  
UNDP  
UNHCR  
UNICEF  
WFP  
WHO

**Other**

COSLEG Holding  
Fédération des entreprises du Congo (FEC)  
Georges Forrest International  
Governor of South Kivu and Provincial Directors  
Observatoire gouvernance-transparence (OGT)  
Kotecha Group of Companies  
Mouvement pour la libération du Congo  
Olive Company  
RCD-Goma  
Rally for Congolese Democracy-ML/Kisangani  
Trafca  
World Resource Institute

**France**

**Government officials**

Ministry of Foreign Affairs  
Ministry of Defence  
Ministry of the Economy, Finance and Industry – Department of the Treasury  
French Development Agency  
Inspector General of Civil Aviation and Meteorology  
Direction générale des douanes et droits indirects – Sous-Direction de l'Union  
douanière et de la coopération internationale  
Bureau of Geological and Mining Research (BRGM)

**International organizations**

Organization for Economic Cooperation and Development

**Kenya**

**Government officials**

Minister for Foreign Affairs

Kenya Ports Authority

**Representatives of States**

Belgium

Democratic Republic of the Congo

France

Japan

Russian Federation

United Kingdom of Great Britain and Northern Ireland

United Kingdom of Great Britain and Northern Ireland Special Representative  
for the Great Lakes

Zimbabwe

**International organizations**

Office of the Facilitator for the peace process in the Democratic Republic of  
the Congo

United Nations agencies and offices

MONUC

Office for the Coordination of Humanitarian Affairs

Office of the Special Representative of the Secretary-General for the Great  
Lakes Region

UNDP

UNEP

United Nations Office at Nairobi

**Other**

International Crisis Group (ICG)

**Namibia**

**Government officials**

Deputy Minister for Foreign Affairs, Information and Broadcasting

Minister of Finance

Deputy Minister of Defence

Minister of Mines and Energy

Minister of Agriculture, Water and Rural Development

Minister of Environment and Tourism

**Representatives of States**

China

France

Russian Federation

United Kingdom of Great Britain and Northern Ireland

United States of America



## **Rwanda**

### **Government officials**

His Excellency Major General Paul Kagame, President of the Republic of Rwanda

Chef d'Etat major

Minister of Energy, Water and Natural Resources

Minister for Foreign Affairs

Minister of Finance and Economic Planning

Minister of Agriculture, Forests and Livestock

Minister of Works, Transport and Communications

Minister of Energy, Mines and Water

Minister of Land, Resettlements and Environment

National Bank of Rwanda

Secretary-General of Commerce, Industry and Tourism

Rwanda Revenue Authority

### **Representatives of States**

Belgium

Canada

China

France

Germany

Netherlands

Russian Federation

Switzerland

United Kingdom of Great Britain and Northern Ireland

United States of America

Office of the European Union Delegation

### **United Nations agencies and offices**

ECA

FAO

Heads of United Nations agencies represented in Rwanda

International Criminal Tribunal for Rwanda

MONUC

Office for the Coordination of Humanitarian Affairs

UNDP

## **South Africa**

### **Government officials**

Ministry of Foreign Affairs

### **Other**

Anglo-American

De Beers

## **Switzerland**

### **Government officials**

Department of Foreign Affairs, Chef de la direction politique

Swiss Federal Administration

**International organizations**

World Trade Organization

**Other**

Société générale de surveillance

**Uganda**

**Government officials**

His Excellency Yoweri Kaguta Museveni, President of the Republic of Uganda

Civil Aviation Authority

Internal Revenue Authority

Minister of Agriculture

Minister of Defence

Minister of Energy and Mineral Development

Minister of State for Environment, Water and Land

First Deputy Prime Minister and Minister for Foreign Affairs

Minister of Finance

Minister of State for Planning and Investment

Ministry of Works, Transport and Communications

Parliamentary Committee on Presidential and Foreign Affairs

Vice-President of the Republic of Uganda

**Representatives of States**

Belgium

Denmark

France

Italy

Russian Federation

United Kingdom of Great Britain and Northern Ireland

European Union Special Envoy to the Great Lakes

**United Nations agencies**

Office for the Coordination of Humanitarian Affairs

UNDP

Heads of United Nations agencies in Kampala

**Media**

East African

Monitor

New Vision

Radio Uganda

Top Radio

Ugandan Television

**United Kingdom of Great Britain and Northern Ireland**

**Government officials**

Foreign and Commonwealth Office

**Other**

Cluff Mining  
De Beers  
The Economist  
International Coffee Organization  
World Diamond Council

**United States of America**

**Government officials**

Department of State  
– Bureau of African Affairs  
– Bureau of International Organization Affairs  
Congresswoman Cynthia McKinney, Fifth District, Georgia

**United Nations agencies and offices**

UNESCO and United Nations Foundation/White Oak Conference

**International organizations**

World Bank

**Other**

Oregon Certification Group  
SmartWood  
University of Maryland

**Zimbabwe**

**Government officials**

Senior Secretary for Foreign Affairs  
Minister of Energy and Mines  
Chief Executive Officer, Civil Aviation Authority

**Representatives of States**

Belgium  
China  
France  
Russian Federation  
United Kingdom of Great Britain and Northern Ireland  
United States of America

**United Nations agencies and international organizations**

UNDP  
Heads of all United Nations agencies represented in Zimbabwe

**Media**

Zimbabwe Independent newspaper  
Daily News

**Other**

First Banking Corporation Limited  
Zimbabwe Transparency International  
ZimTrade

## Annex III

### Abbreviations

AFDL	Alliance des forces démocratiques pour la libération du Congo-Zaïre (Alliance of Democratic Forces for the Liberation of Congo-Zaire)
BCD	Banque de Commerce et du développement (Trade and Development Bank)
BCDI	Banque de commerce, du développement et d'industrie, Kigali
CEMAC	Communauté économique et monétaire de l'Afrique centrale (Central African Economic and Monetary Community)
CIFOR	Centre for International Forestry Research
coltan	columbo-tantalite
COMESA	Common Market for Eastern and Southern Africa
COMIEX (1)	Compagnie mixte d'import-export
COMIEX (2)	La Générale de commerce d'import/export du Congo
COSLEG	COMIEX-OSLEG joint venture
ECA	Economic Commission for Africa
FAO	Food and Agriculture Organization of the United Nations
FDD	Forces pour la défense de la démocratie
FLC	Front de libération du Congo (merger of MLC and RCD-ML)
Gecamines	Générale de carrières et des mines
IDI	International Diamond Industries
IMF	International Monetary Fund
MIBA	Société minière de Bakwanga (Mining Company of Bakwanga)
MLC	Mouvement de libération congolais (Congolese Liberation Movement)
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
OECD	Organisation for Economic Cooperation and Development
OSLEG	Operation Sovereign Legitimacy
RCD	Rassemblement congolais pour la démocratie (Rally for Congolese Democracy)
RCD-Goma	Rassemblement congolais pour la démocratie, based in Goma
RCD-Kisangani	Rassemblement congolais pour la démocratie, based in Kisangani, later based in Bunia and referred to as RCD-ML

RCD-ML	Rassemblement congolais pour la démocratie — Mouvement de Libération, first based in Kisangani, later in Bunia
RCD-National	Rassemblement congolais pour la démocratie — National, located in Bafwasende
RPA	Rwandan Patriotic Army
RPF	Rwandan Patriotic Front
SOMIGL	Société minière des Grands Lacs (Great Lakes Mining Company)
SOMIKIVU	Société minière du Kivu
SOMINKI	Société minière et industrielle du Kivu
UDEAC	Union douanière et économique de l'Afrique centrale (Central African Customs and Economic Union)
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
UPDF	Uganda People's Defence Forces
WFP	World Food Programme
WHO	World Health Organization
WTO	World Trade Organization
ZANU-PF	Zimbabwe African National Union Patriotic Front
ZDF	Zimbabwe Defence Forces





**ANNEX 10.1**

**Judgment, *Bulletin des arrêts de la Haute cour militaire — Sud Kivu***

*[Annex not translated]*

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**ANNEX 10.2**

**Avocats Sans Frontières, *Recueil de décisions de justice et de notes de plaidoiries en matière de crimes internationaux***

*[Annex not translated]*

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**ANNEX 13.1**

**Lotus Group, *Report of the Kisangani Lotus Group*, 15 October 1998**

**Lotus Group, Report of the Kisangani Lotus Group, 15 October 1998**

*[Translation]*

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**ABBREVIATIONS**

AFDL:	Alliance of Democratic Forces for the Liberation of the Congo
ANR:	National Intelligence Agency
BSRS:	Special Investigation and Surveillance Brigade
DRC:	Democratic Republic of the Congo
FAC:	Congolese Armed Forces
FAZ:	Zairian Armed Forces
FEC:	Congolese Business Federation
HCR-PT:	High Council of the Republic — Transitional Parliament
OFIDA:	Customs and Excise Office
OCPT:	Congolese Post and Telecommunications Office
PIR:	Rapid Intervention Police
RCD:	Congolese Rally for Democracy
RVA:	Air traffic control authorities
SADC:	Southern African Development Community
UN:	United Nations
WHO:	World Health Organization

## INTRODUCTION

The major preoccupation of the first person ever to fashion a weapon on this earth was to defend himself against attacks from wild animals. This defensive attitude has not endured over time. Various changes and modifications have diverted those who take up arms from their noble purpose of yesteryear. In our day and age most of the horrible scenes which plunge humankind in to mourning and sadness can be put down to the abuse of weapons for fratricidal wars, revenge, or rebellion, in short, violence in all its varying forms.

This is what the eastern part of the Democratic Republic of the Congo has been enduring since the beginning of the 1990s. There have been countless deaths in the region during this period, beginning with the influx of Hutu refugees from Rwanda in 1994, going on through the so-called war of liberation waged by the AFDL in 1996, which brought Laurent Désiré KABILA to power as the president of the DRC, and continuing with the rebellion of August 1998. Even the so-called civilized powers, those world police officers in waiting who gladly seize any opportunity to strike out at or destabilize régimes branded as dictatorships, have taken no notice of the fate of innocent civilians or even the massacres that have resulted from the conflicts.

No sooner had Mobutu and his Government exited the stage and Kabila taken power than those who wish to subjugate the world and will go to any length to tip the balance in favour of their own interests inflicted another war on the Congolese at a time when they least expected it. It seemed that the main purpose of the rebels was to effect a radical remedy to the totalitarian tendencies of the DRC's current leader. They began in Goma and, in record time, they had conquered a number of the country's cities and strategic centres including Bukavu, Uvira, Beni, Butembo, Bunia, and Kisangani, paving the way for their assault on Kinshasa, the capital and seat of Government.

Kisangani, the third largest city in the country is the administrative centre of Orientale Province, which is the largest and most highly populated of the DRC's 11 provinces. It has around 700,000 inhabitants of varying cultural origin. It has an international airport (Bangboka), a military air-base (Plateau Médical) and a port on the Congo river providing a direct link to the capital of the DRC, Kinshasa. There are roads from Kisangani to Uganda via Bunia, the Central African Republic via Bongo and Sudan via Isiro.

In the political history of the country, Kisangani was the fiefdom of the national hero, Patrice Hemery LUMUMBA and the political centre of the Mulelist uprising of 1964. Under Mobutu Sese Seko it was the stronghold of the party of the State, the Popular Movement of the Revolution (MPR) and so this was where the lightning counter-offensive against the AFDL uprising was organized. In March 1997, the rebellion led by Laurent-Désiré Kabila's Alliance of Democratic Forces for the Liberation of Congo met with remarkable success in Kisangani, encouraging him to continue his struggle until he was able to take power in Kinshasa.

Kisangani is the focus of the area in which LOTUS conducted the investigations that led to this report. The report details the human rights violations which took place there, in particular from 4 August 1998 (the date on which sections of the Congolese Armed Forces supporting the rebels first attempted to take Kisangani) to 23 August 1998 (the date on which the rebel forces actually entered Kisangani) and the period from 23 August to 15 October 1998 (the end of the period of observation). The report acts both as a window and a mirror. Through the window, the outside world will most certainly come to acknowledge Kisangani's tragic situation and, who knows, may be prompted to do what it can to ensure that these kinds of circumstances no longer arise anywhere in the world. In the mirror, those who call for and wage war can see and meditate on what they have done, if only for the sake of the universal nature of human values.

Save for the introduction, the conclusions and the recommendations, this report is divided into four main parts. The first relates primarily to some of the main keys to an understanding of the new war in the DRC. The second part focuses on the human rights violations in the region both before and after the taking of Kisangani. The third describes the warring parties' attitudes towards human rights violations and abuses; and the final part sets out a few theories about the future of the DRC based on some free thinking about the situation.

## **PART I: WAR IN THE DEMOCRATIC REPUBLIC OF THE CONGO**

On 2 August 1998, to everyone's great surprise, foreign radio stations announced that parts of the 10th Army Brigade in Goma had mutinied. That day, at a gathering of all 21 of the battalions making up the brigade, the commander announced a break with the Government in Kinshasa and his decision to wage war on the Kabila Government until it was overthrown. How did this turn of events come about? Who was pulling the strings? The following sections should provide some sort of an explanation.

### **I.1. The causes of the war**

#### **I.1.1. Indirect causes**

(a) The disillusionment of Laurent-Désiré Kabila's former allies

Without entering into a detailed chronology of events it should be recalled that President Kabila's main allies throughout his war of liberation were Rwanda and Uganda. Their support stemmed from a desire to protect their governments and secure their frontiers but unfortunately they soon found themselves right back where they started from.

At the beginning of hostilities in 1996, units of the Ugandan and Rwandan armed forces formed the spearhead of Kabila's troops, but once victory had been secured the new authorities in Kinshasa regarded them as surplus to requirements. Certain senior army officers regarded as 'military advisers' were banished from the Government's decision-making elite.

In the meantime the threats that Uganda and Rwanda thought they had warded away from their frontiers re-emerged in the form of rebel groups taking advantage of the almost total lack of supervision by the Kinshasa régime and using the DRC as a retreat. This was the case with the Alliance of Democratic Forces and the former Rwandan Armed Forces.

(b) Difficult living conditions for some of the supporters of the former Mobutu régime

Not only did the Mobutu régime introduce anarchy but it also consciously and intentionally established the law of the jungle by means of the unbridled accumulation of riches by one individual and a court of dignitaries who were the representatives of economic monopolies and secret lobbies, all of which formed a kind of debased State bourgeoisie. The dignitaries had come to rely on the magnanimity of the president and the law of the least possible effort by dipping into the State's coffers and cultivating numerous supporters and fanatics, but they fell into disgrace under Kabila. Their ill-gotten gains had to be returned, their lucrative positions were lost, and their bank reserves were considerably undermined.

Their supporters, who had also got used to the law of the least possible effort, ended up destitute and hopeless. Neither did most of those who chose to go into exile find themselves in a very enviable situation. Exile was nowhere near as profitable because most governments did not wish to see their relations with the new Government in Kinshasa deteriorate immediately. There

was plenty of reason for these people to hark back to the old days. Given the circumstances, they were certain to support any activity aimed at undermining the Kabila Government.

(c) Difficulties for the international community in taming the Kabila régime

The multinational companies which had hastened to sign mining contracts with Kabila when he was a rebel chief expected to be granted privileges in Congo. The fact that the Kabila Government proceeded to call all of these contracts into question and that its Ministry of Mines introduced highly restrictive laws to govern them disappointed these companies as well as the states in which they were based.

It would appear that President Kabila's official journeys abroad since his accession to power, including visits to China, Cuba, Libya, Namibia, and South Africa, have done little to help people understand his approach and his heartfelt desire to solve his country's economic and social problems.

Recently, his detractors, who believe that the only way for a Third World country to make economic progress is to attract western capital, have branded him with various unflattering labels such as communist, Africanist or nationalist.

His noteworthy absence from the summit of French-speaking communities in Hanoi, his refusal to meet the American emissary, Jesse Jackson, his reluctance to co-operate with United Nations missions to investigate allegations that Rwandan Hutu refugees were massacred in Congo, and his reservations about touring western capitals in search of the foreign investment which is often presented as a panacea for kick-starting Third World economies are all points in his disfavour on the international scene.

(d) The failure to hold a political round table meeting after the AFDL's military victory

In eight years of transition there has been much political dialogue (the 1st and 2nd Marble Palace agreements, the National Sovereign Conference, the political "conclave" and the political discussion at the People's Palace), all of which has led to the emergence of a new class of politicians made up of unprincipled opportunists and careerists, capable of changing their minds with the weather, most of whom can be encountered in Kinshasa. Their ongoing preoccupation is to occupy a public post (whether in a ministry or not) but this is not to serve the public but to fulfil their own political ambitions and gain social status. These politicians were probably expecting to make the most of the opportunity when Kabila came to power. It was not long before they realized that something else was happening. The refusal to resurrect Mobutu's last lumbering parliament (the HCR-PT), the importance attached to the opinions of the Congolese Diaspora when taking national policy decisions and the appointment of a government with a very small number of ministers help to explain the predicament of these opportunist politicians and what they have been saying about Kabila.

### **I.1.2. The direct causes**

All of the foregoing shows us the underlying tensions both inside and outside Congo. All that was needed was a small spark for the whole country to blow up like a powder keg.

In a bid to boost his popularity, President Kabila reacted to all the complaints he had received regarding the abuses of his military allies and — following a process of verification which it has to be said took a relatively long time — decided to repatriate all the foreign soldiers stationed in the Democratic Republic of the Congo without mentioning the real reason for this. The

president's decision was announced and read out on national television on the night of 24-25 July 1998.

The people welcomed President Kabila's decision as they had already had enough of the foreign military presence which seemed to excel in abusing its power, occupying senior military posts and taking full advantage of its many privileges. However, this was not the case with the soldiers themselves who felt considerably aggrieved. In both Kisangani and Kinshasa the process of disarming these soldiers did not go smoothly.

It was against this background of a compulsory withdrawal for some and a boost in national pride for others that a mutiny broke out in Goma on 2 August 1998.

## **I.2. The warring parties**

Mobutu's advancing illness and the inevitable collapse of his régime meant that the question of his succession and the hegemony of certain powers over the Democratic Republic of the Congo could be raised once again on the international scene. The balance undoubtedly turned in favour of the English-speaking protectors of the Great Lakes region who used their usual channels of influence.

However, no sooner was the fighting all over and the matter apparently settled once and for all, than Kabila snubbed those who had helped him to come to power, turning instead to southern Africa and even going so far as to help create the SADC (Southern African Development Community).

Though this significant and decisive step was bound to distance Kabila from his former patrons, it was possible that it was a sign of future affiliations elsewhere.

### **I.2.1. The Congolese Rally for Democracy (RCD) and its allies**

The RCD is a political and military organization set up in August 1998 with a view to overthrowing the Kabila Government and establishing a democratic régime based on genuine popular legitimacy. It believes that war is the only method likely to succeed in this. The fact that it emerged only a few days after the beginning of the fighting (on 12 August 1998) may bear out its claims to be the instigator of the rebellion but it may also reflect a kind of incoherence within the rebel movement, with the political leaders on one side and the military chiefs on the other, especially since it was the military leaders who had called on the politicians to work together to decide on the country's political orientation.

The RCD's political declaration and the communiqué announcing the launch of the second war of liberation — which it calls the war of rectification — are similar in their criticisms of the Kabila régime (accusing it of tribalism, exclusion, misappropriation of public funds, etc.).

It is difficult to say with any degree of certainty who the warring parties' allies are since no specific statements have been made on the subject. However, the coincidence between the decision to remove foreign soldiers from Congolese territory, the opposition of those concerned, the launch of the rebellion in Goma, which is such a strategic town, and the opening up of a western front (in Kitona, more than 2,000 kilometres from Goma), requiring the deployment of airborne troops, does seem to indicate that there was some foreign support. Rwanda and Uganda are among the prime candidates in so far as Rwanda acknowledges that it supports the rebellion "politically and morally" while Uganda's President Museveni has admitted before his own parliament that defensive Ugandan military forces are present on Congolese territory.



## **I.2.2. The Democratic Republic of the Congo and its allies**

Lawful governments often take up arms in response to rebel movements in their own country either to hold back their advances or to snuff them out. The Government of the DRC had to react to the offensive against it and so it mobilized its troops on various fronts. In its attempt to make up the ground it had lost it was officially supported by Angola, Namibia, Zimbabwe and Chad. Angola's vigorous intervention could be put down to threats to the security of its borders but the same could not be said of the other countries involved, which simply came to the aid of a fellow government and a friend in danger and found it difficult to accept that a régime which had been so remarkably popular until then was being undermined.

## **PART II HUMAN RIGHTS VIOLATIONS IN KISANGANI AND THE SURROUNDING AREA**

### **II.1. Human rights violations under the authorities of the KABILA Government**

The Democratic Republic of the Congo is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the four Geneva Conventions of 1949 which protect the victims of armed conflicts and the civilian population.

An analysis of events on the ground reveals that the Government of the DRC has not only failed to make enough effort to promote these rights but has also been contributing in one way or another to their violation.

Between the outbreak of fighting in Kisangani on 4-6 August 1998 and the rebel conquest of the town on 23 August the following violations were committed by President Kabila's Government forces:

#### **A. Civil and political rights**

##### **Infringements of the right to life: summary executions**

- On 5 August 1998, Mr. Faustin IBANDA, a student in his last year at the Yangambi University Institute of Agronomics and an employee of the Sunair air company, was shot dead by members of the Congolese Armed Forces at his home in the SEDEC building in Makiso because of his physical resemblance to a Tutsi. He was in fact a member of the Hema tribe from the Ituri forest.
- It is alleged that there were summary executions of Rwandan and Congolese Tutsis (Banyamulenge) captured during the fighting of 4 to 6 August by Congolese soldiers (from the military police unit) on suspicion of collaborating with Rwandans and Rwandan civilians. They are said to have been executed at Bangboka International Airport, at the warehouse of the Congo-SEP oil company about 7 km away from the town centre on the road to Yangambi, and in the vicinity of the military air-base at Plateau Médical. Around 53 of the alleged victims are said to have been buried in common graves near the morgue at Kisangani General Hospital, another 19 in the vicinity of the ferry crossing on the River Lindi about 15 km from the city centre, and an unknown number thrown into the river near the Congo-SEP warehouse.

### **Cases of physical and psychological duress as well as torture and inhuman treatment**

During this period, it was enough to be accused of being a Rwandan or a friend of the Rwandans to be apprehended and subjected to all manner of ill-treatment. This is what happened to Ms Eyanga of 18, 5ème Avenue in Tshopo district, who was arrested for hiding two Rwandans. She was whipped by police officers then taken to military headquarters where she was released after 48 hours.

A number of people identified as Rwandan citizens were arrested and kept in inhuman conditions in lockups at military HQ or the BSRS (the Special Investigation and Surveillance Brigade) in Mangobo.

### **Cases of arbitrary arrest**

- On 11 August 1998, Mr. Dieudonné Ngwasi, the deputy provincial director of the Directorate General of Migrations in Orientale Province, was arrested by police officers at the Hotel Zongia where he was staying. He was initially held at the office of the PIR (Rapid Intervention Police) (formerly the Civil Guard office) then transferred to the military lockup known as Bureau II. He was suspected of being in contact with rebels because his cousin, Mr. Joseph Mudumbi, is a member of the rebels' Political Directorate in Goma. He was released the day before the rebel troops entered Kisangani (i.e., on 22 August 1998).
- Mr. Jacques Manga, a 19 year-old pupil at the school complex of the University of Kisangani from 37, 1ère Avenue, Tshopo, was arrested on 18 August 1998 by members of the Mai-Mai militia who are working alongside the Government troops. They claimed that he is a Rwandan whereas in fact he is a Congolese citizen. He was held for 26 hours in a room in the old orphanage converted into a rehabilitation centre being used as a base by the Mai-Mai. His life was in danger because, by that stage, the Government forces had already distributed weapons to the Mai-Mai.
- Mr. Shakira, deputy public prosecutor, was held and questioned for several hours at the National Intelligence Agency (ANR) because it was alleged that he is a Rwandan whereas in fact he is a Congolese citizen from South Kivu province.

### **Violations of the right to property**

A number of wireless telegraphs and other communications devices owned by individuals and corporate entities were confiscated by the security forces. Private and company vehicles were commandeered without going through official procedures.

A Yamaha sports motorbike belonging to Mr. Faustin Kinzonzoli, the Executive Secretary of the NGO APILAF (the Association for the Promotion of Local Initiatives in the African Forest), was stolen by Government forces the day before the rebels took the city.

### **Threats to Human Rights Organizations**

On 12 August 1998 the Lotus Group offices were visited by the Rapid Intervention Police who suspected the group of possessing communications devices used to broadcast information abroad. A verbal order was issued for the group to suspend its activities.

### **Infringements of the right to a fair trial**

The commander of the 25th Kisangani Brigade, Mr. Lisasi, and thirty or so soldiers from the Government forces accused of treason were arrested, tied up and transported to Kinshasa without being brought before the local courts.

### **Cases of disappearances**

Mr. Chiasha, a former member of the intelligence services from South Kivu province, married to a Rwandan Tutsi, and his son Papy, a fourth-year secondary school pupil; Mr. Hemedi, a customs and excise officer, claiming to hail from the Hema tribe from the Ituri forest in Congo, arrested at his home by police officers on 11 August 1998; a man identified only as Mr. Bedel, a Rwandan Tutsi and 3rd year student at the Faculty of Medicine, arrested by members of the Mai-Mai militia on the university campus at the Elungu Home Complex, Block B No. 4, along with his friend identified only as Bienvenu, a first year student at the Yangambi University Institute of Agronomics and a Rwandan Tutsi; Mr. Rutaramera Bigega, an employee of the National Electricity Board, Kisangani, considered to be Rwandan and arrested by police officers at his home.

None of these people have yet been found. All the searches conducted in various prisons have been to no avail.

## **B. Economic and social rights**

### **Deterioration of the population's social and economic situation**

Between the outbreak of hostilities and 23 August 1998, both governmental and provincial authorities failed to make up the 11-month arrears in salary payments to the people of Kisangani and provide basic foodstuffs such as meat and beans which came from rebel-controlled Goma and Bunia. At the time there were already signs of inflation linked to the fact that considerable sums were being kept back to pay soldiers.

### **Restrictions on the right to education**

Because of the insecurity which reined in Kisangani during and after the fighting of 4 to 6 August 1998 classes were suspended in all the city's higher education establishments (the Higher Institute of Medical Techniques, the Higher Institute of Education and the Higher Institute of Commerce) and at the University Institute of Agronomics in Yangambi.

## **C. Use of children as soldiers**

Weapons were distributed to children under fifteen years of age based in the former orphanage in Mangobo and commonly referred to as the Mai-Mai and others from H site (a half-built General Hospital building). Some of these children were sent to the front (along the Ituri and Lubutu roads).

## **D. Failure to protect civilians**

Innocent civilians were wounded and killed in some of the fighting at certain points in the city (the Canon roundabout, military HQ, neighbourhoods in Kabondo and the city centre) and left to their sad fate in the city's hospitals. The following cases were recorded:

- Ms Moza, aged 27, of 20, 11ème Avenue, Kabondo, was hit by a stray bullet causing wounds to her chest and her upper left arm. Doctors at the Kisangani University Clinic saved her life.
- Mwembo, aged 12, of 40, Avenue du 30 octobre, Makiso, sustained deep abdominal wounds from a bullet fired in his direction by a soldier. His life was also saved by doctors at the University Clinic.
- Ms Honorine Mauwa, aged around 60, of 6, 12ème Avenue, Kabondo, was hit by a bullet fired at her by a soldier causing a compound fracture of both legs. She was admitted to the University Clinic but died on 10 August 1998.

Finally, against the overall background of insecurity which reined from 4 to 6 August in which there was both fighting between Tutsi and Congolese soldiers and searches for Rwandan soldiers hiding in the town, Mr. Mbombo Mujene, a 51 year-old inspector at the Congolese Post and Telecommunications Office (OCPT), was murdered by an armed man from the neighbouring area inhabited by Tutsi civilians and soldiers at around 9 p.m. on 6 August 1998. According to his children's testimonies, the attacker was Nilotic in his physical appearance with features resembling their neighbour Catablos, who is the local branch manager of the Sunair airline.

## **II.2. Human rights under the rebel authorities**

Over the years various attempts have been made to introduce international legal instruments to protect the integrity of the human person in times of conflict, and it was this desire which gave rise to the four international conventions of 1949 known as the Geneva Conventions. They related to the improvement of the condition of the wounded and sick in armed forces in the field, the improvement of the condition of the wounded, sick, and shipwrecked members of armed forces at sea, the treatment of prisoners of war, and the protection of civilian persons in time of war.

Subsequent application in the field revealed certain shortcomings in the protection the Conventions afforded to the integrity of the person. Fortunately, however, in 1977, the protocols on international and non-international conflicts were introduced to fill the gap. The latter prohibited inhuman treatment, violence to the life, health or physical or moral well-being of persons, collective punishments, hostage taking, terrorism, humiliating and degrading treatment, looting, etc. In short, civilians were expected to be given overall protection from the consequences of hostilities. The DRC has ratified the four Geneva Conventions but has not yet ratified the second additional protocol on non-international conflicts thus exempting itself from the rules of the international community in this respect so as not to provide an opening for movements of insurrection or rebellion.

Nonetheless, Common Article 3 of the conventions does commit the parties to a minimum number of guarantees which are regarded as essential and applied automatically in the event of an internal armed conflict.

The following cases, observed in Kisangani and subsequently verified, enable us to gauge the extent to which the new authorities have been respecting and protecting human rights since they took over the city on 23 August 1998.

### **II.2.1. Inhuman treatment**

For reasons that it is difficult to understand, a considerable number of inhuman acts were committed by the armed forces.

### **Occupation of buildings and destruction of property**

Schools were converted into military camps. Examples are the Tufuate and Lisanga primary schools on 18ème Avenue, Tshopo, which used to be run by the Protestant church network. Throughout their occupation, benches, tables and doors were used as firewood and the classrooms were filled with faeces.

Private homes were not spared either. Rebel soldiers occupied and partly destroyed furniture in houses around the military air-base and guest house, including those of the director and the deputy director of the air traffic control authorities, the RVA, the director of the meteorological office, the OCPT chief accountant and the OCPT clerk, Mr. Ngoy.

### **Hard labour and house arrest**

Trésor Selego, a fifteen year-old school pupil, of 40, Avenue Kinshasa, was apprehended on 25 September 1998 outside the residence of the former general Likulia and forced to wash military uniforms.

Mr. Raymond Mokeni Ekopi Kane, a Kisangani businessman and the Chairman of the employers' organization, the Congolese Business Federation, was placed under house arrest from 12 to 21 September 1998 on suspicion of possessing a satellite link-up device. Following a thorough search of his Arcadia residence, his telephone and fax machine were confiscated. It is reported that he was charged with funding government forces and refusing the rebel forces' offer to take up the post of Provincial Governor. Mr. Georges Yangala, the director of Belect, was also put under house arrest along with his employee Mr. Mokeni, and robbed of his Comcell communication device.

### **Breaking and entering into private homes and public buildings**

On the night of 25 to 26 August 1998 armed officers used force to break into the home of Mr. Masudin at 78, 3ème Avenue bis, Tshopo, and stole bar and hotel receipts which had not yet been counted as well as money intended to pay soldiers in Buta. The Buta paymaster had lived at the address before he fled.

Mr. Tanza and Mr. Garry, two West African subjects, of 24, 1ère Avenue, Tshopo, were visited by members of the armed forces on 26 August 1998 and robbed of 95,000,000 new zaires.

Mr. Yahya and Mr. Muhemedi, both Gambian subjects, of 3, 8ème Avenue, Tshopo, underwent similar treatment on the night of 20 to 21 September 1998. The intruders succeeded in taking away a 14-inch Sony colour television.

On 22 September 1998, three soldiers broke into the garage at Kisangani University's Faculty of Science. They stole a Land Rover, which was recovered in a badly damaged condition some days later.

In late September 1998, rebel soldiers broke into the monastery at Simi-Simi and extorted a sum of 10 million new zaires (about US\$50) from the parish priest and a sum of 800 US dollars and 150 million new zaires (about US\$600) from Father Martin Konings. The money was originally intended to pay workers at the Simama Centre for the Disabled.



### **De-allocation of the wages of certain State officials**

The National Intelligence Agency (ANR) is said to have lost six billion new zaires which were withdrawn from the accounts of the Beltexco Company and intended to cover the wages of its acting staff and 200 million new zaires from its pension fund.

#### **II.2.2. Infringements of the right to life**

Deaths recorded included both soldiers and civilians.

- In response to the popular uprising of 26 August 1998 provoked by an attempt to confiscate a Suzuki Vitara Jeep belonging to the priests of the Sacred Heart church in Tshopo in which 5 soldiers are said to have lost their lives, a reprisal operation was conducted in the districts of Tshopo, Mangobo and Kabondo. Children and adults were murdered in cold blood;
- In Tshopo: Mr. Georges Adembo, a nurse at the ophthalmological service of the CNCA hospital, from 95, 14ème Avenue, died at around 5 p.m. on 26 August 1998 from a point-blank shot to his face by soldiers patrolling on 15ème Avenue;
- In Mangobo: Faustin Lokwa Alife and Cédric Badjoko Bobo, of 106, Quartier Basoko, were shot down in cold blood in front of their home at about 9 a.m. on 27 August 1998;
- In Kabondo: between 26 and 30 August 1998 the following people were shot dead by soldiers:
  - Mulamba, father of 3, of 17, 19ème Avenue;
  - Selemani, aged 15, of 95, 16ème Avenue bis;
  - Miss Jeanne (second name unknown) of 85, 5è Transversale, killed at her aunt's house, at 40, 14ème Avenue bis;
  - Assani, an invoice clerk with the Mimco company and a third-year student in mathematics at the Kisangani Free Higher Institute of Education;
  - Mombesa, alias Bourray, a hairdresser from 106, 10ème Avenue bis behind the former Bar de la Cueillette, killed on 4<sup>e</sup> Transversale opposite the Kabondo community home;
  - Mr. Pierrot Manyonga Matanda, aged 26, of 27, 1ère Avenue, Tshopo, shot dead by soldiers at 5 a.m. on 28 September 1998. He had already been identified as a wanted man some days before.
  - On suspicion of arms possession, a bandit identified only as being a member of the family of Papa Boola, a guard in the parish of St. Sacrement, had his throat cut by soldiers in Lubunga in September 1998. In the same month and in the same district (Lubunga), a former member of the Congolese Armed Forces (not otherwise identified) also had his throat cut. He was surprised with a weapon which was said to have been used for ignoble acts.

#### **II.2.3. Humiliating and degrading treatment**

Mr. Jean-Paul Kabiona, a member of the Government wing of the Congolese Armed Forces was arrested some days after the fall of Kisangani and held in the military "Mabusu" lockup in

Kisangani. He was charged with refusing to serve in the new army. Throughout his imprisonment he was given 60 lashes a day.

In the same lockup, two persons suspected of “stealing” were held in appalling conditions. They were subjected to serious torture and as a result one of them died during the month of September.

The wife of the deputy director of the National Intelligence Agency, Emmanuel Sanzunguimo, was arrested on Saturday 26 September 1998 and taken to the Kisangani military lockup with her one-and-a-half year old baby. She was accused of possessing a portable telephone and kitchen utensils belonging to the agency. She is said to have just escaped being raped. She was released the next day.

#### **II.2.4. Physical, psychological and moral duress**

On the night of 11 to 12 August 1998 at around 3 a.m., Ms Rita Assumani, the mother of three children, was seriously threatened by three men in uniform who succeeded in climbing over the fence around her house at 50, 8ème Avenue, Tshopo district. She was robbed of three million new zaires.

Suspected of being the ring leader of a group of persons holding weapons in preparation for a military operation in the district of Plateau Boyoma, Mr. Selego Chalanda, a student residing at 40, Avenue Kinshasa, Makiso, was harassed by soldiers for two whole days (28 and 29 September 1998).

Mr. David Mondele, 28, a married father of two, was hit by bullets in his right biceps at around 11 p.m. on 26 August 1998 in his home at 10, 9ème Avenue, Tshopo.

On the night of 23 to 24 August 1998, the Provincial Director of the National Institute of Social Security was abducted and kept in a secret location from 11 p.m. to 3 a.m.

Mr. Georges Ngoy received death threats on 10 September 1998 as he was leaving for Plateau Médical to assess the damage caused to his family home occupied by soldiers.

#### **II.2.5. Disappearances**

Da Silva Figueiredo, 50, Portuguese, of 5, Avenue Lac Nyassa, Makiso; Osvaldo de Sousa Queiroz, 38, Angolan, of 5, Avenue Lac Nyassa, Makiso; Miala Garcia, 40, Angolan, of 42b, Boulevard Lumumba, Makiso; Aires Queiroz Guinaires, 28, Angolan, of 42b, Boulevard Lumumba, Makiso; Miguens Julio, 28, Angolan, of 42b, Boulevard Lumumba, Makiso; Leonel Carlos de Sousa, 27, of 42b, Boulevard Lumumba, Makiso, and; Ribeiro Galvino Faustino, of 42b, Boulevard Lumumba, Makiso.

These were all businessmen who had come to invest in the Democratic Republic of the Congo and were awaiting the launch in Congo of their company, Bhagmek International. Twenty-four hours after Kisangani was captured by the rebels, they received death threats from the rebels because of Angola’s involvement in the conflict in the DRC. All of their property, including that of their company, has been looted and to this day their homes are occupied by the assailants. We know nothing about their fate or in what direction they may have fled. Tati Domingos, an Angolan student in his first year studying educational science at the University of Kisangani, and three of his compatriots are said to have disappeared under similar circumstances.

Mai-Mai child soldiers housed at Kisangani General Hospital (for health reasons) and at the H Site in Mangobo (for training) are said to have disappeared. This would seem to be the result of

their rearmament and recruitment to the Government forces to halt the advance of the rebel army on Kisangani.

### **II.2.6. Looting**

Kisangani has not yet totally recovered economically from the looting which took place between September 1991 and December 1993. Since then only a few companies have kept going and kept the local labour-force in employment. But now they have been dealt a fatal blow:

In the week of 24 to 30 August 1998, two giant logging companies, Amexbois and Forestiere, were looted by soldiers. All of their stocks of processed timber and fuel, their vehicles and the dynamos used to power the sawmills were taken away.

The following items were taken from the road transport office: 2,000 litres of diesel, all the wages of the employees working in the province, and a large number of spare parts both from the road centre and the ferry centre.

Soldiers broke into the central store, the central cash-desk and the offices of the managing director and the chief accountant of Sorgeri. Livestock belonging to the company's managers were also slaughtered (200 pigs and a number of goats).

In Yanonge, about 58 km from Kisangani, the Agricultural Technical Institute and the Mogoya Institute of Carpentry were looted. Typewriters, wood and clocks were taken away. Benches were broken up and used as firewood.

In Yangambi, about 100 km from Kisangani, some of the premises of the National Institute of Agronomics were looted and stripped of their corrugated metal cladding.

In Banalia, about 128 km from Kisangani, private homes belonging to people who had fled into the bush, the Catholic mission and the general hospital were all looted.

### **II.2.7. Deterioration of health and humanitarian conditions and threats to medical workers**

#### **The insecurity and isolation of the city as a factor in the deterioration of health and humanitarian conditions**

##### *(a) Insecurity*

The two major hospital complexes in Kisangani, namely the university clinic and laboratory and the general hospital, are in the Plateau Médical neighbourhood in Makiso.

Rebel soldiers with instructions to guard the military air-base at Simi-Simi overran the area surrounding these hospitals making it difficult for health workers and the sick to move around in the area. There was looting of the hospitals, humanitarian agencies, and stores of foodstuffs and other urgently needed items, and certain medical workers were physically assaulted or threatened.

Inevitably this has meant that hospitals have been abandoned by patients and medical staff, and humanitarian agencies, dispensaries and food warehouses and stores have been closed down.

##### *(b) The city's isolation*

Kisangani is currently cut off from all of its sources of supplies, namely Kinshasa, the interior, and the East (Goma, Bunia, Butembo, Bukavu, etc.). It now finds itself in complete

isolation. As we explained above, the city does not have enough pharmaceutical stores or dispensaries or stocks or stores of food to support the population for a long period of complete isolation. Its main sources of supplies in medicines are the diocesan pharmacy, Mimco-Pharma and the Pars pharmaceutical warehouse.

The following instances of infringements of the right to treatment and threats to medical workers were recorded :

- At the university clinic, on 24 August 1998, all the patients were forced to leave the hospital because of the prevailing insecurity. Medical and paramedical staff came to work in some apprehension. Some days later they realized that they too were in danger. On 26 August 1998, Professor Wami Wifonga, the doctor in charge of the university clinic and a teacher at the faculty of medicine was accosted in his office by three Tutsi and two Ugandan rebels. They demanded money and medicines. By threatening him they succeeded in making off with a sum of 200 US dollars and a large stock of medicine.
- On 30 August 1998, Dr. Luka, a doctor at the department of gynaecology and obstetrics and assistant at the faculty of medicine attempting to enter the university clinic at around 1 p.m., was apprehended by two armed persons with the physical features of Tutsis in the grounds of the clinic itself and dragged into the bush towards the tuberculosis treatment centre where he was subjected to inhuman treatment then stripped of his shoes, his shirt and a sum of 15 Congolese francs.
- At around 7 p.m. on 3 September 1998, Dr. Lola Kisanga of the university clinic's internal medicine department was apprehended by 4 Ugandan soldiers in the grounds of the University Institute of Agronomics as he was going from the clinic to the guest house. He was immediately released.
- On 19 September 1998, the faculty of medicine's research laboratory and the university clinic's biochemical unit were systematically looted.

**The following items were taken away:**

- 4 photospectrometers;
- 6 electronic microscopes;
- a large number of chemical reagents;
- other extremely valuable items of equipment.

**At the Kisangani General Hospital**

- Wards were occupied by the rebels;
- Furniture was broken up and used as firewood;
- A telegraph device belonging to the Kisangani branch of the Extended Vaccination Programme (PEV) was seized, the unit's activities were halted and the polio vaccination campaign due to take place in August was suspended.

### **At the Kisangani branch of the WHO**

- The home of the branch head doctor was occupied by rebel soldiers immediately after their arrival in Kisangani (23 August 1998);
- The WHO pharmaceutical store was looted;
- Under threats, Ms Christine Sefu, the supervisor of the WHO Kisangani branch, was forced to hand over the WHO's vehicle to the rebels;
- Kisangani UNICEF's vehicle was also commandeered by rebels.

### **At Caritas Kisangani**

- Vehicles were commandeered to transport rebel soldiers to the front;
- General hospitals at Lubunga and Ubundu (129 km from Kisangani) were looted;
- Doctor Jean Mopepe, the head doctor at the Kisangani Orchid Clinic (COKIS) was threatened because of his family links with Governor Jean Yagi Sitolo, who owns the clinic.

The water distribution company, REGIDESO, realised that the stock of inflowing water was in the process of drying up and so it began supplying water for only six hours a day. The quality of the water supplied to the public has now become questionable and there are fears that epidemics of diarrhoeal diseases will break out (such as bacillary dysentery, salmonellosis, cholera, and amoebiasis).



**Table 1: Prices of medicines before and after the rebel take-over of Kisangani**

PRODUCT	Price before the war	Current price
20 aspirin tabs.	\$ 0.13	\$ 0.66
20 chloroquine tabs.	\$ 0.20	\$ 1.00
20 novalgine tabs.	\$ 0.16	\$ 0.66
10 quinine tabs.	\$ 0.66	\$ 2.00
1 flask of procaine penicillin	\$ 0.53	\$ 2.00
20 indocid tabs.	\$ 0.20	\$ 0.66
16 tetracycline caps. (250mg)	\$ 0.33	\$ 1.00
16 ampicillin caps. (250 mg)	\$ 0.66	\$ 1.66
16 chloramphenicol caps.	\$ 0.66	\$ 1.33
20 bactrim tabs.	\$ 0.40	\$ 1.00
1 single-use syringe	\$ 0.13	\$ 0.40
1 litre of glucose serum 5%	\$ 2.00	\$ 5.33
1 litre of NaCal 0.9%	\$ 1.66	\$ 5.00
1 Ampicillin 1g	\$ 0.53	\$ 1.33
1 flask Chloramphenicol	\$ 0.53	\$ 1.33
1 phial Quinine	\$ 0.40	\$ 1.00
1 phial Chloroquine	\$ 0.16	\$ 0.33
1 phial Dypirone	\$ 0.16	\$ 0.50

N.B.: 1 US dollar (\$) = 250,000 new zaires (at the rate on 29 September 1998)

Prices are those which applied on 29 September 1998.

If no more medicines are supplied, prices are bound to continue rising.

Cost of treatment of a malaria crisis combined with a case of verminosis and urinary infection (common in tropical Africa):

Doctor's consultation fee — \$ 1 to \$ 2. 15 vials of quinine — \$ 10.

5 litres of glucose serum — \$ 5. 72 capsules of Ampicillin — \$ 5.

3 vials of dypirone — \$ 1. Hospitalization — \$ 1 per day.

Nursing — \$ 1 per day. Lab. tests — \$ 5 (standard tests).

Laparotomy — \$ 150-200.

(All prices quoted in US dollars).

Another point worth mentioning is that the arrival in Kisangani of Rwandan and Ugandan soldiers from regions with a high incidence of AIDS and their licentious sex life is said to have led

to an increase in the rate of HIV infection in Kisangani and all the other regions occupied by the rebels.

### II.2.8. Loss of material and social well-being

The people of Kisangani have experienced enormous social and economic difficulties since 23 August 1998. Shop owners and traders are now cut off from their main supply centres and, though they still have stocks of some manufactured goods, they have been ruthlessly increasing prices. The exchange rate has been soaring to such an extent that some economic agents have decided simply to suspend their activities for a time, claiming that they fear looting if there is a victorious counter-attack by the Government forces.

The two following tables show to what extent the economic situation has deteriorated:

(a) Exchange rates

Date	Currency	Equivalent in new zaires (NZ)	Equivalent in Congolese francs (FC)	Percentage increase
01.07.98	\$ 1.00	NZ 140,000	FC 1.40	-
01.08.98	\$ 1.00	NZ 150,000	FC 1.50	10.71 per cent
23.08.98	\$ 1.00	NZ 190,000	FC 1.90	13.57 per cent
27.09.98	\$ 1.00	NZ 240,000	FC 2.40	12.42 per cent

(b) Market prices

Article	Price on 1 July 1998	Price on 23 August 1998	Price on 23 September 1998
72 cl of cooking oil	NZ 25,000	NZ 60,000	NZ 75,000
1 kg of rice	NZ 30,000	NZ 60,000	NZ 80,000
1 kg of sugar	NZ 70,000	NZ 120,000	NZ 150,000
1 bar of soap	NZ 35,000	NZ 65,000	NZ 80,000

The financial and monetary situation is far from stabilizing. The new authorities have withdrawn considerable sums from the Kisangani Central Bank to cover the wages of State employees, civil servants and soldiers — as well as FC 35,000 and NZ 70 billion ready for incineration as part of the procedural measures for the monetary reform being carried out. As a result the Congolese franc is increasingly declining in value and the dollar has now risen to 270,000 new zaires. At the same time, there has been runaway inflation in the market prices of manufactured goods. Attempts to offset losses (for instance, Beltexco has lost 24,000 US dollars confiscated by the military and had large sums withdrawn from it by the civilian authorities) and a substantial decrease in stocks are the causes of the price-rises.

**PART III:  
THE ATTITUDE OF THE WARRING PARTIES TO THE HUMAN RIGHTS  
VIOLATIONS AND ABUSES COMMITTED**

**III.1. The governmental authorities**

After the appeals and speeches made to the public on the radio and the television identifying the country's aggressors as Rwandans and in response to the increasing hatred felt towards Rwandans (civilians and soldiers), the local authorities appealed to the population to attack only Rwandan soldiers. No judicial proceedings have been instituted against those who have carried out abuses against Rwandan civilians.

**III.2. The rebel authorities**

Following the revenge attack by the rebel army on the population after the demonstration of 23 August 1998, the military commander in Kisangani demanded apologies from the entire community for the aberrations of some of its inhabitants. He also said that he had taken all the necessary steps to ensure the security of persons and their property. However, no judicial proceedings were instituted against those responsible.

A few days after the demonstrations of 23 August 1998, 5 and 10 centime bills were thrown to the crowds from military vehicles at the roundabout on 15<sup>ème</sup> Avenue, Tshopo, the main market and other points in the city centre.

Aiming to make civilians forget all their abuses and join the rebellion, the rebel authorities distributed sums of 28 Congolese francs (US\$10) to each participant at the end of their ideological training seminar, 5 Congolese francs to each student at the University of Kisangani (about US\$2) and a large sum estimated at over US\$300 to the members of an informal youth organization in Mangobo called "The Children of the United States" for them to attend the meeting of the RCD leader, Mr. Lunda Bululu.

**PART IV:  
THE ISSUES INVOLVED IN THE WAR**

The current war in the Democratic Republic of the Congo can be compared to an iceberg:

- The visible part is the rebellion against the Kabila Government and the conflict between the Government's allies and the rebels' allies.
- The invisible protagonists are the major foreign powers, economic and political lobbies, and progressive Third-World forces.

The outcome of the war may alter a number of national, regional and international parameters.

In the following sections we shall describe the situation on the ground, the reaction of the inhabitants, and the steps taken by the international community to date, before going on to forecast what may happen in the future.

**IV.1. The power struggle — developments on the ground**

Since hostilities began on 2 August 1998, the power struggle has divided the country into two parts, namely the west, which is controlled by the Government forces and their allies, and the

east, which is controlled by the rebel forces and their allies. However, the rebellion is gaining ground in the east because Kabila's allies are reluctant to engage in conflict here, not only through lack of interest but also because they have misgivings about attacking the rebels' allies so close to their home bases.

#### **IV.2. The inhabitants — their concerns and expectations**

The Congolese are not used to war and so they mistrust the rebellion which they regard as untimely, hybrid or even traitorous. What the war is revealing to them is the inability of Congolese soldiers (whether from the Government or the rebels) to defend the country's territorial integrity and ensure them peace and security, the Congolese politicians' insensitivity to their suffering and, finally, the indifference of the international community.

#### **IV.3. The efforts of the international community — hesitant and inadequate (from August to early October 1998)**

The Government of the DRC alerted national and international opinion to the invasion of its territory by Rwandan and Ugandan troops. Its emissaries to the United Nations, the OAU and other international institutions made official complaints against Rwanda and Uganda but the response to these complaints was slow, guarded or even mitigated.

Various reactions to the situation in the DRC have been expressed during regional or international summits, conferences and meetings of heads of State and Government. The following is a brief outline of the outcome of these meetings:

##### **Victoria Falls Summit I**

Instigated by President Mugabe under the auspices of the SADC, bringing together the Heads of State of the DRC, Rwanda, Uganda and Namibia.

Outcome: disagreement between the DRC, Rwanda and Uganda over the aggression.

##### **Summit of non-aligned countries held in Durban, South Africa**

This summit, presided over by Nelson Mandela, was attended by representatives of all the countries at war in the DRC (DRC, Angola, Zimbabwe, Namibia, Rwanda and Uganda) as well as leaders of other non-aligned countries (e.g., Fidel Castro) and the United Nations Secretary-General, Kofi Annan.

Outcome:

- Acknowledgement of an act of aggression against the DRC though the names of the assailants were not cited;
- Appointment of President Mandela as mediator in the Congolese crisis.

##### **United Nations Security Council**

The member States of the United Nations Security Council acknowledged that the DRC was being attacked by foreign powers without naming them. They appealed for respect for the territorial integrity of the DRC.

### **Victoria Falls Summit II**

Presided over by the Zambian president, Frederick Chiluba, this summit brought together the Heads of State of Uganda, Rwanda, Zimbabwe, and Namibia, a representative of the Angolan president, and the Secretary-General of the OAU, Salim Ahmed Salim. The Zambian president went back and forth between the meeting room of the Heads of State and the room assigned to the rebel delegation, led by Mr. Z'Haidi Ngoma and Mr. Bizima Karaha;

Outcome:

- No agreement over the act of aggression against the DRC;
- Acceptance of the principle that foreign troops should be withdrawn.

### **Addis-Ababa Conference**

Conference bringing together the ministers of defence of all the countries involved in the conflict. The DRC was represented by its minister of foreign affairs.

Outcome:

- No agreement on the arrangements for the withdrawal of foreign troops.

### **Mauritius Summit**

Summit called by the SADC to discuss its members' economic problems. The Congolese crisis was one of the items on the agenda.

Outcome:

- Failure to agree that there had been an act of aggression against the Congo;
- Reinforcement of the military positions of President Kabila's allies;
- Doubts expressed over President Mandela by President Mugabe.

### **Libreville Summit**

Summit called by the President of Gabon, Omar Bongo, bringing together the Heads of State of Central Africa to examine the Congolese crisis.

Outcome:

- Acknowledgement that foreign forces had attacked the DRC;
- Contacts established by the Kinshasa Government with other Central African countries and France;
- Acceptance of Chad's military involvement in the DRC.



### **Tripoli meetings and the Qaddafi Intervention Force Plan (involving Chad, Niger and Eritrea)**

President Qaddafi met President Kabila of the DRC and President Museveni of Uganda in turn and listened to each leader's views on the crisis. Following this he met the presidents of Chad, Niger and Eritrea.

Outcome:

- Proposal to withdraw all foreign forces from the DRC;
- Proposal to post a neutral intervention force (provided by Chad, Niger and Eritrea) along the entire length of the border between Rwanda and Uganda and Congo and Uganda.

This realistic plan does not seem to have earned the support of the international community.

### **European Union**

The EU special envoy to the Great Lakes region has met the presidents of the DRC, Rwanda, Uganda and Angola.

Outcome:

- All the countries allied to the warring parties wish to secure their frontiers;
- The possibility of holding an international conference was raised.

### **United States Ambassador to the DRC**

On 14 October 1998, having met President Kabila in Lubumbashi, the United States Ambassador acknowledged that the DRC had been invaded by foreign forces.

## **IV.4. The future of the Democratic Republic of the Congo**

The current régimes in Kigali, Kampala and Kinshasa, which are the products of the force of arms and rebel alliances of the past, have failed to find democratic solutions to their political, economic and social problems and so they find themselves at war.

Therefore, the political fate of the DRC is inextricably tied up with that of its neighbours in the region. It will be determined by the outcome of a war with international ramifications between enemies who seem to spurn human rights and the rights of peoples.

### **A. In the event of the military victory of President Kabila**

#### **Kabila's plus-points**

If President Kabila brings democracy to the country, as he frequently says he will, he will be able to mobilize the Congolese people around the major reforms required for national reconstruction. He draws the legitimacy for his power and his charisma from three aspects:

- (a) The success of his armed insurrection against the neo-patrimonial and dictatorial régime of President Mobutu, which was demonized and called into question for its political, economic

and social practices. As the sworn enemy of Mobutu, the public regard him as the liberator of the Congolese people, the leading figure of a new era in Congolese politics which will make the decaying Congolese State a prosperous, powerful State governed by the rule of law.

- (b) The success of his struggle against the Tutsi bid for total power. Is this an ideological smoke-screen or a sociological reality? Notwithstanding, the president's rhetoric on this subject has met with substantial support from the Congolese people and is used to legitimize the Government's war against the rebels.
- (c) The Kabila Government's attempts to improve the social and economic situation, particularly in the area of combating immoral practices (corruption, embezzlement and harassment), rehabilitating and improving the apparatus of the State, and curbing inflation, have raised hopes among the population.

### **Dangers to be avoided**

President Kabila's autocratic reflexes mean that we should be sceptical about his claims to have been converted to the democratic management methods of the modern State. They point to a number of potential dangers that must be avoided, namely the possibility that the head of State will be granted absolute power, that the Tutsis will be totally excluded and that more armed conflicts will emerge in the region.

- (a) The absolutism of the head of State

While the DRC is at war, the self-proclaimed president, Mr. Kabila, who is hostile to multiparty politics, remains the official lone decision-making authority to whom all appeals must be addressed. After the war, it may be prudent to establish legal and political safeguards to counter the authoritarian impulses which the growing personality cult around him seems to be fostering in the mind of the AFDL leader. The best democratic ingredients for a transition period heralding a third democratic republic would be a multiparty system based on clearly established laws and mechanisms for the consultation of the head of State on the future of the nation.

- (b) The total exclusion of the Tutsis and a conflagration in the Great Lakes region

Since the outbreak of the rebellion, in the national and international press and on national television, President Kabila has been accusing the governments in Kigali and Kampala of aggression, stating that Tutsi ideas of hegemony over the Congo and its sphere of influence are a delusion, and threatening to take the war back to where it came from, namely Uganda and Rwanda.

Ethnic arguments are clearly being deployed: the Tutsis in the Congo are coming under attack while Rwandan rebels (mostly Hutu) and some Ugandans (at least according to the accusations of the leaders of the rebellion against Kabila) have joined Kabila's Government troops. The Kabila Government is thought to pose a serious threat to the Rwandan and Ugandan régimes. If no precautions are taken and Kabila wins the war, there could be an exodus of Tutsis, exporting the war to Uganda and Rwanda and possibly even undermining their governments.

## **B. If the Congolese Rally for Democracy (RCD) were actually to take power**

### **Advantages**

The Congolese Rally for Democracy (RCD) arose from various divisions within the AFDL and, though it claims to be in favour of democratizing the DRC's political institutions, it has

decided to attempt to wrest power through an armed rebellion driven by Ugandan and Rwandan Government forces. The following advantages could result from its actually taking power:

- the potential for political liberalism stemming from the absence within the movement of a charismatic civil or military leader who cannot be ignored though this does not rule out the possibility that the Government will be dominated by an RCD oligarchy;
- special measures to protect a Tutsi minority threatened with extermination or exile;
- peaceful co-existence between the region's régimes through the reciprocal elimination of rebel movements in each country.

### **Drawbacks**

The RCD is considered by most Congolese to be of strict Tutsi allegiance and pieced together from the cast-offs of the disreputable former Zairian Armed Forces (FAZ) and so any régime it sets up is likely to be unpopular and have difficulty in forming a Congolese national army capable of winning the confidence of the Congolese people.

It will be constantly faced with the aggravated hatred of certain sections of the native Congolese population towards the Tutsi minority living in the Congo.

If the RCD were to fail in rendering the Ugandan and Rwandan Hutu rebel movements working from Congo inoperative, its current Ugandan and Rwandan allies would engage in war against it.

## **C. In the event of a negotiated settlement**

### **Advantages**

The DRC is a State in need of reconstruction and war is synonymous with destruction. The country requires a consensual and peaceful context for its development and therefore a negotiated settlement discarding all violence seems the most productive approach to its future.

Jointly negotiated settlements relating to the various issues over which the warring parties have been fighting may create the conditions for the redistribution of power between the internal forces involved (AFDL, RCD, opposition parties and civil society) thus preventing the State from being treated as an item of private property.

They may also establish a new equilibrium within the region, dictated by the desire to stabilize international relationships with the sole aim of promoting development for the well-being of the people living in the States in question.

### **The shortcomings of a negotiated settlement**

In its attempts, via the various aforementioned summits, to reach a negotiated settlement to the conflict, the international community wishes to apply the principles of collective responsibility which place a premium on human fellowship or the interdependence of States with a view to pooling everyone's efforts to establish harmonious international relations.

But in seeking a negotiated settlement, peace-brokers tend to reconcile the warring parties without insisting on the civil and political rights that can be invoked against the State. This

situation tends to facilitate the survival of authoritarian régimes incapable of establishing and upholding their citizens' civil and political rights.

The principle of the right of all peoples to self-determination formally established in resolution 1514 (XV) of the United Nations General Assembly in December 1960 gave a boost to the process of decolonization in Africa. Today, however, it nurtures and protects Africa's dictatorships; national leaders who hold this kind of power can uphold one another for the duration of their régimes (Mr. Mobutu was a master at this). This explains the covert existence of certain regional or sub-regional organizations in Africa. Under these conditions it seems warranted to invoke the duty of third parties to intervene every time democracy is threatened and the rights of individuals and peoples are violated.

As things stand, even if there were a negotiated settlement reconciling the Government in Kinshasa with the Rwandan and Ugandan governments, the problem of the legitimacy of all three régimes would remain.

Therefore, the future of the DRC will depend on its capacity to build a democratic State which will successfully fulfil its strategic geographical role at the heart of Africa while respecting the rights of individuals, citizens and other peoples.

#### CONCLUSIONS AND RECOMMENDATIONS

Between 17 May 1997, when President Kabila came to power, and the outbreak of the rebellion in early August 1998, the state of human rights and fundamental freedoms in the Democratic Republic of the Congo was still a cause for concern. Not only were political parties suspended and some of their leaders thrown in prison and human rights organizations threatened but also, and above all, the Government of the DRC failed to show any real desire to prosecute the perpetrators of certain widespread, blatant and systematic violations of human rights committed on its territory.

The current war between the Government of the DRC and the rebel troops led by the Congolese Rally for Democracy has aggravated the human rights situation. The war involves not only internal Congolese forces but also Ugandan and Rwandan armed forces who have joined the rebel side to overthrow the Kabila Government and hence, it is claimed, to protect their frontiers and the endangered Tutsi minority.

During the conflict, Government forces have carried out summary executions, arbitrary arrests and other acts liable to trouble people's consciences, but the rebels for their part have resorted to the physical elimination or inhuman treatment of civilian populations attempting to resist them, the extortion of private and public property in various forms, corruption, favouritism and looting of public funds and property, thus adding to the people's destitution.

It is because of its alarm at this continuing deterioration of the human rights situation and upsurge of violence which are inexorably dragging the Democratic Republic of the Congo to the brink of chaos and are liable to inflame not only the Great Lakes region but also the whole of Central Africa, and because it is anxious for the rule of law to be established in the DRC, that the Lotus Group makes the following recommendations:

#### **To the Congolese Government:**

- to agree to negotiate with all the conflicting parties and to convene, as soon as possible, a political round table meeting to examine and establish the procedure for this negotiation but also to rekindle the democratic process and promote national reconciliation;

- to make protection of and respect for human rights one of the Government's priorities with a view to establishing the rule of law in the DRC;
- to take legislative and social steps for the establishment of an independent, impartial judiciary;
- to pursue an open and active co-operation policy with national and international human rights organizations working to prevent, investigate and punish human rights violations and with humanitarian aid organizations wishing to help the people of Congo;
- to devise a realistic and effective strategy to prevent the unchecked distribution and trafficking of arms in the country.

**To the rebel authorities:**

- to halt their advance and negotiate with the Government of the DRC;
- to protect civilians and all victims of the armed conflict in accordance with international humanitarian law and national legislation;
- to improve the social and economic situation of the people under their control by opening up new channels for the supply of raw materials and manufactured goods;
- to co-operate with international organizations to remedy the current emergency situation in Kisangani;
- to ensure that the territorial integrity of the DRC and its national heritage are protected.

**To Congolese civil society:**

- to encourage all the warring parties to negotiate to avoid a military victory which might rule out any hope of national reconciliation;
- to encourage all the warring parties to respect human rights, international humanitarian law, territorial integrity and the national heritage;
- to provide the necessary assistance to victims of human rights violations;
- to perform its duty to remember and testify to all the acts of oppression and violations committed by the warring parties.

**To the international community:**

- to bring all the conflicting parties to the negotiating table to end a war which is costing an enormous amount, both financially and in terms of human lives;
- to hold the warring parties accountable for the deterioration of the human rights situation in the DRC;
- to ensure that the compromises negotiated at the summits held thus far with a view to settling the Congolese conflict are observed;



- to provide humanitarian aid to the Congolese people with the help of non-governmental food and health organizations;
- to ensure that the DRC's territorial integrity is respected;
- to call an international conference to resolve the thorny question of security in the Great Lakes region.

Done in Kisangani, 15 October 1998

Gilbert Kalinde ABELI,  
Secretary.

Dismas Kitenge SENGA,  
Chair.

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## APPENDIX 1

Full text of Constitutional Decree No. 3 of 27 May 1997 on the organization and exercise of power in the Democratic Republic of the Congo.

The President of the Republic,

Having regard to the seizure of power by the Alliance of Democratic Forces for the Liberation of Congo (AFDL) on 17 May 1997;

Having regard to the need for emergency measures;

Decrees the following:

### Part I — General provisions

Art. 1. Until the Transitional Constitution is adopted by the Constituent Assembly, the organization and exercise of power shall be governed by the present Constitutional Decree.

Art. 2. In the Democratic Republic of the Congo, the exercise of individual and collective rights and freedoms shall be guaranteed subject to respect for the law, public order and morality.

### Part II — The institutions of the Republic

Art. 3. The institutions of the Republic are:

1. The President of the Republic;
2. The Government;
3. The courts.

#### Section I — The President of the Republic

Art. 4. The President of the Republic is the Head of State. He represents the nation.

Art. 5. The President of the Republic shall exercise legislative power by issuing legislative decrees discussed with the cabinet. He is the head of the executive and the armed forces. He shall exercise his power to make regulations by issuing decrees. He is entitled to strike coins and issue paper money in accordance with the law.

Art. 6. The President of the Republic shall appoint, relieve of their duties and, where appropriate, dismiss on the proposal of the Government: ambassadors and special envoys, governors and vice-governors of provinces, senior officers and generals of the army, executive officers in the management of public services, and acting and non-acting administrators of State enterprises and public bodies. He shall appoint, relieve of their duties and, where appropriate, dismiss on the proposal of the judicial service commission, judges and public prosecutors.

Art. 7. The President of the Republic shall accredit ambassadors and special envoys to foreign States and international organizations. Foreign ambassadors and special envoys shall be accredited to the President.

## **Section II — The Government**

Art. 8. The Government shall carry out the national policy laid down by the President of the Republic. It shall execute the laws of the Republic and the decrees of the head of State. It shall negotiate international agreements under the authority of the head of State. It has the civil service and the army at its disposal.

Art. 9. The Government shall meet in a cabinet meeting presided over by the head of State or one of its own members with delegated powers.

Art. 10. Ministers shall be accountable for the management of their ministries to the President of the Republic. They shall enact laws by means of orders.

## **Section III — The courts**

Art. 11. The courts form the judiciary. The judiciary shall be independent from the legislative and the executive.

Art. 12. The task of hearing and determining cases shall be assigned to the courts. Judges shall be independent in the discharge of these functions and, in so doing, shall be subject only to the authority of the law.

## **Chapter III — Final provisions**

Art. 13. Provided that they are not at variance with the provisions of the present constitutional decree, statutes and regulations existing prior to the date of its promulgation shall remain in force until such time as they are repealed.

Art. 14. All former constitutional, statutory or regulatory provisions at variance with the present constitutional decree are hereby repealed.

Art. 15. The present constitutional decree shall come into force on the date of its promulgation.

Done in Kinshasa on 28 May 1998

Laurent-Désiré KABILA,  
President of the Republic.

## APPENDIX 2

### Chronology of events in Kisangani

August 1998

#### 4-6 August

- Fighting between Congolese soldiers and Rwandan and Congolese Tutsis at Bangboka airport, the *Canon* roundabout and military headquarters.
- Incorporation of former FAZ soldiers re-educated at Base Camp (11 km from the town centre on the road to the airport) into the Congolese Armed Forces.
- Summary executions and murders.

#### 10 August

- Civilian march to express anger against Rwandan aggression against the DRC (about 3,000 participants).

#### 7 to 23 August

- Curfew throughout the city every day from 7 p.m. to 6 a.m.
- Distribution of weapons to young Mai-Mai soldiers based at H site (a half-built General Hospital building) and the former Mangobo orphanage.
- Rwandans and their “Congolese accomplices” arrested and detained at military headquarters, the National Intelligence Agency and the former lockup of the Mangobo BSRS; some are transferred to the Congo-SEP warehouse (about 7 km along the road to Yangambi).

**23 August** — The city is taken over by the rebels.

#### 26 and 27 August

- Demonstrations (in the form of marches) in a number of the city’s districts (Tshopo, Mangobo and Kabondo) provoked by the rebel soldiers’ attempt to commandeer a car belonging to the priests of the church of the sacred heart in Tshopo.
- Six rebel soldiers are killed.
- Revenge attacks by the rebel soldiers on the civilian population (1 death in Tshopo, 5 in Kabondo, and 2 in Mangobo).

**29 August** — Arrival of the rebels’ political delegation led by Mr. Joseph Mudumbi, the RCD’s officer for internal affairs and administration.

**September 1998**

**26 September**

- Meeting between the RCD leader, Mr. Lunda Bululu, and the inhabitants of Kisangani.
  - Appointment and presentation of the Governor of Orientale province (Prof. L. Bene Kabala), his Vice-Governor (Adèle Lotshove) and the new mayor of Kisangani (Mr. Gabriel Boondo Lotika) to replace the former authorities who had fled.
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**ANNEX 13.2**

**Lotus Group, *The Consequences of Rivalries within the Rebel Alliances and Factions in North-Eastern Congo. The Kisangani War, September 1999***

*[Annex not translated]*

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**ANNEX 13.3**

**Lotus Group, *Conflict between Uganda and Rwanda in Kisangani, Kisangani, May 2000***

*[Annex not translated]*

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**ANNEX 13.4**

**Lotus Group, *Rapport sur la guerre de six jours à Kisangani, July 2000***

*[Annex not translated]*

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**ANNEX 13.5**

**South Kivu Civil Society — Collective of South Kivu (DRC) Youth Organizations and Associations (COJESKI), *Events in the occupied provinces of the DRC — large-scale violations of human rights and international humanitarian law reaching fever pitch, Six-monthly report covering the period from 1 April to 30 September 1999, October 1999***

**South Kivu Civil Society — Collective of South Kivu (DRC) Youth Organizations and Associations (COJESKI), Events in the occupied provinces of the DRC — large-scale violations of human rights and international humanitarian law reaching fever pitch, Six-monthly report covering the period from 1 April to 30 September 1999, October 1999**

[Translation]

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## 0.0. GENERAL INTRODUCTION

The occupied provinces of the Democratic Republic of the Congo are still enduring the harmful consequences of disastrous and/or rapacious management of their human and material resources by the armed forces of Rwanda, Burundi and Uganda, who are now acknowledged by the international community to have invaded the Democratic Republic of the Congo.

From April to September 1999, large-scale violations of human rights and international humanitarian law reached fever pitch in this disaster-stricken part of the country.

This half-yearly report, which also describes the incidents reported, is the logical follow-up to the following reports published by the Collective of South Kivu Youth Organizations and Associations (COJESKI) since the invasion of the DRC on 2 August 1998:

1. Overview of large-scale human rights violations during the first three months of occupation in South Kivu, DRC (COJESKI report published on 20 November 1998);
2. Five months of invasion in the DRC: human rights in peril in the occupied provinces of eastern Congo. The case of Orientale province, South Kivu province and North Kivu province. (Report describing events between 2 August 1998 and 3 January 1999, published on 10 January 1999).
3. Human tragedy in Kivu, DRC. The apocalyptic human rights situation between 1 January and 31 March 1999. (Quarterly report published on 15 May 1999).
4. The role of Burundi in the large-scale human rights violations in Kivu, DRC. (Report submitted by three of COJESKI's human rights militants following eight months living under cover in Burundi, published on 27 August 1999).
5. No to the Balkanization, the abandonment and the protectorate of the Democratic Republic of the Congo (2nd COJESKI memorandum sent to the United Nations Secretary-General in New York and published on 18 September 1999).

Compendium of information on the Rwandan genocide of 1994 and its impact on the DRC over the following five years (encoded documents made public on 27 October 1999). Compendium produced in close co-operation with the International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events (IPEP, OAU).

The present report relates solely to the occupied provinces of North Kivu, South Kivu, northern Katanga and Orientale province and hence covers the following main subject areas:

- infringements of the right to life and casual killing;
- arbitrary arrest, abduction and unlawful detention;
- cruel, inhuman and degrading treatment;
- widespread insecurity and police harassment;
- restrictions on freedom of expression;
- impunity and abuse of public office;
- incitement to tribal hatred;
- wilful destruction and extortion;



— murder and summary execution.

These problems clearly illustrate the tragic circumstances and the tyrannical conditions under which millions of Congolese inhabitants in the occupied provinces continue to pay the price of an unjust war. And all of this is happening under the complicitous gaze of the international community which is directly and implicitly responsible for the Balkanization and the current invasion of the DRC and all its present and future repercussions.

### **0.1. Overview of the humanitarian crisis in the occupied provinces of the DRC**

When finalizing the report of the CADDHOM (the Collective of Actions for Human Rights Development) published in August 1999, we observed that after one year of occupation and rebellion in Kivu the situation was catastrophic. Some 6,000 civilians had been massacred and/or murdered, more than 500 had disappeared, there were thousands of refugees and displaced persons, and hundreds of community leaders, human rights militants and priests had been forced into exile. Millions of dollars-worth of equipment and property had been looted or destroyed, thus condemning 10 million people to sickness, famine, destitution, and anguish, or, in short, death.

The international community (the United Nations, European Union and OAU) knows this. But it has made itself an accessory to the crimes against humanity being committed in Kivu through its allegiance to “Tutsiism” and centres of economic power which manipulate the truth so as to continue to be able to take advantage of the trafficking organized by the rebels and the occupying forces, thereby establishing a Mafia threatening peace throughout the Great Lakes region. It has tried tentatively to uphold respect for the Lusaka peace accords signed by the warring parties but has taken no practical action.

The result has been a hecatomb. Looting and stealing have destroyed the social and economic fabric and the environment, and mass murder, repression, summary executions and kidnapping have become the norm among the warlords who rule the DRC’s occupied provinces.

The administration of the population is based on terror, financial interests take precedence over the law and ethnic prejudice and major human rights violations have become the everyday lot of the people. Despite the advances of the occupiers and the rebels in the provinces of Kasai, Equateur and Katanga, they do not yet control the whole of Kivu; half the region remains in the hands of the Mai-Mai resistance and so Kivu is divided into two parts, each with its own leaders, laws and administration. Total confusion reigns.

On the social and economic front, most of the rural population now lives in the bush where they have fled to escape punishment from one side or the other. Having abandoned their villages and fields, they now have to contend with famine and illness and live like wild animals. Boys have all left school and enrolled in the rebel forces or the Mai-Mai resistance for their safety and survival. Girls are forced into prostitution from the age of 12 on. There are no more wages to be had. Shopkeepers are gradually becoming bankrupt. Bartering has become the norm and seasonal food shortages affect every corner of the occupied provinces. The people are now living in a situation of indescribable poverty.

Thus, the RCD’s war, instead of resolving social problems and the problems of ethnic coexistence, has widened the gap between the various ethnic groups more than ever, increasing the number of barriers and fostering suspicion, fear and hatred.

The fact that new flags were raised over Kivu on 30 June 1999, Congo-Kinshasa’s independence day, appeared to bear out the native population’s suspicions that Rwanda has expansionist aims in the Congo.

### **On the health front**

*The situation is terrible. There are practically no more medical or health centres and where they do exist, most have become no more than refuges for the dying in which pharmaceutical products are an unusual rarity. The population gets its supplies from travelling traders with no medical training who sell products which are often poorly preserved and come in unspecified doses carrying the risk of intoxication. Epidemiological monitoring services have ceased to exist. There has been an upsurge in certain illnesses including AIDS, cholera, bloody diarrhoea, meningitis, poliomyelitis, and all the other parasitic, endemic and malnutrition-related diseases. There are no more medicines for lepers and tuberculosis patients and some have had to interrupt their treatment for want of supplies. The only relief lies in traditional medicine and fetishism. The most vulnerable groups are the elderly, pregnant women, children and young people. The result is that the victims run into their thousands.*

### **On the political front**

The rebellion is unpopular. It has no support among the inhabitants of the occupied zones. It is riddled with internal strife. The security of people and their property, for which the rebels once claimed to be fighting have been forgotten. The rebels have no democratic values and no plans for the social and economic recovery of the occupied zones.

### **On the religious front**

Relations with the church, particularly the Roman Catholic church, can hardly be said to be set fair. Since the death of the Archbishop of Bukavu (DRC), Monsignor Christophe Munzinhirwa, SJ, on 29 October 1996, the list of clerics who have been killed has kept on growing. It includes 4 priests, 1 deacon, 3 nuns killed in Uvira, 3 others in Bukavu, 2 in Goma and 8 priests and 3 Rwandan nuns killed in Kalima (Kasongo/Maniema). 4 nuns have also been raped. Many churches have been desecrated and ransacked (including Kasika, Fizi, and Sange). Convents have been burgled and stripped of everything in the presence of their congregations. These incidents appear to herald a new persecution of the church. Many priests and ministers now live in exile or in hiding in their own country. Eastern DRC has become a powder-keg. It has become the battlefield of eight armies, a dozen militias and any number of secret armies. Human rights are suffering enormously on account of this. The social and economic fabric has been largely eaten away and moral and religious values tarnished. The people are at the mercy of the warring parties. And all of this is happening under the culpable eyes of the international community.

## **I. THE HUMAN RIGHTS SITUATION IN SOUTH KIVU PROVINCE**

### **I.1. Infringement of the DRC's sovereignty and integrity**

Negotiations were going well in Lusaka when, in Kivu, the RCD and Kigali hoisted new flags signalling the secession of the province. This was too much for the inhabitants to take. On 30 June 1999, under the auspices of COJESKI (the Collective of South Kivu Youth Organizations and Associations) a peaceful protest march was held in Bukavu ending with the destruction of all the flags by the crowd.

Kigali's actions are also a violation of the African Charter of Human and Peoples' Rights and even the UN Charter.

Without further ado, here is the entire text of the joint communiqué on the twinning and co-operation agreement between South Kivu province and the Prefecture of the city of Kigali which amounts to the annexation of South Kivu to Rwanda under another name.

### **I.1.1. Joint communiqué on the Twinning and co-operation agreement between South Kivu Province and the prefecture of the city of Kigali**

At the invitation of the administration of the Prefecture of the city of Kigali, represented by the prefect, Mr. Marc Kabandana, a delegation from South Kivu Province led by his excellency, Norbert Bazengezi Katintima, the governor of the province, conducted a working visit to Kigali from 21 to 24 August 1999.

The visit was in connection with the twinning and co-operation agreement between the two administrative bodies.

The meetings were held at the Hotel Windsor Umubano, opened by his excellency, Désiré Nyandwi, the Minister for Local Government Affairs of the Rwandan National Union government, and attended by Mrs. Constance Mukayuhi Rwaka, Secretary General of the Ministry of Foreign Affairs and Regional Co-operation.

The meeting was also attended by representatives of various administrative, social and economic institutions.

Over the four working days the participants discussed the following six key areas of activity:

- Economy, trade and industry;
- Transport and communication;
- Social and cultural matters;
- Agriculture, stock-breeding, fishing, tourism and the environment;
- Town planning and housing;
- Politics and security.

The opening ceremony was followed by a plenary session during which a working method was adopted.

Participants divided up the work according to their areas of expertise and appointed the various committees.

The following recommendations emerged from the work of the committees.

#### **1. In the area of the economy, trade and industry**

The two parties undertake to:

- simplify customs formalities;
- promote training and exchange;
- co-operate in the investigative activities of our customs authorities;
- exchange all necessary information to combat fraud, which only benefits individuals;
- harmonize customs rules;

- hold training seminars and colloquies to improve customs techniques;
- hold regular meetings between the customs authorities and the economic agents of the two entities;
- facilitate regular meetings between the customs authorities and economic agents of the two entities;
- support private or semi-public property companies carrying out development or construction projects.

#### **6. In the area of politics and security**

- provide the people with a general and political education;
- support the principle of regional co-operation;
- establish a standing joint security committee;
- foster good governance and take thorough measures against impunity;
- see to it that this twinning arrangement acts as a bridge between the two states;
- combat the mutual feeling of mistrust and suspicion by promoting joint training in the areas of policing, security, political management and the retraining of soldiers;
- hold seminars for administrative officials from South Kivu province and the Prefecture of the City of Kigali.

Done in Kigali on 24 August 1999

#### **I.1.2. Twinning and co-operation agreement between South Kivu Province and the Prefecture of the City of Kigali**

The Province of South Kivu, represented by its GOVERNOR;

*And:*

The Prefecture of the city of Kigali, represented by its PREFECT;

- Having regard to the historical links between the two peoples;
- Having regard to the proximity of the Province of South Kivu to the Rwandan Republic;
- Considering the need for complementarity between the two administrative entities;
- In view of the need for economic, social and cultural development;
- Wishing to preserve lasting security by means of sound policies;
- Bearing in mind the phenomena of sub-regional interdependence;
- Considering the freely expressed wishes of both parties;

HAVE AGREED TO THE FOLLOWING:

**Article 1**

The Province of South Kivu and the Prefecture of the City of Kigali undertake to co-operate and facilitate direct meetings between their inhabitants to exchange views on the following matters:

1. The economy, trade and industry;
2. Transport and communication;
3. Social and cultural affairs;
4. Agriculture, stock-breeding, fishing, the environment and tourism;
5. Town planning and housing;
6. Politics and security.

**1. The economy, trade and industry**

- Revitalize industrial activities as far as we are able;
- Simplify customs procedures;
- Introduce a concerted policy to combat fraud;
- Increase co-operation between our two Chambers of Commerce;
- Breathe new life into the services sector.

**2. Transport and communication**

- Pool experiences;
- Encourage investment by the public and/or private sectors;
- Promote new communication technologies;
- Facilitate the use of existing infrastructure.

**3. Social and cultural affairs**

- Pool information and share experiences;
- Foster the emergence of a spirit of peace, unity and reconciliation;
- Facilitate exchanges in the area of training, education and research;
- Collaborate in the area of preventive and curative health;



- Support the promotion, organization and dissemination of cultural and sporting activities;
- Foster the emergence of a responsible free press.

#### **Article 4**

This twinning and co-operation arrangement shall last for an unspecified period.

IN WITNESS WHEREOF, the duly authorized representatives have signed the present agreement.

There shall be two original copies of this agreement.

Done in Kigali on 24 August 1999.

#### **FOR THE PROVINCE OF SOUTH**

**KIVU**

**Norbert Basengezi Katintima**

**GOVERNOR**

#### **FOR THE PREFECTURE OF THE**

**CITY OF KIGALI**

**Marc Kabandana**

**PREFECT**

#### **I.1.3. Membership and report of the committee on town planning and housing**

The committee had 7 members:

- |                               |           |              |
|-------------------------------|-----------|--------------|
| 1. Thadée Mutware             | Chair     | (Rwanda)     |
| 2. Ms Louise Mujijima         | Secretary | (Rwanda)     |
| 3. Mushengezi Nyamuhama       |           | (South Kivu) |
| 4. Jean-Pierre Babulimo Banga |           | (South Kivu) |
| 5. Butera Bazimya             |           | (Rwanda)     |
| 6. Léonard Sesonga            |           | (Rwanda)     |
| 7. André Ijambao Sema         |           |              |
| 8. Callixte Kanamugire        |           | (Rwanda)     |

In the context of the twinning arrangement the question of town planning was addressed from the three following angles:

1. The importance of town planning as a whole;
2. The current town-planning situation in Bukavu and Kigali;
3. Recommendations.

## **1. The importance of town planning as a whole;**

To ensure that the discussions started with everyone talking the same language, the committee began by defining town planning, which it described as a science, an art and a series of techniques which result in the appropriate management of the urban environment.

Town planning can be divided into three main projects:

- (i) devising land-use plans;
- (ii) development and implementation;
- (iii) management of available spaces.

## **2. The current town-planning situation in Bukavu and Kigali**

### *(a) Bukavu*

Town-planning in Bukavu can be divided into three periods:

- The colonial period: Everything was planned, there were town-planning documents and urban management as a whole was good; in other words town-planning legislation was respected.
- The period of the Mobutu regime: Initially, good management practices continued. However in around 1975 anarchy began to set in, legislation relating to land use was no longer respected, government officials were no longer paid and the situation affected town-planning as well. For their own survival, town-planning officials began to hand out unallotted plots of land in exchange for commissions. A flight from the countryside gave rise to unplanned neighbourhoods in Bukavu.
- The present time: Between the war of 1996 and the present, the new authorities have merely been dealing with the consequences of the situation described above. To date, there have not been enough funds available to be able to remedy the urban planning mistakes of previous regimes.

### *(b) Kigali*

Generally speaking, the town-planning situation in Kigali is practically the same as that in Bukavu (unplanned neighbourhoods, non-existent or inadequate social amenities such as roads, drinking water, electricity, drainage, etc.).

## **3. Recommendations**

- A national housing policy should be devised and implemented;
- Documentation centres should be set up enabling documentary information to be exchanged;
- An exchange programme should be established by means of:
  - training visits by municipal experts;
  - exchanges in the field of academic education;

- exchanges of experts in the context of bilateral co-operation (land management and planning).
- The property market should be opened up to investors and businessmen;
- Spaces should be set aside for monuments and green spaces intended to improve relations between the two regions and works to be created symbolizing their history.

#### **I.1.4. Report of the committee on transport and communication**

The committee had five members:

1. Morisho Selemani	Chair of the Committee	(South Kivu)
2. Innocent Rwagasore	Secretary of the Committee	(Rwanda)
3. Mulonda Wilolwa	Member	(South Kivu)
4. Jean-Pierre Kayihura	Member	(Rwanda)
5. Maussen Irankunda	Member	(Rwanda)

The problems in this sector are linked to basic infrastructure and use.

### **I. Transport**

#### **(a) Land transport**

##### **Infrastructure**

The parties agree that there is a road between Kigali and Bukavu and that it is in good condition. There is also a national road from Kigali to Uvira (via the Ngomo escarpment) which is a dirt road but well maintained. Uvira can also be reached via Bugarama and Kamaniola.

South Kivu is in the process of repairing its regional roads and this will make it possible, in the framework of this twinning agreement, to link Kigali to the interior of South Kivu province. The two parties recommend harmonizing road building standards in respect of axle loads as well as exchanges between experts on the subject of repairs to infrastructure.

##### **Use**

The two parties noted that the road is used in one direction only and to a much greater extent in Rwanda (by private and public transport).

Unfortunately, transport usually stops in Cyangungu. As part of the twinning arrangement the parties hope that Rwandan routes will extend as far as South Kivu and that South Kivu will make similar efforts as far as Kigali. Regular meetings should be held between public and private road users' associations from Kigali and South Kivu.

**(b) Air transport**

**Infrastructure**

The committee noted that the airport facilities in Kigali comply with international standards. Kavumu airport in South Kivu is suitable for large aircraft but unfortunately it has no runway lights and practically no communications facilities. There are also airfields in each of South Kivu's territories which are accessible to light aircraft.

*[Translator's note: page missing]*

**1. Causes of insecurity**

The committee pinpointed the following major causes of insecurity:

- (a) Ignorance
- (b) Poverty
- (c) Injustice
- (d) Imperialism
- (e) Lack of unity, co-operation and regional disintegration
- (f) Bad governance and corruption

**2. Recommendations**

The committee made the following recommendations:

- (a) Provide people with a general and political education;
- (b) Encourage the principle of regional co-operation;
- (c) Set up a standing joint security committee;
- (d) Foster good governance and take thorough measures against impunity;
- (e) See to it that this twinning arrangement acts as a link between the two states;
- (f) Combat the mutual feeling of mistrust and suspicion by promoting joint training in the areas of policing, security, political management and the retraining of soldiers;
- (g) Hold seminars for administrative officials from South Kivu province and the Prefecture of the City of Kigali;
- (h) The people of South Kivu province and the city of Kigali call for the Lusaka cease-fire accords to be signed and call on the international community to remove all the obstacles to the signing of these accords.

### **I.1.6. Committee on agriculture, stock-breeding, environment and tourism**

The committee had 10 members:

1. Isidore Gasarasi	Chair of the Committee	(Rwanda)
2. Dr. Asumani	Secretary of the Committee	(South Kivu)
3. Prof. Bitijula	Member	(South Kivu)
4. Dr. Octavien Ndakengerwa	Member	(Rwanda)
5. Anne-Marie Kantengwa	Member	(Rwanda)
6. Prosper Mary	Member	(Rwanda)
7. Augustin Muvunyi	Member	(Rwanda)
8. Eulalie Umutanguha	Member	(Rwanda)
9. Manzi Gatera	Member	(Rwanda)
10. Gervais Dusabemungu	Member	(Rwanda)

### **I. Tourism**

#### **(a) List of existing resources**

##### **City of Kigali**

- Intore dancing
- Hotels
- Airstrips
- Local breed of Ankore cattle (Nyambo)
- National Parks including Akagera and the Volcanoes Park
- Nyungwe Forest
- Works of art
- Others

##### **South Kivu**

- Kahuzi-Biega National Park
- Hotels
- Itombwe Forest Reserves — many animal and plant species
- Lake Kivu and its islands and islets
- Works of art



— Spas

**(b) Recommendations**

- Open zoological gardens and recreation parks and exchange attractions
- Create museums making use of tourist heritage
- Publish a pamphlet promoting specific sites
- Launch a joint project to establish a tourism and hotel management college or training centre.

**II. Environment**

- Exchange experiences in the conservation of protected animal or plant species
- Apply the same environmental management rules
- Devise joint strategies to combat disasters
- Devise joint strategies to manage waste water and solid waste disposal systems
- Exchange experiences with a view to setting up green spaces and amusement parks
- Pursue a joint nature conservation policy.

**(c) Agriculture and stock-breeding**

- Introduce a joint policy on the taxation of items entering into the production of agricultural goods
- Pool results and experiences in the area of agricultural and zootechnic research
- Share appropriate agricultural and zootechnic technologies including improved seeds, food processing techniques, and mushroom production
- Pool knowledge in the area of livestock farming in stables
- Set up a free trade zone for agricultural and pastoral products
- Make it easier to acquire improved and adapted genetic stocks
- Facilitate the sale of animal products, particularly meat and milk
- Devise a joint strategy to combat animal and plant diseases
- Set up a permanent office for the exchange of information on agriculture and livestock breeding
- Set up a data base on traditional cures for the region's animal and plant diseases and their administration and dosage

- Pool experience in the processing and preservation of farm products (milk, sweet potatoes, etc.)
- Adopt policies to integrate approaches to crop farming and livestock farming

**(d) Fishing**

- Adopt joint policies for the conservation of fish species
- Facilitate access to the fish stocks in Lake Kivu and Lake Tanganyika
- Pool experiences of family-run fish farms.

**Conclusion**

In the areas that concern us, particularly agriculture, stock-breeding, the environment and tourism, this twinning arrangement can resolve many of the problems which lie at the root of our poverty.

The city of Kigali and South Kivu are confronted with the same day-to-day problems and so joint solutions are a perfect means of promoting social, economic and political development.

**I.1.7. Report of the workshop activities of the committee on the economy, trade and industry**

The committee was made up of the following members:

- |                           |              |
|---------------------------|--------------|
| 1. Chihubagala Chinja     | (South Kivu) |
| 2. Milabyo Mughima Basila | (South Kivu) |
| 3. Simon Buabua           | (South Kivu) |
| 4. Maurice Kaongo         | (South Kivu) |
| 5. Shungu Musolo          | (South Kivu) |
| 6. Simon Sebitereko       | (Rwanda)     |
| 7. Antoine Munyakazi Juru | (Rwanda)     |
| 8. Alphonse Rugiramumaro  | (Rwanda)     |
| 9. Egide Gakuba Rubojo    | (Rwanda)     |
| 10. Alexis Kadeli         | (Rwanda)     |
| 11. Irennee Bubingo       | (South Kivu) |

**1. Membership of the Bureau**

After some discussion, debate and deliberation, the Bureau was appointed as follows:

- |                  |                        |              |
|------------------|------------------------|--------------|
| 1. Chair         | Antoine Munyakazi Juru | (Rwanda)     |
| 2. 1st Secretary | Milabyo Mughima Basila | (South Kivu) |
| 3. 2nd Secretary | Simon Buabua Ndaye     | (South Kivu) |

## **2. The work itself**

The committee examined the draft co-operation agreement between the Chamber of Commerce and Industry of Rwanda and the Congolese Business Federation signed in Kinshasa on 12 August 1997 with the aim of increasing and extending economic and commercial co-operation links between Rwanda and Congo.

Having examined this document, the committee proposed that it should serve as the legal basis to promote economic and commercial co-operation between the province of South Kivu and the Prefecture of the City of Kigali.

The committee also took note of a document drawn up by the Rwandan participants relating to the strengthening of economic and commercial links between the east of the Democratic Republic of the Congo and Rwanda. Following some discussion, the committee acknowledged the relevance of some of the proposals made in this document and suggested that it should serve as a guide for future activities relating to the economy and commerce.

After this the committee went on to deal with some urgent matters:

### **1. With regard to the two Chambers of Commerce**

- The Rwandan participants undertook to simplify the formalities for lorries transporting goods to South Kivu.
- Regarding the ban on lorries transporting salted fish to South Kivu from passing through Rwanda, the Rwandan participants drew attention to the fact that it was temporarily prohibited to import fish into Rwanda because of the poisoning of Lake Victoria and that steps were being taken to find a solution to this problem.
- The two sides agreed that Rwandan economic agents wishing to set up business in South Kivu must scrupulously abide by the economic legislation of the Democratic Republic of the Congo.
- The two sides should co-operate to provide training for bank clerks in South Kivu and support the revitalization of the banking sector. The Rwandan Chamber of Commerce and Industry would alert the City of Kigali's economic agents to this need.
- The two Chambers of Commerce agreed to exchange every necessary piece of information to combat fraud, which could only be of any benefit to individuals.

### **2. With regard to the Congolese Customs and Excise Office (OFIDA) and the Rwanda Revenue Authority (RRA)**

The committee suggested:

- (a) harmonizing South Kivu and Kigali's customs rules;
- (b) sharing experiences by organizing training seminars and colloquies with a view to improving customs techniques;
- (c) promoting co-operation between the investigative services of each body's customs authorities with a view to stamping out fraud;

- (d) organizing regular meetings between the customs authorities and the economic agents of the two entities;
- (e) simplifying administrative procedures at the customs posts on the border between Rwanda and South Kivu.

### **3. In the energy field**

The committee proposed:

- providing the population with increasingly improved access to electricity;
- signing an agreement between Electrogaz and SNEL to install electricity in Kamanyola;
- sharing energy-related expertise, equipment and materials;
- co-operating in arranging exchanges of water treatment equipment owned by traditional entities;
- rehabilitating energy-related research (methane gas at Lake Kivu, turf, ethanol, bio-gas, etc.).

### **Conclusion**

The committee proposed that a follow-up committee on economic, commercial and financial affairs be set up and meet at least once a month. It was suggested that the next meeting should be held the following month in Bukavu.

The committee members welcomed the spirit of fraternity and mutual understanding which had prevailed throughout their work and were convinced that this spirit would contribute a great deal to promoting trade between South Kivu and Kigali.

#### **I.1.8. Social and cultural workshop**

The committee was made up of the following 15 members:

1. Mwenyemali Kasilembo (South Kivu)
2. Maman Tshisekedi (South Kivu)
3. Mulindwa Itongwa (South Kivu)
4. Balthazar Muhigirwa (South Kivu)
5. Joseph Mbonekuba (South Kivu)
6. Aloys Mwitende (South Kivu)
7. Vianney Makuza (Rwanda)
8. Rwigamba Barinda (Rwanda)
9. Jean Butoto (Rwanda)
10. Anastasie Nyirabukeye (Rwanda)
11. Marie-Rose Nirere (Rwanda)

12. Gérard Rutali (Rwanda)
13. Mary Ashimwe (Rwanda)
14. Constance Rwaka (Rwanda)

### **Membership of the Bureau**

1. Prof. Rwigamba Barinda Chair (Rwanda)
2. Mwenyemali Kalisembo Vice-Chair (South Kivu)
3. Balthazar Muhigirwa Secretary for South Kivu (South Kivu)
4. Anastasie Nyirabukeye Secretary for Kigali (Rwanda)

### **Working methods adopted:**

The committee dealt with the following series of topics drawn from the 2 core documents:

1. Education
2. Health
3. Women and families
4. Youth
5. Vulnerable groups
6. Sport and leisure
7. Culture, information and the press

Recommendations adopted in each area were as follows:

#### **1. Education**

Bearing in mind the present situation, the committee recommended:

- that teachers should be recruited through a twinning arrangement supervised by a monitoring body specially set up for the purpose;
- that the sum of teachers' social contributions should be paid into their accounts after they leave, die, etc.;
- in the area of higher education, universities and scientific research, the committee would like to see:
  - exchanges of teachers and research workers;
  - sharing of the results of research;
  - exchanges between various higher education establishments;
  - exchanges of students in training or work placements;



- proposals to send students from Kigali to the ISDR (the Higher Institute of Rural Development) in Bukavu.
- an important recommendation was made concerning children who had recently finished humanities classes in South Kivu but whose examination answers could not be corrected because of the war.

The committee recommended that everything be done to ensure that the 1998 and 1999 state examinations could be corrected, for example by turning to UNESCO.

## **2. Health**

- Exchanges of medical staff
- Transfer of the sick under the SUREMED arrangement
- Training 3rd year medical students to specialize in surgery, paediatrics, gynaecology and internal medicine in Kigali
- Sharing information on strategies to combat AIDS, other sexually-transmitted diseases, malaria and other illnesses.

## **3. Women and families**

Following a description of the problems of South Kivu's mothers by a member of the committee, the following recommendations were made:

- The women of South Kivu should establish contact with Rwandan women's associations, particularly the collective *Pro-femme twese Hmwe*, to benefit from their experiences.
- Exchanges should be organized.

## **4. Youth**

[Translator's note: page missing]

### **I.2 Infringements of the right to life and casual killings**

- **On 16 April 1999 at Mpene Kusu**, Moire and Salome's throats were cut by the Mai-Mai militia for collaborating with the RCD.
- **On 22 April 1999 at Nyalukungu/Shabunda**, Mai-Mais executed Mrs. Bitondo, Kisama, Kabusango and Nsinga (all of whose throats were cut) while Kisambale was burnt alive for witchcraft.
- **On 25 April 1999 in Mwamba**, Mr. Mungalama and the Reverend Kabusuku's throats were cut.
- **In May 1999 in Kitutu**, Mai-Mais cut the throats of Ms Ngozi (for witchcraft), the local traditional chiefs, Muganza Musali, Banamukika, Ombeni Kisegenyo and Mr. Wabenga, and Mrs. Kamwanga for slovenliness and refusing to fight the RCD.
- **On 5 May 1999 in Shabunda-Mpenekusu**, RCD members cut Mr. Mathias Kingambwa's genitals off then executed him for conspiring with the Mai-Mai.

- **On 10 May 1999 in Kazombo**, 3 people were murdered by the RCD.
- **On 12 and 17 May 1999 in Binkutu, Lusenge and Nyalukungu**, 12 people, including two men called Bernard and Baudouin, were murdered by the RCD for collusion with the Mai-Mai.
- **On 25 May 1999 in Kingulube**, Dalida Mukuzu was murdered for collaborating with the Mai-Mai.
- **On 31 May 1999**, 100 people living in the area between Kingulube and Shabunda-Centre were massacred by RCD forces.
- **On 15-16 May 1999 in Uvira**, Tutsi soldiers from the RCD murdered 12 people, including Ndaye Risasi, aged 25, and Kalenga Ebochwa, as punishment for the death of a Tutsi soldier at Kilimabenge.
- **20 June 1999** saw the murder of a man identified only as a messenger from Uvira bishopric.
- **On 24 June 1999 in Rubanga** (Ruzizi Plain), RCD Commander, Jaguar Kamonyo carried out executions using the “necklace” method; he also burnt alive two former members of the FAC, Déogratias Bwima (aged 39) and Jojo Fataki.
- **On 30 June 1999 in Bukavu**, Mushagalusa was arrested by RCD soldiers for taking part in the peaceful demonstration against the raising of new flags over the town. He was deported to Rwanda and there has been no news of him since.
- **On 31 May to 6 June**, after an armed clash between the Mai-Mai and RCD forces, the latter burnt down 18 villages in Shabunda territory including Mpenekusu, Mwamba, Kiloza, Wasezia, Mikaba, Lugezi, Nyalukungu, Idemba, Kyanama, Penekasingi, Mizombo, Tangila, Kizinga, Kipombo, Lukamba, Kibanda, Idumbo, and Mucingini.

Under the same heading of casual killing we should mention the report of the conference of South Kivu’s *chefs coutumiers* (traditional chiefs) held at Bukavu sports centre from 4 to 9 October 1999 which described the following dismal situation:

- approx. 240 people killed in Kasika, Mwenga.
- approx. 60 people killed on the Ruzizi Plain in Uvira Territory.
- approx. 72 people killed in Burhinyi, Mwenga.
- approx. 136 people killed in Kitutu, Mwenga.
- approx. 40 people killed in Luhwinja, Mwenga.
- approx. 134 people killed in Kaziba, Walungu.
- approx. 40 people killed in Nyalukungu, Wakabungu.

This incomplete list which was read out in the presence of the rebel governor of South Kivu provides plentiful evidence of the level of violations of the right to life in South Kivu.

### I.3. Arbitrary arrest, abductions and unlawful detention

- **4 April 1999**, Bagira: abduction of the Reverend Paul Bashombana Cihirwa on suspicion of being an Interahamwe. In fact he is simply a Hutu living in the Congo. There has been no word of him since.
- **On the night of 4 to 5 April 1999**: looting by RCD forces in the villages of Mabingu and Kabushwa in Kabare/Bukavu territory.
- **5 April 1999**: A team of 27 soldiers under the command of Didier Mulikuya invaded Funu (Garanua) at around 7 p.m. The soldiers arrested all the young boys, women, men and children that they came across and robbed those who had anything worth taking. They claimed to be aiming to break up a small group of Mai-Mai who were learning how to use firearms. Ironically, not a single firearm was found in the locality; the innocent people who had been arrested were released only after they had given the commander money.
- **7 April 1999**, Funu: At around 7.15 p.m. soldiers stole Mr. Jean-Jacques Sainzonga's watch, identity papers and belt.
- **10 April 1999**: Mr. Théophile Sainzonga was standing in front of his own house when soldiers robbed him of his watch, 10 US dollars and his shoes.
- **Also in April 1999**: The owner of *Lumière*, a shop in the shopping centre in Cimpunda ONL (housing project) was shot three times in the leg after soldiers had ransacked his shop.
- **On 5 April 1999**: The wife of the late Tabaro Sandoka living in Cimpunda was threatened by three soldiers who stole a packet of cigarettes from her and promised her that she would "follow" her husband in a few days' time simply because she had refused to be swayed by these collaborators' threats. The case has been referred to the military and civilian authorities in Kadutu but no-one dares to trouble these three youths from Cimpunda ONL for their activities as collaborators. Mr. Tabaro Sandoka was killed by six Tutsi soldiers on his way from the Cimpunda shopping centre where he was selling cigarettes. His murderers stole US\$100, NZ 1,600,000 and 10 packs of cigarettes from him.
- **In early April** the chief of the district of Nyamugo, Mr. Kibikibi Walumona, died as a result of tortures inflicted on him by the soldiers of Commander Chuma (a former Mai-Mai now working for the aggressors).
- **Also in April 1999**, Father Emmanuel Musoda, the Cimpunda parish priest, was threatened repeatedly by soldiers from a nearby military camp supervised by Commander Justin Nardin Lubala. He was accused of making political speeches in church.
- **In late April 1999**, the family of a Congolese citizen Mr. Tebura, living on Buhende Avenue in Cimpunda was visited once again by Rwandan soldiers. They were looking for one of Mr. Tebura's sons, whose nickname is *le Pasteur* (the minister) and had lived for some years in Rwanda, but was separated from his wife. Since the events of 1994 he has frequently been troubled by Tutsi soldiers under the command of his wife's partners. His wife is concerned that he will claim back the property he left behind in Rwanda. The Rwandans are now accusing *le Pasteur* of being an Interahamwe so that they can kill him immediately if they happen to catch him.
- **In the same month** the Ciriri parish priest, Father Prothée, was escorted away by soldiers like a common thief along with ten or so members of his congregation. The grounds for the arrest was the list of names of victims of military harassment which had been drawn up by members of the congregation along with details of objects that had been seized. They were released after

being tortured in response to pressure from the congregation, other priests, and, above all, the archbishop.

- **In late April and early May 1999**, the chief of Nkafu district in the municipality of Kadutu, Mr. Patient Bagalwa, was arrested four times in the space of a month-and-a-half by Commander Jean-Marie (a Rwandan national) then by the head of the judge advocate's department, Inspector Kandudie.
- On each occasion he was subjected to inhuman and degrading treatment in front of his family and congregation. Soldiers working with Mr. Tembetembe, a neighbourhood chief in his district, accuse him of being in secret contact with the Mai-Mai.
- **On 9 May 1999**, Mr. Jagen (Mr. Karashima's grandson), an accountant employed by Ibanda municipality, was tied up by deserters at around 5.30 a.m. He was released some 100 metres from his home having handed over a sum of NZ 1,500,000 (about US\$150). Five days later a search for him was being organized by Commander Chris from the intelligence service based at the Brigade.
- **On 14 June 1999**, Commander Justin Nardin Lubala's replacement at TV Camp, Commander Adolphe Bila, organized a round-up in Cimpunda and Nyakaliba . His soldiers arrested a large number of children, young people and adults. The people were accused of throwing stones at soldiers.
- **On 15 June 1999**, the chief of Mosala district, Mr. Pascal Mazinge, avoided a number of RCD traps. Later he was suspended from office by the mayor of Kadutu at the instigation of the RCD leadership for having disturbed a meeting between the military authorities and the traditional leaders of Kadutu. He was accused of making no effort to adhere to the RCD's ideas. When he attempted to hand in his resignation, he was threatened by the security forces.
- **On 25 June 1999** saw the arbitrary arrest and unlawful detention of Mr. Djuma Emedi and Mr. Idi Abedi for submitting a request to Commander Machumu for their bus to be returned. They were accused of conspiring with the Mai-Mai.
- **3 July 1999** saw an attempted robbery by RCD rebels at the convent of the missionary nuns of Africa housed in the Wima upper secondary school in Bukavu. The nuns were saved by civilians who ran to their rescue. Mr. Butonyi was shot dead by a fleeing RCD soldier.
- **On 22 September 1999**, the RCD authorities in Goma arrested Mr. Patient Bagenda Balagizi, Secretary General of the NGO, the South Kivu Anti-Bakwi Committee, as he was passing through Goma on his way to Entebbe in Uganda. He was released only at 6 p.m. after a rigorous interrogation in which he had to answer for all the visas for journeys he had made since the beginning of the year, his business and leisure activities, his acquaintances in Kinshasa, his membership of the South Kivu Civil Society and his supposed intention to travel to Kinshasa. He was also questioned about certain contacts the Goma authorities claimed he had had with the chargé d'affaires at the Congolese Embassy in Nairobi.
- He also had to report to the Directorate General of Internal Security at the building known as the *Chien méchant* (the vicious dog) for two days running from around 10 a.m. to 3 p.m.
- It was not until late on Friday 24 September 1999 that the Deputy Director General, Mr. Justin Kozanga, allowed him to return to Bukavu without his passport and identity papers and with a promise that the investigation into his activities would continue. In the meantime, he must manage without his identity papers and his passport until the "investigation" is over. Let us pray to God that he will get them back one day.

#### **I.4. General insecurity**

Kivu is still divided between areas under Mai-Mai and RCD influence. This creates barriers between the two sides which it is practically impossible for ordinary citizens to cross without being harassed in various ways. As a result most people have opted to stay put in the cities or the countryside and hardly move around anymore at all.

The Mai-Mai will not let any traffic through at all on the roads to Bukavu, Uvira and Goma in an attempt to asphyxiate the rebel and occupation forces in the towns and cities.

On the Bukavu-Kamituga-Shabunda-Kindu road, all traffic is blocked between the villages of Tubimbi and Mungombe. This means that the people (including the RCD rebels) are forced to use an aircraft provided by Mrs. Aziz Khursum (the director of the Uzabuco tobacco factory in Bukavu who has been running a gold-trading office in Kamituga since February 1999. She was also involved in arms trafficking for the Burundian rebels of the CNDD between 1994 and 1996). The situation is also making it difficult to get supplies of food, medicine and other essential products into the town of Kamituga and the rural area around Mwenga and Shabunda.

On other roads in Kivu (Bukavu-Goma-Butembo and Bukavu-Uvira-Fizi) traffic is thin but it does exist. However, there is practically always some danger in using these roads, because the various warring factions (RCD, Mai-Mai, former Rwandan armed forces) have set up police road blocks and carry out sporadic raids on lorries transporting goods. The following are some examples:

- **On 13 July 1999** a group of former Rwandan soldiers, Interahamwe and their Mai-Mai allies attacked and robbed six goods lorries on the Ngomo escarpment taking away booty valued at over US\$20,000.
- **On 4 July 1999**, at Cigogo, between Nyagezi and Mumosho (on the Bukavu-Uvira road) they robbed another 3 vehicles including one belonging to Catholic nuns.
- A customs post has been set up on the Bukavu-Butembo road to collect duties on goods arriving from the Congolese town of Butembo. Since July 1999 a container of Dubai wax has been subject to a duty of US\$21,000 here whereas the equivalent cost only US\$2,100 in June. The lower rate still applies in the areas of Kivu under the control of the RCD, Rwanda, Burundi and Uganda.

##### **I.4.1. The army and the police of the DRC under Rwandan, Burundian and Ugandan occupation**

###### **(a) The army**

The army is an instrument of terror under the orders of the Rwandan aggressors in the territories under their control. Every three months, the soldiers are switched from one location to another. Before they leave, they cause a great deal of human suffering and material damage, particularly those based in Ciriri and the TV camp in the municipality of Kadutu, who are used to this kind of operation. Because they do not get their pay, they survive by scheming and fleecing the inhabitants with the tacit agreement of their military superiors.

To harass civilians, the soldiers organize patrols from 5 p.m. onwards, dividing up into small groups or teams of 3 to 5. They spread out in the streets and wait in dark corners. Passers-by returning from the market or from work are robbed of their belongings and if they resist, they are beaten, tied up and accused of being a Mai-Mai when they are brought before the authorities.



Mothers returning from market are robbed of the food they are bringing home for their families along with their money and gold chains if they have any. If they have nothing on them that can be stolen, the soldiers may go so far as to strip them and rape them.

Many of the men in the region no longer have their watches or their identity papers. Soldiers steal them and sell them to third parties for a derisory sum. Most of the identity papers are passed on to Rwandan citizens.

Harassment by soldiers takes place chiefly between 6 p.m. and 9 a.m. at the following well known locations:

- Ruvumba Hill (near Lupulu bridge);
- Cimpunda girls' school;
- Burhende road (Nyamulagira);
- the ONL centre, Cimpunda;
- Funu playing field;
- Mahamba Hill;
- Kadutu cross-roads;
- A bend in the road by the Kadutu recreation centre;
- Kibonge Square;
- Kadutu market;
- On Industrial Avenue in front of the offices of the PIR (Rapid Intervention Police) and the police courts (TP);
- In front of the Cheche social club;
- The section of road between the Wima upper secondary school and the Economat;
- The junction of the Kadhuru road and the roads leading to Wima School and the ISTM;
- Kadutu girls' school.

**(b) The police**

Officers of the PNC (the Congolese National Police Force) working in South Kivu province generally have a higher standing with the people. We appreciate their presence in our day-to-day lives, particularly during round-ups. On the other hand, most senior police officers bow to the authority of the aggressors to save their jobs and, if they wish to be promoted, they have to act as slaves following their orders unquestioningly.

It is for this reason that some officers are obliged to punish anyone who does not adopt the RCD's ideas.

Many police captains have been illegally suspended or even thrown in jail because they have refused to obey their superiors' unpopular orders.

Among the PNC officers in South Kivu who have undergone degrading treatment as a result of actions which are claimed to undermine RCD policy are officers Lwabanji and Ngongo from the police camp and inspector Saidi.

**(b1) The PIR (Rapid Intervention Police)**

The PIR operates under the aggressors' orders. The PIR office is based on Industrial Avenue in the old town hall. Many of its officers are *inciviques* (collaborators) from the Civil Guard or the SARM, the Second Republic's "Service for Military Action and Intelligence" and/or criminals and delinquents taken from problem neighbourhoods. They have no education or morals and so they think they can do anything and get away with it. The Kasali and Nkafu inhabitants of Nyamugo are ill-at-ease in the presence of these RCD murderers. They say: "This is a rebellion in which no holds are barred; we live in the jungle and those who feel strong bully the weak".

In their enthusiasm to fleece the public, soldiers and PIR officers will take up any case they come across whether it is true or false. They have also become judges and converted their offices into a court room in which they hear criminal and civil cases. People are known to have been detained for two or three weeks without a trial. Public prosecutors do not have access to military lockups and cannot enquire about a case which is being looked into by a criminal investigator working for the military.

Before being released, prisoners have to pay fines ranging between US\$15 and US\$150 depending on their case and their social status. It is common for PIR officers to burst into a bar and arrest the owner and all the customers on the pretext that they are holding a "Mai-Mai meeting". Once the customers have been arrested they are robbed of all their belongings. When arresting people, the PIR frequently claim that they are suspected of being Mai-Mai.

In response to all this harassment from the police and the army and on the initiative of some young members of the Cimpunda youth federation, a forum was established in April 1999 bringing together some of Kadutu's associations. It has been named the Kadutu Youth Forum and not only is it a platform for the development of the community but also and above all it carries out lobbying campaigns.

In retaliation to the barbarian acts committed by patrolling soldiers some youths started to conduct night-time and day-time operations against these collaborators; they even managed to face up to their tormentors. These operations prompted the military authorities to arrest many young people in the course of a round-up on 14 June 1999. These arrests will not be appreciated by the population. Secret meetings have been held to devise plans to rescue prisoners held in TV Camp and enable the population of the municipality of Kadutu to move around freely during the day and the night.

Faced with the mounting tension in Cimpunda, the military authorities of the Brigade panicked and organized a meeting with the people of Cimpunda Hill from which it barred access to all Tutsis. The meeting ended in a stalemate.

## **I.5. Restrictions on freedom of expression and denial of the right to information**

### **I.5.1. Radio Maendeleo, Bukavu**

Radio Maendeleo, which is called a “radio of the people” or a “community radio”, is run by South Kivu development NGOs. Among the highly reputable journalists who work for the station are Kizito Mushizi Nfundiko (director), Paulin Bapolisi (former chief adviser to the late Professor Jean-Charles Magabe), bombardier Kamengele Omba, Jules Bahati (the “golden tongue”) and Aziza Bangwene.

This radio station is a vital means of expression for all of South Kivu’s social classes. It is the most popular radio station in the area, primarily because of its objective news coverage. Unfortunately, it has a bad reputation among the enemies of peace because of its radio news bulletins and other programmes such as Jules Bahati’s mouthpiece for youth issues, the *Micro des jeunes*, Father Jean Bosco Bahala’s Catholic programme, the Lufaheri sketch, Kamengele Omba’s Sunday programme on which he invites leading members of the community to enlighten the public about the week’s events or controversial issues, and finally the programmes produced by various human rights associations.

Because of these programmes which undermine the RCD’s policies, the authorities have repeatedly threatened to close Radio Maendeleo down. The Governor of South Kivu, Norbert Bashengezi Katintima and his so-called minister of the interior, Joseph Mudimbi, have repeatedly threatened Radio Maendeleo’s journalists in press releases. In early July the authorities appointed Mr. Jérémie, a former BBC journalist, as a supervisor, responsible for listening to everything broadcast on the radio station and reporting back to the RCD. The station’s equipment was then taken away to an unknown destination.

Recently, at the beginning of September 1999, it was reported that the director of Radio Maendeleo, Kizito Mushizi Nfundiko, and some of its journalists including Kamengele Omba had been arrested.

This is a perfect example of how the media are being persecuted and silenced in the occupied territories while at the same time the authorities claim to promote democracy. What kind of democracy is this?

### **I.5.2. Human rights associations**

#### ***Groupe Jérémie***

On the afternoon of 4 June 1999 a group of soldiers armed to the teeth and led by commander Didier Mulikuwa broke into the headquarters of the *Groupe Jérémie*. They forced the door open and pillaged practically everything they found on the premises. After the operation they sealed the door and began searching for the group’s activists. The group was already being examined by criminal investigator Chihenga at the 222nd Brigade’s intelligence office. The case was subsequently transferred to an ordinary criminal jurisdiction (Bukavu public prosecutor’s office). Ironically, this was mainly because the military authorities found no evidence with which to charge the members of *Groupe Jérémie*. Another factor was a fear of local and international pressure. The case was assigned to a judge who is a member of the GAAP (the “political action group”) which is a branch of the RCD.

The authorities were looking for the following human rights activists from *Groupe Jérémie*: Georges Bahaya, Moreu Tubibu, Mr. Jean-Baptiste Mulengezi, Maheshe from the Alfajiri lower

secondary school, Remy Mitima and Mr. Déogratias Kiriza. Paradoxically, the authorities claim that the group is endangering state security.

### ***Héritiers de la justice***

This association is also threatened by the RCD authorities and its activists force themselves to work despite the intimidation. For example, Mr. Jean-Paul Bengeya has been repeatedly harassed and threatened by Commander Elias, a Tutsi in charge of security in South Kivu province. The commander has a private jail at his home on Avenue Nyofu in Nyawera; he has converted one of his rooms into a lockup.

Early September 1999 saw the arrest of Mr. Raphael Wakenge, a human rights leader and activist with *Héritiers de la justice* who was released after one week of imprisonment at Bukavu Central Prison.

### **I.5.3. Members of the South Kivu Civil Society**

The Civil Society deserves praise for the many roles it plays, above all that of promoting and protecting the interests of its members and the whole population. Alas, some of the more active members have received death threats from the RCD's political and military authorities who are always looking for some reason to eliminate them physically. The main targets have been activity leader Gervais Chirhalwirwa (known as "uncle"), Patient Bagenda, Oscar Baharanyi, activity leader Prosper Birhakaheka, activity leader Paulin Bapolisi, Dr. Balegalmire and the pharmacist, Mr. Bapolisi.

In the last two weeks of May 1999, the governor of South Kivu once again threatened some of the activists that he would do everything to destabilise political life in South Kivu. For example, in early June 1999, Dr. Balegamire narrowly escaped an assassination attempt organized by the provincial authorities of South Kivu. The failed mission was to be carried out by Rwandan soldiers but when they arrived at his house he was absent.

#### **(d) The Catholic Church in Bukavu under threat**

The clergy of Bukavu bishopric have been subjected to harassment and death threats. The Catholic church has a duty to continue to fight against immorality to prevent all violations of human dignity, particularly during these difficult times for the whole of the eastern part of the DRC.

In response to the stance taken by the church, the RCD authorities, from the governor right down to the municipality, have publicly attacked His Excellency Emmanuel Kataliko the Archbishop of Bukavu and his vicar-general. Neither have the abbots and priests of the town and country parishes been spared. The authorities have to attack the Catholic church to protect and preserve their power to influence and terrorize the people. Examples are the desecration of the churches of Burhale and Kasika and the threats made to the following clergymen:

- Father Emmanuel Musoda of Cimpunda parish;
- Father Prothée of Ciriri parish;
- Father Georges Maroyi (who escaped from Uvira bishopric) and Father J. Bosco Bahala, both now working in Kadutu parish;

- Father Gianni of Chaï parish;
- Father Georges of Muhungu parish;
- Father Balegamire of Kabare parish;
- Father Eliézère of Bagira parish.

This is not a complete list of the clergy whose lives have been threatened. Some communities of local and foreign nuns have also been threatened, particularly at night. Several times the Archbishop of Bukavu has been summoned to the governor's residence to answer questions and receive orders. In particular he has been asked to transfer certain troublesome priests such as Jean Bosco Bahala.

At a security meeting in Kadutu, the deputy mayor, Mr. Biganza Sadock (who is a Rwandan citizen), suggested that Kadutu parish and the Dominican chapel in which Father J.B. Bahala preaches be closed down. If nothing changed, then the priest would be publicly executed on the *Place de l'Indépendance* (formerly *Place du 24 Novembre*).

This Rwandan official also said the following: *"When Archbishop Muzihirwa died, the Vatican talked about it for a week and then it was all over. We could arrest certain people and execute certain priests. The Vatican would protest for three or four days but nothing would change and in the meantime we will have got the situation under control"*.

Every Sunday, the RCD sends out spies to all the parishes to listen to everything that is said in the sermons and report back immediately once Mass is over. This has happened several times in Cimpunda and Kadutu. Furthermore on one particular Sunday in April 1999, before the 3rd Mass, Kadutu parish was invaded by vans full of soldiers armed with rocket-launchers and machine guns. They came and harassed the priests and the congregation before heading off for Cimpunda.

The insecurity which threatens the Catholic church should concern all of the Congo's official churches prompting them to come together and fight as one man. They should do their duty, which is to protect and ensure the well-being of human beings. Against a background of increased gagging of public expression, the RCD has been trying to destroy the Catholic church ever since the very beginning of hostilities. This is for the simple reason that the only body which, fortunately, continued to function after the collapse of the Mobutu regime was the Church. It is the people's only hope. In response the authorities have destroyed parishes, looted convents, and assassinated priests, ministers, nuns and believers, thus destroying the very foundations of the Church. Most priests have now been forced into exile and/or hiding. Christendom stands alone against hatred, anguish and mistrust. Any Christian morals observed hitherto are now in jeopardy.

## **I.6. Abuse of public office**

On 7 August 1999, in total defiance of basic democratic standards, the Congolese Rally for Democracy (RCD), acting through the intermediary of Mr. Norbert Basengezi Katintima, the Governor of South Kivu appointed by the aggressors and rebels, set up a Provincial "Barza" (Assembly).

It has 67 appointed members including only 54 women and the Governor immediately appointed the members of the provisional bureau of this new institution himself, taking no account of the will of the people. Strangely, the leadership of the institution was assigned to two members of this provisional bureau who were selected simply because they were the oldest and the youngest members.



Some of the members of the Barza, which claims to be promoting peace in South Kivu, have already gained a major reputation for plotting and intrigue and it will not be long before their true shark-like nature will re-emerge and they will attempt to take up another lucrative but no less short-lived post. They are so possessed by political greed that they feign ignorance of the sacrosanct principles of the Universal Declaration of Human Rights under which:

“The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures” (Article 21.3).

Therefore, the only person who is entitled to become a provincial or national member of parliament is someone who has been elected somewhere, or in other words, who has received a mandate from some electoral constituency or another, under an electoral law ratified by some form of consultative preliminary.

Accordingly, any Barza member, deputy or parliamentarian who is simply assigned to an area at whatever political rank, owes his office to the authority that appointed him and legally created him and therefore he can act only in the interests of his begetters.

The Civil Society of South Kivu noted that the establishment of a Barza in South Kivu was a total sham amounting to a confiscation of the power of the supreme sovereign of South Kivu in so far as it should be associated with and/or form part of a national process of institutional reform in the DRC. Accordingly, on 23 August 1999, the provincial co-ordinating office of the Civil Society sent a letter (No. BCSK/020/99) to the governor of South Kivu, in which it said that it could not accept an abuse of public office and **demand the dissolution of the Barza of South Kivu** on the ground that it was a plutocratic, sadistic and cynical oligarchy, made up solely of the inhabitants of Ibanda as if this single municipality could pacify the whole province. It concluded that genuine peace should reside in the very heart of our rural districts where, day-in, day-out, the people are despoiled, hounded and butchered by one side or another according to the outcome of our demented fratricidal battles.

### **I.7. Incitement to ethnic hatred**

In a number of areas in South Kivu the people live in a general state of trauma as a result of the massacres, rapes and pillaging carried out by the various forces that have occupied them. This was the message passed on by 15 of South Kivu's traditional chiefs from COBASKI during their conference of 4 to 9 October 1999 at the Bukavu Sports Centre which was held under the patronage of the Governor of South Kivu. The situation exacerbates and incites hatred between Banyamulenge communities and the tribes of South Kivu. These Bami chiefs highlighted some of the harmful consequences of this hatred in the region, in particular:

- some 10,000 war refugees assembled in Uvira;
- some 10,000 Bafumiru war refugees who have fled to Ruzizi Plain;
- some 3,500 war refugees who have fled to Burundi (most of them settling in Cibitoke province);
- some 11,000 Rwandan Viura war refugees from Moba and Kabalo in northern Katanga forced to move to the Ruzizi Plain in South Kivu;
- 80 or so Bahuvu war refugees from Kalehe forced to move to the island territory of Idjwi in South Kivu;

- some 50,000 war refugees from the chiefdom of Wamuzimu;
- hundreds of thousands of Congolese refugees from South Kivu exiled abroad, particularly in Tanzania;
- some 80,000 homeless persons in the chiefdom of Basile;
- a number of priests and nuns confined to Luhwindja, Mwenga and Murhesa, Kabare;
- others.

All of these problems reveal the policies of those who govern South Kivu and stem from hasty administrative and political decisions at variance with the aspirations of the people whose direct representatives are not consulted. This is what lies at the base of the hatred, the unhealthy atmosphere and the suffering that the people of South Kivu are having to endure (including the destruction of Bami homes, murder attempts on certain Bami and the cowardly assassinations of traditional chiefs including Mwami Lenge in 1996 and François Mwami Bwami Nalwindi in August 1998 and all their repercussions).

In our opinion, the resurgence of tribal wars between the Bembe and the Rega and the ongoing conflicts between the Banyamulenge community and the population of South Kivu as a whole are the ultimate outcome of incitement to hatred in the disaster-stricken and battered province of South Kivu.

#### **I.8. Vicious, barbaric destruction**

Since the outbreak of war in the DRC on 2 August 1998, South Kivu has continued to be subjected to unprecedented humanitarian crises. In this report, which covers the period from April to September 1999, we shall merely pass on the following incomplete list of alarming incidents described at the conference of traditional chiefs held at the Bukavu sports centre from 4 to 9 October 1999:

- Some 545 houses burnt down in Wakabongo I;
- Some 62 houses burnt down in Luhwindja;
- Some 50 houses burnt down in Bavira;
- Some 700 houses burnt down in Wamuzimu;
- Systematic destruction and looting of a number of health facilities (hospitals and medical centres);
- Destruction and looting of a number of homes of traditional chiefs (Bami);
- Destruction of a number of school buildings and looting of school teaching equipment and materials;
- Destruction of roads, rendering them impassable (including farm tracks), and poor and inadequate transport facilities, adding to problems by creating bottlenecks preventing goods and people from moving around freely.

Of the 1,300 inhabitants of the aforementioned burnt-down houses, some are now dead whereas others have fled into the bush where they will be homeless, in distress, and prey to all sorts of bad weather and parasitic diseases, in short, abandoned to their sad fate.

## **II. THE HUMAN RIGHTS SITUATION IN NORTH KIVU PROVINCE (FOCUSING EXCLUSIVELY ON MASISI TERRITORY)**

*[Translator's note: page missing]*

Luanda (farmer). 9 people were killed on the road from Kitchanga to Mweso in the chiefdom-community of the Bashali. Among the victims were Mr. Mbaire Kahunde (49), the chief of the village of Luhanga.

### **On 6 April 1999**

The assassination of **Father Paul Juakali of Mweso parish** in the bishopric of Goma. The people of Goma were appalled to learn of the sad and untimely death of the extremely young, dynamic and likeable figure of Father Paul Juakali who had made a name for himself because of his well-balanced yet highly topical, and apposite sermons. Our sadness grew when we learnt that Father Paul was not allowed to die a dignified death but viciously "hacked about" by armed men before they finished him off. The 29-year-old priest was travelling in a parish car along the road from Pinga Hospital where he had been asked to drive a patient home to the village of Ngingwe (17 km from Pinga) when he was dragged from the car and separated from the other passengers by a number of armed men. He was tortured with knives before being finished off with a bullet which passed right through his skull from the lower jaw to the occipital bone traversing the brain. According to the witnesses' statements, there were 6 men and they killed Father Paul only after they had robbed him of everything he had including US \$ 400. They had a photo of him so that they would not get the wrong man. Eyewitnesses also said that Father Juakali's killers were from the so-called "Self-Defence Forces" which operate in Masisi territory.

In the same month 37 unarmed civilians are said to have been killed at Lukweti in the chiefdom-community of the Bashali.

### **From 23 to 28 April 1999**

31 young people were killed in Masisi-Centre in the community of Oosso-Banyungi as well as 12 others from Goma on the road from Sake to Masisi.

### **May 1999**

On 25 May 1999, 50 people were killed at Sake in the chiefdom-community of the Bahunde. Kiyana Bulenda is the only known victim. The rest were buried in a communal grave and have not yet been identified.

In the second half of the month, 14 people were killed at Kalembe in the chiefdom-community of the Bashali by the "Self-Defence Forces" (FAD). Among the victims were Mrs. Mukewa (69), Mr. Maneno (43), his wife and his children, and Mr. Kazimiri (71). All their belongings were looted and the other people in the village were so traumatised that they had to desert the village and take refuge in Pinga and Kitchanga (other villages in Masisi territory).

— 3 people were killed at Kiusha Muongozi in the chiefdom-community of the Bashali. Among the victims was Mr. Kinkone (69).

- 4 people were killed in Nyabiondo. Among the victims were a schoolboy in the first year of secondary school and Mr. Biloto, the son of Maneno.
- 6 people were killed in Kilambo in the chiefdom-community of the Bashali and several other unidentified persons are reported to have been massacred by the FAD in a local church.
- 4 boys suspected of being Interahamwe were killed in Loashi in the community of Osso-Banyungu.

## **June 1999**

On 16 June 1999, Mr. Baba Rife was cravenly murdered along with two other people who have not yet been identified in Bweremana, the main village of the chiefdom-community of the Bahunde.

Since 2 August 1998 more than 382 unarmed civilians of Masisi territory are reported to have been murdered in cold blood by forces working for the RCD, particularly the FAD.

**NB.:** Whereas Part IV of Protocol I to the Geneva Convention protects both civilians and civilian objects, the civilians of Kivu in general and Masisi territory in particular are victims of a failure by the warring parties in the DRC to respect international humanitarian law. And the astonishing thing is that whenever one massacre or another is exposed the only reaction one gets is that “there were only x deaths”, in an attempt to play the matter down and clear the criminals.

### **II.2. Arbitrary arrests and detention and abductions**

In Masisi it is enough to be suspected or unjustifiably accused (often to settle an old score) of being a Mai-Mai or an Interahamwe in order to be arbitrarily arrested, abducted, tortured or even murdered. Reliable sources have told us how many people have been abducted or gone missing to be subjected to inhuman treatment and found a week or a month later if ever again.

In Kitchanga for example a number of people are reported to have been unlawfully detained in Kahe, on the premises of the war-damaged tea factory which used to belong to the international trade and industry association, SICIA. They are now said to be in the hands of members of the RCD-sponsored Rwandan Army (APR) on suspicion of being Mai-Mai or Interahamwe or possession of firearms.

**On 8 June 1999**, members of the APR working for the RCD sealed off the market town of Kitchanga from 4 to 11.30 a.m. on the pretext that they were searching for civilians in possession of fire-arms. The whole population was traumatized by this incident in which they were surrounded by APR soldiers armed to the teeth. No arms were found but the search was stepped up afterwards.

Following this incident, some of the chiefs and prominent personalities of Masisi territory were forced to flee Masisi for the city where they have no right to any assistance. As a result some of these once wealthy people have had to resort to begging in Goma or Sake, getting by and living as street-dwellers or tramps.

In view of everything that is happening to the Bahunde in Masisi, some people cannot help thinking that the RCD has a hidden agenda in this territory, namely the systematic elimination of these people who have long been prevented from considering themselves the only native community in the area. Since the Bahunde refuse to give in, despite all the harassment to which they have been subjected since 1990, the RCD appears to have decided to implement a “final solution”, in other words a fully-fledged process of ethnic cleansing. However, they are doing this

very discreetly outside the eye of the media, on the pretext that they are “hunting down Interahamwe wherever they can be found”. These accusations do appear to be founded because, as early as September 1998, human rights activists were observing the following:

The instances of abduction, arbitrary arrest and expulsion which are currently taking place in the city of Goma and its outskirts have aroused considerable concern. There have been too many violations of the rights to peace, security and justice which are guaranteed to every community under national and international law and too many death threats and other abuses. To be more specific we would like to highlight the following examples of arbitrary arrests, expulsions and abductions:

- Mama Maombi Feza, a nurse, was arrested on 14 September 1998 for having attended to a wounded man. She was set free only after repeated calls for her release, including an appeal from the Bishop of Goma.
- Mr. Kizungu Bulere Kiana was arrested on an unknown date and taken to the Brigade’s 2nd office in connection with a dispute over a plot of land. His adversary has accused him of being a Mai-Mai rebel and so he is still being held.
- Mr. Bonhomme Balume was arrested for harbouring a Masisi village chief suspected of colluding with Mai-Mai rebels and is still being held<sup>1</sup>.
- The elderly Mr. Salumu of Sake was abducted with his son. Mulonda, Mutima, Mrs. Bulondo, Pascal, Mwendabandu, Mr. Desire Muiti, Kashani, Miancho and many others have also been abducted.
- Mama Malira Bahati was abducted at 2 a.m. on 13 September and taken to Gisenyi, Rwanda, where she was saved by divine providence having been thrown into a stream of urine and a pond<sup>2</sup>. We would remind you that life belongs to God alone and that such schemes amount to genocide.

#### **II.4 General insecurity**

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised.

Article 28, UDHR (Universal Declaration of Human Rights)

Insecurity has been exacerbated in Masisi territory as a result of the presence both of armed groups including Interahamwe, former Rwandan soldiers and Self-Defence Forces (RCD militia groups) and certain members of the Congolese Armed Forces who are still loyal to the central government in Kinshasa. All of these groups organise occasional looting raids on shops and motor vehicles, particularly those taking the following routes: Goma-Sake; Goma-Rutshuru-Kanyabayonga; Sake-Masisi; Sake-Bweremana; Sake-Kitchanga-Mweso-Kalembe-Pinga; and Sake-Ngungu-Ufamando.

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<sup>1</sup> The village chief in question was imprisoned and tortured for a long period and is no other than Mr. Mwanda-Bandu Venant who expressed public indignation at the statements of the Governor of the Province when he mocked the inhabitants of Masisi after some of them had been massacred. After Rwandan soldiers had burnt down the villages and murdered civilians, the governor visited the area to assess the damage. It was at this point that he claimed that the inhabitants of Masisi had carried out these crimes themselves and he called them “Wapumbafu”.

<sup>2</sup> Note that all of these victims are civilians who have nothing to do with the Mai-Mai or the Interahamwe. Their only sin is that they are all from Masisi territory.



### II.3. Cruel, inhuman and degrading treatment

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 5, UDHR

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 10, UDHR

It should be said that, in Masisi territory, everyone who is murdered is first tortured before being murdered or finished off with a bullet.

**On 6 April 1999**, Father Paul Juakali was tortured and hacked about with knives at Ngingwe (17 km from Pinga on the road from Mweso) before being finished off with a bullet by six armed men from the RCD-sponsored "Self-Defence Forces".

In the second half of May 1999, Mr. Camarade Mabwire, a butcher, fell victim to a shooting in which he was wounded in the leg by patrolling forces working for the RCD. The victim was taken to the CBK hospital in Goma for medical treatment.

Several other cases of violations of Article 5 of the UDHR have occurred in the various prisons and remand centres in Goma and Masisi territory. The following table drawn up by human rights activists for February 1999 speaks dismal volumes even though it is far from complete:

#### Murders by RCD forces in Masisi Territory in February

<u>DATE</u>	<u>VILLAGE</u>	<u>NUMBER OF VICTIMS</u>	<u>COMMENTS</u>
11/02/99	Loashi	10	Including 6 schoolchildren shot and/or drowned
	Ngesha	4	
	Busoro	3	
	Lushebere	2	Including one victim who died under torture
	Bukombo	2	
	Nyabiondo	3	
18/02/99	Lwibo	1	
	Lukweti	47	At the market
19/02/99	Mahanga	154	At the market

#### Some of the victims who have been identified

##### Loashi:

Kwabo Busanga, around 25 years of age (farmer); Hélène Bandu (pregnant); Luanda Lubira, 32 (cleaning lady); Muhombo Balaa and his two children, among them one of the

drowned schoolchildren; Kaendo Lubira, 43 (son of Mr. Mashini); Vumilia (cleaning lady), Charles Bolingo, 43 (farmer); Rujori.

**Ngesha:**

Maombi (cleaning lady) and her child; two women who are known to have been passing through but have not been otherwise identified.

**Bushoro:**

Kamusehe (farmer), around 55 years of age, who died under torture, and a passing nurse who has not been otherwise identified.

**Lushebere:**

Kulu Kyabinduka (farmer), around 60 years of age, and Siméon, around 30.

**Lwibo:**

Baeni (farmer), around 45.

**Mahanga:**

Mabondo (carpenter), around 40, and Brigitte (cleaning lady), 38.

## **II.5. Violations of the right to freedom of expression and denial of the right to information**

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

UDHR, Article 19

Despite the various abuses and cases of human rights violations carried out by the RCD and armed gangs in Masisi territory, nobody dares to condemn them or speak out about the situation for fear of being abducted or executed. The unarmed civilians of Masisi territory live in terror and the churches, which used to act as their spokespersons, have now opted to say nothing or sometimes been forcefully silenced<sup>3</sup>.

As one trustworthy clergyman has said, the Catholic Church and the traditional chiefs appear to have been singled out as targets by the warlords.

“It is my impression that, over and above the specific crimes which each side rightly or wrongly accuses the other of committing, there is a strategy aimed at destroying everything that the people regard as sacred. Once the core around which a people’s cohesion and common identity is built is destroyed, it is thought that it will be easier to subject these defenceless and directionless peoples to the arbitrariness of totalitarian ideology and a system which intends to prevail at all costs. In this context, the Catholic Church and the traditional chiefs are the obvious target for a power which

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<sup>3</sup> Mutongo church was forced to close after the murder of the much-loved parish priest, Father Ndyababo Boneza Conrad, on 12 December 1994.

Likewise, the priests of Mweso do not now dare to go to their parishes because they were so shocked by the recent murder of their colleague, Paul Juakali.

wishes to wipe the slate clean of all Christian and traditional values. The method it uses is to disorganize the people, striking at the very roots of their identity to be able to subjugate them even more. After this it imposes its new values. But the question is which ones.”<sup>4</sup>

It is for this reason that any traditional chiefs who still dare to say anything to defend the interests of their prostrate people become the targets of threats, persecution and intimidation from the RCD’s political authorities. Most of Masisi’s traditional chiefs have fled to Goma where all their movements are carefully monitored in something amounting to a kind of house arrest.

To undermine completely the influence of the legitimate traditional chiefs in the administrative area of Masisi, the current RCD leadership has had no hesitation in replacing eligible rulers by members of the MAGRIVI (the Agricultural Society of Virunga), a process which the Sovereign National Conference unanimously condemned<sup>5</sup>. Its members have been recognised as guilty parties in the other war that has been bathing the Congo in blood since 1990, the “Kanyarwanda”<sup>6</sup>.

The following are some cases in which traditional rulers have been replaced by members of the MAGRIVI:

In the chiefdom-community of the Bashali, Mr. Erasto Binwagari from Busumba in Bashali-Mukoto now calls himself a Mwami and acts as the chief of the chiefdom-community of the Bashali, replacing the traditional Mwami, Bashali Wa Mukoto Nyanguba.

- Mr. Mbarare: *Chef de Groupement* (area chief) of Kibachiro
- Bamenya: *Chef de localité* (local chief) of Kirumbu
- Ngenda Semajeri: *Chef de localité* of Kahira
- Munyaganizi and Nzabonimpa: heads of the village of Mbuhi
- Madui: *Chef de localité* of Mweso
- Kikeri (one of the people behind the massacre of 7 May 1993 at Kibachiro-Karole in which 250 young Hunde lost their lives): *Chef de localité* of Lubula-Bwimire
- Utazirubanda Kabagema: Capita/ chief of the village of Kitobo-Kitchanga

In the area of Bashali-Kaembe, the heads of the various settlements were granted official recognition by the administrator of the territory based in Mweso, Mr. Zacharie Bizumyremyi Ukobizaba, on 22 February 1999.

**Responsibilities were divided up as follows:**

- Thomas Munyagishari: head of the village of Nyamitaba;

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<sup>4</sup> E. Kataliko, Archbishop of Bukavu, in his statement of 1 May 1999 entitled “Solidarity of the Catholic Church of Bukavu with that of Rwanda in relation to the arrest of Mgr. Misago Augustin”.

<sup>5</sup> See the conclusions of the Vangu Mambweni report (HCR-PT).

<sup>6</sup> People who do not understand the real situation in North Kivu believe that the current war started in 1993. In Masisi the war actually started in the period prior to 1 October 1990, the date of the official outbreak of war in Rwanda. Rwanda was as cunning as a fox and managed to rid itself of the war and its torments by passing it on in the manner of an injection of HIV to what can be considered its “brother” country through the intermediary of Congolese “bicucu”.

- Oscar Nkurikiyinka: head of the village of Tunda/Lubale;
- Bonaventure Kisangani: head of the village of Lushangi-Burumo;
- Wenceslas Turikinko: head of the village of Busihe-Kalonge;
- Kamanzi Kayitani: head of the village of Mutobo;
- Joke Mbendubundi: head of the village of Musongati;
- Jean-Claude Habyarimana: head of the village of Burungu.

**The following traditional chiefs were dismissed:**

Luanda Bahati, Sereme Ndabigiro, Bonane Kaembe, Bulenda Mapfumo, Kulu Wabo, Mateso Kaembe and Mrs. Safi Bulenda (represented by Maonero Kisa Kisa).

In the community of Osso-Banyungu, the traditional chief of the Bapfuna *groupement*, Mr. Michel Bakungu Pfuna-Mapfuna was replaced by Mr. Munyabariba (a Rwandan Hutu).

These Rwandan immigrants and resettled persons — generally Hutus — who have taken unlawful control of some of the *groupements*, settlements and villages in Masisi territory wrongly accuse the dismissed Hunde and Nyanga chiefs of possessing firearms. The aim of this ploy is for them to be hunted down and physically eliminated. Some chiefs have already lost their lives and those on the hit-list have fled Masisi and taken refuge in Goma where the authorities keep a close eye on them. When the time is ripe, they too will be wiped out.

## **II.6. Impunity and abuse of public office**

### **II.6.1. Impunity**

Massacres, assassinations, murders, inhuman and degrading treatment, looting of civilian property, extortion and fleecing, unlawful and arbitrary arrest and imprisonment, torture, rape, misuse of public property and other human rights violations are being carried out in Masisi territory in North Kivu in complete impunity. The whole situation seems to indicate that the inhabitants of this territory are regarded as animals whose only right is to die.

- No enquiry has been opened into the death of Father Paul Juakali who was sadistically tortured with knives before being finished off with a bullet at Ngingwe on 6 April 1999. And yet three armed Hutus suspected of being involved in the priest's death were captured and handed over to the administrator of the territory living in Mweso, Mr. Zacharie Bizumuremyi Ukobizaba (a Hutu himself), and the military commander in Mweso (who is a Tutsi) by the chief of N'Suka/Kalonge, Mr. Célestin Kibira Biandja. The three suspects were released with their weapons and without any form of trial. Following their release it was not long before they threatened the chief who had handed them over with death, saying that he had denounced them. They are reported to have sworn that they will continue to block the road between Mweso and Pinga and kill any Hunde or Nyanga who dared to try to use this road.
- No charges have been brought against the APR members working for the RCD who were responsible for the shooting and wounding of Mr. Camarade Mabwire, now in the CBK hospital in Goma. Many other cases of impunity have been recorded in Masisi particularly with respect to the so-called self-defence forces who carry out a whole range of crimes with the full knowledge of the political, administrative and military authorities.

## **II.6.2. Abuse of office**

Under a resolution of the former Zairian parliament, the HCR-PT, of 28 April 1995, the MAGRIVI (Agricultural Society of Virunga) was supposed to be eradicated from Congolese territory and some of its leaders were to be expelled from the Congo with the possibility that legal proceedings would be initiated against them for having incited immigrants and resettled persons to an insurrection against any attempt to impose the Congolese nationality act and called for civil disobedience in the administrative territories of Masisi, Walikale, Rutshuru, Nyiragongo, Karisimbi and Goma in North Kivu, and Kalehe in South Kivu. The native inhabitants of the area were understandably surprised when the RCD authorities began appointing these people who had been declared *persona non grata* in the Congo to positions of responsibility.

Among them are Mr. Nzabara Matseta, the Mayor of Goma, and Mr. Zacharie Bizumuremyi Ykobizaba, the administrator of Mweso territory, who have conspired with the RCD authorities to legitimize the authority of the MAGRIVI in spite of the fact that it was condemned by the Congolese people at the CNS (the Sovereign National Conference). In this connection, see the description above of the repression of traditional authority through the dismissal of traditional chiefs.

## **II.7. Incitement to hatred**

Whereas sub-paragraph 2 of Article 20 of the International Covenant on Civil and Political Rights states that: "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law", tribal and ethnic hatred is rife in Masisi territory and the surrounding area. The hatred stems from grudges harboured since the war that broke out in 1993 between the native Hunde, Nyanga and Tembo groups and Rwandan immigrants and deportees. These grudges are the root cause of the massacres, assassinations, murders, looting and other human rights violations carried out and orchestrated by forces working under RCD orders, particularly the latter's militia groups.

Nothing happens by chance in the RCD. During various peacekeeping tours and assignments only the native population has been disarmed by the authorities and to date not a single attempt has been made to disarm the Hutus. Quite on the contrary, our impression is that they are regularly supplied with arms and ammunition by the authorities in office.

The aim of this operation is not only to usurp traditional power but also to silence those members of the native population who refuse to join their movement.

## **THE HUMAN RIGHTS SITUATION IN ORIENTALE PROVINCE**

### **III.1 Overview of the situation between 1 January and 30 March 1999 (to be published)**

#### **III.1.1. Loss of dignity/sabotage of the right to a wage**

The social situation in the territories occupied by the RCD is still precarious. The people are sunk in destitution and to cap it all they have to endure humiliation, harassment and physical and moral torture from the soldiers of the RCD and its allies.

There is also some dissension between the Congolese rebels and their allies. In statements on the radio on 5 April 1999, Mr. Balengela Tango-Tango, commander of operations of the 7th rebel brigade asked the Congolese people to come to the assistance of the FAC-RCD Congolese Armed Forces because the Congolese were increasingly subjected to humiliations in their own country at the hands of foreign soldiers (from Rwanda and Uganda).



To back up his appeal he referred to the case of Vice Governor M. Yogba who arrived on a trip to Isiro and was immediately ordered by Ugandan soldiers to lie on the bare ground, then get up and get back in the plane that had brought him from Kisangani. It would seem that the Ugandans forgot that he was on an “official” tour of the various districts of Orientale province. Alongside these humiliations undermining people’s dignity, the RCD’s allies ride roughshod over the laws of the Congo.

For example under Congolese law, foreigners are not authorized to visit the country’s mining regions unless they are given express authorization to do so by the state. In Kisangani the people have been dumbfounded to see the constant stream of Rwandan and Ugandan machines and lorries passing through on their way to the nearby diamond and gold mines.

Under Article 23.3 of the Universal Declaration of Human Rights everyone who works has the right to a fair and decent wage corresponding to his efforts and satisfying the basic needs of the worker and his family.

In the territories occupied by the RCD public employees have forgotten what a wage is. Every time civil servants or state-employed teachers dare to demand their wages they are asked to be patient and wait until Kinshasa, the capital of the Democratic Republic of the Congo, has been taken.

### **III.1.2. Absence of the right to medical treatment**

Ever since the Second Republic, hospitals have had to make do without State grants and funds to cover operating costs. Now there is no more money to pay wages. This situation has caused the corrupt practices which were decried during the Mobutu regime to resurface.

The isolation of Orientale province caused by the rebel occupation has made the situation even worse. Medical treatment has become the exclusive right of businessmen and those who have the character to influence groups of men whom they can easily exploit.

Pharmaceutical products provided by UNICEF only help line the pockets of health workers. We have it from reliable sources that these products have been misappropriated in Kisangani, Isangi and Yangambi.

### **III.1.3. Absence of the right to education**

Several schoolchildren have had to leave school because their parents are no longer able to pay the fees that schools demand. RCD leaders based in Orientale province have simply asked 1997-98 school-leavers to start at university or in higher education institutions without their certificates — these people are referred to as the *sans papiers*. Even the national education system has been Balkanized.

The question is whether UNESCO will be able to validate their degrees from university or higher education institutes. The same thing is worrying schoolchildren for whom 1998-1999 is their final school year. For the moment they are carrying on studying but they cannot be certain that they will successfully complete their secondary education.

### **III.1.4. Insecurity and police harassment**

All the warring parties keep on claiming that they are fighting for the freedom of the people. For some the people need to be liberated from the dictatorship of President Laurent-Désiré Kabila.

For others they have to be freed from the Rwando-Ugandan invasion. And for still others they have to be relieved of the hegemony of the Hima-Tutsi empire.

But the actual truth is that the people, particularly in the territories occupied by the RCD, are left to fend for themselves. They live in total and utter insecurity. Not a single day passes without the sound of gunfire and not a single night without some private homes being “visited” by soldiers.

Very often these visits are accompanied by gunfire but never are the soldiers troubled by those who claim to protect the people and their property.

**By way of example:**

- **Between 25 and 28 January 1999**, three households in Kitenge II neighbourhood were the victims of night-time visits accompanied by gunshots. The houses in question were No. 29 on Boulevard Kiwele, Mr. Nzuzi’s house at 17, Avenue Likinda, and Mr. Basila’s at 53, Avenue Botalimbo. This neighbourhood is only a few metres away from the military air-base but these civilians were left to fend for themselves and given no help to protect their property. The robbers abandoned the operation once they had managed to steal some items of value.
- **On the night of 11-12 March 1999**, two men in uniform, armed to the teeth, attacked the home of Mr. Ngubi at 20, 13ème Avenue Transversale, in the district of Kabondo. They stole NZ 35,000,000 (US\$100), 10 items of Wax clothing and other items of value.
- **On 10 March 1999**, a 10-strong commando group besieged the Monga neighbourhood in Kabondo district. The Basai family was rescued thanks to the human chain popularized by the Friends of Nelson Mandela (ANM).
- **On the night of 16-17 January 1999**, several heavily-armed men in uniform besieged the Public Works and Regional Development (TPAT) offices. They removed the corrugated iron cladding from some of them, making off with some 200 sheets. As things stand, this kind of activity can take place in broad daylight without being interrupted.

### **III.1.5. Abductions**

In defiance of international law provisions on the situation of civilians during periods of armed conflict, civilians in the DRC are not protected, particularly in the eastern part of the country. They are often subject to human rights violations on the pretext that they are acting as scouts for the enemy or that military targets have not been clearly identified. One example is the case of the village of Makobola where Rwandan soldiers killed over 500 people on 7 January 1999 because they were unable to distinguish soldiers from civilians. To date neither the UN nor the OAU nor the government of the DRC nor even the RCD (the Congolese Rally for Democracy) has conducted an investigation.

**Here are a few other examples:**

- **On 10 January 1999**, the deaths of 16 civilians in Kisangani were blamed on government bomber plane whereas in fact these 16 people were killed by shells fired at the plane by the RCD (cf. ANM report of 10 January 1999 on the bombing of Kisangani).
- **On the night of 19-20 January 1999**, Mr. Simon Engwande of 46, 17ème Avenue Transversale in Kabondo district died at the Protestant hospital from 6 bullet-wounds in the chest caused by a soldier who had shot him when he had refused to allow him onto his land.

- **On 1 February 1999**, the body of an unidentified man with traces of bayonet wounds was left to decompose at the morgue in Kisangani General Hospital and eaten by dogs.
- Mr. Bassay, around 27, who drove a bicycle taxi and was the son of an employee of the Yangambi University Institute of Agronomics was shot dead on the premises of the company, Busira Lomami, in Isangi (125 km from Kisangani on the River Congo). The Ugandan soldiers who had arrested him told his family that he was in secret contact with Congolese government soldiers.
- **On 9 February 1999**, four unidentified persons accused of witchcraft and two others arrested for unlawful possession of firearms were buried alive in a communal grave in Isangi (125 km from Kisangani).
- In Yangambi, some 97 km away from Kisangani, there is a militia group called Esende Buka which has set itself the goal of “killing all witches”. It operates in broad daylight with the tacit agreement of the local police. Among the victims of this group are Mr. Omangaoto, aged around 60, who was stoned to death in front of soldiers who simply looked on and fired into the air as the local children gathered round him yelling in triumph. There is also Mrs. Toleya, the single mother of a large family, who teaches at the Yangambi girls’ school. She was brutally dragged from her classroom by a group of youths and thoroughly beaten in front of her pupils. She was saved thanks to the intervention of the Yangambi ANM office.

#### **III.1.6. Extortion and vicious destruction**

Abductions are among the most common methods used to intimidate opponents into accepting the authorities’ line.

- **On 25 January 1999**, Mr. Molisho, a public prosecutor at Kisangani Regional Court, was abducted by a large group of armed men in uniform. He was accused of being in contact with Mr. Jean-Pierre Bemba, the commander of the rebel group called the MLC (the National Movement for the Liberation of the Congo).
- The same reason was given for the abduction of Mr. Biona Wa Biona, a metropolitan police inspector and commander of the city of Kisangani. The latter was also accused of being in contact with some of the dignitaries of the MPR, including Mr. Kpama and Mr. Nzimbi who were both high-ranking officers in the SARM (the Mobutu regime’s military intelligence service).
- **On 25 January 1999**, the mayor of the municipality of Mangobo, Mr. Loela was wanted by officers of the law in connection with rumours that the people of his municipality were secretly preparing a protest march against the possible abduction of their mayor. He gave himself up to the authorities and was held for a number of days.

As we have always said, many Congolese politicians are concerned only with their own personal interests. Their talk of liberating the people is merely a smoke-screen.

While the major authorities are greedily pouncing upon the riches in the ground, the minor officials, policemen and soldiers are making do with the riches of innocent civilians.

They resort to inhuman methods to get their hands on other people’s property. They organize arbitrary arrest and detention, they torture and some go so far as to kill.

**The following examples speak volumes:**

- **On 7 January 1999**, at Banalia, 128 km from Kisangani, Congolese RCD soldiers and their allies systematically looted the whole place then went on to rape women in the surrounding villages.
- **On 9 January 1999**, three armed men in military uniform extorted property from the people of Kabondo district in Kisangani. They began in the evening and did not stop until the small hours of the morning. Among the victims was Mr. Katsuva, the owner of the pharmacy on 6ème Avenue, Kabondo, who lost NZ 5,500,000 (US \$ 157) and a large number of pharmaceutical products.
- **On 14 January 1999**, a group of armed men in military uniform occupied the village of Kondolole, some 180 km from Kisangani on the river Lindi. They took possession of a dugout belonging to the company *Etablissements Jidex* containing goods belonging to traders who travelled regularly to the diamond quarries in the area.
- **On 8 January 1999**, priests returning from Kisangani to the Church of St Elizabeth in Banalia were stopped and robbed by soldiers on two occasions. On the first occasion, some 40 km from Kisangani, they lost a sum of NZ 5,000,000 and on the second, 50 km further on, the soldiers took a bag containing several items including a radio cassette player and their food supplies for the next month.
- **On 20 January 1999**, Mrs. Mariam, who is better known under her pseudonym of Mama Kadafi, was visited by a group of armed men in uniform. Having completely ransacked her home and fired three shots they demanded that she hand over a sum of US\$10,000. The men took away several items of value. The victim lives in the Kiwele block behind the veterinary surgery in Makiso district.
- **On the same date**, Mr. Amisi Rashidi of 67, 1ère Avenue in Kabondo district, who is a student at the Kisangani Institute of Medicine (ITM) was visited by a group of armed men in uniform. They made off with two Sharp radios and his wife's case having raped his sister.
- While based in Yangambi, Ugandan soldiers removed the corrugated iron cladding from four residences belonging to the National Institute of Agronomic Studies and Research (INERA). They sold this material to the inhabitants of the housing developments. Once they had left, the police who were brought in to replace them proceeded to go around and get the cladding back. The police did not have a list of the people who had bought cladding and so they began removing the cladding from all the houses built in the town in 1998. A delegation of the Kisangani ANM who were staying in Yangambi received complaints from Mr. Mboole and Mr. Kambale who had bills confirming that their cladding was bought in Kisangani before 1998. In the major cities the officers of the law show a degree of restraint towards civilians but in the provinces, or in other words the countryside, the people are constantly harassed.

For every offence there is a fine of at least NZ five million (US\$14), often supplemented by two or three goats and five or six chickens or ducks:

- **On 21 January 1999**, Mrs. Kitundu, a married mother of five children around 45 years of age living in the Lever Plantation work camp at Lokutu some 200 km from Kisangani was shot at point-blank range by a policeman who had discovered her cutting down palm nuts. The victim's husband, Mr. Kasiala, who was immediately alerted by the other women working on the plantation, went straight to the scene and stabbed the policeman to death. The incident was taken up by the administrator of the territory who went to Lokutu with a group of police officers who then looted the housing development and arrested several innocent parties. They were released on condition that they paid a fine of NZ 5,000,000 (circa \$US155). It should be

noted that, in this kind of situation, the victims' goats and chickens are the first things to be taken away.

- **On 3 March 1999**, Mr. Basila, a 34-year-old married father of three, living in Basoko (237 km from Kisangani) was arrested and ordered to pay a fine of NZ 7,000,000 plus two goats. He was charged with asking the wife of a policeman referred to only as “Mr. Alpha” to come to his house and collect the bill for the arak (a local liqueur) he had just drunk.

### **III.1.7. The repercussions of the bombing of Kisangani on 10 January 1999**

On 10 January 1999 at 9.50 p.m., a plane dropped bombs on the city of Kisangani.

“The Friends of Nelson Mandela for the Defence of Human Rights” (ANM) has looked very closely into this incident and feels that it must alert the national and international community about the way in which several families in Kisangani lost relatives in the incident.

Based on investigations in the field, it can be confirmed that the bombers belonged to the government forces who were launching a counter-offensive with a view to dislodging the rebel forces of the RCD (the Congolese Rally for Democracy) from Kisangani. Accordingly, they concentrated their attack on some of the city's strategic points such as the Simi-Simi II military air-base, the Hotel Zongia, where some of the rebel authorities were based, and the international Bangboka airport.

During the operation, bombs fell behind the training room at the Kisangani Sanatorium, about 500 metres from the hangar at the end of the runway at Simi-Simi air-base, and on the premises of Mr. Didier Kanima at 1, 5ème Avenue, Makiso district, in the *Quartier des musiciens*, about 10 metres from the Hotel Zongia.

The RCD's attempts to shoot the plane down caused damage to property and losses of civilian lives.

The first shell fired at the plane landed on the premises of Mr. Ilongo-Longo on 28, 2ème Avenue, while the second exploded on the premises of Mr. Epidi Djafard at 36, 3ème Avenue Dépotoir in Tshopo district.

#### **The following people were killed or wounded as a result:**

##### **I. Dead:**

<b>Name</b>	<b>Sex</b>	<b>Address in Tshopo</b>	<b>Marital status</b>	<b>Age</b>
1. Loleka (father)	M	28, 2ème Ave.	Married	60
2. Loleka (son)	M	28, 2ème Ave.	Single	12
3. Bandole Metaleke	M	20, 2ème Ave.	Single	18
4. T.F. Basosila	M	23, 2ème Ave.	Married	43
5. Jean-Paul Mbula	M	29, 2ème Ave.	Single	13
6. Passy Lokita	F	30, 3ème Ave.	Single	19
7. Sylvie Lokita	F	30, 3ème Ave.	Single	16
8. Jean Longala	M	33, 3ème Ave.	Single	Over 30



9. Botwetwe	M	23, 2ème Ave.	Single	36
10. Manu Mazumunu	M	21, 2ème Ave.	Single	42
11. Nora Dalige	F	19, 2ème Ave.	Single	12
12. Liense Zakalo	F	2ème Ave.	Single	20

## II. Wounded:

Name	Sex	Address in Tshopo	Marital status	Age
1. Okito	M	28, 2ème Ave. Dépotoir	Single	Over 25
2. J.-Louis Mangwangu	M	28, 2ème Ave. Dépotoir	Single	Over 25
3. Pascal Botsho	M	28, 2ème Ave. Dépotoir	Single	Over 27
4. Keni Mozart	M	28, 2ème Ave. Dépotoir	Single	12
5. Bandole Bamiwa	F	20, 2ème Ave.	Single	20
6. Célestin	M	23, 2ème Ave.	Single	Over 25
7. Mama Lyly	F	25, 2ème Ave.	Married	Over 30
8. Nene	F	25, 2ème Ave.	Single	Over 18
9. Jean Tulanga	M	29, 2ème Ave.	Single	20
10. Lutambula	F	19, 2ème Ave.	Married	Over 35
11. Manu "le blanc"	M	25, 2ème Ave.	Single	13
12. Manu	F	25, 2ème Ave.	Single	11
13. Bolanda	M	30a, 2ème Ave. Dépotoir	Single	29
14. Mukuphar	M	2ème Ave.	Married	-

## III. Damage to property: Six houses were destroyed as well as a number of items of value inside.

Under international humanitarian law, warring parties must guarantee the protection of civilians and their property during wars. Neither are warring parties ever permitted to launch attacks on civilians or use them as human shields. (This universal principle has never been applied in occupied DRC).

### III.2. The war in Kisangani: an outrage against peace and telling evidence of international collusion in the present crisis in the Congo

#### III.2.1. General comments

As the 20th century draws to a close much of the human suffering in Africa in general and the Democratic Republic of the Congo in particular can be put down to armed conflicts in which human rights are trampled upon. Most of the time it is innocent civilians who pay the cost.

Current events are showing once again that if a problem is left without being thoroughly resolved, it results in a spiral of violence which leads in turn to war and senseless killing.

The fighting between Rwanda and Uganda in Kisangani is a case in point.

At a time when the attention of the entire population of the occupied territories is focusing on the conclusions of the verification committee, which will also issue a final opinion on the question of the signature by rebel groups of the Lusaka cease-fire accords, Kisangani is mourning and burying its dead.

### **III.2.2. Position of the allies and consequences of the fighting between the Rwandan and Ugandan armies on Congolese soil**

#### **Agreements between the allies**

If we look back at the war which is currently ravaging the DRC, we see that the Congolese Rally for Democracy (RCD) had two allies from the outset in the form of Rwanda and Uganda. The two countries claimed that their presence deep in Congolese territory over 1,500 km from their frontiers was justified by a concern for the security of their borders. Just like the Alliance of Democratic Forces for the Liberation of the Congo, the RCD and MLC rebels have never told the people who their allies are.

However, the public claims that the two allies came to an agreement in their draft accord on the administration of the occupied territories. Uganda was to be responsible for the political and economic management of the northern part of these territories comprising Equateur and Orientale provinces and the northern part of North Kivu province, namely Beni, Butembo and Lubero, while Rwanda was to deal with the south, in other words South Kivu, East and West Kasai, Katanga, Maniema and the remaining part of North Kivu.

*[Translator's note: two pages missing]*

The fighting had the following disastrous consequences:

- a gross violation by Rwanda and Uganda of UN Security Council Resolution 1234 of 9 April 1999;
- a gross violation by Uganda of the Sirte Peace Accord (Libya);
- the collusion of the United Nations and their inability to make Rwanda and Uganda respect the international charter of human rights and the constitutive charter of the United Nations;
- the sabotage of 3 million doses of vaccine destined for thousands of children from nought to 5 years of age as part of the National Polio Vaccination Campaign in Orientale province;
- the death of more than 175 innocent victims, including scores of young people, women and children;
- the destruction of public and private amenities as a result of fighting using heavy artillery;
- a power cut and all the problems associated with this for the City of Kisangani.

### **III.3. Former Mai-Mai fighters being wiped out in Kisangani, Orientale Province**

In its task of promoting and protecting human rights in the Democratic Republic of the Congo the ANM has looked once again into the plight of the former Mai-Mai soldiers in Kisangani.

It should be recalled that the Mai-Mai are Congolese citizens from South Kivu province who have been fighting for some years now to counter the expansionist aims of the Tutsis in the provinces of North and South Kivu.

During the first war, the so-called war of liberation, these Congolese citizens fought on the side of the Alliance of Democratic Forces for the Liberation of the Congo (AFDL) led by the current president, Laurent Désiré Kabila.

Once Kabila had taken power, they were incorporated into the Congolese Armed Forces (FAC) and accommodated at the Kapalata military training camp in Kisangani where, under the vigilant eye of Rwandan instructors, over two thousand of them died. It was in this connection that the ANM launched an urgent appeal on 2 January 1998 entitled as follows:

“Do the Mai-Mai militia have cholera or are they suffering from malnutrition?”

Now history seems to be repeating itself. When Kisangani fell into the hands of the rebels (the Congolese Rally for Democracy), the former Mai-Mai soldiers were taken to the military camp known as “Base” over 9 km from the centre of Kisangani.

Following the rumours that were circulating and its own investigations, the ANM has reported that the Mai-Mai have been left to their own devices and are being gradually wiped out. They roam the streets of Kisangani from morning to night. Some of them look for a small job to earn enough to eat, others are forced to take to begging, while others still abandon themselves to total destitution.

The 150 sick Mai-Mai transferred to Kisangani General Hospital have been almost totally abandoned. They are denied medical treatment, food and even prescriptions.

In this degrading situation, many of them are weak, starving, and disease-ridden and every day one of them dies.

The most shocking case is that of Mr. Heshima, a man around 20 years of age, who died at the door of the Higher Institute of Medicine (ISTM), some fifty metres from the hospital.

In view of the ongoing situation on the ground, the public’s suspicions that the former Mai-Mai soldiers are purely and simply being exterminated may be founded, despite the fact that they too are covered by the Geneva Conventions and international humanitarian law.

Faced with the growing number of victims, ANM has launched an urgent and heartfelt appeal to the national and international community to assist the following 77 former Mai-Mai:

**List of former Mai-Mai soldiers in danger of dying at Kisangani General Hospital**

- |                    |                    |                  |
|--------------------|--------------------|------------------|
| 1. Ngenda          | 27. Bosongo        | 53. Samusoni     |
| 2. Paruku          | 28. Bosembayi      | 54. Bisuru       |
| 3. Kitisao         | 29. Soudanais      | 55. Masikirizano |
| 4. Mikayeke        | 30. Safari Jacques | 56. Milieza      |
| 5. Madudu          | 31. Baribonera     | 57. Nzabirinda   |
| 6. Muzuhuke        | 32. Udino          | 58. Dine         |
| 7. Mapendo Kambale | 33. Musubao        | 59. Sibomana     |
| 8. Faustin Kambale |                    |                  |

9. Patrice	34. J.P. Lwansa	60. Janvier
10. Jackson	35. Basengo Nyembo	61. Shirambere
11. Biyamungu	36. Musafiri	62. Mateso
12. Nzabanita	37. Kayumba	63. Bazirake
13. Habiyana	38. Mulemba	64. Kabalira
14. Amabu	39. Kibonge Mutwale	65. Turinabo
15. Dume	40. Safari Tshelubala	66. Turidumwe
16. Ilunga	41. Lokalanga	67. Nguba
17. Mbo	42. Yamnonga Ngugandje	68. Sadiki
18. Bamuparabi	43. Moyinda	69. Etienne
19. Kalombo	44. Kasangai Sossa	70. Kambale
20. Kavuma	45. Rubunda Ngagidje	71. Habimana Rusasa
	46. Marie Salisali	72. Roger Dunia

*[Translator's note: 1 page missing]*

*[...]*

Details of these heinous crimes came from sources including a little girl who had escaped and was taken for appropriate medical treatment to the Sendwe General Hospital in Lubumbashi (the administrative capital of Katanga).

#### **IV.4. Arbitrary arrests and abductions**

August 1999 was a deadly month for the people of occupied northern Katanga. It saw the **sudden abduction of 40 Franciscan nuns** from Sola in northern Katanga by members of the occupying Rwandan army, as well as the abduction of Father Baudouin Waternane (a Belgian subject), a sacristan and a seminarist from Sola parish, and the headmaster of a local school. After several days of investigation 18 sisters have been found again but the other 22 are still missing.

**N.B.:** As far as the human rights situation in the occupied part of northern Katanga is concerned, apart from the killings and the abductions that have been recorded, the humanitarian situation is also totally disastrous. Several hundreds of families are now homeless, over **114 houses have been burnt down**, various churches and schools have been quite simply destroyed and a number of girls have been forced into prostitution or raped.

The humanitarian problems in this part of the country are acute.

#### **OVERALL CONCLUSION**

The large-scale violations of human rights and international humanitarian law in the occupied provinces of the DRC provide telling evidence of the United Nations' inability to manage international conflicts when faced with the agonizing indecision of the imperialist powers involved, who are more preoccupied with sub-regional geo-strategic interests than the lives of human beings.

In a limited period of six months, the provinces of the DRC occupied by Rwanda, Burundi and Uganda have been the scene of criminal acts, senseless massacres of civilians, killings of every

other kind and all the other possible forms of large-scale human rights violations that might be imagined.

**Tragedy is everywhere:** Homes have been torched, thousands of civilians have become war refugees, hundreds of access roads to farming land have been abandoned, seasonal food shortages are on the increase, freedom of expression has been muzzled as never before, public amenities have been destroyed, natural resources and other national assets have been systematically looted, and millions of people have been traumatized. This is a huge humanitarian crisis whose ins and outs are liable now more than ever to result in human slaughter given the popular resistance to all of the activities of the aggressors and their Congolese proxies, who seem to have forgotten that:

“You can achieve everything by force except to make yourself loved” and/or “it is better to have a just war than an unjust peace which takes no account of the deep-seated aspirations of the people involved”.

This six-monthly report covering events in the occupied provinces of North Kivu, South Kivu, northern Katanga and Orientale province between **1 April and 30 September 1999** does not claim to be a panacea for all the large-scale human rights violations reported since the invasion of the DRC, but neither can it be regarded as the mere product of speculation. Instead it is intended to provide a data base on the criminal acts carried out on the cosmopolitan and hospitable Congolese people which will certainly be used as a source of information in the future investigations and reparations without which these war criminals will never be held to account for their acts before the inevitable and essential appropriate judicial bodies.

This report should not now be filed away and treated as a closed matter. It should be analyzed and used for the benefit of the peace-loving inhabitants of the occupied provinces of the DRC.

Done in Kinshasa on 30 October 1999.

**For the 152 youth movements and associations of South Kivu, DRC  
which are the members of COJESKI**

**1. Christian Bulambo Wandila**

Provincial administrator of the social committee.

**2. Marcel-Joseph Kamba Nyunyu**

Provincial administrator for ethics and morals.

Special advisor on the preparation, planning and evaluation of development projects.

**3. Fernandez Murhola Muhigirwa**

Provincial administrator of the political committee.

Security adviser to the South Kivu Civil Society.

**4. Willy Tshitende Wa Mpinda**

Deputy co-ordinator.

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