

Letter dated 9 November 2009 from the Group of Experts on the Democratic Republic of the Congo addressed to the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004)

The members of the Group of Experts on the Democratic Republic of the Congo have the honour to transmit herewith the final report of the Group prepared in accordance with paragraph 8 of Security Council resolution 1857 (2008).

(Signed) Dinesh Mahtani
(Signed) Raymond
Debelle
(Signed) Mouctar Kokouma Diallo

(Signed) Christian B.
Dietrich

(Signed) Claudio Gramizzi

Final report of the Group of
Experts on the Democratic Republic of the Congo
re-established pursuant to resolution 1857
(2008)
[Original: English]

Summary

This report concludes that military operations against the FDLR have failed to dismantle the organization's political and military structures on the ground in eastern DRC. The increasing rate of FDLR combatant defections and the FDLR temporary removal from many of its bases are only a partial success considering that the armed group has regrouped in a number of locations in the Kivus, and continues to recruit new fighters. This report shows that the FDLR continues to benefit from residual but significant support from top commanders of the FARDC, particularly those officers in the 10th military region (South Kivu), and has sealed strategic alliances with other armed groups in both North and South Kivu . External support networks, both regional and international, have been used by FDLR in the field to counteract the effects of Kimia II, for instance networks in Burundi and Tanzania . The Group has also documented that the FDLR has a far reaching international diaspora network involved in the day-to-day running of the movement; the coordination of military and arms trafficking activities and the management of financial activities. This report presents two case studies on the involvement of individuals linked to faith-based organizations.

The Group investigated the FDLR's ongoing exploitation of natural resources in the Kivus, notably gold and cassiterite reserves which the Group calculates continue to deliver millions of dollars in direct financing into FDLR coffers. This report illustrates how FDLR gold networks are intertwined tightly with trading networks operating within Uganda and Burundi as well as the UAE. The Group also documents that a number of minerals exporting houses, some of whom were named in the Group's previous report in 2008, continue to trade with the FDLR.

This report shows that end buyers for this cassiterite include the Malaysia Smelting Corporation and the Thailand Smelting and Refining Company, held by Amalgamated Metals Corporation, a UK entity.

The report analyzes the integration of non-state armed groups into the FARDC through the rapid integration in January 2009; as well as prior and during the FARDC/RDF joint operation Umoja Wetu and Kimia II. In this context, the CNDP officer class, in particular General Bosco Ntaganda, has continued to retain heavy weapons acquired during its period of rebellion in spite of its official integration into the FARDC and still controls revenue generating activities and parallel local administrations. The Group also presents documentary evidence showing that Gen Ntaganda continues to act as Kimia II deputy operational commander.

CNDP military officers deployed as part of FARDC Kimia II operations have profited from their deployment in mineral rich areas, notably at the Bisie mine in Walikale, North Kivu, and in the territory of Kalehe , in South Kivu . In both these areas, the FARDC commanding officers on the ground are ex-CNDP officers. The Group includes evidence in the report showing direct involvement of CNDP military officials in the supply of minerals

to a number of exporting houses in North and South Kivu , some of which also supply the same international companies mentioned above.

The Group has monitored compliance with paragraph 5 of resolution 1807 (2008), by which the Security Council decided that all states shall notify the Sanctions Committee in advance regarding the shipment of arms and related material for the DRC or any provision of assistance, advice or training related to military activities, especially given the Group's findings on the continued diversion of FARDC military equipment to non-governmental armed groups, notably the FDLR. The Group has conclusively documented irregular deliveries of arms to the DRC from the Democratic People's Republic of Korea and the Sudan as well as deliveries of trucks and aircraft that have been used by the FARDC. This report also documents the failure of a number of States to notify the Sanctions Committee of training they provided to the FARDC.

The Group also reports on violations of human rights committed in contravention of subparagraphs 4 (d), (e) and (f) of resolution 1857 (2008): This report concludes that the FARDC and non-governmental armed groups continue to perpetrate human rights abuses, and in the context of Kimia II operations, in contravention of international humanitarian law. The FARDC and the FDLR have been involved in significant killings of civilians and other abuses from March to October 2009 causing additional waves of displacement of several hundred thousand civilians. The findings of this report underline the need for the urgent establishment of a vetting mechanism as well as the strengthening of accountability and justice system in the DRC. A list of FARDC commanders currently deployed in the Kimia II operation, with an established record of human rights abuses is annexed to this report:

I. Introduction and methodology

The Group of Experts commenced its work on 2 March 2009 in New York , where it held consultations with United Nations officials and diplomatic missions before travelling to Europe to meet with representatives of various Governments and non-governmental organizations. The Group subsequently deployed to Kinshasa on 20 March 2009 to begin five weeks of field work in the region following which it presented its interim findings to the Sanctions Committee on 9 May 2009. The interim report of the Group of Experts was issued as a document of the Security Council on 14 May 2009 (S/2009/253). From March through the end of October 2009, the Group maintained a regular presence in North and South Kivu and, in the Great Lakes region, held consultations with the Governments of Burundi, Rwanda and Uganda .

The Group continued to consult with central and provincial government authorities in the DRC, but regrets not being afforded an opportunity to hold substantive consultations with the Ministry of Defence of the DRC. The Group visited the United Arab Emirates where it held meetings with representative of the Ministry of Foreign Affairs as well as with the Dubai authorities and private sector entities. The Group also visited Germany where it held meetings at the Federal Foreign Office. Pursuant to paragraph 10 of resolution 1857 (2008), the Group continued to adopt a case study approach, focusing on North and South Kivu and Ituri. In North Kivu the Group undertook missions to the territories of Masisi, Rutshuru, Nyragongo, Walikale and Lubero territories, and in South Kivu to Kalehe, Kabare, Mwenga, Shabunda, Uvira and Fizi territories. The Group also undertook missions to Bunia and Ituri district.

In particular, the Group continued to focus its research on the activities of the Forces démocratiques de libération du Rwanda-Forces combattantes Abacunguzi (FDLR-FOCA), as well as the activities of the movement's political leadership and diaspora members residing outside of the DRC. The Group continued its analysis of the integration process of non-governmental armed groups in the Congolese armed forces (FARDC), as well as on non-integrated elements which remain outside of the current peace process. In light of the political and military developments observed during 2009, the Group also centered its research on potential security threats in connection with weak integration of non-state armed groups into the FARDC, aggravated by the conduct of military operations in the Kivus (Umoja Wetu and Kimia II). With respect to paragraph 5 of resolution 1807 (2008), the Group continued to investigate arms shipments to the DRC which were not notified by exporting countries to the Security Council Committee established pursuant to resolution 1533 (2004), hereafter denoted as the Committee.

The Group continued its research into the linkage between the illegal exploitation of natural resources and the financing of illegal armed groups. The Group also monitored, to the extent possible, the implementation by Member States of the targeted travel and financial measures imposed against individuals and entities on the Committee's list.[1] The Group of Experts worked in close collaboration with MONUC and relevant United

Nations agencies. The Group consulted broadly and met with a number of different interlocutors during its fieldwork, including the civilian and military authorities of the DRC and other regional States, national civil aviation authorities, mineral traders, representatives of business entities, air and land transport companies and non-governmental organizations, as well as former and current militia members, and representatives of the local and international press. A list of meetings and consultations held by the Group is contained in the annex to the present report (Annex 1). The Group of Experts used evidentiary standards recommended by the Informal Working Group of the Security Council on General Issues of Sanctions in its report (S/2006/997), relying on authentic documents and, wherever possible, first-hand, on-site observations by the experts themselves. When this was not possible, the Group corroborated information using at least three independent and reliable sources. In general, the Group chose not to provide detailed profiles of its sources, in order to guarantee their anonymity and to protect them from possible retaliation. The Group obtained more than one hundred telephone logs which it analyzed to the extent possible. The Group wishes to clarify that it did not monitor telecommunications referred to throughout this report, but only analysed the timing and length of phone calls made. Phone logs analysis helped the Group determine trends or particular patterns of communication and to further corroborate information obtained from documents, testimonies and interviews.

In his letter dated 13 February 2009 (S/2009/93) addressed to the President of the Security Council, the Secretary-General informed the Council that he had appointed the members of the Group of Experts as follows: Dinesh Mahtani (United Kingdom of Great Britain and Northern Ireland, finance expert and Coordinator), Raymond Debelle (Belgium, regional expert), Mouctar Kokouma Diallo (Guinea, customs expert), Christian B. Dietrich (United States of America, aviation expert) and Claudio Gramizzi (Italy, arms expert). The Group was assisted by Peter Danssaert, a consultant on arms, and by Ms. Francesca Jannotti Pecci, Political Affairs Officer in the Department of Political Affairs of the United Nations as well as two full time consultants. The Group of Experts wishes to express its thanks to the staff of MONUC for their support and continued cooperation during the course of this mandate and, in particular, to the following MONUC Offices: Civil Affairs Section, DDR/RR Section, DSRSG, UNJHRO (United Nations Joint Human Rights Office), Division of Mission Support, Eastern Coordination, JMAC, Political Affairs Division, Regional Administration Office, Public Information Office, Radio Okapi, as well as to the North and South Kivu Brigades.

II. Political and Military Context

In January 2009 several thousand combatants drawn from the CNDP, PARECO and other Mai Mai groups participated in a rapid integration exercise and were incorporated into FARDC ranks. According to FARDC officials and diplomatic sources, the exact number of integrated elements is not known to the FARDC high command, although all armed groups in the process provided figures totaling 12,000 elements. Due to the speed at which the integration process took place in North Kivu, many weapons stockpiles remained personalised and hidden away in secret caches, and children who had been previously recruited into the armed movements were integrated into the new FARDC structures. Due to the immediate integration of the majority of these elements, their subsequent deployment in joint Rwandan Defence Forces (RDF) -FARDC operations (known as Umoja Wetu) and, later, in MONUC-supported FARDC operations (known as Kimia II), the identification of newly integrated FARDC elements remains incomplete. The lack of an adequate identification process led to the delays in the payment of salaries for months, exacerbating waves of desertions from FARDC ranks during the early part of 2009, particularly Mai Mai PARECO and Hutu elements from the CNDP. In South Kivu roughly 550 elements from Mai Mai Asani, Yakutumba group and FRF – both groups based in the high plateau – accepted to join the integration process in August 2009 although it is not fully clear whether these troops are responding wholly under the chain of command of the FARDC. In North Kivu two main Mai Mai groups under the command of General Kakule Sikula Lafontaine and Col Janvier Buingo Karairi remain committed to opposing Kimia II operations.

Operation “Umoja Wetu”

Between 20 January and 25 February 2009, FARDC and RDF conducted joint operations in North Kivu, known as Umoja Wetu, in an attempt to dismantle the FDLR's military capacity. The Group established on the basis of its field work, and of reports received from FARDC and MONUC, that while such operations initially pushed the FDLR away from military bases in North Kivu and several other strategic positions, the FDLR subsequently managed to re-occupy some of the positions they had lost and conducted frequent reprisal campaigns against civilian villages, which included acts of killing, raping, looting and burying. These retaliations were also marked by the displacement of thousands of people. Some of these reprisals have been documented in this report and in the Group's interim report, S/2009/253.

The effectiveness of Umoja Wetu was diminished by the limited resources and logistical capacities of the FARDC. It appears that the operations were further crippled due to the embezzlement of several million US dollars in operational funds by top officers in the FARDC and RDF. While the Group could not document this misappropriation of funds, it received consistent reports from both Presidential sources in Kinshasa and FARDC officials involved in the operations. During Umoja Wetu the Group also received consistent reports that RDF and newly integrated CNDP elements working in tandem also cleared several areas of civilian populations, particularly in Walikale territory, where newly integrated ex-CNDP troops planted the seeds of their present control over principle axes in mining rich zones of the territory.

According to many reports received by the Group, including from FDLR and RUD-URUNANA active elements, FDLR and RUD-URUNANA forces have agreed a mutual pact of cooperation during the period of Umoja Wetu while the FDLR had already started benefitting from an unknown but allegedly significant number of Hutu ex-combatants drawn from PARECO, Mai Mai and other groups.

Operation Kimia II

FARDC operations against the FDLR, which began in March 2009, spread from North Kivu gradually southwards to South Kivu before slowing down in September 2009 due to lack of operational funds. The most aggressive operations against the FDLR have been conducted by FARDC units spearheaded by ex-CNDP commanders, notably in the territories of Masisi and Walikale, in North Kivu, and Kalehe, Shabunda, Fizi and Uvira in South Kivu. According to humanitarian and human rights workers operating in affected areas, the human cost of the operations has been high due to the abuses perpetrated against civilian populations by FARDC troops deployed in the operation theatre, FDLR and RUD-URUNANA reprisal attacks, and attacks by Mai Mai groups. Scores of villages have been raided and pillaged, thousands of houses have been burnt and several hundred thousand people have been displaced in order to escape from violence generated by military operations. Several hundred people have been killed by FARDC troops and FDLR reprisal attacks during this period (see Annex 2 for satellite image of villages razed by the FDLR). The operations have also been a vector through which ex-CNDP officers have cemented their control over mineral rich areas, notably the Hauts Plateaux in Kalehe, mining areas in Walikale, and areas around the Kahuzi Biega Park in Shabunda territory. Ex-CNDP units have also forcibly displaced large numbers of civilians from land in the Mushake zone of Masisi in order to find grazing areas for cattle being brought in from Rwanda. During the period of Kimia II operations, several thousand refugees based in camps in Rwanda trickled back to reoccupy contested land in the Kivus, exacerbating ethnic and land-based tensions amongst local communities.

Since July 2009, the FARDC has been occupied with heavy fighting in Masisi territory, North Kivu, against the troops of Col Janvier Buingo Karairi, commander of the Alliance des Patriotes pour un Congo Libre et Souverain (APCLS), a local defence group that has grown in strength throughout 2009 and recruited children, local Hunde community volunteers and largely Hutu ex-combatants from the FARDC to form a front against Kimia II. According to MONUC and other sources the APCLS could number up to 1000 combatants and have forged an operational alliance with FDLR axis commander Col Evariste Kanzeguhera (also known as "Sadiki Soleil"). APCLS have held the axis of Lwibo through Lukweti, in Masisi territory, while FDLR have regrouped behind them and started deploying units back into Masisi. According to human rights and humanitarian workers who have visited the area, FARDC have carried out numerous attacks deliberately targeting and killing hundreds of civilians there.

While the FDLR have been dispersed from many of their original bases, they have regrouped in significant numbers around four areas: on the Pinga-Oninga axis in Masisi and Walikale, around the Hombo area in Walikale, the Itombwe forest in Mwenga, as well as in Lubero territory in alliance with Mai Mai of General Kakule Sikula Lafontaine, who separately operates in collaboration with the RUD-URUNANA. With their local supply and logistics chain disrupted, the FDLR has attempted to adapt by launching smaller attacks on vulnerable civilian populations in order to pillage and take hostages for ransom.

MONUC have reported 1,261 surrendered FDLR combattants from January to 30 October 2009, and a total of 1,785 dependants, which represents roughly twice as many repatriations of FDLR combatants and three times as many total repatriations recorded between the signing of the Nairobi Communique in 2007 and the end of November 2008. In the mean time, FDLR have been engaging in fresh waves of recruitment of Congolese Hutus as well as numbers of Rwandan Hutus who are being infiltrated through Burundi and Uganda. It therefore remains difficult to assess whether the fighting force of the FDLR has diminished significantly from the 6000/8000 fighters the Group estimated the FDLR had in 2008.

Military operations have thus not succeeded in neutralising the FDLR, have exacerbated the humanitarian crisis in the Kivus, and have resulted in an expansion of CNDP military influence in the region. Elsewhere, in Europe, North America and the wider African region, the FDLR diaspora support networks have continued to operate and have been deeply involved in managing the response to the FARDC operations.

III. Forces Démocratiques de Libération du Rwanda -Forces Combattantes Abacunguzi (FDLR-FOCA)

The Group has researched extensively the internal and external support networks of the FDLR. In particular the Group has identified residual but substantive links between the FARDC and FDLR, and focused on the FDLR's regional and international support networks. The Group has also researched the extent to which diaspora FDLR leaders present in North America, Europe and Africa are involved and complicit in the day-to-day operational command of the FDLR. The Group gathered evidence of FDLR involvement in local businesses in Goma (See Annex 3), from transport, general trade in goods, to the exploitation of timber forests, charcoal and marijuana (see also S/2008/773 and S/2009/253). The Group continued its research into the FDLR's illegal exploitation of natural resources in complicity with traders working for Congolese minerals exporting houses.

A. Internal Military Support Networks

FARDC-FDLR collaboration

In line with its report of 12 December 2008 (S/2008/773), the Group continued to research FARDC-FDLR collaboration. In particular, the Group focused on episodes of diversions of military equipment, which are detailed in the following paragraphs, as well as with cases of interference by the FARDC with MONUC-DDRRR exercises and of operational collaboration between the FDLR and the FARDC.

10th military region (FARDC)

The Group has documented several cases of arms and ammunition that were diverted from FARDC stockpiles to various non-state armed groups, in particular the Mai Mai, Front National de Liberation (FNL)[2], Forces Republicaines Federalistes (FRF) and the FDLR. In spite of military operations undertaken by the FARDC against the FDLR, the Group has gathered evidence and testimony demonstrating that certain FARDC officers, particularly senior officials in control of the 10th military region (South Kivu), are implicated in the deliberate diversion of this military equipment. The cases documented by the Group do not give a full picture of the current extent of FARDC material support to non-state armed groups. Nevertheless, the Group is of the view that the Kinshasa authorities are aware of some of these leaks and have taken no appropriate measures, undermining the FARDC's control over its own internal stockpiles and military operations against the FDLR. The Group documented the attempted diversion of military equipment from the 10th military region in December 2008, and corroborated several other cases of diversion that took place in 2009, through the recovery of hidden arms caches in collaboration with MONUC and through various testimonies gathered in the course of its work in South Kivu , including from military justice officials.

The Group has obtained a report from a DRC security agency (Annex 4) and a case file from the intelligence officers (T2) of the 10th military region (Annex 5) which describes the attempted diversion on 13 December 2008 of 14,000 rounds of 7.62x39mm ammunition (Kalashnikov type) from the official FARDC stockpile under the control of the commanders of the 10th military region. These documents have been archived at the United Nations.

PPP

The Group separately interviewed two FARDC officers of the 10th military region who were aware of the diversion of this military equipment. Both officers stated to the Group that the ammunition was destined to be delivered to the FRF, FNL and FDLR. The officers also informed the Group that there have been similar other episodes over the last year orchestrated by internal FARDC networks loyal to Colonel Baudouin Nakabaka, the deputy commander of the 10th military region in charge of logistics and administration, and his direct superior General Pacifique Masunzu. The 10th military region is responsible for arms stockpile management and salary payments of FARDC soldiers operating in South Kivu . Commanders of the 10th military region are not involved in the chain of command of Kimia II. The case file obtained by the Group shows Col Nakabaka's direct complicity in the attempted diversion of ammunition on 13 December 2008. Testimonies by various

FARDC officials in these documents show that the ammunition was loaded onto a specially rented private vehicle by certain FARDC officials, notably Sergeant Elie Awijeo Abutumange and Captain Ikamba, the latter who was at the time in charge of the FARDC depots where this material was stored. According to several testimonies of FARDC officials, Captain Ikamba and the driver of the vehicle stated to their fellow FARDC officers present at the storage site that the material was being moved with the authority of Col Nakabaka. Four FARDC witnesses reported that Colonel Nakabaka phoned FARDC officers in charge of securing the camp at that precise moment. FARDC witnesses also reported that the driver had attempted to call Col Nakabaka just before he was arrested. The documents show that Col Nakabaka's phone number was found in the driver's phone.

According to the T2 case file, FARDC witnesses confirmed that the munitions were supposed to be delivered to Yves Mukulikire, a resident of Uvira, who confirmed that he had been a fighter in the Mai Mai Zabuloni and subsequently in the 111th brigade up until 2006, and that he was the cousin of Colonel Nakabaka. FARDC officials also inspected Mukulikire's house in Uvira a few days after 13 December 2008 and discovered eight empty boxes of ammunition belonging to FARDC. The FARDC witnesses also testified to the T2 that there had been several diversions of military equipment in the three months prior to this specific incident, and that Yves Mukulikire was involved in at least two of them.

The T2 case file also describes the results of an internal investigation into the state of the 10th military region's stockpile conducted on the 2 February 2009, concerning significant stocks of arms and ammunition which had either disappeared or were not being accounted for. The results show that two boxes of 40mm grenades, six boxes of 14.5mm ammunition and the equivalent of 7.5 cases of 7.62x39mm ammunition had gone missing and that there was a recorded surplus of seven boxes of 12.7mm ammunition, 25 boxes of 82mm mortar bombs, five boxes of 60mm mortar bombs, and 10 boxes of 7.62x54mm ammunitions. FARDC officers interviewed by the Group of Experts in Bukavu reported that the T2 case file was transmitted to General Masunzu and to the FARDC ground force intelligence (G2) headquarters in Kinshasa in early 2009, but that no measures had been taken against Colonel Nakabaka.

The Group, in collaboration with MONUC Pakistani military contingent, uncovered two arms caches in the town of Uvira, which the Group considers to be connected to non-state armed groups, notably the Mai Mai, FNL and FDLR. Acting on the Group's information, MONUC's Pakistani contingent seized a stock of 139 AK-47 rifles, 34 rounds of 7.62x39mm ammunition, 5 hand-grenades and 6 Uzi submachine-guns (Annex 6) between the night and early morning of 15 and 16 June 2009. The equipment was found in a house owned by Col Nakabaka in Uvira. In the week following the seizure of arms, PAREC, a local NGO, claimed that it had been responsible for recovering the arms one by one over the period of 15 months as part of a cash-for-weapons programme supporting disarmament activities. The Group does not consider this plausible, as 65 percent of the AK-47s seized were from five separate production series, and all the Uzis belonged to two production series displaying consecutive production serial numbers. This pattern suggests the weapons are more likely to have been taken from a stockpile, rather than handed in individually by different fighters. The Group corroborated this conclusion through credible testimonies that the arms cache seized on 16 June 2009 belonged to a stock of weapons under the control of the joint FNL-FDLR-Mai Mai network responsible for the attack against the town of Uvira on 9 April 2009. According to two separate interviews with FDLR ex-combatants directly involved in the 9 April events, as well as individuals close to the FNL and FARDC military justice officials, the operation was jointly conducted by FNL, FDLR and Mai Mai Zabuloni forces and was perpetrated in a bid to release FNL prisoners arrested during previous attacks in February 2009 and to neutralize and replace the military and civilian authorities in Uvira town.

On the night of 14 July 2009, acting again on the Group's information, the Pakistani MONUC military contingent seized another arms cache in a different house in Uvira, including eight 107mm rockets, two AK-47 rifles, nineteen rounds of 7.62x39mm ammunition, ten 82mm mortar bombs, twenty-one fuses for mortar bombs, and 62 rounds of 12.7mm machine-gun ammunition. Such equipment is commonly found in FARDC stockpiles. When the Group received information regarding the location of the weapons, it was also informed that these arms had been hidden by Col Nakabaka. The Group has not been able to meet the officials of DRC Ministry of Defence in Kinshasa to discuss these cases.

While working with MONUC on the above cases, the Group developed a model database for the identification of weapons seized by MONUC, including pictures of all the relevant markings necessary for subsequent tracing exercises. The Group shared this tool with MONUC. The FARDC's Col Nakabaka, previously a Mai Mai fighter, is widely recognized by FDLR ex-combatants in South Kivu as having been an important ally to the FDLR in the past. The Group also established from analysing phone records that in 2009 Col Nakabaka

was in telephone communication with Major Fudjo Zabuloni, the commander of Mai Mai Zabuloni in Uvira territory. In the same time period, Col Nakabaka was also in contact with Major “Mazuru”, an FDLR intelligence officer, consistently described in dozens of interviews with FDLR ex-combatants as being involved in recruitment and the gold trade on behalf of the FDLR. Both Fudjo and Mazuru have separately been in telephone contact with Bande Ndagundi, a Congolese citizen who is involved in arms trafficking and recruitment activities on behalf of non-state armed groups in the DRC, according to evidence gathered by the Group (see paragraphs 72 to 79 for more on Mr Ndagundi’s network in Tanzania).

The FNL dissident elements participating in the 9 April 2009 attack were reportedly recruited in Burundi by Congolese nationals and given money and weapons. This fact was established on the basis of testimonies received from Congolese military officials, FDLR ex-combatants and an FNL ex-combatant directly involved in the 9 April attack. In addition, two Burundian nationals, arrested and interrogated by Congolese military justice officials with an element of the Mai Mai Zabuloni, stated that they had been approached in Burundi by recruiters who were specifically looking for well trained soldiers.

On the basis of consistent interviews collected throughout the mandate, the Group is of the view that the FDLR-Mai Mai-FNL networks have formed an alliance in the face of Kimia II operations and collaborate tightly with each other. As part of this alliance, the three armed groups cooperate in smuggling natural resources from the territory of Uvira to Burundi and Tanzania , share weapons stocks and assist each other infiltrate and hideout in the Ruzizi plain as well as across the border in forested areas in Burundi .

Colonel David Rugayi

Testimonies from five separate former FDLR combatants and three FARDC officers indicated that Col David Rugayi, formerly of the 14th integrated brigade, has been responsible for the diversion of large amounts of military equipment to the FDLR on several occasions in 2008, notably in February, June, October, November and December 2008 in the territory of Masisi and in the towns of Kalungu and Kibua. According to these testimonies, the equipment reportedly included hundreds of 107mm cannon rockets, a recoilless 107mm cannon, several RPGs, three machine guns of 12.7mm and 14.5mm caliber and two hundred boxes of 7.62x39mm ammunition (roughly 50,000 rounds), 230 AK-47s and several 82mm mortars.

Col Rugayi, who is loyal to former Rwandan-backed North Kivu governor Eugene Serufuli, one of the founders of the sanctioned entity Tous pour la Paix et le Developpement (TPD), is also reported by three FARDC officers, interviewed by the Group to have taken charge most of the heavier weapons controlled by the predominately Hutu PARECO Mai Mai before their fighters were integrated into the FARDC. According to several military sources, Col Rugayi’s 14th brigade was also heavily infiltrated by FDLR fighters when it was deployed in mining rich zones in the territory of Kalehe . The Group gathered several consistent testimonies from FDLR ex-combatants of Col Rugayi’s involvement in exploiting cassiterite and gold in mining areas under the control of the FDLR in Kalehe, before the FDLR were pushed out of these areas by newly integrated FARDC units mainly composed of ex-CNDP elements.

One of the FDLR ex-combatants informed the Group that he had been part of a group of 50 FDLR porters who were sent down from Kalehe to the town of Kalungu at the end of 2008 where Col Rugayi transferred to them a number of AK-47 assault rifles, machine guns as well as roughly a hundred 107mm rockets. The ex-combatant relayed that his commander had personally met Col Rugayi in Kalungu, and that FARDC vehicles arrived from Bukavu, the headquarters of the 10th military region, to deliver the equipment. Another FDLR ex-combatant reported that four hundred 107mm rockets were delivered by Col Rugayi to the FDLR just a week before Umoja Wetu started.

The phone records available to the Group show that Col Rugayi has been in contact three times with Colonel Nakabaka between May and September 2009. The Group is still investigating this case. PARECO and FDLR elements informed the Group that Col Rugayi is in close contact with General Mayanga Wabishuba, the deputy commander of the 3rd FARDC military region in Equateur Province . According to the same information, General Mayanga helps to finance Hutu militias in the Kivus, including the FDLR, and reportedly his support is motivated by personal land disputes with prominent members of the Tutsi community in North Kivu . The Group reviewed documents relating to one such land dispute involving General Mayanga.

Other cases of diversion

Throughout the current mandate the Group repeatedly received information from several FARDC officials of

diversions of small amounts of ammunition from stockpiles by poorly supervised FARDC officials.

In July 2009, the Group interviewed an officer of the 115th brigade who was arrested for having purchased 1,500 rounds of 7.62x39mm ammunition from FARDC stock, with the complicity of a Congolese naval officer based near Uvira. Claiming that the ammunition was not to be used for military operations, the FARDC officer informed the Group that he had been authorized to travel to Uvira to procure the ammunition by his superiors at his brigade headquarters in Kilembwe, South Kivu . The officer also stated that he travelled frequently to sell gold extracted from mines near Kilembwe. The Group received further testimonies that 115th brigade elements travel frequently to Uvira and Bukavu to purchase ammunition from the stocks of the 10th military region headquarters.

The Group further notes that, according to MONUC and the FARDC sources, the 115th brigade, active in the Kilembwe zone since 2007, includes a number of FDLR elements in its ranks and that its members have previously been involved in commercial activities, such as the sale of gold, on behalf of the FDLR. In conclusion, the Group observes that the above cases show a pattern of continued diversion of arms and ammunition, and that even small-scale diversion of military equipment fuels illicit trafficking activities, both to the benefit of non-governmental armed groups, including the FDLR.

FARDC interference with DDRRR operations

The Group notes with concern what appear to be a series of deliberate interference by certain FARDC units of MONUC's attempts to demobilize and repatriate large numbers of FDLR troops and dependents. On 20 August 2009 FARDC units under the control of Colonel Cuma Balumisa attacked FDLR positions near Kahunzu in North Kivu , just a day after two FARDC officers had been deployed to the DDRRR site to ensure coordination with MONUC and that no attack would take place during that period. On 31 August 2009 FARDC trucks moved into Lulimba with more than 200 soldiers on rotation during a period when MONUC was expecting several dozen FDLR combatants to surrender at a temporary MONUC base. The FARDC units, under the command of Colonel Chiko Tshitambwe, nevertheless deployed and clashed with the FDLR column on its way out, capturing eight FDLR elements and pushing the rest of the column back into the bush. During a DDRRR exercise aimed at extracting FDLR combatants and dependents from the area of Ntoto in North Kivu on 4 September 2009, FARDC troops under the command of Colonel Mahindule Wabo attacked FDLR at Ntoto, thereby compromising the exercise. The FARDC command argued that the attack on FDLR occurred in error due to the inability to communicate with their field commanders

It is worth underlining that all the above MONUC/DDRRR exercises had been previously agreed upon by MONUC with FARDC chief of staff General Didier Etumba and the commander of Kimia II, General Dieudonné Amuli, who had acknowledged that DDRRR deployments should be fully integrated into ongoing military operations.

Interference with Kimia II operations

The Group gathered testimonies of support given to the FDLR by an FARDC officer identified as Colonel Yves Kijenga, who was directly involved in Kimia II. The Group has received reports from Mai Mai sources as well as local officials in Hombo, a town which straddles the border of North and South Kivu, that Col Kijenga was based in the Hombo region in early 2009 and had close relations with the FDLR. Col Kijenge reportedly interfered with operations against the FDLR by asking his troops to fire in the air as they approached the FDLR, thereby alerting FDLR to FARDC attacks, as well as allegedly releasing a number of FDLR elements who had been captured by the FARDC and detained in Hombo. The Group has been unable to confirm the whereabouts or current activities of Col Kijenga.

FARDC-FDLR-FRF collaboration in the Hauts Plateaux (South Kivu)

The Group gathered evidence indicating the existence of a strong alliance between the FDLR and the FRF in the Hauts Plateaux (Fizi, Mwenga and Uvira territories). This section illustrates the building of this alliance, its modus operandi as well as the support received separately by both FDLR and FRF, respectively, from the FARDC's 123rd integrated battalion and 112th brigade.

The FRF is an ethnic Banyamulenge militia, counting approximately 150 elements, and was originally founded by, amongst others, General Pacifique Masunzu, the current commander of the 10th military region mentioned

above in connection with the diversion of equipment from the 10th military region. Gen Masunzu was once a commander in the Rwandan backed RCD-Goma rebel movement and the FRF was born out of what was called the “Masunzu rebellion” against RCD-Goma and Rwanda during the 1998-2003 war.

The Group received several consistent testimonies, including those from several FDLR ex-combatants and a former FRF officer, of a growing alliance between FRF and FDLR elements that have moved to the Hauts Plateaux since FARDC launched operations in Mwenga, Uvira and Fizi territories of South Kivu in July 2009 onwards. The alliance between the two movements was reportedly sealed in September 2009, when an FDLR liaison officer was appointed within the FRF headquarters. The FDLR and FRF have been loosely aligned since 2003.

FARDC officers, FDLR and FRF ex-combatants, and an FDLR deserter interviewed by the Group during a visit to the Hauts Plateaux in September 2009, confirmed that the FDLR and FRF were already cohabiting at several locations, passing through each others’ territories, taxing the same markets together and sharing the revenues. According to one FRF officer who demobilized in October 2009, the alliance between the FRF and FDLR was cemented by a transfer of light and heavy weapons from the FDLR to the FRF around September 2009. An FDLR ex-combatant reported to the Group that just before the start of Umoja Wetu, in the strategic location of Kisanya in the Hauts Plateaux, the FDLR received a dozen boxes of 7.62x39mm ammunition, seven boxes of ammunition for 12.7mm machine guns and twelve RPG-7 rockets from the FRF.

Between the end of September and start of October 2009, the FRF and FDLR were reported by MONUC staff as having attacked FARDC units deployed in the Hauts Plateaux at Mikenge and Bijabo, as well as Mai Mai elements based near Kipombo. The Group received a number of testimonies, confirmed by Congolese military justice reports, that FARDC military equipment deployed in the Hauts Plateaux has been diverted into the hands of the FDLR. FARDC military justice officials in Uvira confirmed the arrest in June 2009 of Captain Aburu of the FARDC 123rd battalion, as well as two other elements of the same company, on charges of selling 750 rounds of 7.62x39mm ammunition to the FDLR in the market of Rutikita (Hauts Plateaux). This information corresponds to another case reported by the same military justice officials of Captain Sumpia, also of the FARDC 123rd battalion, who was arrested in February 2009 on similar charges. Other similar sales of ammunition in the Hauts Plateaux are reported to have been made in 2009 to both the FDLR and FRF. As mentioned above (see paragraphs 23 to 30), the attempted diversion of ammunition from the 10th military region headquarters in Bukavu was also aimed to supply the FRF.

The Group has also received information of particularly close collaboration between the FRF and the FARDC 112th brigade, based in Minembwe. The 112th brigade is an almost exclusively Banyamulenge brigade under the direct command of the 10th military region, and considers Gen Masunzu as its leader.. The Group gathered consistent testimonies from FARDC officers and local sources confirming that elements of the 112th brigade conducted joint military operations with the FRF against Mai Mai units from 3 to 9 April 2009 in the Hauts Plateaux. The Group notes a series of phone communications involving calls made to and between phone numbers identified by the Group as belonging to FRF, FARDC 112th brigade, FARDC, Col Chiko Tshitambwe (who, at the time of writing, was the commander of Kimia II operations in Fizi territory) and Lt Col Lucien Nzabanita, the reserve brigade commander of the FDLR, during this exact same period.

Senior FARDC military officials involved in Kimia II operations informed the Group that Col Chiko Tshitambwe is considered one of the most important military field commanders by President Kabila. One of these FARDC officials suggested that Col Tshitambwe has special economic interests in the Hauts Plateaux but could not specify any further details. According to MONUC reports, since September 2009 Col Tshitambwe’s deputy commander in his zone of operations in South Kivu is Major Joseph Mitabo, a former FRF officer who recently integrated into the FARDC.

FDLR-RUD-URUNANA-Mai Mai Lafontaine: operational alliances in North Kivu

The Group obtained information showing financial and material support to the coalition of RUD-URUNANA and Mai Mai Lafontaine in the northern section of North Kivu province, known as the Grand Nord. The Group has been investigating support given to a second coalition between FDLR and Mai Mai Lafontaine. The Group gathered evidence from dozens of testimonies including demobilized and active FDLR and RUD-URUNANA elements, MONUC staff members, Congolese intelligence officers, members of religious institutions, and local politicians in the Grand Nord that one of the most important individuals anchoring the Lafontaine-RUD-URUNANA and Lafontaine-FDLR support network is Kasereka Maghulu, also known as “Kavatsi”. Kavatsi is

widely known by ex-fighters in the former rebel group RCD-KML as a key financial and logistical ally of Mbusa Nyamwisi, during the period when Mr Nyamwisi was leader of RCD-KML. Mr Nyamwisi was DRC minister of decentralization at the time of writing this report.

Kavatsi, who operates the company Galaxy Airlines, which flies its AN-26 cargo aircraft throughout eastern DRC, was nominated by Mbusa Nyamwisi in 2008 as a facilitator for the relocation process for RUD-URUNANA when Mr Nyamwisi was DRC Minister of Foreign Affairs. During this period, Kavatsi supplied food to RUD-URUNANA and General Kakule Sikula Lafontaine who is pictured with Mr Nyamwisi receiving cash from him, in January 2008, as part of part of the government sponsored integration process in 2008, under the Amani process (Annex 7). Several RUD-URUNANA and FDLR ex-combatants and active officers have informed the Group that the proposed relocation process for RUD-URUNANA was used as a cover for the re-arming of troops of the armed group.

A RUD-URUNANA officer has confirmed that Kavatsi held frequent contacts with Major General Jean-Damascene Ndirabaje, alias Musare, the military commander of RUD-URUNANA, and provided Musare with two satellite phones in 2006. The officer also stated to the Group that Kavatsi frequently assisted RUD-URUNANA in obtaining food supplies and ammunition in return for minerals or timber exploited or traded by RUD-URUNANA. Two other RUD-URUNANA officers confirmed to the Group that Kavatsi was also involved in facilitating money transfers for RUD-URUNANA via Western Union. According to two additional RUD-URUNANA ex-combatants, Kavatsi also hosted several RUD-URUNANA officers and family members in his house, including the wife of Colonel Wenceslas Nizeyimana, alias Kit, the deputy military commander of RUD-URUNANA.

In the course of several interviews, including with FDLR ex-combatants, the Group was informed that Kavatsi has been involved in pre-financing gold exploitation in the areas west of Lubero, jointly controlled by FDLR and Mai Mai Lafontaine elements, in return for providing general merchandise eventually transported into Butembo via Galaxy Airlines. An FDLR Lieutenant previously based in the gold rich zone of Kasugho, west of Lubero, and a RUD-URUNANA officer both interviewed by the Group stated that Kavatsi had provided the FDLR North Kivu division commander, Col Pacifique Ntawungunka, alias Omega, with a satellite phone in order to facilitate better contacts and subsequently maintain frequent contact with Omega. The Group also obtained phone records showing contacts between Omega and Kavatsi's son.

A RUD-URUNANA ex-combatant interviewed by the Group in September 2009 stated that he was involved in two missions coordinated by Colone Idelphonse Nkiranuye (alias Moses), the G3 (operations) officer within RUD-URUNANA, which were aimed at receiving weapons and ammunition at a location in Butembo area in early July 2009. The ex-combatant provided the Group with a detailed description of the modus operandi of those missions. In the first operation, RUD-URUNANA and Lafontaine elements walked seven days through the bush to Butembo in order to receive a quantity of arms and ammunition before transporting the equipment back over several days. A similar mission was repeated again a few days later. In total, twenty AK47's, four machine guns, four 60mm mortars, two 82mm mortars and four RPGs were transported. According to a RUD-URUNANA officer separately interviewed by the Group, the transaction was supervised by the son-in-law of Kavatsi, correctly identified by another RUD-URUNANA ex-combatant from a picture shown to him by the Group. Witnesses in the Kasugho area also reported that new weapons supplies occurred into the area west of Kasugho in the month of July 2009.

A RUD-URUNANA officer who surrendered in 2009 and was interviewed by the Group in the course of this mandate, reported that Kavatsi in 2008 was instrumental in funding the visit to Butembo of Colonel Emmanuel Nyamuhimba, an ex-FDLR officer resident of Brazzaville and currently the Overseas Defence and Mobilisation commissioner for RUD-URUNANA. During such visit, Colonel Nyamuhimba reportedly met with Major Gregoire Sengahire and Colonel Emmanuel Rwigema, two officers of the Rassemblement populaire Rwandais (RPR), a movement closely linked to RUD-URUNANA (see Annex 8). A RUD-URUNANA ex-combatant separately interviewed by the Group described Col Nyamuhimba as instrumental in fundraising and sending money to RUD-URUNANA via Western Union. Col Nyamuhimba, alias Martin Nteziyayro, is suspected of having participated in planning meetings with Interahamwe militia during the Rwandan genocide.

The Group has investigated numerous reports of close connections between a RUD-URUNANA liaison officer, known as Augustin Habiyaemye (alias Augustin Ndongdo Shaba Deux, or "Shabade"), and Kavatsi. The Group obtained evidence that Mr Habiyaemye has been receiving money transfers via Western Union from diaspora supporters (see paragraphs 102 to 105). Mr Habiyaemye informed the Group that he transferred such funds to an employee of Kavatsi known as "Shabua", who according to another RUD ex-

combatant, acts as a courier for supplies to RUD-URUNANA. The Group has obtained phone records showing a series of three phone communications between Shabua and General Musare on 13 July 2009. The Group received credible information on the presence in Uganda of various support networks to RUD-URUNANA and FDLR networks in the Grand Nord. Through the Group's consultations with active officers and demobilized RUD-URUNANA elements, it emerged that hundreds of recruits have been sourced by RUD-URUNANA and FDLR networks since January 2009 from refugee camps in Uganda, near the border with DRC, in particular the camps of Nyakivale and Cyaka.

Information received by the Group cites waves of recruitment in May, June, September and October 2009. Reportedly, former FAR (Forces Armées du Rwanda) officers were amongst the newly recruited elements. On this particular issue, the Group interviewed a demobilized FDLR officer and a former RUD-URUNANA officer. According to both, Col Nizeyimana, who as mentioned above has close connections to Kavatsi and was transported by Kavatsi to the DRC from Uganda in 2008, is one of the key organizers of these recruitments. According to the demobilized FDLR officer, Col Nizeyimana had also been instrumental in organizing the visit of FDLR president, Ignace Murwanashyaka, to Uganda in 2006, in violation of the latter's travel ban imposed in November 2005. During this well documented visit, Mr Murwanashyaka had subsequently been transported from the DRC-Uganda border at Kasindi to areas around Kasugho. The Group was given direct access by a RUD officer to an email account managed on behalf of General Musare. The contents of the email account showed discussions in Kinyarwanda between the email account holder and an anonymous contact claiming to be part of a Tutsi monarchist movement called Mouvement Ruderhiwa pour la Liberation du Rwanda who wants to plan an attack against the government in Kigali. The correspondences mention, as a preparatory phase of the attacks, the possibility of infiltrating recruits via the Bunagana border post between Uganda and the DRC to participate to RUD-URUNANA military trainings (Annex 9).

B. Regional Support Networks

Tanzania

ccc

The Group concluded in its previous mandate that the principle source of arms and ammunition for the FDLR was the FARDC. However, in the course of the current mandate, the Group established that the FDLR received significant deliveries of weapons and ammunition in 2009 from outside the DRC, in particular equipment that has been smuggled into South Kivu across Lake Tanganyika from Tanzania. The Group has corroborated such information through several interviews with FDLR ex-combatants who personally witnessed such arms transfers, and from the Group's analysis of phone records of an individual who is in communication with both the FDLR and Tanzanian officials who the Group has confirmed as being part of an arms trafficking network (see paragraphs 72 to 81).

Four FDLR ex-combatants interviewed separately by the Group have confirmed several deliveries of weapons and ammunition to FDLR units based in the Uvira and Fizi areas of South Kivu since November 2008. One of the ex-combatants confirmed that he had been involved in offloading ammunition from boats arriving from Tanzania on the Congolese side of Lake Tanganyika several times in 2009. The last delivery he was involved in was in April 2009, when he helped offload ammunition and 82mm mortars in boxes near Kavimvira, the lakeside border region between Burundi and the DRC. In the course of the same interview, he declared that his commander had informed him that the ammunition had been sent across from Tanzania. Another FDLR ex-combatant stated that he saw an FDLR column in March 2009 moving R-4 assault rifles, AK-47s, around 100 RPG's and boxes of ammunition previously delivered by truck to Lulimba in South Kivu. He had been informed by the officers in the column that the delivery had come across Lake Tanganyika from Tanzania. Another FDLR ex-combatant testified to the Group that he had been involved in offloading a truck which delivered around 100 boxes of ammunition, 10 machine guns and several RPG's in the Uvira area in November 2008. The fourth ex-combatant also stated to the Group that he had witnessed a large delivery of ammunition and 107mm rockets in the Kigushu area of Uvira territory in January 2009.

The same four ex-combatants, as well as several others separately interviewed by the Group from the Uvira and Fizi territories of South Kivu, have reported that the coordination of weapons and ammunition deliveries from the Lake Tanganyika was supervised by Lt Col Félicien Nsanzubukire (alias Fred Irakeza) and Major Mazuru (who is contact with Col Nakabaka of the FARDC as described above), both FDLR officers based in the Sange area of Uvira. FDLR ex-combatants also confirmed that Lt Col Nsanzubukire travelled to Kigoma, on the Tanzanian side of the lake, a number of times. The Group has also confirmed that the FDLR Deputy Commander, Major General Stanislas Nzeyimana (alias Bigaruka), listed by the Committee in March 2009,

has travelled to Kigoma frequently over the last few years (Annex 10) and has been often in phone contact with Major Mazuru in 2009.

Other FDLR ex-combatants informed the Group that Major Mazuru also travelled with large amounts of cash to Tanzania and Burundi to sell gold and to recruit young Hutus from Rwanda, Burundi and from the refugee camps near Kigoma. An FDLR ex-combatant who managed Lt Col Nsanzubukire's communications devices declared to the Group in late April 2009 that FDLR president Ignace Murwanashyaka had been in frequent and direct contact with Col Nsanzubukire in 2009, and that Mr Murwanashyaka instructed him to use all necessary ammunition against Kimia II operations as further deliveries were expected from outside the DRC.

In the course of numerous interviews held in the DRC, Tanzania and Burundi, the Group was informed that Bande Ndangundi, a Congolese resident of Dar-es-Salaam who has been spending long periods of time in Burundi in 2009, has coordinated the delivery of military equipment to the FDLR. Mr Ndagundi, originally from Sange (Uvira territory) has lived in Dar-es-Salaam for almost 30 years and was once an associate of Laurent Desire Kabila, when the former DRC president lived in Tanzania. According to a Tanzanian based individual close to Mr Ndagundi, the latter maintains close connections to Mai Mai communities that helped launched Laurent Kabila's rebellion, and has been working to form an FDLR, FNL and Mai Mai coalition to destabilize eastern DRC and thereby increase his political relevance. Information gathered from Congolese security agencies and individuals close to Mr Bande's entourage corroborate that Mr Bande's principle objective is to advance his economic interests in eastern DRC and that he was the principal financier of the 9 April 2009 joint FDLR-FNL-Mai Mai attack on Uvira (which is already detailed in paragraph 30 and 34 of this report).

The Group has obtained Mr Ndagundi's Burundian phone records which show he has communicated with Lt Col Nsanzubukire as well as with Fudjo Zabuloni, in early 2009, and subsequently has been in contact several times with Major Mazuru (see paragraph 33 for details on contacts between Fudjo, Mazuru and Col Nakabaka). Additionally he was also repeatedly in contact with two FDLR officers based respectively in Lemera (South Kivu) and Lubero territory (North Kivu), and with a senior FARDC military officer based in the Ruzizi plain, historically a stronghold of the FDLR and the FNL, in South Kivu.

The Group has been informed by several sources, including a source close to Mr Ndagundi that he has close links to the ruling CNDD-FDD party in Burundi as well as senior officials in the Tanzanian government, police and military. These allegations appear to be corroborated by the fact that Mr Ndagundi's phone records show frequent communications between himself and support staff of senior Tanzanian ruling party officials, as well as a senior officer in the Tanzanian military. The Group continues to investigate these individuals. Mr Ndagundi's Burundian phone records also show 27 communications from April to September 2009 between himself and the number used by Francis Ndoluwa, the Tanzanian ambassador to Burundi, a former general in the Tanzanian military. A source close to Mr Ndagundi informed the Group that he works closely with the ambassador. The Group has obtained original email correspondence written by Mr Ndagundi where he states that he has high-level connections to Tanzanian government officials (Annex 11). In one email dated 17 July 2009 he writes that he is able to introduce his interlocutor to "high ranking" Tanzanian officials. In another email on the 24 July 2009 he tells his interlocutor that he can introduce him to "the Tanzanian authorities". In a further email, on 29 July 2009, he writes to his interlocutor that he had contacted the Tanzanian authorities, adding that he has lived in Tanzania for 27 years, which gave him the "opportunity to interact with them when we were all young in the same town – Dar es Salaam". He also adds that "we know each other very well and they know my stance in this situation".

In the same email Mr Ndagundi denounces operation Kimia II, describing it is part of a Rwandan conspiracy to expand its influence into South Kivu via military operations spearheaded by ex-CNDP units, and states that he plans to "fight them out of town(s) like Uvira, Bukavu, Fizi and so forth". The Group has been informed by a number of sources, including Congolese intelligence agents and business people, that the motivations of Tanzanian officials in supporting Mr Ndagundi are related to attempts to retain Tanzanian influence over politico-economic interests in South Kivu, notably the smuggling of fuel across Lake Tanganyika to the DRC from Tanzania as well as the smuggling of mineral resources from South Kivu to Tanzania. The Group continues to investigate the veracity of such information.

Interviews held by the Group consistently describe Mr Ndagundi as close to various economic operators in Kigoma, Uvira and Bukavu, as well as other international business connections. This profile is corroborated by the analysis of his call details, showing that he has been in communication 16 times between April and July 2009 by text message with a phone number in Portugal that is registered to a shipping company, Seamaster Agentes De Navegacao. He has also been in phone contact 41 times, between April and September 2009, with a Ugandan businessman called Roy Joseph Ziwa, who used to own DAS Air and Das Handling Services

in Entebbe. Mr Ndagundi was also in phone contact 62 times, during the same period, with a South African businessman who appears on South African police files for allegedly attempting to buy illegal diamonds and who is known to have travelled regularly in the past to the DRC. The Group continues to investigate these and other phone contacts made by Ndagundi in France, Italy, Kenya, the Netherlands and Rwanda. The Group has also obtained original email correspondence where Mr Ndagundi provides banking details to receive donations (see Annex 12). The accounts belong to various individuals based in Bukavu, Bujumbura and Dar es Salaam, and the Group is currently analyzing banking documents related to these accounts. Mr Ndagundi also mentions the possibility of involving a Portuguese contact in Lisbon in financial transactions. The Group had asked the Portuguese authorities for assistance in investigating shipments related to Seamaster-Agentes, a company that has also obtained UN contracts in the past, and is currently in the process of waiting for these documents.

The Group obtained information from sources in the DRC and the region alleging that Col Nakabaka had organised a consignment of AK-47s which were received at the port of Uvira on the 25 or 26 of June 2008 and which had been delivered from Kigoma aboard a boat called the Dieu Merci, owned by a businessman who is a known associate of Mr Ndagundi. The Dieu Merci was also observed in September 2008 by two members of the Group at the port of Kigoma, where a witness at the port had also separately informed the Group that the boat had been hauled out of the water for engineering work, and was seen surrounded by Tanzanian military and police while an engineer sealed a hole on the underbelly of the vessel. In the course of its investigations in South Kivu, the Group was also informed about other related arms trafficking networks operating between Tanzania, Burundi and the DRC.

Three different directors of the ANR (two in Bukavu and one in Uvira) informed the Group that Jean Jacques Ramazani, an alleged Mai Mai leader, was arrested in Bujumbura in 2008 on charges of arms trafficking and subsequently transferred to the DRC authorities in Kinshasa via Uvira and Bukavu. The Group has seen a copy of Mr Ramazani's interrogation statement given while in detention under the control of the ANR, where he admits to having connections to businessmen in Uvira. The Group was unable to confirm the whereabouts of Mr Ramazani from the DRC authorities. However, The Group showed a picture of him (Annex 13) to ANR officials in Kinshasa and was informed by one of them that he had seen Mr Ramazani in the area of Baraka, South Kivu, in April 2009, and that Mr Ramazani was in fact working on behalf of Dunia, an influential Mai Mai leader based in the Ubware Peninsula of South Kivu. The Group has separately interviewed an eyewitness who reported that he met Mr Ramazani in South Kivu in October 2009. A source close to Mr Ndagundi informed the Group that Mr Ndagundi has approached Dunia to form an alliance. The Group continues to investigate this specific allegation. The Group has annexed an organogram (Annex 14) showing the relationship between various trafficking networks, the FARDC and different non-state armed groups.

Burundi

In the DRC, Burundi and Rwanda the Group received several credible reports and testimonies that Burundi is being used as a rear base for FDLR recruitment and support networks. Several FDLR ex-combatants interviewed by the Group in Rwanda stated that they were aware of at least several hundreds of FDLR recruits being recruited in Rwanda and infiltrated through Burundi with the assistance of local traders since 2005. This recruitment has been handled mainly by FDLR officers in the zone of Uvira (DRC), and in particular by Major Mazuru, according to several interviews. According to one FDLR ex-combatant interviewed separately by two members of the Group in May 2009, the transit routes for this recruitment have remained open during the course of 2009, and that in the first five months of 2009, he had been aware of 150 new recruits arriving in Uvira through Burundi via the Ruzizi plain. Similarly, the Group has obtained further eyewitness accounts as well as confirmation from interlocutors in the DRC and Burundian security services that during the months of July and August 2009, several FDLR elements were observed fleeing FARDC military operations into Burundi.

Between 25 July and 25 August 2009 at least four separate incidents of infiltration of FDLR elements into Burundi took place. Eyewitness and security agencies officials counted 40 personnel in total during these incidents, although the Group believes the figure could be substantially higher. On the basis of these accounts, the Group is of the view that the infiltrations were ordered by the FDLR high command to allow the Uvira sector bases to evacuate important documentation and other material from FARDC operational zones into Burundi. The Group obtained several testimonies that the FDLR maintain a relationship with General Adolphe Nshimirimana, Burundi's head of intelligence, as well as with top Burundian police officers.

This information has been corroborated by several active FDLR elements, regional security agencies,

Burundian government officials and civil society members. The Group has also obtained phone records showing thirteen communications between Colonel Agricole Ntirampeba, the chief of staff of Gen Nshimirimana, and Major Mazuru of the FDLR during June 2009 to August 2009. In October 2009, an FDLR liaison officer also confirmed that the FDLR collaborates with Gen Nshimirimana and Col Ntirampeba, especially through the provision of logistical arrangements and medical assistance. The Group obtained information on the delivery on large numbers of light and small caliber weapons to Burundi during 2008, delivered on special flights at Bujumbura international airport and collected by officials from the Presidency and other security agencies. Burundian security officials have confirmed some of these deliveries which they claim have not been accounted for in official stockpiles.

The Group has hard evidence of an attempted purchase of a cargo of 40,000 Steyer AUG assault rifles and ammunition officially for the Burundian police and organised by a Burundian delegation which travelled to Malaysia. The Group estimates that such an arms consignment for the Burundian police is excessive, given that the numbers of the Burundian police count no more than 20,000. The Group has repeatedly sought further clarifications from the Malaysian authorities on this consignment and had received no substantive response at the time of submission of this report. The Group has annexed documents related to this consignment (Annex 15)

C. FDLR and RUD-URUNANA Diaspora and International Support Networks

Diaspora Leadership

The Group has conducted an unprecedented amount of research into the role and influence of the FDLR and RUD-URUNANA diaspora leadership based in Europe, North America and Africa. Hundreds of FDLR and RUD supporters are based throughout these regions, having immigrated to various countries en masse from 1994 onwards. Some of these supporters have taken up citizenship and regular employment in their host countries. Support by the diaspora is provided through fundraising and propaganda exercises and money laundering activities, but it also includes the coordination by the supreme leaders of these movements, based in Europe, Africa and North America, of FDLR and RUD-URUNANA's military strategies in consultation with DRC-based military leaders. Some of these supporters and leaders are suspected participants of the 1994 Rwandan genocide. The Group maintains the view that without this external support, the FDLR's and RUD-URUNANA's operations on the ground in the DRC would be significantly disrupted.

The Group obtained from an FDLR active element a document stamped with an FDLR seal which clearly indicates that the FDLR political leaders in the diaspora also function as military officials (see excerpts in Annex 16). In particular, Ignace Murwanashyaka, the Germany-based president of the FDLR, is cited as the supreme commander of the FDLR armed forces. Straton Musoni, the Germany-based vice president of the FDLR, is cited as the president of the FDLR military high command (along with DRC-based Brig Gen Gaston Iyamuremye, the second vice president of the FDLR), while Callixte Mbarushimana, the France-based executive secretary of the FDLR (also listed in March 2009 by the Committee) is cited as the vice president of the FDLR military high command. Article 41 of the statutes notes that the president and vice presidents of the FDLR are the legal representatives of the movement. (See Annex 17 for an organogram of the core FDLR military and political leadership). Dozens of FDLR ex-combatants interviewed by the Group refer to Mr Murwanashyaka as their supreme leader.

The Group has obtained information that the FDLR leadership in Germany has been in frequent contact with FDLR military officials from September 2008 to August 2009. The Group documented more than 240 phone communications between Mr Murwanashyaka and satellite phones used by FDLR military field commanders, including General Sylvestre Mudacumura (listed by the Committee in November 2005). The Group has also obtained several eyewitness accounts from FDLR ex-combatants that Mr Murwanashyaka was involved in giving military orders to the high command during some of these communications (see also paragraphs 57 to 59 of the Group's interim report S/2009/253).

FFF

To further corroborate the modus operandi of the FDLR chain of command, the Group worked in collaboration with an FDLR ex-combatant who in turn obtained information in the presence of the Group from a radio operator active in DRC. This conversation, which was heard and transcribed by the Group, related to military instructions issued in March 2009 by the FDLR high command to attack civilian populations and hospitals (see transcription made by the Group as the radio operator read them out in Annex 18). Four FDLR ex-combatants, two of whom were senior officers, reported that they had received similar orders to act against

the civilian population following the end of Umoja Wetu. Dozens of FDLR ex-combatants have also stated to the Group that orders of this nature must be given by Gen Mudacumura, who in similar circumstances consults first with Mr Murwanashyaka. The Group obtained testimonies from FDLR ex-combatants that Mr Murwanashyaka has been involved in coordinating the transfer of arms and ammunition to FDLR units and relaying specific instructions on their use (see paragraph 71 for one example). The Group also obtained evidence that Mr Murwanashyaka has been involved in managing large sums of money that have been raised through the illicit sale of natural resources derived from areas under the control of the FDLR. This money is used by the leadership to pay for operational needs such as the phone bills of satellite phones used by the FDLR military high command. Some of these funds, together with others that have been raised externally by the leadership, are then transferred back to FDLR officers in the DRC via bank transfer and through Western Union and other money transfer agencies for uses such as medical treatment for FDLR officers. The Group obtained evidence that Etablissement Muyeye, one of the biggest minerals trading houses in Bukavu, has organised the transfer of funds through Western Union to individuals in Germany who are helping Mr Murwanashyaka violate the terms of the assets freeze imposed upon him by the UN and German authorities (Etablissement Muyeye was cited in paragraphs 78-88 of the Group's December 2008 report (S/2008/773), as well as paragraphs 164 to 172 of this report for purchasing minerals from FDLR areas). The Group was informed by an employee and a family member of Mr Muyeye Byaboshi, the owner of Etablissement Muyeye, that Mr Muyeye was transferring money to Germany on behalf of the FDLR. The employee of Mr Muyeye showed to the Group some receipts of such money transfers. They included payments of several thousand dollars, and the most recent had been made as late as April 2009. The transfers were all made in the name of Jean Marie Shamavu, an associate of Mr Muyeye in Bukavu, to Metete Nzita in Germany, who is an agent of Mr Murwanashyaka in Germany, according to several sources close to the FDLR.

Separately, the Group obtained copies of two different money transfers made by Mr Shamavu and his son in Bukavu to Mr Nzita and his wife in Germany on 4 June 2008 (Annex 19). The first transfer was sent by Arnold Munguakonkwa, the son of Mr Shamavu, to Apendaki Aimee Tchuma, the wife of Mr Nzita and was worth 6,260 US dollars. The second transfer was made by Mr Shamavu to Mr Nzita and was worth 7,320 US dollars. The Group has requested the German authorities for further details on these transfers and is waiting for a response.

The Group confirmed that one of the phone numbers called in Germany by FDLR military leaders in the DRC belongs to Brigitte Musoni, the wife of Straton Musoni, vice president of the FDLR who was designated by the Committee in March 2007. The Group has obtained a copy of a Western Union transfer made in August 2005 by Brigitte Musoni to Jules Mateso Mlamba, the alias of FDLR General Stanislas Nzeyimana (also known as Bigaruka) (Annex 20) (see paragraphs 70, 102, 104, 108, 109, 117 and 119 for further information on Bigaruka). The transfer was worth 300 euros. The Group has confirmed the alias name of Jules Mateso Mlamba through a family member of Bigaruka. The Group focused on fifteen members of FDLR and RUD-URUNANA leaders, including those based in the DRC and those who are considered by both Congolese and Rwandan intelligence officials as the most influential diaspora leaders and coordinators. The list is annexed for ease of reference (Annex 21). The Group also attempted to identify and profile the activities of the owners of the phone lines in Europe, North America and Africa that appear frequently on the satellite phone records of FDLR military commanders as well as those individuals who have been involved in money transfers to FDLR military leaders.

The Group analysed the records of satellite phones used by FDLR military high commanders and found frequent communications between these numbers and twenty five different countries in Europe, North America and Africa between September 2008 and August 2009 (see table in Annex 22 which analyses the frequency and duration of calls made). In particular, the Group identified a high degree of communications between the FDLR military commanders and contacts in Germany, Belgium, France, Norway, the Netherlands, Tanzania, Uganda, Republic of the Congo (Brazzaville), and Rwanda. The Group has also been analyzing the logs of local SIM cards used by FDLR commanders and found a high degree of frequency of calls to Burundi (see paragraphs 84 to 89 for further information on the FDLR's Burundian contacts).

Apart from calls made in Germany to Mr Murwanashyaka and Mr Musoni, the Group also identified that one of the numbers called in Germany by the FDLR military leaders is Marie-Goretti Stock, a woman who was born in Gisenyi, Rwanda in 1981. The Group is further investigating this individual's activities. The Group calculated 21 phone numbers in France that have been in contact with FDLR military satellite phones between September 2008 and August 2009. The Group has made several requests to the French government since September 2008 to ask for these numbers to be identified, but is still waiting for relevant feedback. In particular, the Group notes that it was unable to obtain any relevant information from the French authorities

regarding Mr Mbarushimana, who was designated by the Committee in March 2009. The Group also notes that Emmanuel Ruzindana and Ngirinshuti Ntambara, reportedly the Political Affairs and Foreign Affairs commissioners of the FDLR's executive commission, are – among others still being identified by the Group - also resident in France. The Group stresses the importance of obtaining access to relevant information from the French authorities in order to exclude the conclusion that France is being used as a base for the activities of FDLR leaders and supporters in the diaspora.

The Group also researched the presence of possible FDLR networks in Belgium and the Netherlands, which together host the largest Rwandan diaspora communities in Europe. The Group identified several numbers in Belgium in contact with FDLR military leaders, including Lt Col Theophile Gakara, a former Major in the ex-FAR and former head of personnel of the Gendarmerie during the Habyarimana regime. Lt Col Gakara was also a commander in ALIR, a precursor group to the FDLR. Jean-Pierre Habimana, the former head of judicial police in Kigali under the Habyarimana regime, was identified by the Group as being in communication with FDLR field commanders. A third number belongs to Faustin Murego, a former officer in the former Rwandan army. The Group also obtained Western Union receipts showing transfers of money from Mr Murego to the FDLR's deputy military commander, Bigaruka, and his wife who uses the alias Debora Shukuru (Annex 23). A fourth number belongs to Gerard Hakizimali whose brother is reportedly fighting in the FDLR. Gerard Hakizimali was identified by the Group on a number of Western Union transfers made to a RUD-URUNANA liaison officer known as Augustin Ndondo Shaba Deux (or "Shabade") in North Kivu (Annex 24). A fifth phone number was identified as belonging to Joseph Ngirabanzi, an employee of the Belgian Federal Police who, according to members of the Rwandan diaspora, is active in fundraising for the FDLR, and whose brother was also fighting for the FDLR until he was killed during Operation Umoja Wetu. Another number belongs to Venant Musonera, who obtained Belgian citizenship in 2005, but who was a militia commander in Rwanda in the run-up to the 1994 Rwandan genocide. Finally, a seventh number belongs to Deogratias Mushayidi, a Rwandan opposition activist.

The Group confirmed that the FDLR military leaders are also in phone contact with diaspora members of the FDU-Inkingi political party in Belgium, including Jean-Baptiste Mberabahizi, and Naom Mukakinani, who is married to FDU-Inkingi politician Michel Niyibizi. The Group shows below that Victoire Ingabire, the president of FDU who is based in the Netherlands, has attended "Inter Rwandan dialogue" meetings with pro-FDLR participants (see paragraph 114).

The Group identified a number of other FDLR supporters living in Belgium and the Netherlands, including Balthazar Iyamuremye, a legal adviser to the FDLR. The Group obtained a receipt of a Western Union transfer from Mr Iyamuremye, to Bigaruka's wife in Kigoma, Tanzania in 2008 as well as money transfers made to Bigaruka and his wife by Clement Shimo, a resident of Hilversum, Holland (Annex 25). The Group also notes that Anastase Munyandekwe, a former spokesman of the FDLR and a Belgian citizen, has been an important figure in coordinating FDLR financial activities, and also made money transfers to Bigaruka (see paragraph 119). Also from the phone logs analysis it emerged that FDLR military leaders have been in frequent phone contact with Emmanuel Munyaruguru, one of the most significant FDLR and RUD-URUNANA diaspora supporters, who is based in Norway. FDLR field commanders were also in communication with Edmond Habiyaembere, Liliose Habiyaembere and Fulbert Habiyaembere who are all family relatives of Mr Munyaruguru as well as other individuals in Norway still being identified by the Group. The Group has been informed by government officials in a western country and an FDLR ex-combatant that Mr Munyaruguru has been involved in significant money transfers coordinated between himself and his younger brother Felicien Kanyamibwa, the executive secretary of RUD-URUNANA based in New Jersey, USA. The Group did not find documentary evidence on money transfers relating to Mr Munyaruguru. Nevertheless, the Group obtained details of a series of Western Union transfers made by Felicien Kanyamibwa and other US- and European-based individuals to Augustin Habiyaemye (alias Augustin Ndondo Shaba Deux or "Shabade"), a RUD-URUNANA liaison officer operating in Lubero territory, North Kivu (see Annex 24 again and paragraphs 63 and 102 for more details on Mr Habiyaemye).

In addition to France, the Group did not receive cooperation from several European and North American countries, including the United Kingdom and the United States, concerning its enquiries into phone numbers in contact with FDLR military satellite phones. The main reason for this has been due to legal obstacles related to privacy laws, and to the lack of a mechanism at the national level in several countries to subpoena information, or issue a court warrant, on the basis of information provided by the Group of Experts. For the similar purpose of solely identifying the users of phone numbers in contact with FDLR commanders, the Group addressed official correspondence to a number of African states, including Burundi, Cameroon, Republic of Congo, Kenya, Mozambique, Rwanda, Tanzania and Zambia. At the time of writing, all such

requests remained outstanding.

The Group continues to investigate a number of FDLR contacts in Uganda, including a Kampala-based trader who has been in contact with FDLR satellite phones over 600 times from August 2008 onwards. The Group has discussed the matter with the Ugandan authorities. The Group has received information from an FDLR ex-combatant which has been corroborated by public reports that Colonel Sylvestre Sebahinzi, alias Zinga Zinga, the former military prosecutor of the FDLR, has moved to Zambia where he has started commercial activities. According to several reports, large numbers of FDLR personnel who have retreated from positions in South Kivu during Kimia II fled to Zambia. The Group is also aware of a number of key FDLR and RUD-URUNANA supporters operating within the DRC who form part of the FDLR and RUD-URUNANA's international network. The Group obtained information that Hyacinthe Rafiki Nsengiyumva, alias John Muhindo, a former Rwandan minister currently based in Kinshasa, continues to be an important coordinator of RUD-URUNANA and FDLR activities and financing. Mr Nsengiyumva was a negotiator in the Kasiki relocation process that was manipulated and resulted in rearming the RUD-URUNANA (see paragraph 58). The Group obtained a Western Union transfer showing that John Muhindo sent 200 US dollars in Kinshasa via Western Union to Bigaruka in May 2008 (Annex 26). Gerard Rucira, the FDLR finance commissioner, and Elodie Mukashema, an FDLR officer who is a relative of Gen Mudacumura, have both lived in Lubumbashi, DRC, and are known by Congolese intelligence to be prosperous "business people".

The Group annexed a table summarizing all the Western Union transfers it has obtained that were sent to Bigaruka by FDLR supporters (Annex 27), including by a contact known as Tsofso, who is reportedly an FDLR gold trader in Lubero territory, North Kivu. The Group endeavoured to seek the collaboration of the authorities in France, Germany, the United Kingdom and the United States in order to obtain information regarding payments for maintenance of the FDLR's website, www.fdlr.org, which was until mid-2009 hosted on a local German server belonging to a French parent company www.OVH.net. The website was an important propaganda and fundraising tool, registered in the name of Mr Murwanashyaka, until a German newspaper reported these facts in September 2009 and the German subsidiary of www.OVH.net closed the FDLR's account. As such, the Group maintains the view that any individual(s) paying for the FDLR website was/were assisting Mr Murwanashyaka to violate the terms of the UN imposed assets freeze on him and the arms embargo. The website has subsequently remained in service, having migrated through different domain registries (www.amenworld.com and www.amen.fr) giving UK and subsequently French contact details, before registering itself on a US-based company, Network Solutions, in the name of Innocent Nzayihorana. In September 2009 the Group wrote to the German, French, UK and US authorities to request further details on who continues to pay for the FDLR website, but is yet to receive any reply. The Group has also asked the German authorities for copies of emails in Mr Murwanashyaka's frozen email account and has not received a reply.

Support from Individuals Belonging to Religious Institutions and Charitable Groups

The Group collected information on individuals affiliated with the Catholic Church and other religious and charitable institutions operating within and outside the DRC who provide financial and material support to the FDLR. While the Group is aware that religious and charitable organizations operating in conflict-affected zones are involved in humanitarian activities that support the refugee communities, and often inevitably end up having some contacts with members of non-governmental armed groups, the Group has nonetheless identified at least two cases of intentional support provided by representatives of religious institutions and charitable organizations to the FDLR. The Group obtained information to the effect that these cases form the basis of a wider network. One case relates to financial support provided to the FDLR through funding received by "Fundació S'Oliver" and Inshuti, both Spanish charitable organizations. On the basis of testimonies, original email correspondence, audio recordings of conversations, phone logs analysis and receipts of money transfers, as well as other documents, the Group established that the FDLR has received regular financial, logistical and political support from individuals belonging to the above charitable institutions which, in turn, were funded directly or indirectly from the government of Islas Baleares, a provincial authority in Spain.

An FDLR liaison officer who had been part of a weapons transfer between the FNL and FDLR in December 2008, stated to the Group that he had been in touch with Joan Casoliva, a Spanish citizen in contact with the government of Islas Baleares in Spain, and who had promised to the FDLR liaison officer that he would raise up to two hundred thousand dollars for the FDLR. The Group confirmed that Joan Casoliva was listed in 1999 as the president of an organisation called Inshuti, which runs a Barcelona-based website posting articles alleging war crimes committed by top officials in the Rwandan government and military, as well as hosting a link to the FDLR website. Mr Casoliva was listed as an observer of an "Inter-Rwandan Dialogue" meeting held

in Spain in April 2009 and supported by the government of Islas Baleares (Annex 28). Participants of that meeting included Jacques Kanyamibwa, a former Rwandan air force pilot who has publically lobbied for the release of two Rwandan genocide suspects arrested in France. Other participants included Esperance Mukashema who, according to several sources in the DRC is a family member of General Sylvestre Mudacumura, and Victoire Umuhoza Ingabire, a Rwandan opposition politician. (See paragraph 103 for more on Ms Ingabire). Facilitators and observers at this meeting also included Pere Sampol, a Spanish senator, and Juan Carrero, another Spanish citizen, who runs an organisation called Fundació S'Olivar which is among the sponsors of the prosecution through the Spanish courts of current Rwandan government and military officials, for their alleged involvement in war crimes and revenge killings committed after the Rwandan genocide, including the assassination of several Spanish citizens in Rwanda during that period. Mr Carrero has taken part in political activities with Felicien Kanyamibwa, now the USA based executive secretary of RUD-URUNANA. Mr Carrero and Mr Sampol visited Adolphe Muzito, the DRC prime minister in February 2009 in Kinshasa, and were accompanied by Josep Ramon Balanzat, the director general of the international cooperation agency of the government of Islas Baleares. Documents show that Fundació S'Olivar received 198,000 euros between 2001 and 2008 from the Fons Mallorquí de Solidaritat i Cooperació, a trust established by various mayoral offices in the Islas Baleares, in order to sustain the prosecution of officials of the Rwandan Patriotic Front (RPF) through the Spanish courts (Annex 29). Mr Casoliva reportedly worked on and off for Fundació S'Olivar in this same period of time.

The Group has obtained two audio recordings of a Spanish based priest of Rwandan origin, Jean-Berxhmans Ntihakose, whose Spanish phone number also appeared several times since 2008 on the logs of a satellite phone controlled by General Mudacumura (Annex 30). During the course of the audio recordings, Mr Ntihakose admits that he has been in touch with a colonel in the FDLR via telephone and that he acknowledges knowing Mr Casoliva. He goes on to say that Mr Casoliva and a Belgian priest, Constant Goetschalckx, who was until recently based in Kigoma, Tanzania, provided money to FDLR operatives who crossed Lake Tanganyika to Kigoma from the DRC. The Group obtained email correspondence from Mr Ntihakose confirming he attended the same seminary as his close friend Jean-Berxhmans Turikubwigenge, a Rwandan refugee and Italian citizen, who has also been in phone contact with FDLR military leaders according to phone logs, who attended the RUD-URUNANA talks in the DRC in 2008, and who was a military chaplain in Rwanda during the 1994 genocide (Annex 31).

Mr Goetschalckx has been the Kigoma based leader of a religious organisation called the Brothers of Charity (Annex 32), a papal congregation with a widespread representation in the world, consultative status at the Economic and Social Council (ECOSOC) of the United Nations, which supports projects to help people in the refugee camps in Kigoma. In 2007, the Brothers of Charity received the Opus Prize, a one million USD prize awarded to humanitarian faith-based organizations for social innovation. Mr Goetschalckx lived for many years in Rwanda before coming to Tanzania and is known to have anti-Tutsi political views according to interviews held in Kigoma by the Group. On 18 July 2009, the Group called Tanzanian numbers appearing on the phone logs of FDLR deputy commander Gen Bigaruka, and asked to speak to Mr Goetschalckx. The Group subsequently received a text message within a matter of minutes from a phone number that the Group had already confirmed as belonging to Mr Goetschalckx (Annex 33).

The Group has confirmed with immigration authorities that Mr Casoliva visited the DRC on 29 July 2009 and was subsequently seen by Congolese witnesses interviewed by the Group in Uvira, holding meetings with two agents known as "Maestro" and "Odette" and who are known to be FDLR agents. According to officials at the Brothers of Charity, Mr Casoliva stayed with Mr Goetschalckx in Kigoma before travelling to Burundi and subsequently to Uvira. The Brothers of Charity received donations from several institutions including Fundació S'Olivar over the last few years, according to organizational brochures. Some of these donations were funneled into a sister organisation of the Brothers of Charity in Kigoma called the Ahadi Institute (Annex 34). The Group obtained Western Union receipts indicating that the program manager of the Ahadi Institute, Edison Bashimbe Nshombo, received money transfers twice in 2006 (totaling about \$500 in today's dollar value) from Anastase Munyandekwe, a Belgian citizen of Rwandan origin who was until recently the spokesman for the FDLR and is a loyalist of Mr Murwanashyaka. Mr Bashimbe reported that he had passed this money over to the wife of Bigaruka, the FDLR deputy military commander, who was in Kigoma at that time. The Group obtained separate Western Union receipts showing money transfers from other members of the FDLR diaspora residents in Canada and The Netherlands, to Paul Riwa, a priest in Kigoma who has held prayer sessions together with both the wife of Bigaruka and the wife of Mr Bashimbe. The latter reportedly administers medical treatment to wounded FDLR in the region (Annex 35).

A second case involving individuals affiliated to religious institutions relates to a support network spearheaded

by an Italian priest based in the DRC. The Group obtained the original copies of email correspondence showing links between Italian citizens who are members of the Italian Catholic Church with FDLR units on the ground in eastern DRC, as well as with Mr Murwanashyaka in Germany. These Italian individuals are involved in widely diffusing and translating propaganda tracts for consumption in Italy, helping in fund-raising activities and supplying the FDLR with logistical and financial help on the ground. The Group obtained email correspondences from Pier Giorgio Lanaro, a Catholic missionary of the Severiens congregation and an Italian citizen based in Kasongo (700 km from Bukavu), referring to direct communications he had with Ignace Murwanashyaka (Annex 36). In some of Mr Lanaro's emails he included large tracts of propaganda which he encouraged recipients to disseminate widely. In his communications, Mr Lanaro explains that he gave direct support to the FDLR in South Kivu on several occasions, notably on one occasion when he supplied 2,000 US dollars to a group of FDLR seeking refuge in mountainous regions of South Kivu. This money was used to cover the costs of sheeting material and medicines used by FDLR units and their dependents in forested regions near Kashindaba and Shabunda, in South Kivu. Out of these funds, 100 US dollars, was transmitted directly to the second in charge of the FDLR, according to Mr Lanaro's communications. (Annex37).

According to Mr Lanaro's communications, he deliberately diverted funds raised by his congregation in Europe for the support of refugee populations in order to directly support the FDLR, and has done so with the complicity of Franco Bordignon, regional finance manager for the Severiens congregation in Bukavu, via a bank account based in Bukavu (Annex 38). In another email communication, Mr Lanaro makes reference to his family's ability to receive funds that could be then forwarded onto the FDLR leadership, and copies a message from Mr Murwanashyaka who confirms his willingness to receive this money (Annex 39).

D. Exploitation of Natural Resources

Gold

The use of gold by armed groups has become markedly accentuated in the last few years due to the ease with which it can be smuggled, although this is difficult to quantify given that government mining documents from North Kivu and South Kivu show only a few kilograms of gold exported officially each year. A DRC senate report published in September 2009 estimated that 40 tonnes, or 1.24 billion US dollars of gold, is smuggled out of the DRC each year. On the basis of that figure and other interviews, the Group estimates that armed groups, in particular the FDLR, may derive several million dollars of revenues each year from the trade which therefore represents one of the most significant avenues of direct financing for them. The Group has traced the flow of gold from sites exploited and taxed by the FDLR and other militia, and demonstrates in this section that significant amounts of gold are being trafficked through the region, particularly through Uganda and Burundi, and eventually sold in the United Arab Emirates. The Group demonstrates that the networks in Uganda and Burundi are inter-related and both have commercial ties to individuals operating in the UAE.

North Kivu-Uganda Networks

The Group visited the location of Kasugho in North Kivu, where it confirmed significant exploitation of gold mines by the FDLR in the jungles west of Kasugho, in Lubero territory, where some of the richest gold deposits in North Kivu are found (see the Group's December 2008 report, S/2008/773, for further background on Kasugho). During operation Umoja Wetu, gold digging in the jungles west of Kasugho was only temporarily disrupted, and FDLR units reoccupied gold fields in that area in June 2009. The Group confirmed this on the basis of the observation of deliveries of general merchandise arriving in Kasugho for onward transmission to sites where mining activities had resumed. These findings were also corroborated through interviews with FDLR ex-combatants, FARDC and gold traders who consistently confirmed, as late as September 2009, that the FDLR continued to make significant profits out of the gold mines west of Kasugho, even if FARDC units had seized some of the main sites at Fatua, Makokwandro and near Oninga, in Walikale territory. The Group received further detailed information on the FDLR's control of gold in this area: an FDLR ex-combatant confirmed that FDLR battalion commander Colonel "Dmitry" based near Kasugho was in charge of the gold trade and was working with Mai Mai units in exploiting several gold deposits in Lubero and Walikale territories. Interviews with two separate FDLR ex-combatants from Oninga, a remote location in the territory of Walikale further west from Kasugho, mentioned in June 2009 that Col Dmitry had also been receiving at least three kilos of gold a month (roughly 90,000 US dollars equivalent) from their own specific FDLR units which, in turn, were taxing and trading at gold mines near Oninga. Local chiefs and Mai Mai militia interviewed by the Group in October 2009 stated that, despite the fact that the FDLR had been pushed out of Oninga town, the FDLR still controlled and taxed many gold mining zones south east of Oninga and south west of Lubero town. The

Group received testimonies and MONUC reports that FDLR and various Mai Mai units, including those of Gen. Lafontaine, have formed an alliance covering parts of Lubero and Walikale territories where significant gold reserves are being jointly exploited.

The gold from Kasugho and Oninga is principally sold to Kahindo Muhiwa, Katina Kambale Mbayahi and Kambale Vikalwe, three Nande gold traders based in Butembo who the Group cited in its December 2008 report (S/2008/773), according to local businessmen in Butembo and a gold trader in Kasugho. In 2008 Mr Muhiwa, Mr Kambale and Mr Vikalwe created a company called Glory Minerals, along with a fourth partner, Nzanu Mbusa, the widow of Dr Kambale Kisoni, who had been listed by the Committee for targeted sanctions in March 2007 and was assassinated in July 2007. The company documents for Glory Minerals are annexed in S/2008/773. Ms Mbusa, who is partly based in Kampala, claims to have since withdrawn her interest from Glory Minerals.

According to government mining officials, Glory Minerals has now received approval to start operating as an official gold exporting company. The Group obtained a document dated 12 January 2009 issued by Kabila Kakule, a government mining official in Butembo, asking all small traders in Lubero territory to provide all their gold to the three partners of Glory Minerals for export (Annex 40). The Group raised this issue with Leonide Mupepele, the head of the Centre d'Expertise d'Evaluation et de Certification (CEEC) in Kinshasa, who is also Mr Kakule's superior, and who explained to the Group that Glory Minerals obtained permission to export so that the government could control the company's activities and eventually force it to comply with due diligence requirements. According to an email obtained by the Group, Mr Kakule on 2 February 2009 wrote to Alain Goetz, the owner of a gold refinery business, Tony Goetz & Zonen, in Antwerp, Belgium, to inform him that gold purchased by Glory Minerals does not come from areas controlled by the FDLR or Mai Mai, and that any gold supply from Glory Minerals "complies with United Nations standards" (Annex 41). The Group has established above that Glory Minerals continues to source gold from FDLR-controlled areas. Mr Kakule himself and other government mining officials confirmed the authenticity of this email, although Mr Goetz insisted until recently that he had no recollection of this correspondence.

In addition, trading sources as well as a former Mai Mai leader interviewed by the Group reported that Gen Lafontaine, who has several kinship ties to the Nande traders in Butembo, acts as an intermediary between the FDLR and many traders in Butembo, organizing the delivery of general goods to the FDLR in exchange for brokering gold deals. Several Nande traders in Butembo also stated to the Group that the three businessmen associated with Glory Minerals travel regularly to Kampala and Dubai to sell their gold. The above information illustrates that the DRC authorities have allowed Glory Minerals to continue trading without investigating and verifying the information submitted by the Group in S/2008/773.

Seven different gold traders interviewed separately by the Group in Butembo, Kampala and Dubai confirmed that the main personalities involved in orchestrating the laundering and smuggling of gold from Butembo onto Kampala and Dubai are Rajendra Vaya and family, and J.V. Lodhia (who is known by Congolese and Indian traders as "Chuni") and his son Kunal Lodhia. These businessmen of Indian origin are based in Kampala and have extensive family ties in Nairobi, Kenya. Mr Vaya is the director of Machanga Ltd, and J.V. Lodhia is the director of Ugandan Commercial Impex Ltd (UCI Ltd), both of which are sanctioned entities designated by the Committee in March 2007. Gold traders confirmed to the Group that both Mr Vaya and the Lodhia family pre-finance cash to trusted intermediaries who then offer slightly above market prices in order to guarantee maximum interest from DRC local traders. Mr Vaya's network reportedly handles more volume of gold than Mr Lodhia's network. The gold is then smuggled to Kampala by road or by commercial flight to Entebbe and finally onto Dubai, where it is handled by an associate of both families called Jigar Kumar.

Mr Kumar was named as a gold supplier on the 2008 client list of Emirates Gold (see S/2008/773), a major gold refinery in Dubai. Kampala traders have also confirmed that Mr Kumar is a family relative of Mr Vaya. Mr Kumar works at a foreign exchange bureau in Dubai called Asia Exchange Centre (see Annex 42), which employs workers whose presence have been noted by the Group at Mr Vaya's Kampala-based foreign exchange bureau, Vaya Forex. The Group visited Asia Exchange Centre and confirmed that Mr Kumar works there. In Kampala, the Group was informed by a gold trader, who correctly identified unmarked photographs of Mr Mbayahi and Mr Vikalwe (shareholders of Glory Minerals) that he met them in a hotel in Kampala in February 2009 where they attempted to persuade him to inform other gold traders to sell to "Chuni", Mr J.V. Lodhia's alias. The trader told the Group that Mr Mbayahi had spoken to "Chuni" on the phone in front of him and that Mr Mbayahi was subsequently collected from his hotel in a sports utility vehicle driven by a young Indian man who was accompanied by a Ugandan security official in uniform.

The Group obtained phone logs for Mr Muhiwa, another shareholder of Glory Minerals, which reflect frequent communications between Mr Muhiwa and a number belonging to Nilesh Lodhia, a former employee of J.V. Lodhia. The logs also show calls from Mr Muhiwa to another number which the Group has phoned and which was answered by a person who acknowledged he was acquainted to “Chuni”, the “dealer”. Mr Muhiwa was also in contact once with Mr Vaya in Kampala and 134 times with Mr Kumar in Dubai between May and August 2009. These communications corroborate reports of relationships between Mr Lodhia, Mr Vaya, and Mr Kumar.

Several gold traders interviewed in Kampala and Dubai, as well as an anonymous contact, informed the Group in separate interviews and communications that major gold trading businesses in Kampala were instructed to shut down their activities during the week of the Group’s visit to Kampala between 9 July 2009 and 17 July 2009. A Congolese researcher, known by the Group, visited Mr Lodhia’s offices in Kampala, which now hosts his other business Aurum Roses. The researcher was greeted by a Congolese employee of Aurum Roses who responded to the source’s enquiries as to whether they were buying gold. The employee stated to the source that it was possible to sell gold, and asked the researcher to come back the next day. This conversation happened on the day before the Group was expected to leave Kampala to travel back to the DRC.

The Group obtained video footage showing a prospective trader approaching the gates of Mr Vaya’s address in Kampala. The footage shows the gate opened by an Indian employee of Mr Vaya who tells the trader to come back the following week to sell gold. The Group annexed a still photo taken from the video footage which has been confirmed by several sources as an employee of Mr Vaya (Annex 43). The video footage has been archived at the United Nations. The recorded conversation happened a few days before the Group was expected to leave Kampala to travel back to the DRC. In August 2009, the Group visited Dubai where it made contact with two Congolese gold traders who informed the Group that Mr Lodhia, or “Chuni”, was transferring gold to a shop they both identified in the gold Dubai souk (see box below for further details). The same traders also informed the Group that Mr Lodhia’s carriers have provided gold directly to Mr Kumar at the Asian Exchange Centre bureau.

The Group obtained phone logs of a prominent gold dealer in Bujumbura, Mr Mutoka Ruganyira, who is believed to be also trading in FDLR gold (see paragraphs 142 to 155 for a full explanation of Mr Mutoka’s activities). Mr Mutoka’s phone logs show 60 phone communications between himself and Mr Kumar in Dubai between April and July 2009 and four calls between himself and Mr Vaya in Kampala during the same period. Mr Mutoka and Mr Vaya acknowledged they are old associates and worked together in the gold business in Burundi before Mr Vaya left the country to concentrate his business in Uganda. Mr Mutoka informed the Group that he had been in contact with Mr Vaya because Mr Vaya facilitated money transfers on his behalf. Mr Vaya denied having any ongoing business relationship with Mr. Mutoka. The Group obtained receipts showing Mr Vaya purchasing almost 50,000 US dollars in flight tickets between May and June 2009 for associates travelling between Entebbe, Bujumbura, Nairobi and Mumbai. (Annex 44). Mr Vaya has been unable to explain what these flight tickets were purchased for. The Group obtained Ugandan customs statistics, and analyzed several suspected front companies being used by the Lodhia and Vaya families, although is unable to conclude from these statistics how much gold they are exporting on a monthly basis. Several traders interviewed in the DRC, Kampala and Dubai however stated to the Group that both families sometimes export up to several hundred kilograms of gold a month. Nearly all gold declared by Ugandan customs is exported to the UAE (see box below for further details).

South Kivu-Burundi& Tanzania networks

Based on evidence gathered of numerous purchases of gold from trading networks and mining areas that are controlled by the FDLR and FRF in several different locations of South Kivu, the Group is of the view that most of this gold is smuggled across from South Kivu to Burundi where it is sold to Mr Mutoka Ruganyira at his office in Bujumbura, according to Burundian and Congolese government officials, local NGOs and FDLR and FRF ex-combatants and affiliates. Mr Mutoka was cited by the Group in its December 2008 report (S/2008/773) and is mentioned earlier in this report in paragraph 140.

The Group received numerous testimonies from DRC government mining agents and local businessmen that a Bukavu-based trader, known as “Mange”, who at the time of writing was not officially licensed to purchase gold by the government, purchases large amounts of gold from FDLR held areas in Mwenga, Itombwe, Shabunda and Walungu territories and subsequently supplies Mr Mutoka. In July 2009, the Group visited the locality of Burhinyi (Walungu territory) and the local market where gold from an FDLR controlled gold mine

nearby was being traded. Local officials identified the only trader of gold attending the market as an agent of Mange. The Group also obtained government documents proving that a supplier of Mange, known as Neo Bisimwa, was involved in purchasing gold traded by General Rutambuka Ntabitondye of Mai Mai PARECO. Gen Ntabitondye had been issued with an official permit to trade gold in an area of Kalehe territory, South Kivu, that was jointly controlled by the FDLR and PARECO in 2008 (Annex 45). In the course of the mandate, the Group interviewed government mining agents, small-scale gold traders and other businessmen in Bukavu, who confirmed that Mr Mutoka purchases gold from Mange as well as from another businessman, Evariste Shamamba who runs a gold exporting company Etablissement Namukaya. Mr Shamamba was cited in the Group's report of December 2008 (S/2008/773) for trading gold from the FDLR, and continues such activities according to numerous testimonies received by the Group in 2009. The Group also obtained an audio recording of Mange acknowledging that he sells his gold to Mr Mutoka. This recording has been archived at the United Nations.

The Group has interviewed two other gold traders based in Bukavu who have been in telephone contact with Mr Mutoka and Mr Mange during the first nine months of 2009, and who stated that Mr Mange purchases gold in order to supply Mr Mutoka on a regular basis. The same traders informed the Group that another trader, Buganda Bagalwa, is a regular supplier to Mr Mutoka. The Group has determined that Mr Bagalwa has been in direct communication with Mr Mutoka more than fifty times between January and August 2009, and more than 150 times with Mr Mange between May and September 2009. Mr Mutoka's phone logs also show that he has been in communication 22 times with Belgium number belonging to Guy Liongola, a gold trader based in Belgium, between January 2009 and September 2009. A previous Group of Experts report (S/2007/423) noted that Mr Liongola imported gold from Mr Shamamba's company, Etablissement Namukaya.

A gold trader in Minembwe stated to the Group in the course of an interview in July 2009 that he had sold gold obtained from the Hauts Plateaux, including from FRF-controlled areas, and that quantities of gold are transferred from the Hauts Plateaux to Mr Mutoka's agents in Uvira on a weekly basis. The Group obtained a testimony from an eyewitness who traveled, in early 2009, from Uvira to Bujumbura with an FDLR liaison officer who sold gold to Mr Mutoka in the course of the same trip. According to several interviews conducted by the Group, Mr Mutoka relies on the protection of top security officials in both Burundi and the DRC. Several sources in Burundi stated that Mr Mutoka benefits from his relationship with governmental officials in customs and security agencies, including General Adolphe Nshimirimana, the director general of the Burundian intelligence services. The phone logs of Mr Mutoka show frequent and regular communications between him and Gen Nshimirimana over a period of several months in 2009. Mr Mutoka acknowledged to the Group having a relationship with Mr Nshimirimana but denied contacting him more than twice every six months (see paragraph 87 for more on Gen Nshimirimana). The Group analysed the telephone logs of Mr Mutoka between the period of January 2009 through to September 2009 and found evidence of over 270 phone communications between himself and six other gold traders in South Kivu reportedly involved in the illicit gold trade. Mr Mutoka told the Group that the last conversations he had with two such traders, Honore Lukingama Abanta and Mwhite Ruganrwa took place in December 2008, in contradiction with the phone logs, and maintained that these traders called him only to check the price of gold. Both traders separately informed the Group that they called Mr Mutoka only to discuss personal matters. The phone contacts between the traders and Mr Mutoka generally coincide on the same days as each other, and shortly before or after Mr Mutoka officially exported gold to the UAE or made calls to Dubai. The Group was informed by other gold traders in South Kivu that Mr Abanta frequently delivers Mutoka gold from the high plateau in South Kivu. One gold trader interviewed by the Group declared that Mr Abanta was aware of the Group's visit to Mr Mutoka's office on 3 September 2009 and the content of the discussions. Two gold traders interviewed in Bukavu in October 2009 also informed the Group they had been given specific instructions by Mr Mutoka not to cooperate with the Experts as the Group was investigating the smuggling of gold into Burundi. Mr Mutoka nearly exerts monopoly on the entire flow of gold due to his ability to pay slightly above market prices and maintain a web of pre-financing networks operating in Burundi and the DRC. Burundian customs statistics obtained by the Group report that a company called Berkenrode BVBA, which Mr Mutoka has acknowledged owning, exports nearly all the gold exported officially from Burundi. The company exported 912 kilograms of gold, just two kilograms less than the entire declared exportations of Burundi between January 2009 and September 2009. All the gold was declared as exported to the UAE (see Annex 46 and box below for further details).

Mr Mutoka acknowledged that he had changed the name of his company from Gold Link Burundi Trading (GLBT) to Berkenrode BVBA in January 2009. Burundian customs declarations show he actually started exporting under the name Berkenrode BVBA on 16 September 2008, a few days after the Group first met Mr Mutoka in 2008 when he was exporting under the name of GLBT. The Group obtained a notarized document

signed by Mr Mutoka's daughter, Ms Samra Sefu, reflecting the address of Berkenrode BVBA as 56 Jacobs Jacobsstraat, Antwerp (Annex 47). The Group has also obtained confirmation from Belgian company documents showing that Mr Goetz operates a company called Berkenrode at 56 Jacobs Jacobsstraat in Antwerp (Annex 48), which is directly next door to his gold smelting business, Tony Goetz & Zonen, based at 58 Jacobs Jacobsstraat. Mr Goetz's attorneys have explained to the Group that his company Berkenrode in Antwerp is called Berkenrode BVBA in its full appellation. The Group subsequently received a letter and documents from Mr Mutoka's lawyers which show that Berkenrode BVBA is also a company registered in Burundi under Mr Mutoka's name (Annex 49). Mr Mutoka informed the Group that he chose Berkenrode BVBA as his company's name because it was a name he had heard and liked when he visited Belgium. After the Group had explained that it knew the company address was the same address as Mr Goetz's, Mr Mutoka and Mr Goetz subsequently explained that Mr Mutoka had registered his company at Mr Goetz's company address in Belgium to take advantage of taxation rates in Belgium, which were preferential to those in Burundi. Subsequently Mr Mutoka's lawyers wrote to the Group and denied any association with Berkenrode BVBA in Belgium.

Mr Goetz, who has recently registered a new company, AGOR Ltd, at the Dubai Multi Commodity Centre (DMCC), insists that he has no ongoing business relationship with Mr Mutoka, nor does he have any recollection of being contacted by Congolese officials regarding possible gold consignments from Glory Minerals, referred to in paragraph 130 above. During the Group's first meeting in Antwerp in March 2009, Mr Goetz informed the Group that he had not purchased any gold from any source in the DRC or its neighbouring countries for several years. Later in October 2009, Mr Goetz admitted in response to a query by the Group that he had in fact purchased a consignment of 3 kilograms of gold from Mr Mupepele, the director of the CEEC in Kinshasa, who had come personally to his showroom in Antwerp to sell the gold in August 2008. Mr Mupepele told the Group that Mr Goetz had also purchased a second consignment from him by courier, which Mr Goetz acknowledged after several requests from the Group.

The Group also established that Gen Masunzu and Col Nakabaka, the commanders of the 10th military region, cited earlier in this report for their role in the diversion of military equipment to non-governmental armed groups (see paragraphs 23 to 35), are significantly involved in the gold trade in South Kivu. The Group has obtained a written complaint by the mining company Samiki citing Col Nakabaka's control over mining areas in the company's concession, and the refusal of military elements under his command to withdraw despite the recommendations from the governor of the province to do so (Annex 50). Several traders interviewed by the Group in the course of the current and past mandate, reported that mining areas controlled by Col Nakabaka are known as the "10th military region", and much of the gold is laundered on his behalf by Mange and Mr Shamamba, referred above as suppliers of Mr Mutoka. The Group has also obtained a document detailing a request by Col Nakabaka made to Mr Shamamba's company, Etablissement Namukaya (otherwise known as Congocom), for cement to complete the construction of his house in Uvira (Annex 51). The Group has also directly observed Gen Masunzu in August 2009 discussing matters with a company agent of Etablissement Namukaya in Bukavu. According to several traders, Col Nakabaka handles the gold trade in FDLR and Mai Mai areas, and Gen Masunzu controls the flow of gold from the Hauts Plateaux, where FRF and FDLR cohabit. The Group has annexed an organogram (Annex 52) covering the cross-cutting relationships of the various networks listed above, for ease of reference.

Gold networks in the DRC, Burundi, Uganda and the UAE

The Group of Experts documented fundamental irregularities in the international gold trade between the DRC, Uganda and Burundi, and the UAE, and gathered evidence of inconsistent and incomplete customs declarations and procedures, as well as a lack of adequate control procedures by government customs and mining authorities in gold exporting and importing countries.

The Group received strong indications of high level protection and in some cases complicity in the illicit gold trade by government officials. The Group was provided incomplete and partial customs declarations for gold exports by the Ugandan Revenue Authority (URA), which officially provided the Group with records of 130 gold exports between January 2008 and May 2009. The Group was nevertheless able to obtain statistics through a URA employee displaying 215 recorded gold exports during the same period. These records have been archived at the United Nations. The Group was also informed by Ugandan-based gold traders that they were encouraged to declare Congolese gold they imported or re-exported from Uganda as gold of southern Sudanese origin on their official documentation. The Group has made several requests to the Burundian authorities for information on gold companies and statistics since September 2008, and has received no

official response although it has obtained these statistics independently. Another worrying indication is the fact that the Group has established that its movements and activities were being closely monitored both in Uganda and Burundi (see above).

The Group has obtained a written letter from the DMCC, dated April 2007 (Annex 53) advising all DMCC members to stop purchasing gold from DRC, Rwanda and Uganda. However Ugandan customs statistics obtained by the Group show gold exports from April 2007 as consistently arriving in the UAE. Mr Mutoka informed the Group that since his primary client in Dubai, Kaloti Jewelry, ceased buying from him in 2008, he declares his gold to customs in Burundi after which it is broken up into smaller packages and carried to Dubai by a number of his agents and declared at customs before being sold "anywhere in the gold souk". Mr Mutoka admitted to breaking the gold stocks down into packages of less than a few kilogrammes to avoid detection by Dubai customs.

The Group has not received any responses from its official requests to the UAE authorities for customs and immigration documentation. The Group visited Dubai where it held official meetings and made all possible efforts to constructively engage with the UAE authorities in further identifying some of the gold trading activities as described above. In the UAE, the Group asked for customs and immigration documents and information on Machanga Ltd and UCI Ltd in order to compare the identities of the agents carrying and declaring gold on behalf of the companies during the period before the companies were listed under UN sanctions, against possible ongoing gold declarations by those carriers. These and other requests on other individuals and companies were not responded to.

The DMCC has provided information on AGOR Ltd, a company owned by Belgian gold dealer Alain Goetz, as well as two other DMCC member companies the Group has been investigating, including one that is located in the Dubai gold souk and which was alleged by two Congolese gold traders to be receiving gold from Uganda. According to the DMCC all three companies have reported no gold imports or exports as per their audited accounts which are updated only up to 2008.

Since the adoption of resolution 1857(2008) on 22 December 2008, the UAE is yet to submit a report on the implementation of the travel ban and assets freeze pursuant to paragraph 7 of the resolution,, which the Group considers would have been relevant to the cases of Machanga Ltd and UCI Ltd in light of the fact that the directors of both these companies continue to do business in the UAE.

The Group also notes that Jigar Kumar, who the Group has described in this report as being part of the gold-trafficking network referred to above, has been named on the client list of Emirates Gold in 2008 (see S/2008/773). Mr Mohamed Shakarchi, the Managing Director of Emirates Gold, claims that the company made a mistake by referring to Jayendra Kumar, their client, as Jigar Kumar. Emirates Gold did not provide any documentation to the Group supporting this claim, nor did it provide other documentation the Group had asked for and which Mr Shakarchi had repeatedly assured the Group he would provide.

The DRC authorities have approved an export license for Glory Minerals, a gold company which the Group has shown in this report as well as in the December 2008 report (S/2008/773) as purchasing gold from FDLR networks. When the company was registered in 2008, it was done in the name of four traders including Nzanzu Mbusa. Ms Mbusa had last year hired a lawyer, Gerard Kabemba, who occupies an office in the new Ecobank building on the Boulevard 30 Juin in Kinshasa. Mr Kabemba is the legal notary for another gold export company that has been formed in 2009, called Northern Goldline. Mr Kabemba refused to discuss this company with the Group.

The Group received several testimonies from FDLR ex-combatants and local gold traders in Tanzania and the DRC relating to the transfer of several hundred grams a week of gold entering Tanzania from South Kivu, and comprising gold that has been sourced from FDLR-controlled zones. According to a dealer based on the beach in Kigoma, gold comes regularly by pirogue and is sold to local dealers in Kigoma who work on commission for businessmen in Dar es Salaam. Local traders in Kigoma cited three major gold dealers based in Dar es Salaam, including Crown Jewellers, Ruby Bureau de Change and a businessman known as Jafar, although testimony from FDLR ex-combatants indicated several more small purchasers of gold.

The Group met the owner of Ruby Bureau de Change, Mr Virendra Sagar, who told the Group that he had indeed bought gold from Kigoma but stopped at the start of 2009 due to an immigration crackdown on Congolese dealers by Tanzanian officials at Kigoma. DRC consulate officials in Kigoma were unaware of any

particular immigration measures targeting DRC nationals. The Group also visited Crown Jewellers, where its owner informed the Group that he did not purchase any gold except for gold jewelry which he would then smelt. In the course of same visit to the shop, an employee of Crown Jewellers contradicted the owner by saying the shop regularly bought gold powder. Gold traders buying from the DRC had previously identified a shop run by a businessman known as Jafar as a gold-buying enterprise. The Group met Jafar in October 2009 in a shop called Golden Telecommunications in Dar es Salaam, of which he claimed to be a shareholder. Mr Jafar denied his involvement in the gold trade before walking out of the shop in mid interview.

The Group does not have any further evidence on the three businessmen above, but nevertheless considers the flow of gold from FDLR zones in the DRC through Tanzania as a potential arms embargo violation that needs to be stemmed. In conclusion, the Group regrets a general lack of cooperation by all parties, including transporters, with its investigations in the gold sector. Since 2008, the Group has been informed several times that gold trafficked out of Burundi and Uganda is being hand-carried on commercial airlines, notably Emirates Airlines, Kenya Airways and Ethiopian Airlines and that those involved in the gold trade. The Group has written several official requests since 2008 to seek the cooperation of all three airlines as well as the Kenyan, Ethiopian and UAE governments to facilitate access to cargo and passenger manifests. The Ethiopian authorities have systematically ignored the Group's requests for information since 2008. Emirates Airlines was unable to work the Group as it never obtained authorization from the UAE authorities. After several follow-up requests, Kenya Airways identified a focal point to assist the Group but failed to concretely offer meaningful cooperation, and cited the inexistence of data protection laws in Kenya as a reason not to provide the requested information.

Cassiterite

Internal buying networks

The FDLR continue to have access to considerable reserves of cassiterite, (as well as coltan and wolframite), in parts of South Kivu (especially Mwenga and Uvira territories) and North Kivu (particularly Walikale), despite FARDC military operations. The Group has focused its attention on the cassiterite trade which it estimates feeds back the most revenues back to the FDLR out of cassiterite, coltan and wolframite. The Group calculates that the FDLR could earn up at least several hundred thousand dollars up to a few million dollars a year from this trade.

The Group also established that MDM, WMC, Etablissement Muyeye, and Panju, mineral-exporting businesses cited in S/2008/773 for knowingly purchasing minerals from FDLR controlled areas, have continued throughout 2009 to trade in minerals originating from some of the same FDLR-controlled areas. The Group has obtained several pieces of documentation that corroborate such information. The Group also has obtained documentation showing that Huaying Trading Company (HTC), a Chinese-run comptoir based in Goma and Bukavu, as well as a trader closely linked to Clepad, another Goma-based comptoir, also source cassiterite that originates in FDLR-controlled areas in South Kivu. These comptoirs are amongst the major exporters of cassiterite in eastern Congo.

The Group obtained documents dated from 2008 (see S/2008/773) showing that MDM was run jointly by Mudekereza Namegabe, the president of Fédération des Entreprises du Congo (FEC), along with Michel Defays and Edouard Kitambala. MDM shares the same compound in Bukavu with WMC, another comptoir which is also run by Mr Defays and Mr Kitambala. According to a written statement by Mr Defays, MDM was financed by WMC until the company directors decided to suspend the activities of MDM in 2009. WMC have taken over the staff members of MDM and continues to export. Panju is run by Panju Zulfikar Ali, a Bukavu-based businessman. Etablissement Muyeye is run by Muyeye Byaboshi, another Bukavu-based businessman. HTC is a Chinese comptoir represented in Goma by Wang Xiaoming. Clepad is also a Goma-based comptoir run by Patrick Nkuzi and Clemence Nkuzi, according to government mining authorities.

Mr Namegabe and Mr Kitambala have made public announcements and issued statements that they have temporarily suspended the activities of their respective comptoirs, Groupe Olive and MDM. According to documents obtained from the Centre d'Evaluation, d'Expertise et de Certification (CEEC), a government mining agency in Bukavu, Group Olive and MDM have stopped registering any purchases of cassiterite from South Kivu since June 2009.

The Group has, however, obtained specific evidence that MDM has continued to purchase minerals from FDLR mines such as Kitopu and Miki which were sold at the market in Lemera since January 2009. The

Group has also obtained documentary evidence that Muyeye, HTC and “Faustin”, a trader who supplies Clepad and MDM, also bought from these particular mines at Lemera market.

In July 2009 the Group visited the town of Lemera, which it had visited in 2008, in order to assess the flow of minerals through this market town.

According to several traders there as well as a government mining document (Annex 54), almost all of the minerals flowing through Lemera were coming from Miki and Kitopu, two mining sites located in the Itombwe forest region. Several FDLR ex-combatants have told the Group in 2009 that Miki and Kitopu, which are remote locations outside the zone of influence of the FARDC, are two of the principle mining zones controlled and taxed by the FDLR in Uvira territory, South Kivu. Traders in Lemera told the Group that FDLR elements frequented Lemera market while mining officials have confirmed to the Group that the FDLR still transport cassiterite to Lemera from Miki through intermediaries, now that the FARDC has reinforced the control of the town. Several traders consistently informed the Group that Bukavu-based traders were buying from Lemera on market days.

The Group obtained government documents at Lemera signed by the same government mining official who signed documents obtained in the provincial government headquarters in Bukavu. These documents showed dozens of purchases of cassiterite sourced from FDLR-controlled zones, notably Miki and Kitopu. According to these documents, the purchase of these minerals, which amount to tens of thousands of kilograms of cassiterite over a five-month period, were made by MDM, HTC, Muyeye and Faustin. The Group annexed a sample of these documents obtained from both Lemera and Bukavu (Annex 55) and archived the rest at the United Nations.

Mr Namegabe, Mr Kitambala and Mr Defays have declared that such purchases are probably made by fraudulent individuals in the name of their companies, and then delivered to other unlicensed businesses. The Group however verified with a company employee of Mr Namegabe and government mining officials who informed the Group that Mr Namegabe and Mr Kitambala still work in collaboration and export the material through WMC. The Group has also obtained a document from South Kivu’s provincial mining ministry showing that MDM made a purchase as late as September 2009, although mining officials insisted they had made a mistake, and had intended to book the purchase in the name of WMC (Annex 56)

The Group has also confirmed that Mr Muyeye processes his minerals at SOCOMI, a company in Bukavu run by Ketankumar Kotecha, whose other company Afrimex was cited in S/2008/773 for having purchased cassiterite from Mr Muyeye. Mr Kotecha informed the Group in 2008 that his company Afrimex had ceased mineral purchasing activities. However, the Group obtained a document signed by the South Kivu provincial minister of mines, Colette Embenako, asking the minister of mines in Kinshasa to approve an application for an operating license pending from June 2008 for SOCOMI. (Annex 57). The Group visited SOCOMI’s premises in Bukavu in October 2009 and found employees of Muyeye processing minerals there. The Group was later given a contract by one of Mr Muyeye’s managers, signed by SOCOMI in June 2008 (Annex 58) giving permission for Mr Muyeye to use SOCOMI’s treatment machines. The manager told the Group that SOCOMI was not exporting material, but only processing Mr Muyeye’s material. Cassiterite traders in Bukavu who sell to Muyeye have told the Group that Mr Kotecha helps export material for Mr Muyeye.

The Group furthermore obtained several government mining documents showing purchases of a few tones of cassiterite in 2009 by Panju from Miki in the Itombwe region as well as the Hombo region, where FDLR are also known to dominate the minerals trade in nearby areas. The Group has annexed some samples of the documentation (see Annex 59) and archived the rest at the United Nations. Mr Panju acknowledges he has indeed purchased small quantities of minerals from these and other areas controlled by the FDLR, but insists such purchases were made erroneously by his staff members.

Exports to international markets

The Group has gathered information on a number of international buyers who are responsible for taking the material purchased by the comptoirs. The Group has obtained documents and confirmation from HTC and WMC that these companies sell their material to the Malaysia Smelting Corporation (MSC). The Group obtained documents proving that HTC also sells to a company known as African Ventures Ltd, which is a Samoan-registered company with a Hong Kong address (see Annex 60). The Group has been informed by Congolese mining agents, as well as international buyers of cassiterite, that Mr. Muyeye also supplies African Ventures Ltd.

The Group has been informed by several international buyers that African Ventures Ltd operates as a middleman for **Chris Huber**. Mr Huber is a Swiss businessman who has been widely cited by various government officials and in public reports as having been involved in the large-scale transport of coltan out of the DRC and Rwanda during the period of the Rwandan-backed RCD-Goma rebel occupation in eastern DRC during 1998-2003. During this time Mr Huber worked with Rwanda Metals, a company then managed by Tri-Star Investments, a company which was in turn set up by the Rwandan Patriotic Front (RPF).

The Group contacted Mr Huber, who explained in writing that he acts as a “consultant” for African Ventures Ltd in Hong Kong. The Group has confirmation that Mr. Huber is also a consultant for a company called Refractory Metals Mining Company Ltd (RMMC), which is based at Shing Wan Road in Hong Kong, the same street as African Ventures Ltd (Annex 61), and which is a known supplier to the Thailand Smelting and Refining Company Ltd (Thaisarco), held by Amalgamated Metal Corporation (AMC), a UK entity. The director of Refractory Metals Mining Company Ltd is John Crawley, who is also a director of the tantalum processing company, Niotan Inc, in Nevada, USA. Mr Crawley confirmed that Mr Huber works for RMMC.

The Group also gathered evidence that Mr Huber also sources material obtained from companies with close ties to FARDC officers drawn from the former CNDP and who are in control of mining areas in Walikale and Kalehe territories. These relationships, as well as the web of companies linked to Mr Huber and Mr Crawley, are further explained in paragraphs 214 to 215 and the box below these paragraphs.

The Group has viewed company and government mining documents which show that Clepad exports its material primarily to Trademet, a Belgian company cited in S/2008/773. Mr Panju has told the Group he has exported primarily to Thaisarco and to MSC.

IV. Integration of Non Governmental Armed Groups into the Forces Armees de la Republique Democratique du Congo (FARDC)

The Group analyzed the process of integration of non-state armed groups into the FARDC as part of the Group’s mandate to monitor the structures and support networks of these groups. While the Group has already explained that several non-state armed groups continue to remain outside the integration process or have only partially integrated, the Group nonetheless focused its attention in this regard on the Congres National pour la Defense du Peuple (CNDP), in light of its military and political influence.

A. Non-Integration of CNDP

In this regard, the Group would like to highlight its findings as reported in its interim report of May 2009 (S/2009/253), where it noted that according to government figures, roughly 6,000 CNDP soldiers were integrated into the FARDC but only 2,542 personal weapons were handed in by these elements. In terms of larger weapons, CNDP only handed in seven PKM machine guns, one MAG machine gun, seven RPG-7, four 60mm mortars, one 82mm mortar, six 75mm recoilless guns, two SPG-9 recoilless guns and four multiple rocket launchers according to the government’s technical commission on integration. The Group obtained multiple testimonies from demobilized CNDP elements, including child soldiers, FARDC and Congolese intelligence officials as well as MONUC that corroborate information of significant arms caches under the control of hardline ex-CNDP commanders integrated into the FARDC.

The Group calculated from MONUC statistics that a total of 463 foreign fighters have been demobilized from ex-CNDP units from January 2009 to 10 October 2009. The vast majority of these combatants were repatriated to Rwanda , but there have also been several cases of repatriations to Burundi and Uganda . These statistics echo the Group’s reporting of CNDP recruitment of foreign elements detailed in S/2008/773. In addition, the Group also received several credible reports, including from the FARDC 8th Military region and CNDP elements, that a significant number of CNDP elements, including Rwandan nationals, refused to take part in the accelerated integration process that started in January 2009 in North Kivu but have nonetheless attached themselves to certain FARDC brigades controlled by ex-CNDP officers, and have retained their weapons. The Group has gathered several reports from MONUC and FARDC officials that some ex-CNDP officers have repeatedly and deliberately obstructed MONUC from repatriating foreign fighters from their ranks. Testimonies and reports obtained by the Group indicate that such incidents – which could be considered violations of the sanctions regime under subparagraphs 4(b) and 4(c) of resolution 1857 (2008) – particularly occurred in the units under the command of Col Baudouin Ngaruye, Lt Col Innocent Zimurinda, Lt Col Antoine Manzi, Lt Col Bisamaza, and Lt Col Salumu Mulenda. According to reports obtained by MONUC,

Lt Col Zimurinda threatened MONUC personnel who were attempting to conduct DRRR work at Ngungu and ordered his units to raise their weapons against Mission staff. Lt Col Manzi, based in Walikale, also threatened to use force against MONUC.

Both Lt Col Zimurinda and Lt Col Manzi's brigades have been involved in heavy exploitation of mineral resources in the zones of Kalehe and Walikale (please refer to paragraphs 201 to 205 and 229 to 230). The Group has established through interviews with several CNDP sources that following the arrest of General Laurent Nkunda on Rwandan soil in January 2009, General Bosco Ntaganda, the former chief of staff of the CNDP, was enforced by both Kinshasa and Kigali as the de facto military head of the CNDP, with specific instructions to manage and control former CNDP elements integrated in the FARDC as part of Kimia II operations. As a result, Gen Ntaganda, who is subject to an assets freeze and a travel ban pursuant to his designation by the Committee in 2005, and has also been indicted by the International Criminal Court, has been given the post of deputy operational commander for Kimia II although the FARDC has repeatedly denied his position in official circles. The Group annexed an FARDC document signed by Gen Ntaganda in August 2009 as deputy operational commander of Kimia II (Annex 62). This document refers to Kimia II deployments but is not signed by General Dieudonné Amuli, the Kimia II operational commander, whose name is printed on the document. The Group is aware that some deployments took place anyway. According to interviews with several members of the CNDP in the DRC and Rwanda, the decision to remove Gen Nkunda caused a division within the CNDP officer class, many of whom felt betrayed by Gen Ntaganda and remained fiercely loyal to Gen Nkunda, notably Colonel Sultani Makenga, formerly the third most senior officer in the CNDP. In particular, these divisions culminated in a near shoot-out between rival factions of the CNDP at the Grands Lacs hotel in Goma on 5 June 2009, following an argument over the control of the smuggling of timber sourced from Rutshuru and Masisi territories through the Bunagana border post. Active CNDP elements have informed the Group that these internal divisions are still significant although there have also been moves by top CNDP political and military figures to bridge these divides. A fuller discussion of these political movements will also be outlined in this section.

The Group has obtained evidence and testimonies that Gen Ntaganda has centralized many of the ground-level taxation networks previously controlled by the CNDP in the territory of Masisi in North Kivu, including control of illegal checkpoints, charcoal markets and the timber trade, and has enforced parallel administrative structures particularly in his central fiefdom of the Mushake zone of Masisi territory. The Group has calculated that Gen Ntaganda's network raises about 250,000 US dollars a month from these ground taxes (also see the Group's interim report S/2009/253). The Group has annexed a selection of receipts obtained from the taxation of various activities, including the movement of timber, minerals and vehicles, which are marked by official CNDP stamps (Annex 63). The most recent receipt obtained was issued in October 2009. The Group has verified some of these taxation networks through on-site observations. The Group obtained documentation and testimony that a number of senior ex-CNDP officers specifically loyal to Gen Ntaganda are involved in the lucrative timber trade. The Group received testimonies that Lt Col Zimurinda has forced civilians to carry wooden planks of eucalyptus and busika wood in his zone of operations. The Group has also seen documents and obtained testimonies detailing exports of timber in the names of Lt Col Yusuf Mboneza, Col Baudoin Ngaruye, Major Sylvain Kitenge and Col Innocent Kabundi. Estimates from agricultural officials indicate the movements of several hundred heads of cattle from Rwanda moved into Mushake since January 2009, often in the name of CNDP military officials loyal to Gen Ntaganda. According to testimonies obtained by the Group, these military officials have been involved in expelling civilians from their land in order to accommodate some of the cattle there.

Since January 2009 Gen Ntaganda has progressively consolidated his position by centralizing under his control many of the weapons stocks that the CNDP accumulated over the years and which were previously under the custody of various CNDP commanders. According to several interviews of CNDP members and residents within CNDP-administered territory, much of this stock has been centralized around Ngungu, the seat of Lt Col Zimurinda, and Kitchanga, which is under the control of Lt Colonel Innocent Kaina (alias India Queen), who fought alongside Gen Ntaganda's militia movement in Ituri in 2003 and who was conditionally released from prison in Kinshasa in 2009. The Congolese intelligence services were able to obtain 34,000 rounds of 7.62x39mm ammunition, 1,100 rounds of 12.7mm ammunition, 77 RPG-7 rockets and three boxes of anti-tank mines in a raid on a hidden cache on 8 May 2009 in North Kivu. The Group estimates that these weapons and ammunition represent a very small portion of the arms and ammunition that are still under the private control of Gen Ntaganda and his loyalist officers. The Group has met Desire Kamanzi, who was appointed as the president of the CNDP following the removal of Gen Laurent Nkunda and who informed the Group that he had been imposed as president by "military force". According to several CNDP insiders, Mr Kamanzi has not been able to retain the loyalty of ex-CNDP military officers and businessmen who had

backed Gen Nkunda and who had viewed Mr Kamanzi's presidency as an imposition by Kigali . Mr Kamanzi has now been sidelined following reconciliation initiatives between loyalists of Gen Ntaganda and Gen Nkunda according to sources close to the CNDP.

The Group is of the view that despite his arrest, Gen Nkunda continues to retain some control over the CNDP and particularly the international networks he had built when he was chairman of the movement. One of the principle issues of contention between Gen Ntaganda and Gen Nkunda following the latter's arrest in January 2009 in Rwanda was the control of the financial and accounting structures of the CNDP. When Gen Nkunda was arrested in Rwanda , many of his financial commissioners left the DRC and thereby left Gen Ntaganda with no access to these international and regional financial support networks.

The Group has also been informed by a number of sources in Rwanda and DRC that following an initial period in which Gen Nkunda was isolated from outside contacts, he has held meetings with several of his former associates who have visited him in Kigali from May 2009 onwards. During this period, intelligence and diplomatic sources as well as CNDP insiders have informed the Group that Gen Nkunda has also held meetings with diaspora supporters who have, in turn, been in contact with FARDC officers loyal to Gen Nkunda, notably Col Makenga. The Group has confirmed that during this period a number of Gen Nkunda's former commissioners have been present in Rwanda and in the border town of Gisenyi, which is opposite Goma.

The Group received several testimonies from CNDP insiders and intelligence sources that members of Gen Nkunda's network have attempted to make contact with military and political officers of the FRF from June 2009 onwards. The Group also obtained reports related to a meeting held in June 2009 in Cyangugu, the Rwandan border town opposite Bukavu, between FRF and ex-CNDP officers. The Group has been able to identify direct telephone communications between FRF officials and ex-CNDP officers currently integrated into the FARDC during the same time period. The Group has met Col Jackson Muzuri, a militia leader from the Hauts Plateaux who demobilized together with several senior FRF in August 2009 and subsequently reported having been in contact with Gendarme Rwema, an individual who was cited in S/2008/773 for having sent money to a bank account in Gisenyi owned by Elisabeth Uwasse, the wife of Gen Nkunda. The Group has received several reports of ongoing attempts by CNDP- related networks to recruit individuals into units of the FARDC controlled by ex-CNDP officers. The Group obtained information from several sources interviewed separately including Ugandan intelligence officers, FRF officers and diplomats in the region, referring to the visit in Kampala undertaken in June 2009 by a delegation led by Mr Rwema comprising members of Congolese Tutsi diaspora and individuals linked to FRF with the objective of winning external support. According to a top Ugandan intelligence official, the delegation was expelled from Uganda by the authorities following Mr. Rwema's meetings there, and he was warned to stop facilitating such meetings. According to MONUC officials, an FARDC officer interviewed by the Group, and a former CNDP officer, meetings were held in Kampala in August, and in Goma in September and October 2009, pursuant to the initiative of Gen Ntaganda's loyalists including an officer known as "Gad", who is known as a relative of Gen Ntaganda. The objective of the meetings was to discuss the possible recruitment of new fighters in Masisi and Rutshuru territories. According to the FARDC source interviewed by the Group, this initiative was also supported by individuals linked to Raphael Soriano (alias Katebe Katoto) who was also involved in money transfers to the account controlled by Elisabeth Uwasse (see S/2008/773).

The Group has received information of ongoing recruitment in Rwanda of combatants through the Bwindi border area between Uganda and the DRC, but has no further information at this point.

Since December 2008 the Group has sought the assistance of the US authorities to help it gather more information on the bank account of Elisabeth Uwasse in Gisenyi. This account is a US dollar account and therefore all US dollar transfers to and from this account must pass through correspondent banks in the USA. The Group provided the US authorities with the names and account numbers of correspondent banks in the US that could be connected to the bank where Ms Uwasse has her account, and understands that it is technically possible to obtain a read out of money transfers to and from Ms Uwasse's account through these correspondent banks. The Group has not received any further information as requested from the US authorities.

The Group has been informed by senior FARDC officials involved in Umoja Wetu that they were aware of a number of Rwandan intelligence officers who remained on the ground following the end of the operation. The Group has no independent confirmation of multiple and credible reports it has received from demobilized ex-CNDP elements that Rwandan military equipment was left behind after the end of Umoja Wetu. Senior

FARDC officers involved in Kimia II have told the Group that the FARDC had little visibility of military movements in North Kivu for weeks after Umoja Wetu ended. The Group of Experts has investigated the operations of a white Mi-8 helicopter based out of Goma and requisitioned by the Congolese National Police (PNC). The white Mi-8 registered UR-HLC is owned by a Ukrainian company Khoriv-Avia but was leased to the Congolese Police by another company, Aerospace Consortium (FZE) in Fujairah, United Arab Emirates. This company leased the helicopter on 27 January 2009 to the Minister of Interior Security of the DRC represented by the Police National Congolaise (PNC) (Annex 64). The document is signed by John Numbi, the head of the Congolese police (Annex 65) who managed Operation Umoja Wetu along with Major General James Kaberebe, the army chief of Rwanda. Between the date of leasing and the helicopter's departure from the DRC on 10 June, it flew a total of forty flights out of Goma airport, with an additional two flights performed for the PNC prior to the signing of the contract. These flights, the last of which took place on 28 April 2009, were mainly listed as local flights within Goma but several aviation sources note that the genuine destination was hidden from the RVA. A source from the company that leased the Mi-8 informed the Group in writing that "most of the time the helicopter was used for the peace talks and evacuation of wounded personnel and shifting of Cargo [sic] from DRC to Rwanda and back".

The Mi-8 performed eight flights from Goma in January 2009, fourteen in February, fifteen in March, and five in April 2009. In total, the helicopter performed twenty-one flights from Goma after the official end of Umoja-Wetu. Since the departures and arrivals of the Mi-8 are only listed as local flights, the Group cannot determine its exact routing in the DRC and Rwanda. The local flight on 28 April 2009, for example, lasted four hours before the helicopter returned to Goma, and the flight on 22 April lasted six hours to and from Masisi, a destination that is approximately a fifteen minute flight from Goma.

B. Exploitation of Natural Resources by CNDP networks and the FARDC

Subsequent to the rapid integration process and Kimia II operations, several mineral rich areas, some of which were previously occupied by the FDLR, have come under the control of FARDC units. Two of the most lucrative mining sites, notably the Bisie mine in Walikale territory and mining rich zones in Kalehe territory, are controlled by FARDC units which are composed almost exclusively of former CNDP units. The Group has focused on these two cases, although it has obtained information of other areas that have come under the control of former CNDP units, notably remote parts of Shabunda province near the Kahuzi Biega park.

Walikale territory, North Kivu Since March 2009 the Bisie mine in Walikale, which provides approximately 70 percent of the output of cassiterite of North Kivu, has been under the control of units responding to former CNDP hardliners operating within the FARDC's 1st integrated brigade. The Group has confirmation from military officials, miners and traders in Bisie, mining officials and demobilized ex-CNDP elements that a part of government taxation revenues and part of the production from the mine have been controlled directly by Lt Col Hassan "Shimita" Bin Mashabi, an ex-CNDP officer working for the FARDC under the 1st integrated brigade. This unit has been commanded by Lt Col Antoine Manzi until September 2009 and subsequently by Lt Col Yusuf Mboneza, both of whom are former CNDP officers. Col Manzi is cited in paragraph 182 of this report in connection with impeding demobilization of combatants. Lt Col Bin Mashabi has been cited by a demobilized CNDP element in a MONUC report in August 2009 for having attempted to re-recruit him in Gisenyi, Rwanda. The demobilized element alleged Lt Col Bin Mashabi had demanded he return to Walikale. The Group has obtained a document issued by a local government official in Walikale detailing how Lt Col Bin Mashabi took control of the mine (Annex 66). The Group has obtained documents and testimonies from government mining officials in Walikale claiming that out of every 2,000 Congolese Francs taxed on each 50 kilogram sack of cassiterite mined, 1,000 Francs are given to security officials, and 30 to 40 percent of that sum goes to the FARDC (Annex 67). The Group estimates that the local military commanders at Bisie can therefore earn up to 60,000 US dollars per annum from these taxes, based on industry estimates of an average of 500 tonnes a month of production from Bisie.

A number of industry interlocutors informed the Group that since February 2009, they have been unable to access as much cassiterite as in the past from Bisie. The same industry interlocutors have been informed by military elements at Bisie and Walikale that this is due to an escalation in fraud at Bisie, a lack of control being exerted by civilian government officials at the site, and the orchestrated mining and transport of large amounts of minerals in complicity with business networks profiting from the militarization of the mine. Contrary to previous years when most cargoes from Bisie and Walikale were flown from an airstrip to Goma, industry sources report that a larger proportion of cassiterite than before is being evacuated by truck in large volumes

from trading centres near Bisie and Walikale and taken by newly completed roads in a circuitous route to Kisangani, then Beni, Butembo and Goma, before being trafficked into Rwanda. DRC Government mining and customs officials also report that fraudulent exportations of all minerals cargoes from DRC have escalated in the last year. A number of minerals exporting houses in Goma have taken advantage of the militarization of Bisie mine and the lack of government controls on the flow of minerals.

The Group has also been informed by mining and military officials that the brother of Lt Col Bin Mahsabi, known as Faustin Ndahiriwe, has also been trading cassiterite produced on behalf of the ex-CNDP officers based at Walikale. Mr Ndahiriwe is well known by the business community in Goma, having worked in the minerals trade since 1998 for Amos Golan, an Israeli businessman and former military official who was the honorary consul for Uganda in Israel when the Group verified this in September 2009. The Group has annexed Mr Ndahiriwe's identification documents and his government-issued trading license (Annex 68), which an ex-bodyguard of Lt Col Manzi correctly identified as belonging to Mr Ndahiriwe, whom he also identified as the brother of Lt Col Bin Mashabi. The Group has obtained a picture of bagged minerals taken near Bisie mine in Mr Ndahiriwe's name (Annex 69). The Group has also met Mr Ndahiriwe. The Group has established that Mr Ndahiriwe has directly supplied a number of businesses in Goma with cassiterite, and in particular three exporting houses, or comptoirs: Hill Side, SODEEM and Pan African Business Group (PABG). The Group obtained documentation from all these three companies showing they have purchased cassiterite from Mr Ndahiriwe in 2009 (Annex 70). Mr Ndahiriwe confirmed that he is prefinanced by some of the comptoirs in Goma although he did not specify which ones.

Hill Side is a company owned and operated by Claude Ntuyenabu, a prominent businessman in Goma. SODEEM is a company owned and operated by Modeste Makabuza who, according to many CNDP members interviewed by the Group, has been an important supporter of the movement in the past. Pan African Business Group is owned by a group of Congolese and Russian businessmen and which is majority held by Novosibirsk Integrated Tin Works, a Russian company. Hill Side has reported that between January and end-April 2009, it purchased only 7,530 kilograms of cassiterite from Walikale (Annex 71). However the Group has records of exports from aviation documents showing that between 22 April and 23 April 2009 alone, Hill Side recovered 5,300 kilos of material from Walikale (Annex 72), almost three times the amount given officially by Hill Side for its purchase on 23 April 2009, as detailed in Annex 71. The Group has also obtained separate statistics of purchases made by Minerals Supply Africa (MSA), a Rwandan company licensed to operate by the Rwandan government (Annex 73) and owned by UK businessman David Bensusan, and which show that Hill Side provided MSA 185,690 kilograms between January and April 2009, almost 25 times the amount Hill Side officially declared to the DRC authorities as having purchased throughout the DRC during the same period. According to official DRC government statistics obtained by the Group, Hill Side has generated exports worth only 117,340 kilograms of cassiterite up to the end of September 2009, and has sent them to Minerals Supply Africa. However according to internal statistics for Minerals Supply Africa, it has imported 360,565 kilograms from Hill Side from January to the end of September 2009, more than the double that the amount recorded by official DRC statistics. Mr Bensusan informed the Group that he prefinances comptoirs in Goma, including Hill Side. The computerized statistics obtained from Minerals Supply Africa have been archived at the United Nations. Mr Bensusan claimed that roughly 30 percent of what he exports normally is sourced from Rwanda and the rest is sourced from the DRC. The Group has nevertheless obtained certificates of Mr Bensusan's exports from Rwanda this year, all but two of which are documented as having Rwandan certificates of origin, and which are destined as material eventually purchased by Cronimet, a Swiss based company which has a shareholding interest in Minerals Supply Africa according to Mr Bensusan and Cronimet. The 42 certificates of origin give Mr Bensusan's total exports from Rwanda to Cronimet from January 2009 to mid September 2009 at approximately just over 1,000,000 kilograms. The Group has further evidence on other fraudulent sales of minerals to Mr Bensusan, and is investigating whether these are also linked to Walikale. A sample of the certificates of origin for exports from Minerals Supply Africa to Cronimet has been annexed, and the rest archived at the United Nations (Annex 74). Cronimet provides all Mr Bensusan's production to Thailand Smelting and Refining Company (Thaisarco), held by Amalgamated Metal Corporation (AMC), a UK entity which has been mentioned earlier on in this report in the section on FDLR minerals trafficking.

SODEEM

Government mining officials and SODEEM representatives have calculated that SODEEM has exported officially 291,200 kilograms of cassiterite between January and September 2009. Mr Makabuza and his company representatives say that they are not aware of the identity of Mr Ndahiriwe. Alexis Makabuza, the brother of Modeste, has transported Mr Ndahiriwe's cargoes from Walikale through his aviation company Stellavia (Annex 75), which has delivered material to SODEEM. Mr Ndahiriwe has also used other aviation

companies such as Doren, MPC, Air Kasai and particularly Safe Air to transport his material.

The Group was informed by several DRC-based traders and government officials that one of the biggest minerals traders operating fraudulently near Bisie in Walikale, as well as in many parts of South Kivu controlled by the FDLR, is a trader called Frederic Mastaki Lubamba, alias "Senegalais". The Group was present when a DRC government official called Mr Lubamba on speakerphone, and Mr. Lubamba confirmed that he had sold nearly all his production to SODEEM. The Group corroborated this from internal SODEEM documentation which marks "Senegalais" as a major supplier to SODEEM (Annex 76). The Group received official documents from government mining agents who stopped a consignment of minerals in Butembo that had been undervalued at a trading site near Bisie and trucked through Kisangani in May 2009 on its way to Butembo and then Goma on behalf of Mr Lubamba (Annex 77). The truck drivers informed the Group that the minerals were sourced directly from the Bisie mine. SODEEM company representatives attribute this incident to corrupt government officials in Bisie who undervalued the goods on local government taxation documents and embezzled the difference.

The Group has obtained samples of a government export permit and SODEEM's internal records indicating that all company purchases are sent to African Ventures Ltd (Annex 78), a company that has already been described in paragraphs 174 to 177 (and annexed) as a front company operated with the assistance of Chris Huber. The Group refers to paragraphs 170 and 174 which also show how African Ventures Ltd has been purchasing from FDLR- controlled areas. As already mentioned, Mr Huber is a Swiss businessman who has been widely cited by various government officials and in public reports as having been involved in the large-scale transport of coltan out of the DRC and Rwanda during the period of the Rwandan-backed RCD-Goma rebel occupation in eastern DRC during 1998-2003. At that time Mr Huber worked with Rwanda Metals, a company then managed by Tri-Star investments, a company set up by the RPF. Mr Huber now acts as a consultant on "Rwanda" or "DRC" and "troubleshooting of serious problems in Africa that cannot be handled by the staff of RMMC" (see Annex 79) according to John Crawley, director of Refractory Metals Mining Company Ltd (RMMC), a company which has an address at Shing Wan Road in Hong Kong where African Ventures Ltd is also based. RMMC is a supplier to the Thailand Smelting and Refining Company (Thaisarco), held by Amalgamated Metal Corporation (AMC), a UK entity). Mr Crawley is also a director of the tantalum processing company, Niotan Inc, based in Nevada, USA. Mr Makabuza denied to the Group that he has any association with Mr Huber, which contradicts several statements received by the Group in the DRC and Rwandan trading industry. The Group also received information from credible sources that at least two of Mr Huber's Russian associates have been working at one of SODEEM's properties but were apparently instructed to leave Goma during the period when the Group deepened its research into this matter. One of SODEEM's founders is Isaac Bigwi Kalima, who is the son of Jean Malik Kalima, one of the top representatives of the private sector mining association in Rwanda (Annex 80).

International company networks related to Chris Huber and John Crawley

The Group established a connection between Chris Huber and a series of companies: African Ventures Ltd, Refractory Metals Mining Company Ltd (RMMC), Niotan Inc, Niotan Ltd and the Thailand Smelting and Refining Company (Thaisarco). In an email to the Group on 16 October 2009, Mr Huber said that he has acted as a consultant to African Ventures Ltd for two years (Annex 81). This company's address is based at Shing Wang road, in Hong Kong, which is where RMMC is based, according to export documentation that was supplied to Thaisarco (Annex 82). John Crawley, who is a director of RMMC and Niotan Inc (a company based in the USA that specializes in coltan) also informed the Group that Mr Huber is a consultant for RMMC and was "an early investor in Niotan Inc". Mr Crawley informed the Group in late October 2009 that African Ventures Ltd was "set up" by his father in 2005 and its trading activities are financed by RMMC (Annex 83).

RMMC's chief executive officer is K.S Jong, who signed a document renaming Niotan Ltd. The company was renamed RMMC (Annex 84). The decision to change Niotan Ltd's name to RMMC was shared with representatives of Thaisarco in an email sent on 22 January 2009, which copied in Mr Jong and Mr Huber (Annex 85). Mr Huber has told the Group that RMMC used to supply all its minerals to Thaisarco and that he had a nine year business relationship with Thaisarco. Mr Crawley referred to one of Mr Huber's main responsibilities for RMMC as "liaison with Thaisarco", operating in Rwanda and DRC and "troubleshooting of serious problems in Africa" (see Annex 79 again).

Congolese suppliers of African Ventures Ltd have given the Group different names of representatives working for African Ventures Ltd, including Peter Wong, based in Hong Kong, Peter Markusy and Abdud Samaad, a

freight agent operating out of Mombasa. Mr Crawley has informed the Group in writing that the owner of African Ventures Ltd is “a person from China” and that the company has “no common shareholding to RMMC”. Prior to these admissions Mr Crawley had told the Group that he had very little knowledge of African Ventures Ltd. Mr Crawley is on the executive committee of the Tantalum and Niobium International Study Center (T.I.C.) and the working group for the development of a transparency program in the following groups: a) the T.I.C, b) E.I.C.C (Electronic Industry Code of Conduct Implementation Group) and c) GeSI (Global e-Sustainability Initiative).

Following the Group’s inquiries, Thaisarco has told the Group that it will be suspending all its purchasing activities from RMMC. Mr Huber has sent a statement to the Group, insisting that RMMC has “made every effort” to conduct appropriate due diligence on purchases of minerals from the DRC.

Pan African Business Group (PABG)

The same pattern of connections to Mr Ndahiriwe and to evacuations of minerals sourced from Bisie also apply to Pan African Business Group. The Group has already shown above that PABG have purchased material from Mr Ndahiriwe. The Group also documented that PABG was also the consignee for the truck arrested by mining authorities in May 2009 in Butembo for undervaluing minerals at Bisie (Annex 86) and which was arrested alongside the consignment for Mr Mastaki (who is described in paragraph 213 above). PABG company representatives have also blamed corrupt government officials for issuing inaccurate paperwork on these consignments out of Walikale that were eventually seized at Butembo. Competition for control of Bisie mine The Group concludes that the above cases represent an overall pattern of systematic exploitation of the Bisie mine and fraudulent minerals exports by networks linked to military officials drawn from the former CNDP who have resisted the repatriation of foreign elements in their ranks.. The Group also notes the joint participation in the militarization of Bisie mine of a number of FARDC officials along with remnants of the 85th non-integrated brigade that had had previously shared mining revenues with Kinshasa DRC government and military officials. The 85th brigade had previously occupied Bisie mine until being moved out by FARDC/CNDP units.

In particular, the Group notes that Colonel Etienne Bindu, the deputy commander of the 8th military region of North Kivu, has been directly involved in transporting minerals in his name. The Group obtained documents from the RVA in Walikale showing Col Bindu’s name appearing as having moved minerals out by air (Annex 87) in 2009. The Group also obtained a number of documents showing Col Bindu has transported several cargoes of cassiterite out of Walikale using Safe Air Company, with the assistance of a Safe Air director “Sadoc”, who is known to also act as a minerals dealer and who regularly supplies Hill Side (Annex 88 and Annex 71). The Group gathered additional documents showing that Mr Ndahiriwe has also used Safe Air company to transport his material (Annex 89). The Group understands that Col Bindu and his direct superior, General Vainqueur Mayala, the overall commander of the 8th military region of North Kivu, have been part of a wider power struggle for control of the mine that culminated in the massacre of up to 30 people at Bisie on 13 August 2009 perpetrated by FDLR fighters working in conjunction with a Mai Mai leader, Sheka Ntabo Ntaberi, who was previously connected to three companies interested in exploiting the Bisie mine. The massacre took place a few days following the order by Adophe Muzito, DRC’s prime minister, that the Bisie mine should be demilitarized. At a meeting held by Mr Muzito in Walikale with civil society activists, local politicians, mining officials and businessmen on 7 August 2009, some of whom have given testimony to the Group, both Col Bindu and Gen Mayala were reported to have warned the participants that should the mine be demilitarized, it could fall prey to an attack by the FDLR. Witnesses, MONUC officials, and mining, military and intelligence officials reported to the Group that Mr Ntaberi was a key orchestrator of the massacre and worked with FDLR units and remaining units of the 85th brigade. An FDLR ex-combatant who had been based nearby Bisie corroborated this information. A witness of the attack stated to the Group that the perpetrators were wearing FARDC uniforms. The Group was also informed by FARDC and minerals trading sources that Mr Ntaberi was equipped with a satellite phone provided to him by Col Bindu.

Mr Ntaberi is a well known figure in the mining community. He had previously been part of an association called Groupe Minier Bangandula (GMB), a cooperative of local businessmen in Walikale working with Alexis Makabuza to exploit Bisie mine (Annex 90). GMB had collaborated with COMIMPA, a local artisanal mining association in Walikale that claimed it has rights to mine at Bisie mine. Mr Ntaberi was a founding member of COMIMPA (Annex 91) although he ended his relationship with COMIMPA on bad terms in early 2009 and began championing the interests of Mining and Processing Congo (MPC), a company with operations in the DRC and Rwanda, held by Kivu Resources (shareholding structures available at www.kivuresources.com), and which has an exploration permit covering the Bisie mine. GMB and COMIMPA have had various legal

disputes with Mining Processing Congo (MPC), which maintains the view that COMIMPA has been trying to encroach onto its property. COMIMPA has maintained that MPC has exploration rights only, and that COMIMPA is therefore allowed to work at the Bisie mine in accordance with mining regulations governing artisanal producers.

During the course of 2009 COMIMPA had partnered up with Oakridge Business Solutions, a UK and South African registered company that has bid for government IT projects in Rwanda, and which is run by Andre Van Zyl, a South African businessman. Oakridge Business Solutions had originally prospected to work in partnership with COMIMPA in exploiting gold deposits in the Oninga area of Walikale territory, but had then signed a Joint Venture contract to exploit the Bisie mine with COMIMPA. The Group confirmed that Mr Ntaberi defected from COMIMPA and started publically promoting MPC's interests in 2009, whilst making a number of anti-Tutsi political statements. The Group also met Mr Ntaberi at MPC headquarters in Goma in early 2009. MPC representatives say they had tried to persuade Mr Ntaberi not to create any disturbances after he was barred from meetings held between COMIMPA and Oakridge. The Group has confirmed that since the 13 August 2009 massacre, FARDC-CNDP troops, including those under the command of Captain "Zidane", have reinforced their position at Bisie. Gen Mayala in September wrote to a local official in Walikale promising to remove Captain Zidane (Annex 92), but at the time of the drafting of the report in mid October 2009, had failed to do so. In an email to the Group on 22 October 2009, Mr van Zyl informed the Group he intended to continue his work with Oakridge and COMIMPA at Bisie and the DRC authorities had returned his passport after confiscating it for a few weeks.

Kalehe territory, South Kivu

The Group received information from mining officials and testimonies obtained during field visits in South Kivu throughout its mandate that troops loyal to Lt Col Zimurinda, formerly of CNDP, have taken over many of the mining zones identified in S/2008/773 as having been occupied by the FDLR. Lt Col Zimurinda has been cited in this report for resisting the demobilization of Rwandan elements within his brigade (see paragraph 182). Several former combatants who deserted from Zimurinda's ranks confirmed his personalized control of many of the mines in Kalehe. Government officials also informed the Group on 24 September 2009 that roughly 1,500 kilograms of wolframite carried by Lt Col Zimurinda's officers were intercepted by military officials from Kalehe, and the officers were subsequently released. The officials informed the Group that the minerals were brought to the Goma warehouses of Etablissement Muyeye. The Group obtained documents showing that MDM and WMC were named as recipients of cassiterite coming down to Bukavu from Nyabibwe, a mining zone where FARDC soldiers under Col Zimurinda's command have also been controlling production (Annex 93). The Group has already explained in paragraphs 166 to 171 and in paragraph 174 the links between MDM and WMC, which is a supplier to the Malaysia Smelting Corporation (MSC). The Group has been informed by various traders and government mining officials that Muyeye is also sourcing cassiterite from this zone. Muyeye, also mentioned above for purchasing minerals from FDLR controlled areas, is a supplier to African Ventures Ltd. Masisi territory, North Kivu The Group was informed by minerals traders and CNDP sources that MH1, a comptoir run by Senator Edoard Mwangachuchu and cited in S/2008/773, is also working in collaboration with FARDC-CNDP military officers in his zone of exploitation. Eyewitnesses, mineral trading and CNDP sources have told the Group that MH1's coltan concession in Masisi, North Kivu, is under guard by armed elements and hosts a number of private arms caches that were not handed in by CNDP military at the time of integration. The Group has documents showing that MH1 supplies tantalum to African Ventures Ltd (Annex 94). Mr Crawley has not been able to identify exactly to whom a recent shipment of coltan from MH1 was sold to and told the Group "I could only guess who will take this material, a Chinese factory most likely".

V. Forces Républicaines Fédéralistes (FRF)

The Group has been researching the activities of the FRF, a small Banyamulenge- dominated militia group based in the strategic Hauts Plateaux of the high plateau around Minembwe, South Kivu, and which was born out of a Banyamulenge revolt against Rwanda during RCD-Goma rebel occupation of eastern DRC during 1998-2003. The FRF numbers approximately 150 fighters but acts as a fulcrum upon which the wider military crisis in South Kivu turns. The overall leaders of the FRF are Col Venant Bisogo, President of the FRF, and Col Michel Rakunda, chief of staff.

Since August 2009, dozens of FRF elements including senior officers in the movement have left the FRF's ranks and joined the integration process managed by the Gen Pacifique Masunzu, the commander of the 10th military region. Several of these officers have been integrated into the FARDC 112th brigade, a Banyamulenge brigade that has also remained loyal to Gen Masunzu. The Group has documented links

between the 112th brigade, FRF and FDLR (see paragraphs 47 to 55). The FRF has also had a historical link with the CNDP of Gen Nkunda (see paragraph 191 above). Senior FRF and CNDP military officers were in frequent telephone contact with each other throughout 2008. During 2009, the Group has noted that some senior ex-CNDP officers have continued to be in touch with the FRF, notably Col Eric Ruhorimbere, a former CNDP military commander, who was in phone contact with the FRF high command four times between 3 June and 19 July 2009. FRF ex-combatants interviewed by the Group have confirmed ongoing contacts between the FRF and ex-CNDP officers.

The Group has investigated various avenues of support for the FRF from the local Banyanenge community and from local gold trafficking networks. Phone records also illustrate that the movement has significant contacts with elements based in North America and Europe.

According to several sources interviewed by the Group in the high plateau, the FRF receive logistical and general support from Banyamulenge communities in return for protection. The FRF are also involved in raising taxes on local markets and gold-trading, which according to the Group's estimates could earn the movement several thousand dollars a month. Many FRF commanders have close kinship ties to 112th brigade officers and are widely known to fraternize with them (see paragraphs 47 to 55 for more on FRF and 112th brigade support).

The Group established through multiple interviews and phone log analysis that the FRF have significant regional support networks based in Burundi and Rwanda. Among the international phone calls with FRF numbers, 67 percent were to Rwanda, 25 percent were to Burundi and 3 percent were to Uganda. The rest of the calls were made to Belgium, Netherlands, UK, France, Italy and Sweden. The Group notes that Jean-Baptiste Nzeyimana, an FRF associate liberated by the DRC authorities in exchange for the release of hostages in early 2009, was deported to the UK and is reported to have a UK passport. The Group analysed phone logs which show a high frequency of Rwandan and Burundian calls during February 2009 and April 2009, periods when the FRF were involved in the taking of hostages and during active combat in the Hauts Plateaux. Following these crises, the frequency of FRF calls to and from Rwandan numbers diminished rapidly through September 2009, during the period when the FRF were forging new alliances with the FDLR. The frequency of FRF calls to and from Burundi has however remained constantly high even as the movement forged its alliance with the FDLR. The Group is analyzing the links between the FRF and TransAfrika, a South African company conducting exploration of gold in the high plateau and in Minembwe. The Group has established that the director general of the company, Thomas Nziratimana, former vice governor of South Kivu, was in contact eleven times with the military high command of the FRF between April and July 2008. Mr Nziratimana is widely known to harbor pro-FRF views. The Group also has credible information that the TransAfrika base at Minembwe is run by "Sadoc" who was a member of the FRF political delegation during the Goma conference of 2008. The Group continues to investigate these links. The Group has obtained multiple testimonies of serious abuses of human rights committed by the FRF, as will be further illustrated in the relevant section of this report.

VI. Ituri Militias and Gold Exploitation

The Group researched the support networks available to militia groups in Ituri, in particular the Front Populaire pour la Justice au Congo (FPJC) and Front de Résistance Patriotique en Ituri (FPRI). The FPJC was created in September 2008 from the remnants of various Ituri militias including the FRPI, which still has some residual though insignificant presence on the ground. The leaders of this militia alliance are Cherif Manda, Baraka Ngona and Mbadu Adirodu. On the basis of MONUC's estimates, the FPJC alliance numbers not more than 200 fighting elements. While the last major attack launched by this movement took place in September 2008, the FPJC has been engaging in frequent pillaging and attacks on civilians in order to sustain its food and general supplies. According to MONUC and humanitarian agencies, the FPJC's attacks resulted in the displacement of between 60,000 and 100,000 people in 2009. MONUC and government officials have expressed concerns with a rising number of attacks in Djugu territory of Ituri in 2009, which had been cleared of militia activity two years ago. While FPJC activity appears to be most frequent in the Aveba area of Irumu territory, the Group has obtained recent information from MONUC and former militia combatants that the militia alliance also has a presence north of Fataki in Djugu territory, near Libi. Both Libi and Aveba are well known gold mining spots. Former militiamen, MONUC and mining interlocutors have reported to the Group that FPJC elements are taxing and exploiting gold in both areas and are either selling gold in Bunia or trading with business networks who smuggle the material through the border to Uganda. Several gold traders interviewed separately in Bunia in September 2009 informed the Group that the main buyers of gold in Bunia are Rajendra Vaya (known locally as Raju) and J.V. Lodhia (known locally as Chuni), two Kampala-based

gold traders who are directors of sanctioned entities (paragraphs 133 of this report). Traders informed the Group that these Kampala based businessmen have been prefinancing large amounts of gold-buying by smuggling in cash by road through the border zones and paying above market prices to control the market. A local trader called Edmond Kasereka who trades in Bunia, and who is a brother of Dr Kisoni (see paragraph 128 of this report), supplies the Lodhia family in Kampala (Annex 95) according to local gold traders. . The Group has been informed by numerous trading sources that Mr Vaya works with a dealer called “Exodus” in Bunia. The Group met employees in the shop of “Exodus” who told the Group that their boss supplied an Indian family in Kampala with gold. The Group was informed by government officials that only one gold-exporting house, COPED, has been issued with an official license. COPED is financed principally by Arif Mulji, a Ugandan-based businessmen. COPED is buying gold from Bavi, in Aveba, according to information on the purity of gold purchased by COPED (Annex 96).

Government mining officials also reported to the Group that a consortium of Lebanese businessmen working on behalf of the governor of Orientale province has set up a private unlicensed gold exporting house called Okimo. The Group has obtained a document showing that Okimo has supplied gold to a company in Dubai (Annex 97). The Group has been informed by MONUC and security sources that a number of FPJC officers spend time in Uganda on a regular basis.

VII. Lords Resistance Army (LRA)

The Group focused part of its investigations on Lord’s Resistance Army (LRA) activities and support networks. Due to its limited capacities, logistical difficulties, and insufficient information received by the Group from Member States involved in joint military operations against the LRA in eastern DRC (Operation Lightening Thunder), the Group’s results have been limited. The Group shared information on the LRA with the Ugandan Security agencies, particularly information relating to phone numbers dialled by LRA satellite phones. The Group also attempted to share information during its visit to Kampala between 9 and 17 June 2009, through which it was hoping with the assistance of the Ugandan authorities to identify external support networks. However, in the course of the exchanges with Ugandan Security officials, the Group only obtained general information and was not able to have access to specific and concrete elements related which emerged from the joint military operations conducted in the DRC against the LRA. On 24 June 2009 the Group wrote, on the advice of Ugandan security officials, to General Aronda Nyakairima, chief of the Ugandan People’s Defense Force (UPDF), requesting a meeting to discuss further information relating to LRA military equipment seized during Operation Lightening Thunder, the possibility of debriefing captured LRA soldiers or gaining access to debriefs of child soldiers released from LRA captivity, but did not receive any reply.

As a result of the offensive commonly led by FARDC and UPDF between December 2008 and February 2009, the LRA elements have scattered in a few groups counting less than a few dozens of elements each and operating separately. The LRA attacks on the civilian population in the east of Province Orientale and southern Central African Republic (CAR) in 2008 and 2009 suggest that the movement has not received any recent substantial supply in terms of military equipment. The Group considers that that the overall strength of LRA military capacity has been reduced as an effect of the DRC-Uganda joint military operations, but this may also serve to further explain the LRA’s strategy of continuing to target vulnerable civilian populations as a way to maintain the movement’s relevance as a spoiler.

In addition, the Group notes that while in the past, the LRA’s military command could benefit from political support of a network of Ugandan diaspora, such support has significantly weakened since December 2008. This is corroborated by testimonies gathered by the Group and phone logs analysis, as communications between LRA commanders and foreign members have decreased. However, data obtained by the Group (see Annex 98) also show that LRA top military commanders have been in communication with numbers located in five different countries: France, Kenya, Uganda, the United Kingdom and the Sudan.

The frequency of communications has been significantly decreasing since January 2009, especially international communications. Over the course of the eight month period the Group had to analyse, only five international communications were made by the LRA top military commanders. All those communications were made through the same satellite phone by text message, on the same date and to the same Kenya-based number.

VIII. Notification to the Sanctions Committee on deliveries of military equipment to the DRC and provision of

During its mandate the Group undertook to monitor compliance with paragraph 5 of resolution 1807, especially in connection with its earlier findings regarding the diversion of military equipment from the FARDC to non-governmental armed groups (see S/2008/773). The Group undertook such monitoring of military equipment into the DRC pursuant to paragraph 1 of resolution 1857 (2008), as it is necessary to understand how FARDC stockpiles are functioning. Failure of Member States to notify the Committee of exports of military equipment to the DRC also has an impact on the institutional lack of transparency of DRC security sector reform initiatives supported by some of the same Member States. Lack of notifications also makes it more difficult to differentiate between legitimate and illegitimate transfers of military supplies and to react in case of diversion in a timely fashion. Similarly, the Group monitored any possible training related to military activities provided by Member States, also subject to a notification obligation pursuant to paragraph 5 of resolution 1807 (2008). The Group worked closely with MONUC in implementing this area of its mandate but regrets not having been able to hold any technical meetings with the DRC Ministry of Defence, despite numerous attempts to initiate a constructive dialogue.

Arms and Ammunition Deliveries

Deliveries to the Ports of Boma and Matadi

The Group of Experts obtained documentation on the importation of arms and ammunition at Boma and Matadi ports during its current mandate. The *Bi Ro Bong*, a ship registered in the Democratic People's Republic of Korea, docked at Boma Port on 21 January 2009, and departed on 3 February. Interviews held by the Group in Boma, Matadi and Kinshasa confirmed that the ship contained arms and ammunition; one FARDC officer cited specific weapon types but the Group was unable to verify this information. The Group obtained a DRC Government document from the Port of Boma citing that the *Bi Ro Bong* offloaded 3,434.6 tons military weaponry ('armement militaire') for the FARDC. This document has been archived at the United Nations. The Group notes that this figure surpasses the ship's registered maximum cargo tonnage. However, this figure is approximately fifteen percent higher than another cargo carried by the ship outside of Africa, which also surpassed the ship's official maximum tonnage.

The volume of military cargo emerges from invoices prepared by ONATRA for the DRC Ministry of Defence, for the offloading of the ship for thirteen days (selections of these documents are available in Annex 99). The FARDC prevented Congolese port authorities from verifying the cargo, or even approaching the ship, and the ship's captain refused to sign official port documentation. The result was that this ship's cargo completely bypassed all official importation channels established by the Congolese state. FARDC military trucks imported from China in September 2008 (see case later) were used to transport the cargo from Boma to Camp Kibomango in Kinshasa under the protection of the Garde Republicaine over a period of two weeks. The arms appear to have thus avoided the normal logistics distribution process through the FARDC logistics base at Camp Kokolo in Kinshasa. The Group was further informed that North Korean instructors trained the FARDC in Kinshasa in May 2009 but it is unknown whether the weapons systems that they operated were part of the *Bi Ro Bong*'s cargo. The Group sent a letter of inquiry to the Government of the Democratic People's Republic of Korea concerning the cargo of the *Bi Ro Bong* but did not receive a reply. The Group was unable to discuss this issue with the DRC Ministry of Defence. This case shows typical characteristics of an opaque arms deal, indicative of a trend in the importation and stockpiling of defense equipment by the DRC Government. The Group obtained information on another example of ammunition and equipment imported by the DRC Ministry of Defence at the port of Matadi in May 2009. This cargo, offloaded by the Chinese vessel *An Xin Jiang* appears to represent a case of an official transfer of military equipment to the DRC Government, in line with a notification from the Chinese government of an expected delivery of arms and ammunition at the end of May 2009. The Group has however been unable to confirm the exact contents of the ship's cargo with either the Chinese or the DRC authorities. The People's Republic of China informed the Committee that arms and ammunition would be delivered to the DRC in late May 2009 for use in China's training program for the FARDC, but details on the exact arrival date, name of the vessel and details of the containers were not provided, despite the Group's requests for clarification.

The vessel, flying the Chinese flag, and operated by the China Ocean Shipping Company (COSCO) arrived in Matadi on 18 May 2009 and offloaded sixteen containers weighing 190.66 tons. The manifest of the shipment noted the cargo contained eight containers of ammunition and eleven containers of "equipment" (three containers of equipment also contained ammunition). FARDC military trucks transported this cargo out of the port according to port authorities.

The Group was unable to ascertain whether the cargo declared by China in its notification to the Sanctions Committee comprised the entirety of the An Xin Jiang's cargo destined for the DRC Ministry of Defence, if indeed this was the same shipment. The Group noted a general correspondence between the approximately 120.02 tons of ammunition listed on the An Xin Jiang's cargo manifest, and the likely packed weight of the ammunition listed on the Chinese notification. The correspondence between the 70.64 tons of "equipment" offloaded by the An Xin Jiang, and the likely packed weight of the arms declared by China in its notification is less certain. Indeed, the manifest and bill of lading do not distinguish between arms and "equipment" destined to the FARDC.

The bill of lading names the port of loading as Dalian, China; the shipper as BOMETEC, GEHQ, PLA, China; and the consignee was the DRC Ministry of Defence (Annex 100). The Group believes that BOMETEC is the acronym used for China's Bureau of Military Equipment and Technology Cooperation, with an address of GEHQ, PLA, China, reportedly the General headquarters of the People's Liberation Army of China.

The Group of Experts wrote to the Government of China on 28 April and 3 September 2009 seeking clarification on the ship's name associated with China's notification to the Committee, and numbers and weights of containers used to pack the cargo, and markings on the arms and ammunition to be delivered. At the time of writing, China has informed the Group that it requires more time to further clarify this issue. The Group was also unable to hold meetings with the DRC Ministry of Defence. As a result, the Group has therefore been unable to decisively ascertain whether the cargo offloaded by the An Xin Jiang corresponded to China's official notification to the Committee or whether this cargo arrived in the DRC in addition to the military equipment officially declared by China.

On 3 September 2009 the Group requested additional information from China concerning its training program for the FARDC that commenced in 2008, and at the time of submission of this report was waiting for a reply. China submitted a notification to the Committee on 13 June 2008 concerning the dispatch of a 16-member team of experts to the DRC for a one year training program. The actual date of commencement is not clear, meaning that there is no approximate date for the expiration of the training program in 2009. The arms and ammunition sent to the DRC as cited in China's notification of 15 April 2009 for a cargo to arrive at the end of May would appear to have been delivered very late in the training program – more than 11 months after the June 2008 notification citing the dispatching of experts to the DRC for the one-year program.

China further provided a notification to the Committee dated 28 August 2009 concerning the commencement of another one year training program to start soon after the date of the notification. Deliveries to Kisangani and Kinshasa Airports

The Group of Experts presented information on arms deliveries by aircraft requisitioned by the FARDC in its May 2009 interim report (S/2009/253). The Group subsequently obtained further evidence concerning these flights, as well as for deliveries cited in its December 2008 final report (S/2008/773). Furthermore, the Group obtained evidence that arms transport flights originally believed to be internal movements, in fact originated outside of the DRC. Testimony and documentation provided to the Group confirms that eighteen arms transport flights to the DRC originated in Khartoum, the Republic of Sudan between September 2008 and February 2009. Aviation officials with inside knowledge of several of the flights informed the Group as to the nature of the cargo, which enhanced observations made by the previous Group of Experts in late 2008. The Group also obtained confirmation of the movement of aircraft from Congolese airport logbooks, and logs of flight plans raised by Khartoum International Airport. These documents have been archived at the United Nations.

The Group obtained additional evidence to support information provided in S/2008/773 concerning five flights by Hewa Bora's Boeing 707 registered 9Q-CKR, which was requisitioned by the FARDC. Further testimony and documentation supports the previous conclusions that the aircraft carried arms and ammunition for the FARDC from Khartoum to Kisangani in September 2008. Logbooks at Kisangani's Bangoka airport confirm that the flights arrived from Khartoum with the operator named as the FARDC. Flight plans were also sent by telex from Khartoum International Airport to Ndjili Airport, Kinshasa for the flights concerned (See Annex 101 for one example; all copies of telex flight plans have been archived at the United Nations). Apart from the five Hewa Bora flights transporting arms and ammunition to Kisangani from Khartoum in September 2008, the Group obtained further testimony that arms and ammunition were transported on an additional four requisitioned flights of Hewa Bora's same Boeing 707 9Q-CKR in December 2008 and February 2009, as outlined in the Group's interim report (para 69, S/2009/253). The arms were loaded onto the aircraft at the

military apron of Khartoum International Airport under supervision by Sudanese authorities. The first two flights occurred on 4 and 5 December 2008, and copies of the Ndjili logbooks show that the aircraft was registered as having arrived from Khartoum. The Group also obtained flight plans raised by Khartoum International Airport for these flights (Annex 102). Moreover, a 'Formulaire de Trafic RVA' for the 4 December 2008 arrival notes that the aircraft carried 32 tons of cargo for the FARDC, with an FARDC stamp on the document (Annex 103). The Group received testimony concerning the third and fourth flights, but logbooks at Ndjili cite the origin of the flights as Isiro. The Group visited Isiro but there was no record of the aircraft arriving at the airport, nor at Gbadolite, the airport of destination according to the flight plan submitted by Hewa Bora on departure from Kinshasa on 11 February 2009.

The Group did, however, obtain the flight plan issued by Khartoum International Airport for the flight of 9Q-CKR on 12 February (Annex 104). The Group did not locate a flight plan issued from Khartoum for the 14 February flight but one of the sources mentioned above confirmed that the aircraft loaded 24,000 litres of Jet A-1 fuel in Khartoum, departed at 0605 Zulu time, and carried 26.768 tons of military equipment.

The most recent corporate statutes for Hewa Bora Airways SARL, dated 4 April 2008, show that Philippe de Moerloose, a Belgian national, owns approximately seventy percent of the company's shares. Mr. de Moerloose is also the Chief Executive Officer of Demimpex VRP S.A., the company that brokered the delivery of military vehicles for the DRC Ministry of Defense in 2008. The Group of Experts also obtained evidence that nine flights by Enterprise World Airways (EWA) from September through November 2008 which were previously identified as domestic flights transporting military equipment in fact arrived in Kisangani from Khartoum. Logbooks from Kisangani's Bangoka airport confirm that EWA's Boeing 707 registered 9Q-CRM operated for the FARDC and arrived in Kisangani from Khartoum operating for the FARDC on 25, 26 and 27 September; 27, 28, 29, 30 and 31 October; and 1 November 2008. The Group also obtained flight plans filed by Khartoum International Airport for all nine of these flights (see Annex 105; all copies of telex flight plans have been archived at the United Nations). The Group observed the unloading of arms and ammunition from 9Q-CRM at Bangoka on 27 October 2008 but was previously unaware that this was an international flight. See Annex 105 again for the flight plan raised by Khartoum for this flight. During this mandate, the Group has been able to confirm that these aircraft arrived in Kisangani with equipment for the FARDC. The Group's final report in 2008 noted that EWA is run by Charles de Schrijver (para 160, S/2008/773). Civil aviation authorities in the DRC informed the Group that Mr. de Schrijver is in charge of aviation for the DRC Presidency. The Group has also obtained documentation for the import of freight by Mr. de Schrijver that provides his address of the Presidency.

The evidence presented above concerning arms flights from Khartoum to Kisangani and Kinshasa clearly shows repeated violations of paragraph 5 of resolution 1807 (2008) by the Government of Sudan. The Group requested information on the four flights in December 2008 and February 2009 but the Government of Sudan replied that no such flights had occurred, which is directly contradicted by three flight plans for these flights raised by Khartoum and transmitted to Kinshasa. The Group further requested that the Government of Sudan provide copies of logbooks from Khartoum International Airport as outlined in paragraph 7 of resolution 1596 (2005), but, at the time of writing, the Group did not receive a reply to this request.

The Group also notes that the requisitioning of aircraft by the FARDC can negatively impact aviation safety in the DRC. The Group is not aware of any dangerous goods declarations that should have accompanied the cargo of the EWA and Hewa Bora flights from Khartoum to the DRC. Seemingly, the FARDC requires that aviation companies disregard the International Civil Aviation Organization's regulations concerning the safe transport of dangerous goods by air under the pretext of military secrecy. The AAC informed the Group that it was not concerned with the operations of military flights, and could not provide the Group with a list of companies with aircraft requisitioned by the FARDC, or the dates of requisition. Many companies in eastern DRC, for example, operated for the FARDC in early 2009 for specific flights or set blocks of time, but the AAC is seemingly unable to distinguish between flights that have been requisitioned and those conducting commercial operations.

Attempted Purchases

The Group has been informed about several notable attempts by the DRC authorities to purchase arms, ammunition and military equipment. Some of these occurred in mid to late 2008, with the most recent in August 2009. The Group received information about a request by the DRC Government to the Russian Government to acquire large amounts of ammunition and military vehicles in mid 2008. The Group was also

informed that an individual in the Presidency of the DRC sought to purchase weapons from France and South Africa in mid and late 2008 respectively. The Group was further informed that none of these deals occurred. The Group also received information concerning a potential arms deal between the DRC and Iran scheduled for early 2009, but which has been reportedly put on hold.

The Group obtained information concerning the attempted sale of military equipment, including helicopter parts, to the DRC Government in August 2009 by a Russian national named Dmitry Popov. Mr. Popov visited the DRC from 7-12 February 2009 and again from 28 August to 1 September 2009 using two Russian passports from different regions in the Russian Federation. The passports and hotel bills of Mr. Popov are annexed (Annex 106). The Group has determined that this individual is not the same Dmitry Popov who had operated blacklisted aviation companies in eastern DRC in collaboration with Viktor Bout. The Group understands that this individual was introduced to a ranking authority handling military procurement in the Congolese Presidency by a Congolese diplomat in Eastern Europe, and that Mr. Popov's activities were not known to the Russian Government. The Group has forwarded a request to the Russian Government seeking additional information on this individual and is awaiting a reply.

The Group noted that several days after the departure of Mr. Popov, an Ilyushin (IL) 62 aircraft formerly registered with Centrafricain Airlines and Jetline International and now registered in Libya, was scheduled to conduct a cargo flight from Tripoli to the DRC, with onward routing to Mozambique-DRC-Tripoli. The Group is investigating a possible link between Mr Popov and these two airlines. The aircraft, registered 5A-DNY, was listed with a Libyan Arab Air Force callsign, and was provided with an overflight and landing authorization by the DRC Ministry of Defence (Annex 107). The Group has not been able to determine if this aircraft indeed arrived in the DRC since no destination airport was provided in the landing permission. However, the Group did document the arrival at Ndjili airport of another Libyan aircraft, 5A-UAC, on 5 September 2009 from Mitiga, Libya. The aircraft then departed on 9 September with a declared destination of Maseru, Lesotho. The Group requested information from the Libyan Government and is awaiting a reply. This second aircraft appears to be a Bombardier BD-700-1A11, but details of the operator and type of aircraft were not noted in the Ndjili airport logbooks when the aircraft arrived, and erroneous details were provided on its departure.

Importation of FARDC Military Vehicles

Steyr Transport Vehicles

The Group of Experts documented the delivery of fifty Steyr tractor trucks and tank carrying trailers (forty of which were specified to be painted in military colors) from the People's Republic of China to Matadi in September 2008. The bills of lading for the shipments note the consignee as the Government of the DRC with the cargo description stating by order of the Ministry of Defence. The Group photographed eleven of these trucks in Kisangani utilized by the Garde Republicaine (Annex 108). Several interlocutors of the Group, including FARDC officers, also confirmed that approximately twenty of the trucks and trailers were used to transport a consignment of arms delivered by a North Korean vessel from Boma to Kinshasa in late January and early February 2009 (see case above). The DRC Ministry of Defence ordered ten tractors and tank carrying trailers from the Belgian company Demimpex VRP S.A. on 23 November 2007 (MDNAC/CAB/2338/2007), and another forty specified in military color on 15 April 2008 (MDNAC/CAB/0633/2008) (Annex 109). Demimpex informed the Group that the trucks and trailers were manufactured by Sinotruk (Hong Kong) Limited Africa Export Division, China National Heavy Duty Truck Corporation, Shandong Import and Export Company Limited, Jinan, China. Both deliveries were made by ship from Xingang, People's Republic of China to Matadi on 1 September and 10 September 2008 respectively – the first by the Safmarine Andisa and the second by the Safmarine Akwaba.

The Group submitted a letter to Demimpex on 8 October 2009 requesting information on other possible transfers of equipment brokered or supplied by the company to the DRC Ministry of Defence, but at the time of writing the request was still pending. In response to the Group's request of 5 October 2009 the Belgian authorities informed the Group that Demimpex had not been granted any licence under the Belgian law of 5 August 1991 regarding the import, export and transit of arms, munitions, military equipment and related technology (modified by the law of 25 March 2003). The Group notes that the Belgian legislation on brokering applies to Belgian nationals and companies independent of whether the arms or military material pass through Belgian territory.

The Group obtained a bill of lading for the delivery of seven, green colored Foton trucks for the Ministry of

Defence in September 2008 (Annex 110). The trucks were shipped by Zhejiang Cathaya Transtra Co, Ltd in China from the port of Xingang aboard the Safmarine Andisa, which arrived in Matadi on 1 September 2008. The consignee is listed as Genedis (sic) for the account of the Ministry of Defence. The address of this company is provided as Genedis SPRL, Avenue Senegalaise 18, Kinshasa. The Group was unable to locate this company in Kinshasa or any indication that the company is registered in the DRC. The Group did obtain another bill of lading issued on 25 May 2007 for 22 tons of olive green camping beds for the FARDC that provides an address for Genedis SPRL in Martinique. At the time of writing, the Group has been unable to determine if these two companies are related.

Land Rover Defenders

The Group of Experts made numerous observations of Land Rover Defender 110 vehicles operated by the FARDC in Kinshasa, Kisangani and Goma. The Group ascertained that these vehicles were supplied to the FARDC by the company CMC Automobiles SPRL in Kinshasa, and obtained photographs of unused Defenders with the company's logo adhered to the interior of the windscreen (Annex 111). CMC in the DRC is in turn associated with CMC Automobiles Limited in Tanzania. A shipping identification sticker from one of the vehicles obtained by the Group shows that the particular Land Rover was imported into the DRC in early 2008 and painted white (Annex 112). The Group sent an official inquiry to CMC Automobiles SPRL and CMC Automobiles Ltd, but did not receive a response. The Group provided four chassis numbers of FARDC Defender 110 vehicles to Land Rover and requested assistance in identifying the first purchaser. Land Rover informed the Group that the vehicles were not military specification, and were not supplied by Land Rover to the DRC. Land Rover further informed the Group that the vehicles were sold in 2007 to Careystone International in Tortola, British Virgin Islands, a company connected to CMC Tanzania Ltd, and an authorized Land Rover importer.

Santana PS-10 Anibal Military Vehicles

The Group observed five new Santana PS-10 Anibal military utility vehicles operated by the FARDC on 14 August 2009. The Group sent an official request with the chassis number of one of the vehicles (number 102559) to Santana Motor SA in Spain. The Group followed-up with a second request including the chassis number of another Anibal PS-10 vehicle. Santana replied to the Group that no Santana vehicle, including PS-10 or any other model, was sold directly to the DRC, which was confirmed by a letter from the Government of Spain. At the time of writing the Group's inquiry sent to Santana, regarding the chassis numbers associated with two Anibal PS-10 vehicles observed, remains outstanding. The Group obtained a copy of a cargo manifest for the ship Ceynowa, which shows that Demimpex VRP shipped four Santana PS-10 vehicles to Demimpex Afrique in the DRC on 24 December 2007 (Annex 113). One of the vehicles on the manifest, chassis number 102559, is the same vehicle that the Group observed with the FARDC in August 2009.

Procurement of Foreign Aircraft by the Congolese Air Force

Boeing 727

The Group of Experts obtained information on the procurement of a Boeing 727 aircraft by the Government of the DRC for the FARDC. The aircraft departed Opa-Locka Executive Airport, Florida, United States of America on 24 July 2009 for St. John's International Airport, Newfoundland, Canada with U.S. registration number N-727YK (serial number 19806). The aircraft arrived in the DRC with a flight plan from Senou International Airport, Bamako, Mali on 25 July 2009 (Annex 114). According to aviation officials at Ndjili airport, the aircraft was transferred immediately to the FARDC hangar, where it was repainted after several weeks and provided with a Congolese Air Force registration number 9T-TCK (Annex 115). The aircraft then performed a local flight with its new military registration on 29 September 2009, and thereafter commenced FARDC flights.

The aircraft was purchased for US\$ 806,000 on 24 June 2009 by Mr. Timothy Roman, a U.S. national and former personal pilot of Joseph Kabila, from a company in Miami, Florida using an aircraft broker in Oklahoma City, Oklahoma. The Group was informed by an aviation industry source close to the deal that Mr Roman purchased the aircraft for the Government of the DRC. The United States Federal Aviation Administration lists Mr. Roman's company, Professional Maintenance Services Incorporated in Hazleton, Pennsylvania, as the last owner of the aircraft, with the aircraft having been deregistered on 5 August 2009 because it was exported to the DRC. The Congolese Civil Aviation Administration (AAC) had no knowledge of this aircraft, and N-727YK does not appear in the AAC's most recent database. According to the testimony of sources and due to the fact that this aircraft does not appear on the civilian aircraft register, the Group believes that N-727YK was supplied to the Ministry of Defence upon arrival in the DRC. At the time of writing, the Group has

been unable to obtain information on the sale and export of this aircraft to the DRC and requested further information from the United States and the DRC governments.. The Group contacted Mr. Roman who said that the aircraft was sold by his company in Pennsylvania to Wimbi Dira Airways in the DRC, a company in which he serves as the chief executive officer.

AN-12s

The Group of Experts obtained documentation on the arrival of three Antonov (AN) 12 aircraft in the DRC in late 2008 and early 2009 for the DRC Air Force. The aircraft flew into the DRC with civilian registration numbers of São Tomé e Príncipe, and two of them were subsequently repainted with DRC Air Force tail numbers for military transport operations (Annex 116). The aircraft are leased to the DRC Government by an individual reportedly of Ukrainian nationality, but who operates a company based in Fujairah, United Arab Emirates. The aircraft are no longer airworthy according to the Antonov Design Bureau so their delivery to the DRC not only constitutes a violation of paragraph 5 of resolution 1807 (2008) but their use also poses a potential aviation safety hazard. The Group has forwarded documentation and relevant information to the Congolese Regie des Voies Aeriennes (RVA) for further measures. The Group also raised the issue of the AN-12 operations with the AAC, but was informed that operations of military aircraft do not concern the AAC.

The first aircraft, registered S9-GAW (manufacturer's serial number 5343103), arrived at Kisangani's Bangoka airport from Entebbe, Uganda on 26 September 2008, with the FARDC recorded as the aircraft operator. Airport records for Entebbe show that the aircraft's flight plan had been filed with a destination of Goma and not Kisangani, which is clearly incorrect, and the aircraft is not recorded as having arrived in Goma. After arriving in Kisangani, the aircraft then flew to Kisangani's other airport, Simi Simi, and on 27 October it began operating as 9T-TCH (9T being reserved for the Congolese Air Force). The second aircraft, S9-PSM (serial number 5343006), arrived at Bangoko on 11 November 2008 from Jomo Kenyatta airport, in Nairobi, Kenya, and Bangoka's airport records show the FARDC as the aircraft operator. Overflight records provided by Uganda note that the aircraft's declared destination of Kisangani was correct, but the declared operator was given as Skywing, a company in Baku, Azerbaijan that no longer operates. The aircraft flew from Bangoka to Simi Simi, where it was given a military registration number, (9T-TCI), under which it began operating on 14 November.

The third aircraft, S9-PSK (serial number 8345807), arrived at Simi Simi on 12 February 2009 with the FARDC recorded as the operator. Ugandan overflight records show that the aircraft flew into the DRC from Djibouti. It is unclear which 9T registration this aircraft was given as it is still parked at Simi Simi allegedly due to technical problems.

The aircraft's civilian registration is still visible, and RVA officials informed the Group that the aircraft had initially been given a 9T registration. The aircraft are owned by Mr. Anatoliy Lovin (also spelled Liovin) whose business card notes that he is a People's Deputy of Ukraine of the IV Calling (Annex 117). The Government of Ukraine did not reply to a request by the Group seeking to verify Mr. Lovin's nationality. Mr. Lovin operates and signs on behalf of Styron Trading, a company based in Fujairah, the UAE (also see Annex 117). Mr. Lovin did not reply to an email from the Group requesting information, but he did verbally inform the Group by telephone from Ukraine that his aircraft were operating under contract for the DRC Government, but that the details of the contract were a state secret. The Group sought information on Styron Trading from the UAE, but the UAE authorities did not reply to the Group's request.

The Group was unable to discuss this case with the DRC Ministry of Defence. The Group obtained documents showing that the three AN-12s operated by Styron in the DRC, S9-GAW, S9-PSK and S9-PSM were de-registered by the São Tomé e Príncipe authorities in July 2009 (Annex 118). The Group further obtained documentation from the Antonov Design Bureau regarding these three aircraft. According to research conducted by Antonov based on the manufacturer serial numbers of the AN-12s, all three aircraft have bypassed either their service lives (S9-GAW and S9-PSM) or time between overhauls (S9-PSK). The Antonov Design Bureau therefore informed the Group that the operation of these aircraft is unsafe and impermissible without mandated servicing by specialists of Antonov Aeronautical Scientific/ Technical Complex (Annex 119).

Mi-24 Attack Helicopters

The Group received documents concerning the proposed sale of two Mi-24v attack helicopters and spare parts, which appear to be related to a case of helicopter parts delivered to the DRC in October 2007 as cited in the Group's 2008 Interim Report (S/2008/772). One document is printed on letterhead of Ukrspetsexport

(an Ukrainian state-owned arms trading company), dated 4 October 2007, number 29/6.3-7509, and is signed by A. Sharapov, director of Ukroboronservice, and addressed to Major General Massamba Musungu, Chief of Staff of the Congolese Air Force, referencing an urgent order of spare parts for Mi-24 helicopters (Annex 120). The invoice is for 454 items weighing 1.5 tons and valued at \$418,122. The Group received another document which is an unsigned and undated contract of sale for two Mi-24v helicopters, rotor blades and associated servicing in end-user's country, between Ukroboronservice and the DRC Ministry of Defense. MONUC noted that two Mi-24 helicopters were scheduled to arrive in Goma on 1 December 2007. The Group notes that operations of the Mi-24 helicopters continue to pose a threat to MONUC aviation assets because the helicopters do not communicate with the Goma control tower and the FARDC does not notify MONUC of the general locations of their operations.

Training of FARDC

Under paragraph 5 of resolution 1807 (2008), the Security Council decided that all States shall notify in advance to the Committee any provision of assistance, advice or training related to military activities in the DRC. The Group's final report of December 2008 (S/2008/773) noted that Angola, South Africa and the United States of America had not notified the Committee as required. The United States had written to the Group on 19 November 2008 and said it was "making every effort to look into this matter". Following several requests by the Group during the current mandate, the United States subsequently submitted a post-facto notification on 10 July 2009. The Group submitted a further request on

31 July 2009 to clarify the discrepancy between information contained on the website of the United States Embassy in Kinshasa citing training of the FARDC in "fire support", and the notification that omitted such wording. The Group has also sought additional information concerning training performed by China in the DRC between 2008 and 2009, but did not receive a reply to its letter of 3 September 2009.

Notifications by Angola and South Africa remain outstanding. Angola continues to train the FARDC at Kitona Base, and South Africa is planning to conduct the last stage of its training program. The Group was informed by South Africa that the country had loaned weapons to the FARDC for training in 2008. The Group informed the Government representative that this event and other similar future programs should be subject to a notification to the Committee. The Group also submitted a request to the Government of Greece for clarification of its reported training program for the FARDC. The Bulletin d'Information Ministère de la Défense nationale et des Anciens combattants, No. 3, of June-July 2009 notes that several Congolese officers were and continue to be trained in Greece. The Group has not received a reply from Greece. As previously mentioned, the Group also received information from diplomatic sources that several North Korean military instructors visited Kinshasa for approximately four to six weeks in May 2009. The Group was informed on several occasions that foreign nationals from Ukraine and Belarus work as technicians and pilots for the FARDC Mi-24 combat helicopters based at Goma airport. The Group photographed six technicians who appeared to be foreign nationals at Goma airport on 13 April 2009 working on the FARDC Mi-24 attack helicopter 9T-TM11 (Annex 121). Two technicians, presumably the pilot and flight engineer, were seated in the cockpit, while the other four technicians performed inspections during ground checks. The Group also obtained an invoice from the Nyiragongo hotel in Goma to the FARDC for eleven rooms occupied by a FARDC "equipment" in April 2009. These crew members were foreigners and exclusively spoke a Slavic language according to the information directly gathered by the Group. The Government of Belarus informed the Group that all Belarusian nationals participating in this type of work abroad must be licensed, and that the authorized agency in the Republic of Belarus has not issued licenses for conducting work in the DRC related to the flying or technical maintenance of Mi-24 helicopters. The Group also submitted a request to the Government of Ukraine concerning the presence of Ukrainian nationals working for the FARDC but has not received a reply. Two aviation interlocutors informed the Group that a Congolese middleman facilitating the rotation of the Mi-24 crews previously worked with foreign nationals operating an embargoed aviation company in eastern DRC.

IX. Natural Resources

According to official statistics from North Kivu and South Kivu between January and September 2009, cassiterite exports have been 3,643,572 kilograms and 7,592,479 kilograms for South Kivu and North Kivu respectively. Coltan exports have been 157,795 and 416,190 kilograms for South Kivu and North Kivu respectively. Wolfram exports for South Kivu and North Kivu during this period have been 64,900 and 449,555 kilograms respectively. The Group does not consider gold statistics are worth detailing, given the scale of the fraud. As already mentioned, the DRC Senate has estimated more than 1.2 billion dollars of gold is exported

fraudulently from the DRC every year. All the the above-mentioned statistics should be taken as purely indicative given the number of testimonies the Group obtained from industry and DRC mining ministry sources during the course of this mandate. As explained in prior sections, the Group established that the level of fraudulent mineral exports to neighbouring states has escalated significantly since 2008 and particularly since the rapprochement between Kinshasa and Kigali since January 2009. The Group has shown that factions of the FARDC and other armed groups and associated cassiterite, coltan and wolframite traders have profited from this escalation in fraud, and these links have been explained during the course of this report. Regional initiatives to work on the issue of the initiative of illicit minerals transfers in the Great Lakes have started to be addressed during the International Conference on the Great Lakes Region's Constitutive Meeting of the Committee against the Illegal Exploitation of Natural Resources which took place in Gisenyi between 30 September 2009 and 2 October 2009 and which was attended by representatives from the DRC, Uganda, Rwanda, Burundi, Tanzania, Zambia, Kenya and the Central African Republic. The Group reviewed many of the presentations made at this meeting and found none of the DRC's neighbouring countries to be transparent on the issue of who their major operators and traders were in the minerals sector but rather focused on domestic legislation and theoretical traceability schemes.

According to interviewees with individual of the mining industry, the Group understands that operators who export fraudulently have been offering above market prices to control the market, while making back their margins on the savings they incur through avoiding paying official export taxes. The Rwandan minerals exploring, producing and trading association did approach the Group through John Kanyoni, the chairman of the North Kivu association at the end of the Group's mandate, but there was no time for a substantive set of meetings. The Group obtained a copy of a list of exporting houses in Rwanda (Annex 122), and will use this as a basis for further research in 2010. The Group recognizes that most minerals exporting houses in North Kivu and South Kivu have allowed the Group access to a certain amount of company information and archives, but does not therefore conclude that this by itself should completely exonerate businesses from some of the poor purchasing and exporting practices they have been involved in. The Group also exchanged information with the body representing the tin industry, ITRI, which has started promoting a Tin Supply Chain Initiative as part of efforts to boost due diligence in purchasing activity. The plan is supported by a core working group which includes the Malaysia Smelting Corporation, Thaisarco and Traxys. A summary of the plan as described by ITRI is annexed in Annex 123, which maintains to have completed a first phase of implementation which would standardize export procedures and the filing of documentation at the point of export.

The document also maintains that a second phase would still need to be implemented to establish an administrative traceability which would in theory document the flow of minerals from the mine to minerals exporting house and onwards. While the Group does recognize that the industry, through the Tin Supply Chain Initiative, is making some efforts to develop tighter control over its chain of supply, the measures achieved so far by ITRI will not be sufficient to tackle some of the fundamental issues of control and due diligence particularly if Know Your Client procedures are weakly enforced and phase two remains incomplete.

The Group recognizes the cooperation extended to it by Thaisarco and Minerals Supply Africa towards the end of its mandate in terms of sharing relevant information. However the Group would like to point out that Minerals Supply Africa took several months before it agreed to discuss relevant issues with the Group and Refractory Metals Mining Company Ltd, a main supplier to Thaisarco provided accurate information only after specific and repeated requests by the Group. Nevertheless, the Group wishes to note that the cooperation extended to the Group by companies involved in exporting and processing minerals originating in the DRC has only been forthcoming once a possible reputational or public relations risk emerged as a result of the Group's investigation. The Group also received numerous requests for assistance from the private sector, which it has not always been in a position to respond to, due to the specific focus of the Group's mandate to report on natural resources in connection with financial support of non-governmental armed groups. The Group notes with concern the deterioration of transparency in some parts of the Kivus. The Group observed that administrative paperwork that was issued to government mining agents in South Kivu has largely diminished in 2009, making it far more difficult to obtain documentary evidence. Important paperwork, such as receipt books issued to mining officials to authorize the transport of minerals from mining sites and trading centres stopped being issued in early 2009 just weeks after the Group's December 2008 report (S/2008/773) was published. Government officials in South Kivu have said they no longer have the necessary funds to print these books. The Group also observed the sudden proliferation of gold exporting houses that are applying for licenses with the DRC Government even as the control of gold resources is continues to being used a means of financing for armed groups. The Group has already shown how a gold comptoir, Glory Minerals, which was cited in this report and in S/2008/773 has been receiving support from DRC Government officials to trade. In

this regard, the Group will need to also consult with gold exploration companies active in South Kivu and North Kivu respectively. The Group has also discussed the close relationship between the FRF and TransAfrika in this report.

X. Violations of subparagraphs 4 (d), (e) and (f) of resolution 1857 (2008)

In accordance with its mandate and the methodology used in previous mandates, the Group analyzed verified reports collected from MONUC, UNHJRO, OCHA, UNICEF and UNFPA. The Group also worked closely and collected information from representatives of the DRC government, DRC military justice authorities, Congolese and international human rights NGOs, representatives of civil society, civilian population and military personnel throughout North and South Kivu and, when possible, in Ituri. In-depth interviews were conducted with civilian victims, and eye-witness testimonies were also gathered during interviews. Interviews were also conducted with surrendered FDLR elements in Mutobo camp in Rwanda and former FARDC and Mai Mai combatants who had surrendered to MONUC in Goma. With respect to child recruitment, the Group was able to examine demobilization data, and when possible, to identify command responsibility for recruitment or use of children. With respect to paragraph 12 of Security Council resolution 1857 (2008), the Group continues to note the need for strengthened information sharing with MONUC Child Protection Section, in accordance with the Group's mandate to identify political and military leaders recruiting and using children.

The Group focused its investigations in accordance with its mandate pursuant to paragraph 4, subparagraphs (d), (e) and (f) of resolution 1857 (2008). The Group interprets subparagraph 4 (e) as encompassing all violations of international human rights and international humanitarian law, not limited to the specific abuses listed in the subparagraph, and especially in consideration of the context of indiscriminate attacks on the civilian population perpetrated by armed groups and the FARDC. A comprehensive and independent approach to monitoring and addressing human rights abuses, versus a selective focus on specific violations or on a particular category of victims, becomes all the more needed in the current security context in eastern DRC, where ongoing military operations, incomplete security sector reforms, a dysfunctional disarmament and demobilization programme often make it difficult to disaggregate specific types of human rights abuses.

As most recently highlighted in a press statement on 15 October 2009 by the UN Special Rapporteur on Extrajudicial Executions, the causes of continued and widespread abuses are complex and intertwined with the lack of institutional judicial capacity, incomplete and dysfunctional security sector reform and the lack of sustained socio-economic development opportunities for the population. Additionally, the inability of MONUC to exercise significant leverage in promoting greater respect for international human rights and humanitarian law norms while providing logistical support to the FARDC during operation Kimia II, negatively impacted the civilian population, which has continued to suffer attacks from both the national army and non-governmental armed groups throughout 2009.

The Group however notes efforts being made by MONUC to better monitor violations committed by FARDC elements belonging to those battalions supported the mission, and through the establishment by MONUC the deployment of multidisciplinary Joint Protection Teams, as well as of a Rapid Response and Early Warning Cell in Kinshasa, to advise the Senior Management Team on issues of protection of civilians and, and the creation of joint MONUC-FARDC commissions in October 2009 (which at the time of writing are not yet operational). The Group also notes MONUC's decision on 2 November 2009 to suspend support to the FARDC units involving in the killings of civilians in Lukweti (see paragraph 367 below). The fluid chain of command and frequent redeployment of troops seem to suggest the need to rethink MONUC's operational support to the FARDC.

The Group also welcomes the adoption of the zero tolerance policy on human rights violations announced to FARDC soldiers by a message of the Spokesperson of the General Chief of Staff of the FARDC on 5 July 2009. The Group also notes that several FARDC Commanders, currently operating in the context of Kimia II operations in South Kivu, have supported efforts to remove children from the FARDC. The Group also notes, however, that more tangible actions should be taken, with the support of the international community, both at the level of training and accountability of FARDC troops.

Recruitment and use of children by non-governmental armed groups and by the FARDC

Trends

The recruitment and use of children by all armed forces active in North and South Kivu continued in 2009, although has decreased since the beginning of the integration process. According to MONUC, a total of 2,134 children were released from the armed groups between January and September 2009. Separately, the Group directly verified a total of 2,020 demobilization files of children separated from the armed groups since November 2008 (see Table 1 below) in North and South Kivu. Almost half of these cases were of children who had been affiliated with Mai Mai and PARECO, while significant numbers were recruited by the CNDP.

New cases of recruitment

The Group has also documented 285 cases of new recruitment between January and October 2009, compared to 770 cases recorded in the same period in 2008. Of the 285 cases in 2009, 127 were attributed to PARECO, 107 to FARDC and 29 to the FDLR. The Group was unable to verify the chain of command in the remaining cases. In the territories of Masisi, North Kivu and Kalehe, South Kivu the Group has been able to directly verify a significant presence of children within the FARDC ranks, while in key strategic zones such as Ngungu, cases of re-recruitment of children already reunified with their families have been reported. As Operation Kimia II moved into South Kivu, larger numbers of children began to be separated from the FARDC: at the time of writing 118 children have been separated since July 2009. As also noted in its interim report (paragraph 78 of S/2009/253), the Group confirms that a significant proportion of these children had been integrated into the FARDC during the accelerated integration process, and engaged in active combat against the FDLR. At the same time the FDLR continues to maintain children in its ranks and has been practicing wide-scale abductions.

Table1: Breakdown of recruitment cases documented by the Group of Experts of children demobilized since November 2008

Armed Group/Recruitment cases

FARDC :623[3]
PARECO/ Mai Mai : 958
FDLR: 192
ADF-NALU : 1
Unknown : 246

Total : 2,020

FDLR recruitment and command responsibility

Between November 2008 and October 2009, the Group directly documented a total of 192 recruitment cases by the FDLR. The FDLR has historically run schools for young Rwandan refugees living in its camps, which included military training and political indoctrination. Since Umoja Wetu, the FOCA high command has issued new orders that all units are to recruit all children above 15 years of age ("recruter sans exception chaque enfant de plus de 15 ans"). The Group received testimony that young FDLR have been enlisted to support military operations, while children younger than 15 were reportedly used to carry materiel and ammunition to the front lines.

Of the 192 cases recorded by the Group it was only possible to accurately establish a command responsibility in 30 percent of the cases, the most recurrent recruitment cases were attributed to the following FDLR battalions:

1st Bn "Someka" (North Kivu Division) under command of Lt Col Eli Mutarambirwa, alias "Martin Safari" 2nd Bn "Montana" (North Kivu Division) under command of Lt Col Evariste Kanzeguhera, alias "Saidiki Soleil". 3rd Bn "Sabena" (North Kivu Division) under command of Lt Col Marc Habimana, alias "Ndzimihigo" 4th Bn "Bahamas" (North Kivu Division) under command of Lt Col Bernard Rishirabake, alias "Serge" 1st Bn "Zodiac" (Reserve Brigade) under command of Lt Col Nsengiyumva, alias "Cyrus Bapfiki" 2nd Bn "Concorde" (Reserve Brigade) under command of Lt Col Jules Nsengimana, alias "Blaise Cadense"

Additionally, the Group has also identified 14 cases of recruitment by the splinter faction RUD-URUNANA, under the command of Gen Jean-Damascene Ndibabaje, alias "Musare".

Presence of children within FARDC ranks and command responsibility

During the period of November 2008 and October 2009 the Group documented 623 cases of child recruitment attributable to the FARDC or to ex CNDP elements. As mentioned in the interim report, efforts by the United Nations to separate children from the FARDC have been blocked by certain FARDC commanders (see S/2009/253, paragraph 81). The Group received information of additional cases of similar obstructions by the FARDC: in June 2009, at Kilolirwe, Masisi, Maj. Munyakazi (ex-CNDP) attempted to prevent the separation of a 17 year old Rwandan boy formerly associated with the CNDP. In July 2009, Lt Col. Felix Njella in Walikale also attempted to forcibly remove children from MONUC's custody. On 5 August 2009, Col. Salumu Mulenda, and Lt Col Hebietti, formerly a CNDP officer and currently integrated in the 33rd FARDC Brigade[4] based in Kamanyola, impeded separation of 5 minors, and claimed that specific instructions from FARDC hierarchy were needed in order to allow separation of children. On 29 August 2009, the Group witnessed Lt Col. Zimurinda's refusal to allow three verified children to be released from under his command in Kalehe territory. More recently however, certain FARDC commanders have facilitated the identification and separation of a total of 75 children during the EUSEC supported biometric identification exercise between the period of September-October 2009, in North and South Kivu.

The Group also received reports of children arrested by FARDC and PNC elements since the beginning of 2009, at the Nyongera detention cell in Rutshuru territory, in Nyamilima, in Kirumbu, and at the T2 cell in Goma. One child formerly associated with FDLR Soki (a sub-group of the FDLR) declared to the Group that he was arrested by the FARDC in March 2009 and then used as a tracker and combatant.

Recruitment by PARECO, Mai Mai and other armed groups and command responsibility

Of the total 2,020 cases of recruitment documented by the Group, 958 cases (or 47% of the total) are attributed to Mai Mai and PARECO forces. Of these recruitment cases, 127 occurred in 2009. In North Kivu, recruitment among the Mai Mai and PARECO forces remains active, particularly in areas where integrated FARDC brigades have been deployed against the FDLR. General Lafontaine's withdrawal from the FARDC integration process and the establishment of the Front Patriotique du Congo, has led to an escalation in his recruitment activities.

In North and South Kivu, Mai Mai groups are largely local and identity-based movements which usually claim as their objective the protection of land and community. Of the 958 recruitment cases directly recorded by the Group as PARECO and Mai Mai, since November 2008, 63 cases are attributable specifically to PARECO units since the beginning of 2009.

The rapid integration of Mai-Mai and PARECO forces into the FARDC and the subsequent desertions by certain commanders have presented difficulties in establishing clear affiliation and chains of command regarding the use and recruitment of children by these forces. Sources have confirmed that Lafontaine uses Col "Sapperite", Col Mandela, Col Safari to recruit children. This information is corroborated by documented statistics on dozens of recruitments carried out by these individuals..

A total of 53 cases of recruitment by APCLS were recorded by the Group from November 2008 to October 2009, of which 22 were recruitment cases which took place in 2009. Active recruitment by Col. Janvier Buingo Karairi of APCLS has been reported in Masisi territory, in the area north of Masisi centre, Nyabiondo and Pinga in 2009. Seven children had reportedly been recruited by Col. Kifarhu, an APCLS commander, in February 2009, while in March and April 2009 4 boys were reportedly recruited by Col. Felix. In April 2009, schools in the northern Masisi-Walikale border zone were in response to threats of recruitment by APCLS forces.

Although only active locally in a limited area north of Rutshuru, Col. Complet has reportedly resumed recruitment of children in 2009. The Group recorded nine cases of recruitment of which four occurred since the beginning of 2009, were recorded by the Group.

On the basis of a reliable estimate by child protection actors, and the Group's own testimonies, there are an

estimated 80 children who remain in the ranks of Kifuafua, which continues to recruit children in parts of Kalehe territory according to numerous sources.

A total of 25 recruitment cases in the database are attributed to Mongol forces, with only one case of recruitment in 2009. According to the cases documented by the Group, Lt Col. Hategeka – who has also reportedly been affiliated with PARECO- recruited 9 children between 2007 and 2009.

Mai Mai PRM has reportedly resumed activities in the Kiwanja area in 2009. Reports were received that Col. Machozi of PRM recruited at least 9 children between April and June 2009 and continues to maintain significant numbers of children in PRM ranks. The Group has documented that since July 2009 Col. Shetani has resumed recruitment of children north of Rutshuru.

Yakutumba joined the integration process in October 2009. Despite identification of more than 100 children by child protection actors, at the time of writing no children have been released or separated. Earlier reports indicated a significant presence of children serving in Yakutumba's ranks in Fizi. When a forward group of Yakutumba elements reported to the Baraka brassage centre in June 2009, only 4 children were separated. The Yakutumba break-away faction led by Col. Assani released a total of 7 children from its ranks at the end of August 2009.

The Group documented 19 cases of child recruitment attributed to the Shikito Mai Mai, 13 of which recruited in 2009. In 10 cases, Major Noir was recorded as the recruiter. Child protection actors in Uvira, report that a total of 54 children were separated from Shikito elements between April and July 2009.

On a total of 73 recruitment records for Mai Mai Zabuloni, the vast majority was released to the DDR programme in December 2008 and January 2009. However, testimony from a 16 year old boy in Uvira reveals that he had been re-recruited to Zabuloni as late as February 2009.

The Group also collected several reports citing the presence of children within the ranks of FRF. Although the elements obtained by the Group are insufficient to determine the exact number of the recruitment cases, they nevertheless indicate that as of June 2009, approximately twenty children were serving in the armed group. According to one Burundian child the Group interviewed after his surrender, minors recruited by FRF are given a military training in the Bijombo camp immediately after their enrolment.

Serious violations of international law targeting women and children

As documented by the United Nations Joint Human Rights Office (UNJHRO), during the period of February to October 2009 the trend in human rights abuses committed by military personnel has not decreased, and continues. Since February 2009 the Group has recorded 2,956 cases of violations of human rights against the civilian population throughout eastern DRC. Analysis of 2,956 cases shows that the FDLR and the FARDC continue to perpetrate killings, abductions and sexual violence. Torture, forced labour, pillage, looting and burning of villages are also prevalent. Fewer- though still significant- abuses by the FRF, LRA, Mai Mai groups, ADF-Nalu, and the FPJC/FRPI militia were also documented by the Group during the reporting period. These figures are not exhaustive.

Sexual Violence

In connection with its mandate to report on abuses targeting women, the Group continues to note as it did in previous reports (S/2008/773 and S/2009/253), that despite the prevalence of sexual violence in the DRC, accurate and reliable information regarding numbers of victims and identity of perpetrators remains a severe challenge, also due to the historical nature of violence and socio cultural customs which restrain the victim's willingness to report, and an institutionally and operationally weak justice system. UNFPA maintains that 90 percent of cases of sexual violence in eastern DRC are perpetrated by men with arms. However, further identification is almost always not possible in a context where soldiers are often not subject to a clear chain of command. The effective collection of accurate data on sexual violence is further exacerbated by weak coordination and information sharing among international and national actors.

The Group also notes as a worrying trend that victims of attacks found to have reported the abuses, have been often attacked again in retaliation. Given these challenges, the Group's mandate to report on individuals

committing sexual violence against women and children has been constrained and limited. The information documented by the Group is far from exhaustive, but nonetheless confirms the trends of sexual violence perpetrated by armed actors in North and South Kivu.

The Group however underlines a general alarming trend of human rights abuses and related lack of accountability, and reiterates the need for strengthening independent human rights monitoring, as well as for a comprehensive approach in addressing human rights violations, as opposed to the selective focus which has been developing on sexual violence. In North Kivu, one provider of assistance to the victims recorded a total of 3,106 cases of sexual violence between January and July 2009 perpetrated by armed men. According to such reports, exactly half of these cases were perpetrated by FARDC elements. UNFPA has reported 2075 cases of sexual violence in North Kivu, 834 cases in South Kivu and 885 cases in Orientale between January and June 2009.

Separate to this data, during the course of its investigations, the Group logged a total of 241 sexual violence reports, between February and October 2009.

The Group met with military justice prosecutors in North and South Kivu, who reiterated the limitations, highlighted above, in effectively prosecuting sexual violence, and underlined the lack of willingness at the highest levels of the FARDC military command to ensure that perpetrators are held accountable. As just one example, Col. Alphonse Mpanzu of the 8th Integrated Brigade deployed in Uvira in the context of Kimia II operations has been notified of at least two cases of rape committed by elements identified as under his command in July and August 2009. In one case, six soldiers reportedly sequestered then repeatedly raped seven women displaced in the town of Mulenge over a period of four hours. In neither case has Col. Mpanzu made an attempt to transfer those accused to justice authorities.

Between August and October 2009, 13 cases of rape perpetrated by elements of the 33rd Brigade deployed in Uvira and Walungu territories were reported. In at least one of these cases, the perpetrator has been identified, but not yet transferred to military justice authorities, despite repeated and direct advocacy efforts addressed to the Brigade commander Lt Col. Salumu Mulenda. To complement these figures, more than fifty cases of abuses by 33rd Brigade FARDC (lootings, arbitrary detention, burning of civilian properties) were reported since the beginning of Kimia II operations.

According to the Military Prosecutor's offices North and South Kivu, military justice has prosecuted less than a 100 cases between February and August 2009. Most of the prosecutions are of lower ranking officers or soldiers; rarely are mid-level or senior level officers investigated for having committed acts of sexual violence. When they are, sentences are rarely carried out; according to sources interviewed by the Group, Kimia II commander Lt Col. Ndayambaje Kipanga was arrested for rape in Rutshuru in May 2009 but within a few days he managed to escape detention. He was later tried "in absentia" and sentenced to life imprisonment in July 2009. He is still at large. His co-accused, who remained in detention, was sentenced to 10 years. Major Pichen Lungu, whose human rights record has already been brought to the attention of the DRC authorities on several occasions, was until September 2009 serving among the Kimia II command; he should have been arrested in October 2009, but at the time of writing remains at large.

Violations of international human rights law and international humanitarian law perpetrated by the FDLR and command responsibility

The Group documented a total of 1,199 human rights violations committed by elements of the FDLR between February and October 2009. The beginning of Umoja Wetu operations in January 2009 led to an upsurge in reprisals against the civilian population in North Kivu. Many of these reprisals were targeted on those villages perceived to have supported the RDF or FARDC in their attacks on FDLR bases. Reprisal attacks have increasingly been perpetrated against civilians during Kimia II Military operations targeting FDLR strongholds, where the militia was deeply integrated into the local community life with civilians has caused further friction between local communities and the FDLR who have targeted civilians unable to pay off debts before the FDLR retreated from advancing FARDC troops.

The Group notes that, in addition to the specific FDLR commanders identified in the following sections, the political and military leadership of the FDLR should be held responsible for having ordered attacks on civilians. This conclusion has been drawn from direct testimonies including testimonies of demobilized FDLR elements, who have consistently reported that Ignace Murwanashyaka was in direct contact with the FDLR

military leadership on the ground. This conclusion has been corroborated from phone log analysis, testimony from an active FDLR radio operator and from the FDLR legal statute mentioned elsewhere in this report (see paragraph 91 to 94).

Trend of Reprisal attacks during Umoja Wetu and Kimia II operations

According to documentation and testimonies collected by the Group attacks on civilians including reprisals between February and October 2009 resulted in a total of 384 deaths, 135 cases of sexual violence, 521 abductions, 38 cases of torture and 5 cases of mutilation. The attacks also led to massive population displacement and extensive destruction of homes and property.

During an on site visit in early July 2009, the Group documented a wave of attacks perpetrated by FDLR troops between April and June 2009 on several villages in the Bunyakiri area (Kalehe Territory, South Kivu). All the information gathered by the Group clearly indicate that such attacks have been deliberately planned and executed under instructions given by Major Willy Guillaume Simba. The Group understands that Maj Guillaume was, at the time of the events, the FDLR commanding officer of the Batalion Roméo posted in the rural area near Bunyakiri. From the end of March 2009, Maj Guillaume addressed several signed tracts (seen by the Group) to the local civilian and military authorities in Bunyakiri and surrounding villages informing them that FDLR would not clear the area and threatening retaliations in case Kimia II would be launched. A few weeks after these messages were delivered, the FDLR launched a wave of attacks against villages which continued regularly until mid-June 2009, targeting more than a dozen groupements. Sources interviewed by the Group referred to dozens of killings and injured civilians, more than 20 cases of sexual violence, more than 70 cases of abductions and forced labour and nearly thousand houses burnt.

All the testimonies collected by the Group consistently identify Maj Guillaume as the military commander of these attacks. Analysing the call details the Group could also determine that Maj Guillaume has been in communication with Gen Mudacumura's staff on a very regular basis (107 communications overall), between January and April 2009.

Massacre at Busurungi on 10 May 2009

The most significant retaliatory attack recorded by the Group occurred at Busurungi on 10 May 2009. Consistent statements collected by the Group from FDLR elements who participated in this attack confirmed that it was conducted in retaliation against the FARDC for the killings in late April 2009 at Shalio (see below). The deployment in January 2009 of the 25th FARDC brigade in the area of the Waloa Luanda Groupment, where the FDLR had settled since 1996, prompted the FDLR to withdraw on the slopes of Mount Shalio, situated 20 Km South West of Busurungi. Since its deployment in January the 25th FARDC brigade (with reinforcements from the 232 brigade based in Remeka) carried out military operations around the FDLR base at Shalio, which resulted in several FDLR reprisal attacks against civilians in the Waloa Luanda Groupment, between March and May 2009.

In March 2009 the FARDC repelled an FDLR attack in Busurungi and on 12 April 2009 the FDLR attacked and defeated the FARDC position at Mianga, burned down the village and killed at least six civilians, causing displacement of the population towards Walikale, Hombo and Busurungi. It should be noted that between March and May 2009 the FDLR sent five letters warning of an imminent attack on the FARDC base, but the FARDC encouraged the population to stay. At the same time the FARDC proved unable to protect civilians and to prevent military retaliation by the FDLR, and the establishment of FARDC in the near proximity of civilian villages, inevitably resulted in the population becoming an easy target of FDLR reprisals. Such conduct by the FARDC is in violation of international humanitarian law.

On 10 May 2009, the FDLR attacked Busurungi and Moka in a killing spree which resulted in at least 60 civilian deaths, mostly women and children, with credible estimates citing up to 96 civilian deaths, and not including those victims that were burned alive in their houses and whose bodies were not recovered. The surviving population of the locality of Busurungi^[5] fled from the area in the aftermath of the FDLR attack, and the FDLR reportedly abducted and killed significant numbers of women and children during the flight. According to the statements of the survivors, FDLR cadres carried out targeted killings and systematically burnt houses to the ground.

The attack at Busurungi on 10 May 2009 was conducted in clear violation of international human rights law

and international humanitarian law. The systematic nature of attacks by the FDLR against the civilian population at Busurungi suggests that they could qualify as crimes against humanity. The attack on Busurungi was perpetrated by the elements of the FDLR battalion “Zodiac” under the command of Lt Col Nzegiyumva of the FDLR Reserve Bde, in turn under the command of Col Kalume. Reportedly, the attacks were also perpetrated by the Special Company under the command of Capt Mugisha Vainquer. Some information received by the Group indicated that the operation was supported by an FDLR commando unit. This could be the Commando de Recherche et Action en Profondeur – CRAP, which the Group understands operates under the division commander, however the Group was not able further verify this information.

During the course of an interview with a senior political advisor of the FOCA executive committee, held at the end of October 2009, the Group was informed that the 3rd Company of the Military Police Battalion. of the FOCA HQ took also part in perpetrating the attack. According to the same interview, the head of the second regional committee of the FDLR political branch, recruited approximately 200 civilians to complete the ranks. At the time of writing the Group had not been able to verify this information.

Analysis of calls details of satellite telephones shows that FDLR top military commanders were in regular communication with each other in the period preceding and immediately following the Busurungi massacre. Between 5 and 16 May 2009, the Group identified up to 162 intra-FDLR communications, 17 of which were recorded on the day the massacre was perpetrated. In the same time frame Ignace Murwanashyaka had been in direct communication with commanders in the field 14 times. Call details enable the Group to determine that Mr Murwanashyaka received four text messages on 9 May 2009 from two satellite phones used by Gen Mudacumura’s staff, and replied to the last one few seconds after its reception. The following direct communication between him and Gen. Mudacumura’s staff is recorded on 11 May 2009 when Mr Murwanashyaka received another text message, coinciding with the end of the operations in Busurungi. Although the Group is not aware of the content of such communications, it considers that this communication pattern, corroborated by the FDLR testimonies gathered on the distribution of orders by the FDLR leadership to field commanders, suggests that Mr Murwanashyaka must have been at least informed of the preparation of the attack on Busurungi and could have been directly involved in issuing the order of launching the reprisal attack.

Violations of international human rights law and international humanitarian law perpetrated by the FARDC and command responsibility

This section includes an overview of violations attributed to the FARDC, as well as two case studies of violations carried out under the responsibility of FARDC commanders. Additionally, a list of FARDC commanders with established records of grave violations of human rights and international humanitarian law, including those currently serving in command positions in Operation Kimia II, is provided in (Annex 124) to this report.

In the period of February and October 2009 the Group documented 530 cases of abuses perpetrated by the FARDC which include killings; sexual violence; arbitrary arrests; torture; forced labour; pillage, looting and extortion; and arson of houses and villages.

Attacks on Rwandan refugees during Kimia II and Shalio massacre of 27 – 30 April 2009

The Group received several reports of attacks against Rwandan civilians- either refugees or FDLR dependants - since March 2009.

The Group received credible reports from MONUC, independent human rights workers and collected more than 10 testimonies of a massacre of FDLR dependants reportedly perpetrated by the FARDC in Shalio, Masisi Territory in April 2009. One independent human rights organization documented the slaughter of at least 143 Rwandan refugees, mostly women and children, executed by the FARDC during the operations KIMIA II.

As mentioned above, the FDLR retreated to Shalio following FARDC deployment in late January 2009 in the Waloa Luanda Groupement. Several groups of Rwandan refugee had also settled on the hills of Shalio, Marok and Bunyarwanda following the destruction in late January 2009 of the refugee camp at Kibua. Between 27 April and 30 April 2009, Congolese army soldiers—many of them former CNDP fighters—reportedly attacked, without warning, the refugees and carried out killings of an estimated 129 refugees,

mostly women and children. This attack aimed, according to the FARDC, to target several FDLR military targets. Separately, the Group verified 60 civilian deaths, and a significant number of FDLR dependants and Rwandan refugees captured by the FARDC.

The Group collected eye-witness testimonies from one FARDC officer who took part in commanding the operation, four FARDC soldiers who participated in the attack and subsequently deserted, one FDLR Captain and one FDLR soldier, as well as one as one displaced civilian who carried ammunition for the FARDC to the front line of the attack. The FARDC contends that the attack on Shalio aimed at targeting FDLR military positions, and that the attack represented an important success against the FDLR. In the course of interviews, the FARDC orders issued by Col Ngaruye were relayed to the Group as: “Any young men found should be killed, while all children, women and elders should be captured and sent back to Rwanda.”

Additional eye-witness testimony confirmed that a large number of these civilians were killed en route, with dead bodies allegedly left in the forest of Gatete or dumped in the Nyabarongo River. On the way to Ngungu, other captives were reportedly killed, with their bodies left behind in the area of Miranda. Due to logistical limitations, the Group was unable to travel to Shalio or to the other burial sites mentioned by witnesses to verify the testimonies collected.

The FDLR military presence in the area around Shalio consisted of the Zodiac Battalion of the reserve Brigade, as well as of a commando unit. The FARDC attacked Shalio from Busurungi. The attack reportedly lasted three days from 27 to 30 April 2009. The Group established that the Shalio operation was conducted under the overall command of Col Baudouin Ngaruye, commander of the FARDC 5th Sector, at that time based at Kasake. The operation was reportedly executed by Major Badege, battalion commander of the 231st Brigade under the command of Lt Col. Innocent Zimurinda, Lt Col. Justin Buhire 232nd brigade commander (based in Remeka and composed mostly of ex-CNDP elements of the 103rd brigade). According to several testimonies collected by the Group and confirmed by the research of human rights workers, the orders were given by Lt. Col. Zimurinda. On the basis of the analysis of the information gathered, the Group concluded that a battalion under the command of the Maj. Zitongo Kwasi of the 25th Brigade based in Busurungi would have also participated in the operation. The 25th FARDC brigade was under the command of Zone Commander General Bernard Biamungu.

The Group was unable to verify whether FDLR military positions were located too close to the refugee camps so as to make it impossible for the FARDC to distinguish the camp from FDLR military targets. On the basis of information gathered by independent human rights workers, the FARDC attacks on civilians were deliberate. However, if FDLR positions were closely intertwined with civilians this would also represent a violation of international humanitarian law by the FDLR.

Other violations of international human rights law

Separately, the Group collected testimonies of two Rwandan refugees in Kalehe, South Kivu, who were prevented from returning to Rwanda in early March 2009 by FARDC elements, under the command of Col. Baudouin Ngaruye. The refugees were accused of being associated with the FDLR, arrested, tortured and detained for approximately three weeks. At the end of July 2009, FARDC obstructed the repatriation of 23 dependents in Luvungi (63 km North of Uvira). All the captives were transferred to the Kimia II Command Centre in Bukavu for questioning and were held in detention, despite the attempts from MONUC to negotiate their release with Col Makenga and Col Delphin Kahimbi.

The Group also received credible reports of systematic killing of civilians by FARDC forces deployed in the area of Nyabiondo, North Kivu (in the villages of Lukweti, Ndorumo, Buba, Butsindo, Mashango, Kinyumba and Lwibo) during the period of March- September 2009. According to two independent human rights workers, 270 civilian deaths have been verified on the axis of Pinga – Nyabiondo during this period. To some extent these killings reportedly targeted Hunde civilians, and have taken place in the context of FARDC operations against the FDLR-APCLS front. The Group directly verified 60 executions of civilians between May and September 2009 in this area. However, credible estimates verified by the Group and based on lists of victims collected locally, indicate several hundreds of civilian deaths in this area since the beginning of Umoja Wetu and throughout Kimia

II.

Again this trend seems to indicate the inability of the FARDC to discriminate between civilian and military

targets, in contrast with international humanitarian law.

Among the FARDC commanders reportedly responsible for zones in which the killings have occurred are: Lt Col. Alphonse Ngabo of the 213 Brigade, Lt Col. Salongo Ndekezi of Sector 21, and Col. Innocent Kayina of Sector 22, whose troops were reportedly sent to reinforce Sector 21. As mentioned above in paragraph 187 Col. Innocent Kayina, otherwise known as "India Queen", was released from prison (supposedly on health grounds) in early 2009, where he was awaiting trial since 2006 for alleged crimes against humanity in Ituri. The conditions of his bail included weekly reporting to the military justice in Kinshasa, something that obviously has not done since his irregular deployment in Kimia II (as he was not a member of the FARDC at the time of his arrest and he did not belong to any of the groups integrated in 2009, it is unclear when and how did he become member of the armed forces).

As already mentioned in its interim report (S/2009/253), the Group urges the DRC authorities to undertake the implementation of a rigorous vetting mechanism and to hold accountable at the judicial and disciplinary level FARDC officers with a record of human rights abuses. The Group also underlines the possible contradiction within MONUC's mandate to protect civilians on a priority basis, and that of providing logistic support the FARDC, while the latter continues to commit abuses against the civilian population, and conducts military operations in disregard of protection of civilians and for international humanitarian law.

Mai-mai groups

The integration process that began in January 2009 led to several Mai Mai groups integrating into the FARDC, however frustrations related to assignment of ranks and lack of payment to soldiers led to the desertion of many Mai Mai elements. The Group was able to document 178 verified cases of abuses which show that the various Mai Mai groups are also responsible grave human rights violations in their areas of operations.

LRA

As mentioned above, the Group has not been able to conduct on site investigations in Province Oriental, however, grave violations committed by the LRA in north eastern DRC between March and September 2009 continued to be perpetrated by the armed group, with the vast majority of abuses being abductions and killings. The Group recorded a total of 144 killings and 819 cases of abductions between March and September 2009. The Group recalls that on the basis of currently available figures, approximately 1200 civilians have been killed by the LRA in 2009, with more than 100 attacks reported between July and September 2009, resulting in at least 77 deaths and 229 reported cases of abduction.

Other armed groups

Between May and August 2009, the Group documented eight reports of grave human rights violations by ADF-Nalu, the majority of which were abductions of civilians in Beni territory. The Group also documented five grave violations committed by FPJC or FRPI militia elements in the Ituri district. The Group was limited by its limited resources to conduct more comprehensive research in spite of frequent reports of numerous cases of abuses.

Reportedly, the FRF military commanders ordered several executions in 2009, of which at least nine cases were corroborated by testimonies received by the Group from those FRF combatants which surrendered. Eight victims were FRF military elements executed after unsuccessful desertion attempts or in the aftermath of the hostage taking of two Congolese officials in January and February 2009. Relevant testimonies identify Col Makanika as the commander who ordered these executions and Maj. Mitabo as the officer who executed the killings. Information collected in Minembwe and Uvira, including from FRF ex-combatants, confirmed that the FRF executed 14 elements of the 122nd Integrated Battalion FARDC soon after having taken them as prisoners in 2007. According to a ex-combatant FRF officer, such executions were ordered by Col Bisogo and carried out by units under the direct command of Maj. Mitabo in a locality between Rubumba and Rubuga villages.

Testimonies collected by the Group consistently mention Col Venant Bisogo, President of the FRF, and Col Michel Rakunda (aka Makanika), Chief of staff, as the masterminds and Maj. Joseph Mitabo as the officer in charge of conducting these violations. The Group notes that Maj. Mitabo is currently second in command of

the 42nd Sector (former Sector 9) in operation Kimia II.

Obstruction to humanitarian assistance

Between April and September 2009, the Group documented a total of 41 reports of attacks on humanitarian workers and aid delivery in North and South Kivu by elements belonging to non-state armed groups, the FARDC and civilian mobs. The nature of attacks ranged from physical assaults on humanitarian agency staff members, to the killing of local staff of humanitarian agencies, and to humanitarian agency or NGO vehicles being blocked and either requisitioned or looted. Eighteen of the reports of attacks on humanitarian actors were perpetrated by unidentified armed men. The FARDC were allegedly involved in 10 of the 40 attacks, which mostly concerned the requisitioning and looting of vehicles or assaults on NGO staff, but also included the killing of a local staff member working for a European NGO. The Group has not been able to build command responsibility cases on these attacks due to the lack of available information on the individuals involved in these attacks, but considers the frequency of FARDC attacks amongst the sample size as indicative of the state of internal discipline within the FARDC.

Observations and Recommendations

FDLR and support from diaspora networks

1. In light of the international ramifications of the FDLR diaspora support network, the Group considers that efforts to dismantle the FDLR diaspora network can only be effective if a common and coherent approach is adopted by all Member States whose territories are used by the FDLR diaspora as a rear base. The Group recommends that the Security Council adopt a coordinated strategy for the full implementation of resolution 1804 (2008) in combination with resolutions 1856 (2008), 1857 (2008), 1882 (2009) and 1888 (2009), as mutually reinforcing systems for targeting the FDLR leadership and principle supporters.

2. The Group recommends that the Security Council request Member States to direct their respective national law enforcement and security agencies to share relevant information on FDLR diaspora members identified as active in their support for the movement, as well as to conduct, including at the request or in collaboration with the Group of Experts, investigations on their territories on the basis of suspected violations of the relevant provisions of Security Council resolution 1857 (2008) and share the findings of such investigations with the Group of Experts.

3. The Group recommends that the Security Council reiterate its request to Member States to prosecute violations of the sanctions regime by their nationals or those leaders of armed groups residing in their territories. The Group also recommends that the Council request Member States to review existing national legislation and to provide adequate facilities to national prosecuting authorities to investigate and prosecute support to non-governmental armed groups operating in eastern DRC. The Group recommends that the Security Council and the Sanctions Committee call on the DRC authorities to issue arrest warrants against FDLR leaders such as Ignace Murwanashyaka, Straton Musoni and Callixte Mbarushimana, and encourage Member States where these individuals are resident to cooperate with the DRC authorities in this regard.

4. The Group recommends that the Security Council request Member States to identify a focal point, at the level of their national prosecuting authorities, to enhance cooperation and information-sharing with the Group of Experts, in particular in connection with FDLR diaspora support networks. In this regard, the Group also recommends that appropriate information-sharing agreements should be established with the Group in order to facilitate the implementation of the Group's mandate

Regional networks and border control

5. The Group acknowledges the improved dialogue and cooperation between the DRC and some of the neighbouring countries such as Burundi, Uganda and Rwanda. It notes, however, the regional and cross-border dimension of several of the networks providing support to the non-governmental armed groups operating in eastern DRC, and considers that in order to address them more efficiently, regional and bilateral cooperation among security and border control agencies of the countries in the region should be strengthened with the assistance of the international community, in particular through training activities of border control agencies officials.

Illegal exploitation of natural resources and financial support to non-governmental armed groups

6. The Group recommends that the Security Council request Member States to take necessary measures to clarify the due diligence obligations of companies under their respective jurisdictions which operate in the DRC mineral trading sector. The Group further recommends that Member States request companies to adopt codes of conduct detailing the procedures adopted to prevent indirect support to non-governmental armed groups through the exploitation of natural resources.

7. The Group recommends that the Sanctions Committee request the DRC authorities to issue or reinstate paperwork produced by the Division des Mines which detail the exact origin of the minerals at the time of purchase and ensure that Congolese exporting companies maintain written and documented evidence of every delivery of minerals to their warehouses. The Group further recommends that exporting and buying companies should never accept verbal assurances from their suppliers regarding the origin of minerals without credible, supporting documentation.

8. With respect to transparency and traceability initiatives at the level of regional governments and the industry, the Group observes that while both serve as a good basis for improved governance and transparency of the natural resources sector in the long-term, the current security situation in the mining areas of eastern DRC requires a prior effort to ensure demilitarization of mining sites, reduction of customs fraud and illicit mining activities under DRC law. With respect to the ITRI initiative, the Group notes that it does not provide an independent mechanism to ascertain the origin of minerals in its current state. Strengthening the institutional capacity of DRC mining authorities as well as law enforcement agencies are essential preconditions to create a suitable environment in which to create regional and international transparency mechanisms. In the short term, the Group recommends that the Security Council endorse the establishment of an independent monitoring team by the DRC authorities, with the support of the international community. Such a team would have a mandate to conduct spot-checks of mineral shipments, in cooperation with MONUC and the Group of Experts, and would act on the basis of a clear definition of what constitutes an illegal trading activity. Specific sanctions for illegal mineral trading activity should also be identified.

9. The Group recommends the Sanctions Committee request the Government of the DRC to take all necessary measures to reduce and eventually remove the presence of military units at mining sites, i.e., by replacing the FARDC with the relevant governmental authorities such as the already existing Police des Mines et des Hydrocarbures and relevant units of the Division des Mines. The creation of a national tribunal to prosecute the abuse of military and police powers in connection with the illicit exploitation of natural resources is also recommended.

10. The Group recommends that the Security Council and Sanctions Committee request all States in the Great Lakes region to immediately publish their full import and export statistics for gold, cassiterite, coltan and wolframite and centralise them in a body chaired by an independent auditor mandated to verify any statistical anomalies.

11. The Group recommends a simplification of the current DRC customs regime towards a single customs authority, or guichet unique, which should levy export taxes and publish them under one integrated system.

12. The Group recommends that the Sanctions Committee call on the DRC authorities to suspend the trading licenses of all non-compliant national companies and take legal action against the directors of those companies which violate the UN arms embargo by trading in minerals sourced from non-governmental armed groups.

Stockpile management (FARDC and MONUC)

13. The Group confirms its findings and related recommendations contained in its December 2008 report (S/2008/773) that FARDC stockpile management lacks mechanisms for systematic marking of weapons and reliable records to monitor distribution of military equipment across the country. The Group recommends that the Security Council request the DRC Government to promote stockpile security, accountability and

management of arms and ammunition as an urgent priority. In addition, the Group considers that all donors supporting security sector reform in the DRC should include stockpile management as a pre-condition for providing assistance to the FARDC.

14. Furthermore, in this context, the Group recommends the following specific strategies:

Rapid and effective implementation of a national weapons marking program in line with the standards established by the Nairobi Protocol and the Regional Center on Small Arms and Light Weapons

Creation of national Physical Storage and Stockpile Management standards that are adapted to the Congolese context;

Expansion of MONUC's mandate to include, in cooperation with the FARDC and PNC, the maintenance by the Mission of a database of the serial numbers and locations of all state-owned small arms and light weapons in the DRC.

15. Considering the role played by MONUC in support to FARDC military operations, the Group recommends that the Mission establish and fully implement a monitoring mechanism in order to keep accurate records on the equipment transported on behalf of the FARDC and delivered to the DRC authorities from States notifying the Committee of such deliveries. Such records should contain all the relevant information related to the equipment transported, such as quantity and type of transported items, identification serial numbers and markings of the equipment transported, including those appearing on the packages, date and exact routing of the transport and identification of the FARDC unit receiving the transported equipment.

16. The Group recommends that MONUC continue its efforts in order to create a comprehensive and accurate database containing all the available information on the weapons and ammunition under its custody, including number and type of items and pictures of serial numbers and markings.

17. The Group recommends that MONUC's inspection capacity in connection with its arms embargo monitoring mandate be strengthened, and that the Mission be clearly mandated to conduct such inspections autonomously. The Group further recommends that MONUC's inspection mandate be expanded to include verification of FARDC arms or ammunition depots for dangerous stocks and equipment, such as landmines and cluster munitions, prohibited by international instruments binding upon the DRC.

FARDC - security sector reform, supply of equipment and training

18. In the context of paragraph 5 of resolution 1807 (2008), the Group recommends that the Security Council strengthen the notification procedures by mandating the Sanctions Committee to approve all deliveries of military equipment and provision of training by Member States. The Group recommends that approval of such advance notification by the Sanctions Committee be expressly conditioned to the mandatory provision by Member States of all the necessary information for the positive identification of declared supply of equipment or training, namely: end user, proposed date of delivery, itinerary of shipments, identification of the cargo carrier (ship's name or flight number or trucking company, etc), number of containers and container numbers and markings. With respect to training, the Group further recommends that the Council request Member States to inform the Committee of the number of trainers, location of the training, date of commencement of the training, the FARDC units to be trained, the types of training to be performed, as well as the measures taken to ensure that training is delivered only to "vetted" candidates.

19. The cases illustrated in this report show that the DRC Ministry of Defence has used private companies in the DRC and elsewhere to import vehicles and aircraft for direct use by the FARDC. The Group recommends that the Security Council request Member States to inform companies operating under their territories of the obligation to notify the Sanctions Committee of the provision of assistance to the FARDC, and ensure greater oversight in the implementation of the notification procedure regarding provision of military assistance by private entities and individuals.

20. The Group recommends that the Security Council mandate MONUC and the Government of the DRC to implement, without delay, a vetting mechanism to screen the human rights records of FARDC officers with a view to imposing disciplinary and judicial sanctions on gross human rights abusers within the FARDC,

according to DRC and international law. In this connection, the Group recommends that the Security Council request the DRC authorities to adopt necessary legislation as soon as possible and no later than early 2010 and to support independent human rights monitoring efforts. As mentioned in the 5 October 2009 press release by the UN Special Rapporteur on extra-judicial killings, the Group supports as an immediate step that all FARDC soldiers be required to wear uniforms that identify their individual names and unit affiliation and that MONUC make this one of the conditions for its provision of logistic support.

21. The Group recommends that the Security Council and the Sanctions Committee urge the DRC authorities to remove Gen. Bosco Ntaganda from the position of Deputy Commander of Kimia II operations. The Group further notes the obligation of the DRC authorities to implement the assets freeze and travel ban against Mr. Ntaganda, whose name is included in the list of individuals and entities subject to the measures of paragraphs 13 and 15 of Security Council resolution 1596 (2005), as renewed by paragraph 5 of resolution 1857 (2008).

Civil aviation

22. In light of the Group's difficulty in obtaining, pursuant to paragraph 7 of resolution 1596 (2005), a comprehensive registry of flights from the civil aviation authorities of Burundi, Kenya, Rwanda, the Sudan, Tanzania and Zambia, the Group recommends that the Security Council reiterate its request to these States in particular to provide the Committee and the Group of Experts, without delay, all information concerning flights originating in their respective territories en route to destinations in the DRC, as well as flights originating in the DRC en route to destinations in their respective territories.

23. In light of the continued use of civilian aircraft to transport troops and military equipment by the FARDC, the Group recommends that the Committee request the Congolese Civil Aviation Administration (AAC) to maintain a comprehensive list of all aircraft requisitioned by the FARDC, including the dates of requisition.

24. The Group notes that a mixed MONUC/ DRC Government team has conducted multiple inspections at the Goma and Bukavu airports in 2009 to check the validity of required civil aviation documentation onboard aircraft, and to monitor the transportation of minerals from many of the smaller mining zones in the interior of the two provinces. The Group views such inspections as a highly valuable tool in identifying potential cases of minerals and arms trafficking to the benefit of non state armed groups. The Group of Experts recommends that sufficient resources are made available to MONUC to increase the frequency of these inspections, and increase their geographical distribution within the Kivus and Ituri district. The Group further recommends that the results of each inspection are made public to better inform local and international organizations hiring aircraft as to failure of certain aviation companies to assist the inspection teams, or to comply with civil aviation standards.

Implementation of the sanctions regime

25. The Group recommends that the Sanctions Committee act on the findings of the Group of Experts as contained in the Group's December 2008 final report (S/2008/773) and its May 2009 interim report (S/2009/253), as well as in this report and in the confidential annexes presented by the Group, with a view to targeting through travel and financial sanctions those individuals and entities found to have directly or indirectly provided support to non-governmental armed groups operating in eastern DRC.

26. The Group reiterates its recommendation, contained in previous reports, that the Committee consider listing the FDLR under the assets freeze and travel ban as an organization, to allow Member States to take more stringent measures at the national level against those identified as members and supporters of the FDLR.

27. The Group recommends that the Security Council and the Sanctions Committee mandate regional governments mandate their national agencies, in particular financial institutions (including banks and other money transfer agencies), customs and immigration, to exercise vigilance and fully implement targeted sanctions on listed individuals and entities.

28. The Group observes that the limited implementation of the sanctions regime, together with the lack of follow-up at the national level on suspected violations, has seriously undermined the credibility of the sanctions regime. The Group recommends that the Committee fully implements its mandate including by:

Requesting information periodically from concerned Member States on the implementation of targeted travel

and financial sanctions, as well as on FDLR diaspora and other members of armed groups residing in their territories.

Urging Member States, particularly those in the Great Lakes region, to submit implementation reports in connection with paragraph 7 of resolution 1857 (2008). The Group notes in this regard that at the time of writing, only 15 Member States had submitted such reports.

Holding consultations with concerned Member States in connection with the challenges they face in implementing the sanctions regime, as well as with outstanding requests for information made by the Group of Experts Update the list of individuals and entities and in particular with respect to the section “Designation/Justification”, also to include references to violations documented by the Group of Experts in its reports;

A visit to the region by the Committee Chairman to raise awareness regarding the sanctions regime and to promote greater cooperation with the Group of Experts and the Sanctions Committee in the implementation of their respective mandates.

[1] Available from www.un.org/sc/committees/1533/pdf/1533_list.pdf.

[2] The Group refers specifically to dissident elements of the Burundian Front National de Liberation (FNL)

[3] Recruitment cases reported for the FARDC include the figures of recruitment by ex-CNDP elements prior to the 2009 integration process.

[4] It is the 33rd FARDC Bde deployed in the context of Kimia II operations, namely the 3rd Bde in Sector 3 in South Kivu

[5] Busurungi locality counts a population of about 7,000 people across the villages of Busurungi, Moka, Nyamimba, Kichanga, Katokoro Kifuruka, Bunyamisimbwa, Kilambo, Ndaboye, Kahunju, Tuonane, Kamanyola, Kamaito, Kasebunga and Kiterema.